



Ministry of Housing,  
Communities &  
Local Government

Mr Jonathan Dunbavin  
ID Planning Limited  
9 York Place  
Leeds  
LS1 2DS

Our Ref: APP/N4720/A/13/2200640

22 February 2018

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY THORNHILL ESTATES:  
BAGLEY LANE/CALVERLEY LANE, FARSLEY, LEEDS, WEST YORKSHIRE  
APPLICATION REF: 12/04046/OT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Richard Clegg BA(Hons) DMS MRTPI, who held a public local inquiry on 10-13 and 17 January 2017 into your client's appeal against the failure of Leeds City Council (the Council) to determine your client's application for outline permission for a residential development at Bagley Lane/Calverley Lane, Farsley, Leeds, in accordance with planning application ref: 12/04046/OT, dated 21 September 2012.
2. On 4 July 2013, 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 as it involves proposals for residential development of over 150 units or on sites over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
3. The Secretary of State issued his decision in respect of the above appeal by way of his letter dated 10 March 2015. That decision was challenged by way of an application to the High Court and was subsequently quashed by order of the Court dated 4 November 2015. The appeal has therefore been re-determined by the Secretary of State, following a new inquiry into this matter. Details of the original Inquiry are set out in the 10 March 2015 decision letter.

**Inspector's recommendation and summary of the decision**

4. The Inspector recommended that the appeal be allowed, and outline planning permission granted. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and

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refuses outline 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**

5. The Secretary of State notes that the appellant submitted a revised masterplan and parameters plan in November 2016 (IR8). The plans reduced the scale of development to 300 dwellings, less than the 400 originally envisaged, and show the built form set further back from Calverley Lane (IR8). Having had regard to the differences between the amended and original proposals, and the Inspector's analysis (IR8-10), the Secretary of State is satisfied that the extent of the consultation carried out would not disadvantage any party by consideration of the proposal on the basis of up to 300 dwellings, and the Secretary of State has considered the appeal on that basis (IR8-10).
6. The Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's analysis at IR11, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

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

7. On 17 May 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the Supreme Court judgment on the cases of *Cheshire East BC v SSCLG and Suffolk Coastal DC v SSCLG*, which was handed down on Wednesday 10 May 2017.
8. In addition, on 13 July 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of two judgments: (a) the High Court Judgment in the case of *Peter John Steer v SSCLG, Catesby Estates Limited and Amber Valley Borough Council* which was handed down on 22 June 2017; and (b) the Court of Appeal Judgment in the case of *Graham Williams v Powys County Council* which was handed down on 9 June 2017.
9. On 25 September 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the following matters:
  - (i) The submission on behalf of the Farsley Residents Action Group (FRAG) relating to the Site Allocation Plan Submission Draft Plan (May 2017);
  - (ii) The submission on behalf of FRAG relating to the Allocations Development Plan Document (DPD) Issues and Options Consultation, enclosing Natural England's letter to Leeds City Council dated 29 July 2013;

- (iii) The letter dated 13 September from Cllr Andrew Carter CBE; enclosing the following material:
  - a) A Press Release sent by Leeds City Council relating to housing numbers, dated 13th July;
  - b) Press coverage relating to the Council's preliminary assessment of housing requirements; and
  - c) Letter of Notification from the Programme Officer for the examination of the Leeds Site Allocations Plan, (all attached as one document); and
- (iv) The implications, if any, of the initial conclusions of the Strategic Housing Market Assessment published on 13 July 2017.

10. As part of this exercise, the Secretary of State also sought comments on the implications, if any, of the Government consultation "*Planning for the Right Homes in the Right Places*" published on 14 September 2017.

11. A list of representations received in response to the Secretary of State's letters of 17 May 2017, 13 July 2017 and 26 September 2017 is at Annex A. The representations received in response to these letters were circulated to the main parties, inviting final comments. In making his decision, the Secretary of State has carefully considered all the representations received. Copies of these representations may be obtained on written request to the address at the foot of the first page of this letter.

### **The site and surroundings**

12. The Secretary of State agrees with the Inspector's analysis of the appeal site and surroundings at IR14-17.

### **Policy and statutory considerations**

#### **Statutory duties**

13. 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 proposals, or their settings or any features of special architectural or historic interest which they may possess.

14. In accordance with section 72(1) of the LBCA Act, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas

#### **The development plan**

15. 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.

16. In this case the development plan consists of the Leeds Core Strategy Development Plan Document (2014) and the saved policies of the Leeds Unitary Development Plan Review (2006) which have not been subsequently superseded (IR21). The Secretary of State agrees with the Inspector's analysis of the development plan position at IR21-25. .

#### Other material considerations

17. 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') (IR29); the policies and guidance listed at IR29 and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

#### Emerging policy

18. The Secretary of State notes that work on the Site Allocations Plan (SAP) started in 2011. He notes that SAP is currently going through a further period of consultation. He understands that the Council is also undertaking a selective review of the Core Strategy. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State has considered the weight to be attached to the emerging policies applying the three limbs of paragraph 216 of the Framework. As to the first limb, he considers the emerging policies are at an early stage in the process. As to the second limb, he considers that there are significant unresolved objections to the emerging policies. As to the third limb, the Secretary of State considers, at this stage, that the relevant policies do not appear to contain obvious inconsistencies with the Framework. Overall, for these reasons, the Secretary of State considers that the emerging policies can only attract little weight.

#### Main Issues

19. The Secretary of State agrees with the Inspector that the main issues are those set out at IR95.

#### Housing land supply

20. The Secretary of State has given careful consideration to the Inspector's analysis at IR96-101. He notes at IR96 that it is common ground between the Appellant and the Council that there is no five year supply of housing land in Leeds. He agrees with the Inspector for the reasons given at IR98 that the housing land supply in Leeds is between 2.87 and 2.9 years. He notes the Council's latest assessment that the housing land supply position is now 4.38 years, however he considers that this figure has not been tested. He has also given careful consideration to all the representations made to him on housing land supply

during the reference back exercises post Inquiry, including submissions relating to the housing need numbers set out in the Council's initial conclusions of the Strategic Housing Market Assessment published on 13 July 2017. He notes that the Council is doing further work on these initial findings and he considers that these figures attract little weight, as they have yet to be finalised. Overall, the Secretary of State agrees with the Inspector for the reasons given that there is a significant shortfall of housing land in Leeds, and the contribution of the appeal site towards the provision of a five year supply of housing land carries considerable weight in support of the appeal proposal (IR101).

### Heritage assets

21. In deciding this appeal, the Secretary of State has had special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest which it possesses, as required by section 66 LBCA Act.
22. In accordance with section 72(1) of the LBCA Act, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. While there is no specific statutory duty under section 72(1) of the LBCA Act to consider the setting of conservation areas, views into and out of a conservation area and any effect on character and/or appearance are relevant. The correct assessment of harm to conservation areas is the effect on the character and/or appearance of the conservation area as a whole acknowledging that this does not mean that any harm identified has to be over the whole area, and harm in one part of the conservation area (or outside) could have an effect on the conservation area as a whole.
23. In deciding this appeal, the Secretary of State has also had regard to the principles and policies set out in Section 12 of the Framework in respect of conserving and enhancing the historic environment.

### *Farsley Conservation Area*

24. The Secretary of State agrees with the Inspector's analysis at IR102-105 as to the significance of Farsley Conservation Area including any contribution made by its setting. He agrees with the Inspector for the reasons given that the appeal site makes an important contribution to its significance as experienced from Calverley Lane and the Recreation Ground (IR106). He considers that the impact of the proposal would detract from the setting of the Farsley Conservation Area. Having regard to paragraph 134 of the Framework, he considers the proposal will lead to less than substantial harm to the significance of the Farsley Conservation Area as a whole to which he attaches considerable weight and importance. As a consequence, he agrees with the Inspector there would be conflict with policy P11 of the Core Strategy and Policy N19 of the UDP (IR112).

### *Rodley Conservation Area*

25. The Secretary of State agrees with the Inspector's analysis at IR107 as to the significance of the Rodley Conservation Area including any contribution made by its setting. For the reasons given by the Inspector, the Secretary of State does not

consider that the appeal site forms part of the setting of the Rodley Conservation Area (IR107).

#### *Old Poplar Farmhouse and Cow Shed*

26. The Secretary of State agrees with the Inspector's analysis at IR108 as to the significance of the grade II listed farmhouse and cow shed including any contribution made by its setting. For the reasons given by the Inspector at IR108, the Secretary of State does not consider that the appeal site falls within the setting of these listed buildings.

#### *Wadlands Cottage/Farmhouse*

27. The Secretary of State agrees with the Inspector's analysis at IR109 as to the significance of the grade II listed building including any contribution made by its setting. He considers that the appeal site, or parts thereof, is within the setting of this listed building. However, for the reasons given by the Inspector at IR109, the Secretary of State does not consider that the proposed development would adversely affect the setting of the listed building or diminish the contribution that setting makes to its significance.

#### *St Margaret's Church*

28. The Secretary of State agrees with the Inspector's analysis at IR110 as to the significance of the grade II listed Church including any contribution made by its setting. He considers that the appeal site, or parts thereof, is within the setting of this listed building. However, for the reasons given by the Inspector at IR110, the Secretary of State does not consider that the proposed development would adversely affect the setting of the listed building or diminish the contribution that setting makes to its significance.

#### *Rawdon and Rawdon Billing*

29. The Secretary of State agrees with the Inspector for the reasons given at IR111 that there is insufficient evidence before him as to the significance of either place to assess their heritage credentials.

#### Character and appearance of the area

30. The Secretary of State has carefully considered the Inspector's analysis as to landscape and visual impacts at IR113-122.

31. As to landscape impacts, he agrees with the Inspector for the reasons given that having regard to urban influences and the severance caused by the Ring Road that the landscape of the site is of low sensitivity (IR113). However, the Secretary of State notes that the 5<sup>th</sup> bullet point of paragraph 17 of the Framework provides that decision-taking should recognise the intrinsic character and beauty of the countryside. For the reasons given by the Inspector at IR114, he agrees that the appeal site should not be considered as a valued landscape for the purposes of paragraph 109 of the Framework. For the reasons given by the Inspector at IR115-116, the Secretary of State agrees that the harm to the landscape of the

site attracts moderate weight and development would cause minor harm to the wider landscape.

32. The Secretary of State has carefully considered whether the proposed development of the appeal site would result in the coalescence of Rodley and Farsley. Like the Inspector at IR117, he considers that it is clear from the representations of the local community that both Farsley and Rodley have distinct identities. Although not dependent upon physical separation, he agrees with the Inspector that the presence of a gap is likely to reinforce local identities (IR117). While the proposed green spine through the appeal site would maintain a gap between Rodley and Farsley, the Inspector considers that this would be much less substantial than at present. The Secretary of State considers that the substantial reduction in the size of this gap would cause adverse harm to the character of the area to which he attaches moderate weight.
33. Having carefully considered the Inspector's analysis as to visual impacts at IR118-121, the Secretary of State agrees with the Inspector for the reasons given that there would be moderate harm to visual amenity from Calverley Lane, PROW No 18 and Oaklands Road (IR119), major harm to visual amenity from Coal Hill (IR120), and minor harm to visual amenity from the private viewpoints identified at IR121. Consequently, he agrees with the Inspector that there would be conflict with Policy P12 of the Core Strategy which seeks to conserve and enhance the character, quality and biodiversity of the landscape (IR122).

#### Traffic movement and highway safety

34. The Secretary of State has carefully considered the Inspector's analysis as to the effect of the proposed development on traffic movement and highway safety at IR123-128 and has had regard to concerns expressed by FRAG and local residents about traffic impacts. For the reasons given at IR123-128, the Secretary of State agrees with the Inspector that the evidence indicates that the proposed off-site highway works would effectively mitigate against potential capacity problems at the Rodley Lane and Dawsons Corner junctions on the Ring Road, providing an improvement in comparison with the 2022 base scenario at Rodley Lane (IR128). He agrees with the Inspector for the reasons given that the works at the Rodley Lane/ Ring Road junction should also result in an improvement in traffic conditions on Bagley Lane (IR128). Overall, the Secretary of State concludes in agreement with the Inspector that the appeal proposal would not reduce highway safety or restrict traffic movement in the vicinity of the appeal site. In this regard, he agrees with the Inspector that it would be consistent with Policy T2 of the Core Strategy.

#### The Development Plan

35. The Secretary of State has carefully considered the Inspector's analysis as to whether the proposal is consistent with policies in the Development Plan (IR129-133). The appeal site is identified as a PAS site under Policy N34 of the UDP (IR129). While development of the appeal site for housing would conflict with policy N34, the Secretary of State considers that this policy carries little weight as it is time-expired. He agrees with the Inspector for the reasons given that the development of the appeal site for housing would be consistent with the approach to the location of development in the Core Strategy (IR131). As the appeal

proposal would not adversely affect highway safety or traffic movement, he agrees with the Inspector that it would be consistent with Policy T2 (IR132). He agrees with the Inspector that the planning obligation provides for affordable housing in accordance with the level of provision of 15% sought by Policy H5 (IR132). He notes that policy G4 is concerned with green space for residential development and agrees that areas of green space are shown on the masterplan and the planning obligation requires a scheme for its provision (IR132).

36. The Secretary of State agrees with the Inspector that the proposal conflicts with Policy P11 of the Core Strategy and Policy N19 of the UDP due to the harmful effect on the setting of Farsley Conservation Area and also conflicts with Policy P12 of the Core Strategy, which seeks to conserve and enhance the landscape, due to the harm he has found to the character and appearance of the area (IR132).

37. Overall, for the reasons given by the Inspector, and having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that the proposal is not in accordance with the Development Plan overall (IR133).

#### Other considerations

##### Prematurity

38. Having carefully considered paragraph 21b-014 of the Guidance and the Inspector's analysis at IR134, the Secretary of State agrees with the Inspector, that given the current position of the SAP, that there is no basis to refuse the appeal on the grounds of prematurity.

##### Affordable housing

39. With regard to affordable housing (IR135), the Secretary of State agrees with the Inspector that the target of 15% provision of affordable housing (or a commuted sum at the Council's discretion for off-site provision) would be secured by the planning obligation.

##### Flood Risk

40. Having carefully considered the Inspector's analysis as to flood risk issues at IR136, the Secretary of State agrees with the Inspector for the reasons given that the surface water strategy for the development, which involves restricting run-off to match greenfield rates, could be the subject of a planning condition. With this safeguard in place, the Secretary of State does not consider that the development would worsen existing problems of flooding in the locality (IR136).

##### Facilities and services

41. The Secretary of State notes at IR137 that there is a good range of facilities and services in Farsley, and bus services along Bagley Lane provide a link to Leeds and give access to new Pudsey rail station. For the reasons given at IR137-138, he agrees with the Inspector that the site is in an accessible location where trips to and from the proposed housing could be made by alternative means of travel



than the private car. He further agrees that the only detailed evidence on the adequacy of local facilities and services to support further development indicates that there is a doctor's and a dentist's practice in Farsley which are accepting new patients.

42. The Secretary of State notes that the education statement of common ground indicates that the appeal proposal, together with other development in the area, may generate a need for a new primary school. (IR138). He notes that the planning obligation reserves land within the site for a new primary school for a period of seven years providing an opportunity to ensure that the additional accommodation could be provided. He agrees with the Inspector that although the need for a new primary school would not be generated by the appeal proposal alone, there is no evidence of the availability of an alternative site and the reservation of a site would be reasonably related in scale and kind to the development (IR138).

### Economic Implications

43. For the reasons given at IR139, the Secretary of State agrees with the Inspector that the potential economic benefits of the proposal attract little weight.
44. For the reasons given at IR140, the Secretary of State agrees with the Inspector that the loss of this relatively modest area of grazing land would not have a material effect on agricultural production around the main urban area.

### **Planning conditions**

45. The Secretary of State has given careful consideration to the Inspector's analysis at IR142-143, the recommended conditions set out in the Annex to the IR and the reasons for them, 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 tests set out at paragraph 206 of the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal and refusing planning permission.

### **Planning obligations**

46. Having had regard to the Inspector's analysis at IR141, the planning obligation dated 17 January 2017 and the Unilateral Undertaking regarding the provision of a site for a school, 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 for the reasons given at IR141 that the planning obligations comply with the statutory tests in Regulation 122 of the CIL Regulations as amended and the policy tests at paragraph 204 of the Framework. However, the Secretary of State does not consider that the planning obligations overcome his reasons for dismissing the appeal and refusing planning permission.

## Planning balance and overall conclusion

47. 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. For the reasons given at DL 35-37 above, the Secretary of State considers that the appeal scheme is not in accordance with the development plan overall. 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.
48. In the absence of a 5-year supply of housing land, paragraph 14 of the Framework indicates that planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate development should be restricted. Paragraph 134 of the Framework is a specific policy indicating development should be restricted. Applying paragraph 134 of the Framework, it is necessary to weigh the heritage harm against the public benefits of the proposal. Applying paragraph 132 of the Framework, great weight should be given to the asset's conservation when considering the impact of a proposed development on the significance of a designated heritage asset.
49. For the reasons above, the Secretary of State considers that the proposal would cause less than substantial harm to the significance of Farsley Conservation Area. He gives this harm considerable importance and weight against the proposal. The Secretary of State has gone on to weigh this harm to the heritage asset against the public benefits of the proposal. He agrees with the Inspector and attaches significant weight to the provision of market and affordable housing (IR144). As to the highway capacity and safety works and the reservation of a school site provided for in the planning obligations, the Secretary of State disagrees with the Inspector's conclusion at IR144 that these should attract significant weight in the planning balance. The Secretary of State considers these matters are intended to mitigate the potential effects of the development and render it acceptable in planning terms and do not constitute benefits in the planning balance. The Secretary of State agrees with the Inspector that the improved connectivity from the cycleway along the Ring Road and the bus stop improvements would be benefits that attract moderate and minor weight respectively (IR144). As to the economic benefits of the proposals, the Secretary of State agrees with the Inspector for the reasons given that they carry only little weight in support of the proposal (IR144). He also agrees with the Inspector for the reasons given that other matters put forward by the appellant as benefits of the proposal, such as the enhancement of grassland, the provision of open space, and the containment of surface water run-off are necessary to mitigate the effects of the development, and consequently have a neutral effect in the planning balance. Overall, and considering paragraph 134, and the second indent of the fourth bullet point of paragraph 14 of the Framework, the Secretary of State considers that the public benefits of the proposal outweigh the heritage harm.
50. The Secretary of State has gone on to consider the first indent of the fourth bullet point of paragraph 14 of the Framework, and whether the adverse impacts of the proposal including the heritage harm would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken

as a whole. For the reasons above, he gives moderate weight to the harm to the character of the surrounding area and to the landscape, including the harm to the gap between Farsley and Rodley settlements. He also gives significant weight to the harm to visual amenity from Coal Hill, and moderate weight to the harm to visual amenity from other locations.

51. Overall, the Secretary of State considers, in his planning judgment, that the adverse impacts of the proposal, especially in terms of the harm to the Farsley Conservation Area and the harms to character and appearance of the surrounding area and to the landscape, including the harm to the gap between Farsley and Rodley settlements, would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies as a whole. The Secretary of State therefore concludes that there are no material considerations that indicate that the appeal proposal should be determined other than in accordance with the development plan.

### **Formal decision**

52. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby refuses outline planning permission for a residential development of 300 dwellings and associated works at Bagley Lane/Calverley Lane, Farsley, Leeds, in accordance with planning application ref: 12/04046/OT, dated 21 September 2012, and as amended in November 2016.

### **Right to challenge the decision**

53. 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.

54. A copy of this letter has been sent to Leeds City Council and Farsley Residents Action Group, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Merita Lumley*

Merita Lumley  
Authorised by the Secretary of State to sign in that behalf

## Annex A – Schedule of representations

### Representations received in response to the Secretary of State’s letter of 17 May 2017

<b>Party</b>	<b>Date</b>
Jonathan Dunbavin, ID Planning	22 May 2017
Mark Joslin, Farsley Residents Action Group	1 June 2017
Mark Joslin, Farsley Residents Action Group	12 June 2017

### Representations received in response to the Secretary of State’s letter of 13 July 2017

<b>Party</b>	<b>Date</b>
James Garbett , Walker Morris LLP	27 July 2017
Mark Joslin, Farsley Residents Action Group	27 July 2017
Mark Joslin, Farsley Residents Action Group	8 August 2017

### Representations received in response to the Secretary of State’s letter of 25 September 2017

<b>Party</b>	<b>Date</b>
Cllrs Carter CBE and Wood	14 November 2017
Jonathan Dunbavin, ID Planning	16 November 2017
Nikki Deol, Leeds CC	16 November 2017
Mark Joslin, FRAG	16 November 2017
Stuart Andrew MP	16 November 2017
Jonathan Dunbavin, ID Planning	30 November 2017
Mark Joslin, FRAG	4 December 2017
Nikki Deol, Leeds CC	5 December 2017
Mark Joslin, FRAG	20 December 2017
Jonathan Dunbavin, ID Planning	2 January 2018
Mark Joslin, FRAG	17 January 2018
Cllr Carter CBE	18 January 2018
Jonathan Dunbavin, ID Planning	18 January 2018

### Other representations received by the Secretary of State

<b>Party</b>	<b>Date</b>
Mark Joslin, Farsley Residents Action Group	28 June 2017
Cllr Carter CBE	20 September 2017
Stuart Andrew MP	21 September 2017
Mark Joslin, Farsley Residents Action Group	24 January 2018
Cllr Carter CBE	8 February 2018
Mark Joslin, FRAG	5 February 2018
Cllr Carter CBE	8 February 2018
Stuart Andrew MP	12 February 2018

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

by Richard Clegg BA(Hons) DMS MRTPI

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

Date: 23 March 2017

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**LEEDS CITY COUNCIL**  
**APPEAL BY**  
**THORNHILL ESTATES**

Inquiry opened on 10 January 2017

Land at Bagley Lane/ Calverley Lane, Farsley, Leeds, West Yorkshire

File Ref: APP/N4720/A/13/2200640

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**File Ref: APP/N4720/A/13/2200640**

**Land at Bagley Lane/ Calverley Lane, Farsley, Leeds, West Yorkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Thornhill Estates against Leeds City Council.
- The application Ref 12/04046/OT is dated 21 September 2012.
- The development proposed is residential development.
- This report supersedes those issued on 27 January 2014 and 27 January 2015. The subsequent decision on the appeal was quashed by order of the High Court.
- The inquiry sat for five days, on 10-13 and 17 January 2017.
- Site visits took place on 18 & 25 January 2017.

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

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**Procedural Matters**

1. The appeal was recovered for decision by the Secretary of State for Communities and Local Government by a direction dated 4 July 2013, as it involves proposals for residential development of over 150 units or on sites of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed, and inclusive communities.
2. The planning application was submitted in outline form, with approval sought for the means of access from Calverley Lane.
3. The appeal was made against a failure to give notice of a decision on the planning application within the prescribed period. Subsequently the Council resolved that, had it been in a position to do so, it would have refused planning permission for the following reasons:
  1. *The Local Planning Authority considers that the release of the Kirklees Knowl PAS site for housing development would be premature being contrary to Policy N34 of the adopted Leeds Unitary Development Plan Review (2006) and contrary to Paragraph 85 bullet point 4 of the National Planning Policy Framework because its suitability needs to be comprehensively reviewed as part of the preparation of the Site Allocations Plan. The size of the site, the possible need for a school and the availability of other housing development opportunities in the locality means that the site does not fulfil the exceptional criteria set out in the interim housing policy approved by Leeds City Council's Executive Board 13/3/13 to justify early release ahead of the comprehensive assessment of safeguarded land being undertaken in the Site Allocations Plan.*
  2. *There are outstanding highway objections in relation to the lack of a direct safe pedestrian access and cycle route along the Ring Road to access schools and New Pudsey train station. As such the development is detrimental to highway safety which is contrary to policies B12, T1, T2, T5, T7 and GP5 of the adopted Leeds Unitary Development Plan Review (2006) and the guidance contained within the adopted Street Design Guide SPD.*
  3. *The development would require a signed Section 106 agreement to cover affordable housing, education, greenspace, public transport, travel*

*planning and off-site highway works. The Council anticipates that a Section 106 agreement covering these matters should be provided prior to the inquiry however, it reserves the right to contest these matters should the Section 106 Agreement not be completed or cover all the requirements.*

4. An inquiry into the appeal was held in November 2013. Prior to that inquiry, the Council advised that it no longer sought to pursue the second and third deemed reasons for refusal, nor that part of the first deemed reason which refers to the possible need for a school. In July 2014 the Secretary of State decided to reopen the inquiry in respect of the five years supply of housing land and the effect of the development on bats, and a second inquiry took place in November 2014. The original decision on the appeal was issued in March 2015 and quashed by order of the High Court in November 2015<sup>1</sup>.
5. In March 2016, the Secretary of State decided to reopen the inquiry to consider further the following matters:
  - a) *Any implications of the judgement which led to the quashing of the Secretary of State's decision on the evidence that was before the Inspector and before the Secretary of State.*
  - b) *The housing requirement figure to be applied in redetermining this case, and whether there is a demonstrable five year supply of deliverable housing sites.*
  - c) *Any other material change in circumstances, fact or policy, that may have arisen since the decision of 10 March 2015 and which the parties consider to be material to his further consideration of this appeal.*
6. By a letter dated 15 November 2016 the Council advised that it would not be presenting evidence in respect of housing land supply, referred to in deemed reason for refusal No 1 (Document L1). In a subsequent letter of 11 December 2016, the Council explained that a further review of the appeal had taken place, and that subject to an existing planning obligation concerning reservation of land for a school, a further updated obligation and the imposition of conditions, it did not oppose the grant of planning permission, and did not intend to submit any evidence to the reopened inquiry (Document L2). Farsley Residents Action Group (FRAG) had served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and it took a full part in the proceedings of the reopened inquiry. Subsequent references to *the inquiry* in this report are to the 2017 reopened inquiry.
7. The planning application was made by Thornhill Estates. Certificate A was completed which certified that no other person was an owner of any part of the land. Certificate A was also completed at appeal stage. However two planning obligations prepared in conjunction with the first inquiry in 2013 identify two owners: Thornhill Estates and Mr E G W Thornhill<sup>2</sup>. At the inquiry, it was confirmed on behalf of the Appellant that at the dates that the application and appeal were submitted ownership was as stated in the planning obligations<sup>3</sup>. It follows that the ownership documentation had not been completed correctly.

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<sup>1</sup> Judgement [2015] EWHC 3169 (Admin).

<sup>2</sup> Documents TE11 and TE12.

<sup>3</sup> Subsequently those parts of the site owned by Thornhill Estates have been transferred to Mr Thornhill.

After I had raised this matter at the inquiry, notice of the proposed development was served on Mr Thornhill and certificate B was submitted confirming this action (Document A27). More significantly I heard that Mr Thornhill is the sole shareholder of Thornhill Estates. He has, therefore, been aware of and been instrumental in progressing the proposal, a situation he confirmed in a letter to The Planning Inspectorate (Document A27). In these circumstances I find that there has been no prejudice to the party which should have received notification of the planning application and appeal when they were submitted.

8. In November 2016, the Appellant submitted a revised masterplan and parameters plan (Plans 8 & 9). The original proposal referred to the construction of about 400 dwellings, whereas these plans are based on a reduced scale of development of about 300 dwellings, and show the built form set further back from Calverley Lane. The Council notified local councillors and residents of the proposed amendment and provided them with an opportunity to submit comments (Document G4). Responses from local residents have suggested that the revision should be the subject of a fresh application, that there has been insufficient consultation, and that there is confusion as to the number of dwellings intended (Document O2). FRAG objected to consideration of the revised scheme, arguing that the submission of the proposed revision seven weeks before the reopening of the inquiry left the Action Group at a disadvantage, that the proposal represented a significant change, that it would be likely to lead to confusion amongst local residents, that a greater level of consultation should have taken place, and that a number of objectors have not been notified<sup>4</sup>.
9. It was made clear in the letter accompanying the revised plans (Document A18) and at the inquiry that the Appellant was promoting the scheme for about 300 dwellings as a replacement and not as an alternative to the original proposal. In *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another*, the Court held that a condition may be used to achieve an alteration provided that this does not result in development which would be substantially different from that for which permission was sought (Core Document (CD) G18). In this regard, consideration should be given as to whether the development would be so changed as to deprive other parties of the opportunity for consultation. The application sought planning permission for residential development. That description of development is unaffected by the revised plans. Whilst the scale of development for about 300 dwellings is less than the 400 originally envisaged, the points of vehicular access are unchanged and the built form continues to involve housing to the north and south of a central green spine. There has been considerable opposition to the principle of residential development on the appeal site, and this has been reaffirmed in responses from the local community to the revised plans. The scheme for 300 dwellings would not have a greater effect. Accordingly, I do not consider that acceptance of the revised plans would deprive parties of the opportunity for consultation. In reaching this view, I have taken into account that a number of objectors to the original scheme (55 were referred to at the inquiry) were not included in the consultation exercise on the revised plans. Given the opposition in principle to the scheme, and the responses to the revised plans submitted by the Ward councillors and FRAG in addition to

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<sup>4</sup> FRAG's representations on the revised plans are set out in section 1 of Document F8 and in Document F14.



individual residents, I am satisfied that the extent of notification is not an impediment to consideration of the revised plans.

10. There was a relatively short period of time between submission of the revised plans and the reopening of the inquiry. However FRAG had prepared a series of visualisations in respect of the revised scheme (Document F15), and both its representatives and other parties were able to present their cases with reference to the smaller number of dwellings. FRAG drew attention to an appeal decision concerning a proposal for 93 dwellings at Henlow, in which the Inspector rejected a proposed revision to 72 dwellings<sup>5</sup>. That appeal decision refers to confusion fuelled by the volume of consultations, material relating to the proposed change coming directly from the Appellant, a lack of consistency in the extent of consultation, and a possible lack of comprehension of the process by some local residents. That particular combination of circumstances does not apply in this case. I ruled that the inquiry should proceed on the basis of the revised plans, and evidence was presented in that way.
11. An environmental statement accompanied the planning application<sup>6</sup>. In conjunction with the amended plans, the Appellant submitted a statement of conformity which updates the original environmental statement (CD A3). The adequacy of the information contained in the environmental statement as updated has not been disputed, and I am satisfied that the requirements of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 have been met. I have taken the updated environmental statement into account in considering this proposal.
12. Two planning obligations were submitted at the 2013 inquiry. Document TE12 is a unilateral undertaking by Mr Thornhill and the Appellant concerning the reservation of land within the appeal site for a primary school. Document TE11 was an agreement between the Council, Mr Thornhill and the Appellant: it concerned affordable housing, public transport and education contributions, greenspace, a metrocard scheme, a travel plan, and off-site highway works. At the 2014 inquiry, a supplemental agreement and deed of variation was submitted which addressed the prospect of a community infrastructure levy (CIL) charging schedule having been adopted by the date when the appeal was determined (Document TE21). These agreements are replaced by a planning agreement and deed of revocation submitted in conjunction with the inquiry. The obligations in this agreement have been prepared to take account of the Community Infrastructure Regulations (CIL) Regulations 2010. They concern affordable housing, greenspace, a travel plan, off-site highway works, and a bus stop contribution. A separate statement, agreed by the Appellant and the Council, sets out their justification for the obligations contained in the 2017 deed (Document G7). The 2013 unilateral undertaking is unaffected by the deed of revocation and remains relevant to the appeal proposal.
13. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of

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<sup>5</sup> Appendix 49, Document F9.

<sup>6</sup> Documents DOC1-3 as listed in Appendix B to the report following the 2013 inquiry.

the Appellant and FRAG are included as inquiry documents: in delivery they were subject to a number of detailed alterations.

### **The Site and Surroundings**

14. The appeal site, known as Kirklees Knowl, lies about 8.5km to the north-west of Leeds city centre, on the northern edge of Farsley and the south-west side of the Aire valley. On the upper slopes of the valley, about 2km away, is Horsforth, with Rawdon situated further to the north. The Leeds Outer Ring Road (the A6120) abuts the north-west corner of the site at its junction with Calverley Lane: this section of the Ring Road runs between the junction with the A647 to Bradford (Dawsons Corner) and Horsforth. Calverley Lane (the B6156) leads into Farsley from the Ring Road.
15. The built-up area of Farsley extends to the south of Kirklees Knowl. A public footpath (PROW18) runs along the southern boundary of the site, on the other side of which is modern residential development. Further south, from the junction of Bagley Lane with the B6156, a variety of uses and buildings lie along Town Street and Old Road in the centre of the settlement and in Farsley Conservation Area<sup>7</sup>. The conservation area extends along Calverley Lane to include the Recreation Ground opposite to the appeal site, and it is also close to the south-east corner of the site at the southern end of Oaklands Road.
16. To the south of the Recreation Ground are traditional stone houses in the conservation area, whilst to the north a housing scheme known as Mulberry Manor was under construction at the time of the inquiry. Mulberry Manor and the Recreation Ground are at a higher level than the appeal site, which falls away from Calverley Lane towards Oaklands Road. At its southern end, where it abuts the appeal site, Oaklands Road is a narrow access track. Between the track and Bagley Lane is a terrace of housing within the conservation area, and further north are a utilities depot, a sub-station, and a narrow strip of open land. There are residential and commercial properties elsewhere along Bagley Lane. The land rises on the east side of the road to Coal Hill. A recent housing development, Bagley Hamlet, abuts the south-east corner of the site at the southern end of Oaklands Road. Towards the northern end of this road is an area of predominantly residential development in Rodley. Flats at Towler Drive and houses on Petrie Drive and Crescent adjoin the north-east part of the appeal site. Somewhat further to the north, straddling the A657, is Rodley Conservation Area<sup>8</sup>. Red Beck flows along the northern boundary of the site. Between this watercourse and the Ring Road is a landscape contractors depot set within tree cover. Beyond the Ring Road to the north-west is a stretch of open land with some groups of buildings, and there is open land on the rising side of the valley to the north of the new housing development at Low Hall Road/ Calverley Lane<sup>9</sup>.
17. The appeal site is shown on Plan 1. It comprises several fields, which are used for grazing, and amounts to an area of 17.79ha. Field boundaries are generally formed by hedgerows, which include some trees, and there other trees within the site. All of the trees within the site are covered by a tree preservation order<sup>10</sup>.

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<sup>7</sup> The boundary of Farsley Conservation Area is shown on Plan 18. This plan also shows the area around the appeal site.

<sup>8</sup> A plan of Rodley Conservation Area is at Appendix 27 of Document F9.

<sup>9</sup> The Calverley Lane in question is a different road from that which runs alongside the appeal site.

<sup>10</sup> The City of Leeds Tree Preservation Order (No 30) 2011, Document LCC18.

The western part of the site falls relatively gently from Calverley Lane, but the gradient becomes steeper towards the eastern side. A line of electricity pylons crosses the site from west to east, and there are also lower level electricity transmission lines within Kirklees Knowl.

## **Planning History**

18. The Council and the Appellant agree that the appeal site has not been subject to any previous relevant planning applications<sup>11</sup>.

## **The Proposal**

19. The revised scheme proposes up to 300 dwellings on the site. The illustrative masterplan shows the housing provided in two blocks, separated by a central green spine which would run across the site between Calverley Lane and Oaklands Road. Both blocks are intended to be set back from Calverley Lane: the northern block by about 60m behind woodland planting, and the southern block by about 115m. At the western end of each block, the parameters plan shows an area of housing where the maximum height would be restricted to 8.5m. Although the first planning obligation makes provision for the reservation of land for a school (above, para 12), that potential development does not form part of the proposal for which planning permission is sought, and a possible site for a school is not shown on the masterplan.

20. Permission is sought at this stage for the main vehicular access, which would be taken from Calverley Lane at the western end of the green spine (Plan 10). A second vehicular access would be taken from Poplar Farm Lane in the Bagley Hamlet development adjacent to the south-east corner of the site. A cycleway would be incorporated within the green spine, and several footway links are shown to the surrounding area. In addition, the following off-site highway and transport works are proposed:

- Alterations to the Rodley Lane, Ring Road junction (Plan 11).
- Alterations to the Dawsons Corner junction on the Ring Road (Plan 12).
- Alterations to the Calverley Lane/ Ring Road junction (Plan 13).
- A footway/ cycleway along the Ring Road between Calverley Lane and Dawsons Corner (Plan 14).
- A traffic calming measure on Bagley Lane (Plan 15).
- A bus shelter and real time displays at two stops on Bagley Lane.
- Works to the footway link between PROW18 and the Kirklees Estate.

## **Planning Policy and Guidance**

### ***The Development Plan***

21. The Development Plan includes the Leeds Core Strategy Development Plan Document (CD B3) and the saved policies of the Leeds Unitary Development Plan Review which have not been subsequently superseded (UDPR CD B5).

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<sup>11</sup> CD D2, paragraph 5.1.

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## ***The Core Strategy***

22. The Core Strategy was adopted in 2014, and covers the period 2012-2028. Spatial Policy 1 (SP1) seeks to locate most development in the Main Urban Area (MUA) and major settlements. Farsley is part of the MUA<sup>12</sup>. The priorities in identifying land for development are as follows: previously developed land within the MUA/ relevant settlements, other suitable sites within the MUA/ relevant settlements, key locations identified as sustainable extensions to the MUA/ relevant settlements. Amongst other considerations, development should respect and enhance the local character and identity of places and neighbourhoods. A housing requirement of 70,000 additional dwellings is set in SP6, with a target for at least 3,660 dwellings to be delivered annually from 2012/13 to 2016/17. Of the 66,000 dwellings expected to be provided on identified sites, 7% should come forward in the Outer West Housing Market Characteristic Area (HMCA) which includes Farsley (SP7)<sup>13</sup>. The appeal site is designated as a Protected Area of Search (PAS) in the UDPR. Policy SP10 of the Core Strategy refers to a need for review of the Green Belt to accommodate housing and employment growth and an additional contingency to create new PAS sites, replacing those in the UDP to be allocated for development. The accompanying explanation refers to existing PAS sites as one of the prime sources for housing allocations in the Local Development Framework (LDF). Transport infrastructure investment priorities are set out in Policy SP11: they include expansion of the Leeds Core Cycle Network to improve local connectivity and the provision of infrastructure to serve new development. Under Policy CC3 new development is expected to make contributions to improve connectivity between the city centre and adjoining neighbourhoods.
23. Policy H1 is concerned with the managed release of sites for housing. The policy explains that LDF Allocation Documents will phase release to ensure sufficiency of supply, distribution in accordance with SP7, and achievement of a previously developed land target of 65% for the first five years and 55% thereafter. The policy commits to the maintenance of a five years supply of housing land through considering the release of subsequent phases to help address the shortfall. Housing development is acceptable in principle on non-allocated sites subject to criteria set out in Policy H2. These include requirements that the number of dwellings would not exceed the capacity of infrastructure, and, for proposals of five or more dwellings, that the location accords with accessibility standards. Additionally greenfield land should not be developed if it has intrinsic value as amenity space or for recreation or nature conservation, or if it makes a valuable contribution to the visual, historic and/ or spatial character of an area.
24. Affordable housing provision is sought as part of all new residential development in accordance with Policy H5. The appeal site is in affordable housing market zone 2<sup>14</sup> where there is a target of 15% affordable housing in schemes of 15 or more dwellings. New development should be located in accessible locations which are adequately served by existing or programmed highways, public transport, and safe and secure access for pedestrians, cyclists and people with impaired mobility (Policy T2). Requirements for new greenspace provision in conjunction with housing development are contained in Policy G4. Policy ID2

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<sup>12</sup> Map 3 in CD B3 shows the extent of the MUA.

<sup>13</sup> Map 7 in CD B3 shows the HMCAs.

<sup>14</sup> Map 12 in CD B3 shows the affordable market housing zones.

seeks developer contributions through planning obligations and the CIL to provide infrastructure and facilities to support the growth of Leeds. The conservation and enhancement of the historic environment is required by Policy P11. This policy includes locally significant undesignated assets and their settings as part of the historic environment. In similar vein, Policy P12 seeks to conserve and enhance the character, quality and biodiversity of the landscape.

### ***The UDPR***

25. The UDP was originally adopted in 2001 and a Review was adopted in 2006. The Review plan period ran from 1 April 2003 to 31 March 2016. Several saved policies of the UDPR are referred to in the deemed reasons for refusal. Policy N34 is concerned with PAS sites, which are shown on the Proposals Map, and which include Kirklees Knowl. On these sites the policy intends that development will be restricted to that necessary for the operation of existing uses and temporary uses which would not prejudice the possibility of long-term development. The accompanying text explains that PAS sites were designated to ensure the endurance of the Green Belt, by providing land for longer-term development needs. The suitability of PAS sites for development was to be reviewed as part of the preparation of the LDF. Policy GP5 specifies that proposals should resolve detailed planning considerations including access. Policies T1, T2, T5 and T7 were concerned with priorities for transport investment, transport arrangements for new development, access for pedestrians and cyclists, and the development of cycle routes. These policies have been replaced by policies of the Core Strategy as follows: T1 by SP11, T2 by T2, T5 by SP11 and T2, and T7 by SP11 and CC3 (above, paras 22 & 24). Policy N19 is also of relevance. It requires that all new buildings adjacent to conservation areas should preserve or enhance their character or appearance.

### ***Site Allocations Plan***

26. The publication draft of the emerging Site Allocations Plan (SAP) was subject to consultation in 2015, with additional consultation for the Outer North-East HMCA last year (CD B9 & B10). The Council intends to submit the SAP to the Secretary of State in early 2017 and anticipates adoption by the end of 2017. The Appellant regards this timetable as optimistic. In any event, the Council and the Appellant agree that, at the date of the inquiry, the emerging SAP was not at an advanced stage, a view with which I concur.

27. Policy HG3 carries forward the concept of PAS sites. It refers to the designation of sites to be safeguarded from development for the plan period (up to 2028) to provide a reserve of potential sites for longer term development after 2028 and to protect the Green Belt. Kirklees Knowl is one of four sites included as safeguarded land in the Outer West area.

### ***Leeds Landscape Assessment***

28. In the Leeds Landscape Assessment (LLA) the appeal site is identified as pastoral fringe farmland, and it falls within the Bradford Fringe landscape unit of this landscape character type<sup>15</sup>. The Bradford Fringe is described as a narrow wedge of countryside, comprising undulating land in a number of small hills and valleys.

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<sup>15</sup> Extracts from the LLA are within Appendix F of CD A3. The extent of the Bradford Fringe in the vicinity of the site is shown on figure 7.3 in Document A22.

Fields are generally small to medium in size, bounded by a mix of walls and hedgerows. The area is under pressure from urban activities and built development. In the northern part of this area, where the appeal site is situated, the management strategy suggests conservation of intact open pastoral ridges and wooded valleys, and restoration of the open pastoral fringe and characteristic farmland features, where these are in decline.

### ***Other policies and guidance***

29. Deemed reason for refusal No 1 refers to the Council's Interim Policy for the Potential Release of PAS Sites (CD B8)<sup>16</sup>. This policy was withdrawn following the identification of preferred SAP sites<sup>17</sup>. A CIL Charging Schedule for Leeds was published in 2015 (CD B16). Other relevant local policy documents include Farsley Conservation Area Appraisal and Management Plan (CD B18) and Farsley Village Design statement (CD B21). I have also had regard to national planning policy and guidance, in particular that contained in the National Planning Policy Framework (NPPF), and the Planning Practice Guidance (PPG).

### **Agreed Matters**

30. Three statements of common ground have been agreed between the Appellant and the Council. The planning statement of common ground (CD D2) covers the following matters:
- The Council's position on the proposal.
  - A description of the site and its surroundings.
  - The proposal. The revised masterplan and parameter plan do not change the nature of the proposal, but simply restrict residential development from part of the site. Both revised plans and an addendum to the environmental statement have been publicised, and no prejudice would be caused by consideration of the appeal in respect of the revised masterplan.
  - Planning history.
  - Planning policy. The only relevant UDP policies are N19 and N34 (above, para 25). Policy N19 conflicts with the NPPF as it does not include a balance test, and it should only carry limited weight. Policy N34 is relevant to the supply of housing: it is out of date and should carry very little weight. The Council does not dispute the Appellant's contention that this is because the UDP is time-expired, that the UDP is silent in relation to any restriction on the development of PAS sites now, Policy N34 does not enable a cost-benefit analysis of the appeal site and is inconsistent with the NPPF, and there is not a five years housing land supply.
  - The Council's timetable for preparation of the SAP is set out (above, para 26). Whilst the Council is confident that this can be met, the Appellant considers that the timetable is optimistic. The emerging SAP is not at an advanced stage and it should carry limited weight.

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<sup>16</sup> This interim policy is referred to in the deemed reason for refusal as an interim housing policy.

<sup>17</sup> The Council's statement of case, paragraph 1.5.

- The proposed development is not so substantial, either in its own right or cumulatively with other PAS sites, that the granting of planning permission would undermine the preparation of the SAP. There is no basis to refuse planning permission on the ground of prematurity.
  - The calculation of the five years housing land requirement should be based on the figures in Policy SP6 of the Core Strategy. At least 3,660 dwellings are to be provided during the first five years, requiring a step up to an annual average provision of at least 4,700 dwellings from 2017/18 (above, para 22). Although there is a detailed difference for 2015-16 concerning the re-use of long-term empty properties, there was undersupply for that year, and there has been persistent under delivery. A 20% buffer should be applied to the base requirement and shortfall. The five years requirement for 2016- 2021 is 32,614 dwellings according to the Appellant or 31,798 dwellings according to the Council.
  - The Council does not dispute the Appellant's evidence that there is a land supply sufficient for 18,711 dwellings. This is sufficient for 2.87 years (according to the Appellant's position on requirement) or 2.9 years (according to the Council's position on requirement).
  - There is no basis to refuse planning permission in respect of the effect on flora and fauna, noise, drainage, contamination, the loss of agricultural land, and archaeology.
  - Three heritage assets could potentially be affected due to a change in their setting: Farsley Conservation Area, and the listed buildings of St Margaret's Church in Horsforth and Wadlands Farmhouse. There would be no harm to the heritage significance of these assets.
  - The site is not subject to any landscape designations and it is not considered to be a valued landscape. The development would not cause significant harm to the landscape quality or character of the area, or to the perception of Farsley and Rodley as separate settlements.
  - The proposal would create the following advantages and benefits: the delivery of family homes in a sufficiently sustainable location; affordable housing, the creation of construction jobs, new areas of green infrastructure and public open space, additional pedestrian and cycle infrastructure, public transport improvements, and investment in local facilities and services.
31. The highways statement of common ground (CD D3) covers the following:
- The proposed vehicular access arrangements would be suitable and safe. The proposed pedestrian/ cycle access arrangements would be suitable and safe, and would provide a significant enhancement to the existing network. Construction traffic can be satisfactorily dealt with by a condition requiring a traffic/ construction management plan.
  - The appeal site provides very good accessibility to a range of facilities and services within a 5-10 minutes cycle ride and to significant employment opportunities beyond the immediate local area.
  - There would be a sufficient level of accessibility by bus and a reasonable level of accessibility by train, having regard to the distances to bus stops and to

New Pudsey station, the frequency of services, and the measures proposed as part of the scheme.

- The design year for the completion of the scheme is 2022. Residential developments at Riverside Mill, Clariant Works, and Mulberry Manor, and mixed use schemes at Kirkstall Forge and Woodside Quarry should be included as part of the base traffic flow, but other proposals which are further from the site or do not benefit from planning permission, such as development proposals at Leeds-Bradford Airport, should not be included.
  - Trip generation and distribution rates. The peak hour design traffic flows are based on a 5% uplift in the number of dwellings for robustness.
  - The works proposed at the Ring Road/ Rodley Lane, Dawsons Corner, and Ring Road/ Calverley Lane junctions would provide satisfactory mitigation for the impact of the development. The overall package of highway and transport measures would provide a substantial range of benefits.
32. The education statement of common ground (DOC G5) explains that there is a potential need for a new primary school to meet the growth in need for places arising from development in the Farsley and Calverley areas. In the absence of an alternative location, the planning obligation to reserve a parcel of land on the appeal site provides a mechanism to meet this need.

### **The Case for the Appellant (Documents A1-A17)**

*The material points are:*

#### ***Changes since 2015***

33. Since the original decision on this appeal in 2015 there have been several changes in circumstance. The five year housing land supply period has moved on two years. UDPR Policy N34 has, together with the housing policies of that plan, gone past the period of time for which it was intended to be applied. Since the time of the previous inquiries there has continued to be an under delivery of housing against the Core Strategy requirement, and compared to the supply and delivery statements made by the Council at those inquiries. The Secretary of State has recently issued four decisions granting planning permission in Leeds on PAS sites in the last seven months<sup>18</sup>, in each case finding Policy N34 out of date and that there is no five years housing land supply in Leeds. The Council, in recognition of the housing land position and the suitability of PAS sites for development offered no evidence to both this inquiry and at the appeal dealing with another site at Kippax, where permission was granted in 2016 (CD E7). The Council has agreed a set of statements of common ground for this appeal, confirming it does not oppose the grant of planning permission and that there is no five year housing land supply by some considerable margin. The revised parameters plans reduce the effect on views, the character and identity of the area, and heritage considerations. Matters should now be considered afresh.

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<sup>18</sup> The appeal decisions concern residential development at Boston Spa (CD E6), and Bramhope, Collingham & East Ardsley (Document A19)



### ***The appeal site***

34. The appeal site has been found to be suitable for development on a number of occasions. It is in a location that is sufficiently accessible and sustainable. The site was identified as PAS land and removed from the Green Belt following the first UDP inquiry in the 1990s. The site was reaffirmed as PAS land in the 2006 UDP Review. In the 2012 SHLAA the site was found to be suitable for development, and it has not been reviewed in subsequent versions of the SHLAA. In 2013, the Issues and Options for the emerging SAP confirmed the site as suitable for housing, but with issues to be resolved. Through the course of the planning application leading to this appeal all site specific issues have been resolved, and no site specific concerns were raised in the deemed reasons for refusal. In the publication draft SAP of 2015, the site is identified as safeguarded land.

### ***The Core Strategy***

35. Policy SP1 contains a broad approach to the location of development. The majority of new development is to be within or adjacent to urban areas. That is where the appeal site is located. SP1 is to be read alongside policy SP7 which makes clear that this is where 50% of new housing is to be located. The proposal complies with the spatial strategy. There is no sequential test in the Core Strategy policy. According to Policy H1, the expectation from 2017 onwards is that some 45% of all development will be on greenfield land. The emerging SAP proposes greenfield development in phase 1, and seeks to accommodate almost 1,200 of the 4,700 dwellings proposed for the Outer West HMCA in the Green Belt. Policy SP6 is also supportive of the appeal proposal. It sets out a number of considerations in terms of identification of the land to meet the required level of new housing. The appeal site is a good fit with these considerations, particularly as it is not in the Green Belt.
36. Policy SP10 is concerned with a review of the Green Belt. Paragraph 83 of the NPPF makes it clear that exceptional circumstances are required to take land out of the Green Belt. To rely on this, it will be necessary to demonstrate that housing growth cannot be met properly outside the Green Belt, and there will need to be strong reasons for not using non-Green Belt land such as the appeal site. Paragraph 4.8.6 of the UDP explains that existing PAS sites in the UDP will be one of the prime sources of future housing allocations. The appeal proposal is fully supported by the Core Strategy.

### ***The UDP Review***

37. The purpose of Policy N34 was to provide land for longer term development needs, beyond the end of the Plan period in March 2016. It was intended that a review would take place in the light of the next Regional Spatial Strategy. The 2008 Regional Strategy increased the annual housing requirement from 1,930 to 4,300 dwellings, but no review was undertaken. The Core Strategy has since reinforced the higher annual requirement from 2012. The Plan period has expired, and therefore so has the restriction against development of Policy N34. In addition, Policy N34 must be read alongside the housing policies of the UDP, which are out of date. In recent appeal decisions, the Secretary of State has agreed that Policy N34 is not up to date, is time expired and is not a policy which should be used to restrict development in a manner consistent with the NPPF. The policy is silent in relation to any restriction on the development of PAS sites

now and on where new housing is to be located in order to meet the Core Strategy requirement and distribution. Developing houses on the site now, beyond the period for which the UDP was intended to apply, would not prejudice future development on the site.

38. The proposal does not conflict with paragraph 85 of the NPPF, which is a plan making policy and sets out what a new plan should contain at its inception. Such a new plan would have to be prepared so as to meet all relevant development requirements during its plan period and be up to date. That is not the present situation. Policy N34 is in a 2006 UDP Review, which is time expired and was prepared to meet entirely different development needs. It gains no support from paragraph 85 of the NPPF.
39. Applying Policy N34, so as to restrict development on an otherwise suitable site, results in no ability for the harms and benefits of a proposal to be balanced against one another. The balancing of harms and benefits is a central thread in the NPPF. A further matter pointing to the policy being out of date is the Council's decision to create an Interim Policy for the Potential Release of PAS Sites. In the Boston Spa decision, the Secretary of State agreed with the Inspector that the very presence of the Interim Policy was an acknowledgement that the approach of Policy N34 to resist development was out of date. The above matters lead to the conclusion that Policy N34 should be given little weight.

#### ***The emerging SAP and prematurity***

40. Work on the SAP started in 2011. It has attracted many objections. The Council currently hopes to have a further consultation on a further publication draft later in 2017. There will then need to be a period of consideration of the objections received. Only then can a submission draft be concluded and it is considered that this is likely to be well into 2017. Whilst the Council's hope is that the SAP will be adopted by the end of 2017, this is considered optimistic. Given lead-in times for planning permissions, site acquisition, and commencement, it is likely that the adopted SAP will provide virtually no housing supply within the relevant five year period for this appeal.
41. PPG advises that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. In this case there are no clear adverse impacts that could outweigh the benefits of bringing forward needed development on a suitable and sustainable site. PPG further advises that circumstances that might lead to a prematurity issue are likely to be limited to situations where the development is so substantial or its cumulative effect would be so significant that to grant permission would undermine the plan making process on matters that are central to the emerging plan and the emerging plan is at an advanced stage. This latter point is clarified with the statement that prematurity will seldom be justified where a draft plan has yet to be submitted for examination. In this case the emerging SAP is some time away from submission to the Secretary of State. Further, the appeal site represents 0.4% of the overall Core Strategy housing requirement and only 6.4 % of the dwellings to be delivered within the HMCA. There can be no proper basis for concluding that development of the appeal site would be premature.

### ***Five years housing land position***

42. It is agreed with the Council that the Core Strategy is to be used for the purposes of the base requirement for housing land, to which undersupply and a 20% buffer are to be added (above, para 30). There is one point of difference with the Council concerning the delivery from long-term empty houses being brought back into use, which has led to a five years requirement of 32,614 dwellings being calculated by the Appellant and 31,798 dwellings by the Council. The Core Strategy is up to date in terms of the housing requirement, and it was prepared in line with the NPPF and PPG. Although the Council has begun a review process, there is still much work to do on that process until a new requirement figure can be concluded and the timeframe for concluding it is the end of 2018. It cannot, therefore, be used for determining this appeal. The Local Plans Expert Group (LPEG) work referred to by Mr Andrew MP is at this stage only a report to Government, suggests a different approach that has not been carried out for the inquiry, and also suggests a three years minimum lock-in for Core Strategy requirement figures from the date that they are found to be sound (Document A24).
43. The Appellant's evidence is that the five years supply is 18,711 dwellings<sup>19</sup>, which is not contested by the Council. This is sufficient for 2.87 years (2.93 years using the requirement of 31,898 dwellings found by the Secretary of State in the 22 December 2016 appeals). There is no five years supply of housing land by some considerable margin. As there is no five years housing land supply, paragraph 49 of the NPPF is engaged and policies relevant for the supply of housing are deemed to be out of date.

### ***Landscape and character***

44. By definition PAS sites were identified because they were suitable for development and the selection criteria used were in effect the same as those for allocation. Relevant national policy at the time required sites identified as PAS to be genuinely capable of development having regard to landscape and environmental matters. The purpose of PAS is to provide a reserve of land to allow development when it is needed.
45. The site cannot objectively be viewed as being a valued landscape in NPPF terms. For that to be the case, a site would have to have physical attributes that take it beyond ordinary and popularity in itself does not do that. The Guidelines for Landscape and Visual Impact Assessment<sup>20</sup> (GLVIA) identify a range of factors to be taken into account. The mere presence of some element of these is insufficient and it is the importance of them that has to be judged, with greater emphasis on character, intactness and condition where the landscape is not highly valued. Mr Longdin's analysis of these factors is to be preferred to that of FRAG. The site is not of high landscape quality in terms of its condition or physical state. It is influenced by pylons, surrounding development and infrastructure, and the trees on the site (although covered by a TPO) are not of particularly high quality. The site is neither rare nor representative. It is not accepted that there would be any harm in terms of conservation interest. The

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<sup>19</sup> The Appellant's housing land supply position is summarised in the tables in paragraph 6.83 of Document A14. The identified supply comprises sites under construction, with planning permission and included in the emerging SAP.

<sup>20</sup> Guidelines for Landscape and Visual Impact Assessment, 3<sup>rd</sup> edition; Landscape Institute and Institute of Environmental Management & Assessment; 2013.

site itself is not of recreation value and is bounded by one footpath running along its edge. The importance of views from this footpath will depend upon the purpose of use, which is not always recreational. In perceptual terms the landscape is neither wild nor tranquil, taking into account its surroundings including the Ring Road. There are not considered to be associations with particular people or events in history.

46. In terms of the site providing a role of separation, both Farsley and Rodley are part of the MUA. They are also each physically joined to Bagley, both in plan terms and in terms of the experience when travelling between Rodley and Farsley along Bagley Lane, from where the site is barely visible, and development will do very little to change the current perception.
47. Insofar as views are concerned, the difference with FRAG mainly amounts to judgements about views that are immediately adjacent to the site, or within a few metres of its boundary. The exceptions are the views from Airedale Mount and footpath No 36. Six of those views are from private residential properties on the boundary of the site or adjacent to it. It is inevitable that, when building houses on a greenfield site, there will be a significant change to the views from its immediate boundary. In the context of existing residential development on the boundary, the key issue is one of residential amenity not change to views, and no adverse case on residential amenity is suggested. There is no objective basis for saying that the residents of properties on the boundary of the site should have a higher expectation in terms of views or amenity than the residents of dwellings set further back. FRAG has concluded that there would be major effects from footpaths Nos 18 and 36 and from Oaklands Road, but it is considered that it has not taken into account matters in GLVIA set out in Mr Longdin's rebuttal; changes in composition, proportion of the view affected, degree of contrast with setting/context, angle of view compared to activity of the main receptor and the extent of the area over which changes are visible.
48. The criticisms made by FRAG in relation to photography and photomontages are considered to be of no effect. Firstly this is an outline proposal. Secondly the purpose of the photographs is to identify locations to allow the reader to better understand the conclusions from the text of the landscape and visual impact assessment (LVIA). Thirdly, Mr Spence's photomontages for FRAG were incomplete. They did not undertake the final step of showing the montage in context, with the wire frame removed and existing landscaping and built development properly depicted. That exercise has been undertaken by Mr Longdin (Document A21), and the outcome has been agreed with Mr Spence as accurate. Whilst Mr Spence has no analysis of montages from the recreation ground itself, in those instances where there is a similar viewpoint taken to produce a montage there is no material difference in the image created between Mr Longdin's work and Mr Spence's, save for the apparent overstatement by Mr Longdin of the height of some properties when viewed from Calverley Lane. Mr Longdin's cleaned up montages of Mr Spence's work show the effects of the revised scheme in terms of the minimal impact on the views from Calverley Lane, the retention of long views over the top of development to the north side of the valley, the retention of views to St Margaret's Church, Rawdon and Rawdon Billing, and the improvement derived from the scheme changes compared to the scheme in its previous form.

## ***Heritage***

49. There are no heritage objections by the Council, Historic England or any local heritage group such as a civic society. FRAG has undertaken an assessment using the Design Manual for Road and Bridges (DMRB). DMRB effectively asks two relevant questions; how important is the asset (not its setting) and how much change would there be to setting, essentially a visual assessment. DMRB is not policy, it predates the NPPF, and it is aimed at determining the significance of an impact by reference to change and not the impact on the significance of the heritage asset. It is formulaic in approach and never seeks to answer the question at the heart of the Historic England Setting Guidance (CD J2); to what degree does setting make a contribution to the asset's significance, thereby allowing a proper judgement to be made about how development affects that significance. In addition it equates change to the asset itself with change to the setting.
50. The significance of Farsley Conservation Area, of which the Recreation Ground is part, is derived from the industrial explosion of Farsley and the buildings and spaces associated with that. The conservation area appraisal makes no reference to the significance of the conservation area being materially derived from an agricultural past and certainly no reference to the site having a contribution to the significance of the conservation area in terms of a past agricultural era (CD B18). Indeed when views out of the conservation area are mentioned, they are not of the site but of the northern flanks of the Aire Valley. Nowhere in the conservation area appraisal is it claimed that the site plays a role either in the context of Farsley's industrial character or in any other respect.
51. The limited view from a rear private garden, at the edge of Rodley Conservation Area has no relationship to the significance of that asset. The appeal site was once farmed by a former occupant of Poplar Farm, which is a listed building. This historical fact is unaffected by the development and there is no effect on the setting of Poplar Farm. The same applies to Wadlands Farm: the visual connection between the appeal site and this listed building is very limited and as with the historical ownership issue provides nothing to the significance of the asset.

## ***Highways***

52. Mr Owen has analysed the current highway network, based on 2016 survey data, to take account of material changes since the 2013 inquiry. These include the signalisation of the Rodley roundabout, and the changes to the Dawsons Corner junction to accommodate the cycle super highway scheme<sup>21</sup>. His analysis is considered to be robust and is agreed with the Council. FRAG has concerns about the Rodley roundabout, Dawson's Corner roundabout and the junction of Bagley Lane with Rodley Lane. The only safety point raised is in relation to crossing the Ring Road in the vicinity of Calverley Lane. This latter point was considered at the previous inquiry and rejected. There are now better pedestrian crossings at the Rodley roundabout allowing pedestrian movement to Calverley. There is no evidence that crossing the Ring Road at Calverley Lane is an important desire line and no evidence of pedestrian accidents. On Bagley Lane

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<sup>21</sup> Sections 3 and 6 of Document A11 describe the existing local highway network and the survey work undertaken in 2016.

delay is not caused by the Bagley Lane/ Rodley Lane junction, but the queue from the Rodley roundabout.

53. At the Dawsons Corner roundabout there is no allegation that the model is wrong or poorly verified against existing traffic. The point seems to be simply that the improvement proposed may not do its job. It is of course critical to have regard to national policy and the test that has to be met. Permission should only be refused where the residual cumulative impacts of the development are severe. This would not be the case at Dawsons Corner. At the Rodley Lane/ Ring Road junction, the additional effect on the degree of saturation in the AM and PM peak periods is only 1% added on the arms where there is already a particular issue, except for Rodley Lane South where there is a more material impact. The improvement proposed by Mr Owen would have a material effect on this approach, and the residual cumulative impact would not be severe.

### ***Ecology***

54. There is no dispute with FRAG on this issue. Full up to date surveys have been undertaken, the scheme has the potential to avoid any roosts of bats, and the site is used less by bats now than at the time of the previous inquiry, when the conclusion was that the development would be unlikely to result in harm to bats. On the information available there will be no need for licensable works in respect of any protected species.

### ***Other considerations***

55. There are no drainage impediments to the appeal proposal. Surface water from the site will be managed in accordance with conditions such that the current green field run-off rate will be matched. This will be achieved through on-site storage and preliminary calculations have been undertaken that show the amount of storage and that this can be accommodated on the site. The site is in flood zone 1 except for a very small area in the vicinity of Red Beck that is not proposed for development. Dr Cotton's concerns regarding soil permeability are unfounded. Firstly Mr Morley has taken a prudent approach to the permeability of soils which is supported by the report from Cranfield University (Document A25). Secondly the consequence of soils being more impermeable is that the existing green field run-off rate would increase. It is this rate which the development would have to match. The development would not increase the likelihood of flooding in Rodley.
56. In relation to foul drainage there is no objection from Yorkshire Water, and Mr Morley explains that the connection to the public combined sewer is acceptable. In any event the 5.1 l/s generated by the development can be offset by surface water separation such that the existing combined sewer would carry less as a consequence of the development, with some of the existing combined sewers' surface water being dealt with on site, as part of the scheme itself. In both surface water and foul drainage terms the matter is capable of being dealt with by condition and the development provides an opportunity for betterment in both foul and surface water drainage which would provide a modest benefit.
57. The site's accessibility to local facilities and public transport was previously found to be acceptable. In terms of the capacity of facilities to accommodate the development, Mr Dunbavin's evidence shows that doctors and dentists in the area are still taking new patients.

58. Some residents have referred to opportunities for development in other locations. Undoubtedly there will be some modest brownfield sites in the area. However, in order to meet future housing needs, there will have to be development on greenfield land. Moreover, it is intended by the Council that there will have to be development of land that is currently in the Green Belt. Development of the appeal site is preferable to development of land in the Green Belt.

### ***Benefits***

59. The economic and social benefits of building houses include the value of the investment, direct construction jobs, indirect spin-off employment, the economic effect of spending in local facilities, the support for local retail areas, the spin-off expenditure from household moves, the New Homes Bonus, Council Tax, the provision of homes to meet the need for additional housing where there is a shortfall and the provision of affordable housing. There would also be site specific benefits in terms of enhancement to grassland and trees, the provision of public open space, the containment of surface water run-off, the opportunity to provide a net benefit to the sewerage network, provision of additional maintained and surfaced paths providing walks and cycle access, and the pedestrian and cycle link along the Ring Road. In addition there is the opportunity to provide a site for a school. Together these benefits are significant, tangible and deliverable.

### ***Planning balance***

60. To the extent that the proposals accord with the Development Plan they should be granted planning permission without delay. The proposals fully accord with the Core Strategy. Otherwise, it is clear that Policy N34 is out of date, silent in terms of its approach to restriction of development now, after the end of the plan period, and inconsistent with the NPPF. In addition there is no five years housing land supply by some considerable margin. Consequently planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case there is however first a need to consider heritage issues outside of the approach in paragraph 14 of the NPPF. In respect of all heritage assets, any harm would be less than substantial. Consequently a judgement has to be made as to whether any harm is outweighed by the public benefits of the proposal. The Appellant's evidence is that the public benefits are substantial and there would be no harm to the significance of the heritage assets. It is clear that there is a duty to have special regard to the desirability of preserving the setting of listed buildings. It is also clear that if engaged this is a duty to which considerable weight and importance should be given. However, in this case any harm would be slight. After dealing with heritage matters, the balancing exercise in paragraph 14 of the NPPF may be addressed. Because the paragraph 14 test is met, the development is by definition sustainable, and planning permission should be granted.

### **The Case for the Council** (Documents CD D2-D3, G5, L3)

*The material points are:*

61. As the Council is not pursuing any of the deemed reasons for refusal, it follows that, in the Council's view, there is no outstanding reason to refuse planning permission. Whilst the Council has, therefore, stated that planning permission should be granted, that does not mean that it is a supporter of the proposal.

62. Reason No 2 relates to the lack of a pedestrian and cycle route along the Ring Road. The highway reason was not contested at the first or second inquiry. The Highways Statement of Common Ground explains that that reason has not been pursued as the site is considered sufficiently accessible with the package of highway and transport measures proposed. Reason No 3 relates to the terms of planning obligations, which were agreed before the first inquiry. The education statement of common ground explains that there is a potential need for a new primary school due to development in the locality, and the unilateral undertaking provides an opportunity for a school to be provided on the appeal site.
63. Reason No 1 relates to prematurity and the emerging SAP. The position in relation to the relevant planning policies, both adopted and emerging, is set out in the planning statement of common ground. As is recorded at paragraph 6.18, the Council accepts that, given the current position in relation to the SAP, there is no basis to refuse the appeal on the grounds of prematurity. That position means that the first deemed reason can no longer be relied upon.
64. There is no five years housing land supply. Having regard to the NPPF, where there is no five years land supply planning permission should be granted unless any adverse impacts would significantly outweigh the benefits. It is not the Council's case that there are any such adverse impacts. The fact that the Council is a 20% buffer authority at the present time is confirmed by the recent appeal decisions of 22 December 2016 (Document A19). Those appeal decisions do not lead to any departure from the matters set out in the planning statement of common ground.
65. The scheme is consistent with local and national policies insofar as the effects on bats, the character and appearance of the area, and Farsley Conservation Area are concerned. On bats, the Council has never advanced an ecology reason for refusal, and it did not call ecological evidence at either of the previous inquiries. The development would be unlikely to result in harm to bats as a protected species subject to the imposition of suitable conditions. There would be no significant harm to the landscape quality or character of the area, and it is considered that there is no justification for an objection based on design, character, views, landscape or settlement identity issues.

**The case for FRAG** (Documents F1-F14)

*The material points are:*

***Amended plans***

66. Having regard to the *Wheatcroft* judgement, FRAG's case is that the development would be so changed by the revised plans that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation. The Council notified residents of the revised plans, but evidence was presented that a minimum of some 55 residents who had originally objected to the application were omitted from the notification list. There was therefore confusion amongst local residents as to the number of houses which were now proposed. The Appellant had suggested that local residents had been informed by FRAG of the changes. However FRAG strongly disputed this assertion since residents' meetings were primarily called for the purpose of raising funds, not all residents have access to Facebook, the official



FRAG website did not refer to the change in the masterplan, and none of the flyers mentioned details of the amended proposal.

67. FRAG disagrees with the Inspector's ruling that the inquiry should proceed on the basis of the revised plans. Two new housing developments (Mulberry Manor and Bagley Hamlet) have been built in close proximity to the appeal site. This has the potential to create a greater number of objectors since residents who may not have objected previously may now feel that they have grounds for objection due to the level of additional development which has taken place in the area, and the pool of potential objectors has increased. It is considered that those residents who were notified were presented with unclear and conflicting information, and that there was significant confusion about the proposal. There are similarities with an appeal decision at Henlow in which the Inspector rejected a proposed revision to a smaller number of dwellings (above, para 10). The original scheme should have been considered in this appeal.

### ***Heritage***

68. In Mr Joslin's closing submissions (Document F1), concern was expressed on behalf of FRAG about the effect of the appeal proposal on the setting of five designated heritage assets: Farsley and Rodley Conservation Areas, and the three listed buildings of Old Poplar Farmhouse, the cow shed to the west of Old Poplar Farmhouse, and Wadlands Cottage/ Wadlands Farmhouse. FRAG's professional heritage witness also referred to the potential for the development to cause harm to the listed St Margaret's Church in Horsforth, and non-designated assets of Rawdon and Rawdon Billing. In response to my question, Mrs Gibson (who spoke on heritage matters for FRAG) confirmed that the effect on these assets does not form part of FRAG's case.
69. The proposed development would fall within the setting of five designated heritage assets, and the significance of each would be affected. FRAG's methodology in reaching these conclusions had been criticised; however it adheres to Historic England guidance detailed in Good Practice Advice Note 3, the methodology is supported as robust (if unconventional) by FRAG's expert heritage witness.

### ***Wadlands farmhouse and cottage***

70. FRAG believes that there is a view of the appeal site from this listed building and that section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged. The history of the area is relevant to the significance of the asset. The boundary of the Wadlands Manor in 1640 was extensive, covering a significant proportion of Farsley and including all of the land at Kirklees Knowl. In 1728, the 320 acres at Kirklees Knowl represented a significant proportion of the manorial lands (about 13%). Without its land, the manor would not have been able to support itself. The land at Kirklees Knowl made a significant contribution to the manor, and has a historical and functional link to Wadlands Farmhouse.
71. Kirklees Knowl is the only land from the original manor to the south of the Ring Road which has not been developed, and which remains in agricultural use. The setting provided by the appeal site gives an appreciation of the scale and extent of the original manorial lands and the significance of the historic link. Development of the site would destroy this link. It would harm the setting and

significance of Wadlands Farmhouse and Cottage. The likely harm to the significance of the heritage asset would be less than substantial, falling towards the lower end of the scale. Having regard to paragraph 132 of the NPPF, great weight should be applied when considering this harm within the planning balance described in paragraph 134.

#### *Old Poplar Farmhouse and cowshed*

72. The visual link between these listed buildings and the appeal site was removed with the construction of the Bagley Hamlet development in 2013. There does, however, remain a historical and functional link between the farm buildings and the land. To develop the site which includes fields once farmed by the tenants of Poplar Farm<sup>22</sup> would erode the understanding of its connection to the landscape for future generations, and thereby create harm to the significance of the asset. The likely harm to the significance of the heritage asset resulting from development of the appeal site would be less than substantial, and the likely harm would fall towards the lower end of the scale.

#### *Farsley Conservation Area*

73. Farsley Recreation Ground lies immediately opposite the southern part of the appeal site, and it is FRAG's view that the site forms a significant part of the setting of this part of the Conservation Area, both visually and historically. There are views to the slopes of the Aire Valley, and to the historic settlements of Horsforth and Rawdon, particularly from the footpath along the eastern boundary of the Recreation Ground. The spire of the grade II listed St Margaret's Church is prominent on the ridgeline above Horsforth, and Swaine Wood is visible in the mid-distance.
74. In 1868, land from the estate of Clara Thornhill was made over to the inhabitants of Farsley as the Recreation Ground. Its elevated position, panoramic views and peaceful rural situation, surrounded by farmland, were unique within the village. It is a view which has changed little in the 150 years since the Recreation Ground was gifted to Farsley, and this setting contributes greatly to its significance and ties it to its Victorian past. The Recreation Ground is still unique within Farsley by virtue of its setting, and should further development encroach upon the setting, its significance would be lost. Whilst the importance of the view from the Recreation Ground is not highlighted in the Farsley Conservation Area Appraisal, the views detailed therein are not exhaustive, and a position to that effect was taken in an appeal decision at Etwell<sup>23</sup>. In his report on the 2013 inquiry, the previous Inspector commented that *The development of the fields would adversely affect the setting of the Conservation Area*<sup>24</sup>.
75. That part of Oaklands Road adjacent to Rosemount Terrace is at the northern end of the Conservation Area. The road was constructed at some point between 1851 and 1893 and it forms a direct historical route to Rodley. This part of Oaklands has a feeling of being a rural track, and the appeal site has been crucial to maintaining this rural connection. In terms of Rosemount Terrace, the significance of the setting is that the site has always formed a dominant and very rural backdrop to these houses owing to its proximity. Harm to the significance of

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<sup>22</sup> The title plan at Appendix 7 in Document F9 shows the link between fields on the appeal site and Old Poplar Farm.

<sup>23</sup> Appendix 32, Document F9.

<sup>24</sup> CD F1, 2014 report, para 166.

this part of the Conservation Area would occur owing to the urbanisation of the views. The Appellant's expert witness agreed with FRAG in cross-examination, that where erosion of the significance of one character area occurs, this would automatically result in erosion of the significance of the Conservation Area as a whole.

76. The village's agricultural heritage made a vital contribution in supporting the industrial revolution in Farsley. The appeal site is the last remaining piece of agricultural land of any substance to the south of the Ring Road adjoining the settlement. Development of the appeal site would further remove Farsley from its historic agricultural setting, and erode the understanding of its historic connection to the landscape. If a school were on the green space shown in the revised masterplan this would increase the level of harm to the setting of the Conservation Area.

#### *Rodley Conservation Area*

77. The elevated late 19<sup>th</sup> century terraced houses at Airedale Mount form the southern boundary of Rodley Conservation Area, and, indeed, form a natural boundary to the settlement itself. They are highly visible from the appeal site, occupying a dominant position in the mid distance, set against a backdrop of woodland, and with Kirklees Knowl acting as a rural foreground. It is the combination of the unusual nature of the houses, and the views both into and out of this part of the Conservation Area which contributes to its significance. Development of the appeal site with housing would remove the sense of separation between Farsley and Rodley, and not only join both settlements but effectively merge the two Conservation Areas.

#### **Landscape**

78. The Appellant's LVIA is not considered to accurately indicate the potential impact of the development. Despite the proposed number of dwellings having reduced by 25%, the impact assessment levels for a number of receptors in the Appellant's 2016 LVIA are little different to those in their LVIA of 2012<sup>25</sup>. The Appellant's approach to the 2016 LVIA appears to contain a number of errors. Not all of the photographs covered the full extent of the development site (this is most obvious from PROW No 18 and Calverley Lane). It is considered that tripods and levelling were not used for all of the photographic work and that certain views have been stitched as a flat field of view as opposed to a cylindrical view. The methodology statement for the production of visualisations was not attached to the LVIA. The visualisation F28 B2 was taken without a tripod and without levelling; there is also an error in the photomontage for this view, which shows a house greater than the intended 8.5m height.
79. GVLIA3 states that the list of factors relating to identification of valued landscapes which it sets out in in box 5.1 is not comprehensive, and other factors may be considered important in specific areas<sup>26</sup>. The site should be considered as valued. The recent developments at Bagley Hamlet and Mulberry Manor have implications for cumulative harm. The Appellant's 2016 LVIA, with its similar levels of harm to that of the earlier masterplan for 400 dwellings, continues to

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<sup>25</sup> The 2012 LVIA is Chapter 7 in Document 1 (2013 inquiry) and the 2016 LVIA is at Appendix F of CD A3.

<sup>26</sup> GLVIA3, para 5.28.

underplay the significance of the impact that the proposed development would have upon the landscape and key views. There would be adverse effects in views from the surrounding area. The site is surrounded by a network of well-used footpaths, and it forms an important part of the setting of several of these. Kirklees Knowl is unique in Farsley, both due to the foreground it provides to long views over the Aire Valley, and also for the feeling of rural tranquillity which it lends to the area. Development of the site would result in the settlements of Farsley and Rodley being absorbed into one larger urban area.

### **Transport**

80. Other development taking place in the area is having an impact on local routes. Further traffic is likely from growth at Leeds-Bradford airport, the cycle superhighway has had an impact on the network, and the car park at New Pudsey rail station is being used to capacity. Substantial queues form on the Ring Road at peak times. A previous scheme at Rodley Lane should have queuing at the roundabout, but it has increased. There are also significant queues at peak times on Bagley Lane at its junction with Rodley Lane.
81. FRAG disagrees with the effect that the Appellant says would occur on the Rodley Lane south arm of the Rodley roundabout. Substantial reductions would be required to achieve the predicted queue lengths, and it is questioned whether this would be achieved merely increasing the capacity of the flare length on the Rodley Lane South approach from four to eight passenger car units (pcus). Dawsons Corner junction is operating close to capacity, but only a minor improvement is proposed by the Appellant.

### **The Cases for Interested Parties**

*The material points are:*

#### **i) Mr S Andrew MP**

82. There should be a plan-led system, and the foreword to the NPPF refers to planning as a creative exercise. The appeal proposal appears to be circumventing this approach. It is premature given that the Council is preparing the SAP. The constituency of Pudsey, Horsforth & Aireborough includes a series of towns and villages. Green areas form important natural boundaries which avoid urban sprawl and the loss of identities. The appeal site comprises a green wedge between Rodley and Farsley. About 500 dwellings are under construction at the former Clariant Works in the Aire Valley and the emerging SAP suggests a site for about 700 dwellings on land south of the A65 on the west side of Horsforth. The consequence of the development would be sprawl, with the area becoming a suburb of Leeds. It would have been appropriate for the site to be reallocated as Green Belt. Account should be taken of the character and appearance of the area and the natural environment.
83. Significant flooding occurred in the Aire Valley after Christmas 2016, and there is concern about the implications of additional development. Many new houses are coming forward and creating pressures on infrastructure: highways are congested, the demand for school places is significant, and it can be difficult to make appointments with a doctor.
84. The target of 70,000 dwellings (in the Core Strategy, above para 22) is considered to be too high. The LPEG report suggests that there is an annual

over-provision of more than 500 dwellings in Leeds set against the annual average increase in household projections<sup>27</sup>. The White Paper on Housing was expected to make reference to that work.

**ii) Councillor Andrew Carter (Document O3)**

85. Figure 2 of the Farsley Village Design Statement (in Document O3) shows open land (character area 2, which includes the appeal site), and this forms a green wedge between the conurbations of Leeds and Bradford. The visual impact of the development would be apparent from Farsley Recreation Ground, which is within the Conservation Area. Calverley Lane and the Recreation Ground are used by many walkers and young families on a regular basis. Those people who use Calverley Lane as a semi-rural walk and those people who use the Recreation Ground as an area for spending leisure time will see the visual impact at its greatest.
86. In his report on the 2013 inquiry, the previous Inspector commented that the contribution that the green and open characteristics of the site make to public views is locally important particularly as these are on the Farsley residents' doorstep. He concluded that the proposal would result in an adverse impact on local character and identity and the loss of a site of intrinsic value. The site should have been considered for inclusion in the Green Belt.
87. The Dawson's Corner junction is already operating at capacity at peak times. This situation is confirmed by an email from the Highways Department, which refers to capacity issues and comments that improvements are necessary. In a review of the busiest junctions in the city, Dawsons Corner ranked 20 out of 96 major junctions. It is considered that modelling often does not represent the situation, whereas residents have explained how the highway system works.
88. There was flooding locally in 2015, and in periods of heavy rain there is run-off from Kirklees Knowl towards Rodley and the River Aire. The enlargement of three schools has addressed a lack of capacity, and a school at Kirklees Knowl would only be needed if development were to go ahead there.

**iii) Local residents (Documents O4-O22)**

89. Thirty local residents spoke against the proposal at the inquiry, and raised the following matters. There has been confusion as to whether the development was for 300 or 400 dwellings. In any event the revision would not avoid harm from the proposal. Much residential development has taken place in this part of Leeds in recent years, and the Council's housing target is considered to be too high. There are brownfield sites around Leeds where development should take place in preference to Kirklees Knowl which is greenfield land. With the development of Mulberry Manor, the only fields on Calverley Lane are at the appeal site. Rodley and Farsley would effectively be joined by the proposed development, and their separate characters would be lost. There would be harm to views, particularly from PROW No 18, the path on Coal Hill, and the Recreation Ground. People benefit from the proximity of Kirklees Knowl, and its rural nature puts the conservation area into its historic context.

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<sup>27</sup> Figure 1, Document A24.

90. The area suffers from traffic congestion, both on the Ring Road, and also on Town Street, Calverley Lane and Bagley Lane, and there are other development proposals in the wider area. There are also highway safety problems. This situation would be exacerbated by the development. Flooding has occurred in Rodley, and there is concern about the effect of the development in this regard. The soil has a low ability to accept winter rainfall, and it is considered that this attribute is not fully reflected by the 0.45 value used in the Appellant's drainage calculations. In consequence the target discharge would be incorrect, and the sustainable drainage system is likely to be inadequate. Queries are raised about the adequacy of the existing foul drainage infrastructure.
91. Other concerns raised refer to the adverse effect on wildlife; the loss of agricultural land; and pressure on local facilities such as doctors, dentists, public transport and schools having regard to other development in the wider area. It is the role of the SAP to identify housing sites, and the proposal is premature in advance of the adoption of that Plan.

### **Written Representations**

92. Local residents who did not appear at the inquiry submitted about 7 objections in response to notification of the reopened inquiry (Document O1) and about 40 objections in response to the revised plans (Document O2). The material points are as follows. Similar concerns were raised to those put forward by the residents who appeared at the inquiry. Other reasons given for objection are the designation of Kirklees Knowl as a PAS site, the inadequacy of sustainable transport options, noise and pollution from additional traffic, and insufficient provision of affordable housing. A number of respondents to the revised plans said that they were unsure whether the scheme would involve 400 or 300 dwellings. Views were also expressed that there had been insufficient consultation on the revised plans and that these should have been the subject of a fresh planning application.
93. Previously about 270 written representations had been submitted in respect of the appeal prior to the 2013 and 2014 inquiries, and about 390 written representations in response to the planning application. A large majority raised objections to the proposal. Similar concerns were raised to those put forward in respect of the 2017 inquiry. In addition concern had been expressed about the housing target in Leeds and the effect on water pressure. In terms of support, the material points were that there is a need for houses, and that the development would benefit local businesses.

### **Conditions**

94. The Appellant and the Council submitted an agreed list of suggested conditions (Document G8). These cover the following matters: a maximum number of 300 dwellings, specification of approved plans, retention and protection of trees and hedges, drainage, flood risk mitigation, contamination investigation, renewable or low carbon energy sources, biodiversity enhancement and management, provision of a vehicular link through the site, details of highway works, a construction method statement, a highway condition survey, and details of levels.

## **Conclusions**

*References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus [8].*

### **Main Considerations**

95. In deciding to reopen the inquiry, two of the matters referred to by the Secretary of State were the implications of the judgement which quashed the 2015 decision and changes in circumstance since the date of that decision [5]. Several changes in circumstance are mentioned in the Appellant's case [33]: these concern housing land supply and the expiry of the UDPR plan period on 31 March 2016. The other relevant change in circumstance is the position of the Council. Having opposed the proposal at the previous inquiries, it no longer resists the grant of planning permission [7]. The previous decision was quashed as it did not take into account the withdrawal of the Council's Interim Housing Policy. As it has been withdrawn, that policy was not a matter which was addressed at the inquiry. Having regard to the representations and statements of common ground, I have identified the following main considerations in this case:

- (i) Whether there is a five years supply of housing land in Leeds
- (ii) The effect of the proposed development on heritage assets.
- (iii) The effect of the proposed development on the character and appearance of the area.
- (iv) The effect of the proposed development on traffic movement and highway safety.
- (v) Whether the proposal would be consistent with policies in the Development Plan.
- (vi) The effect of other considerations on the overall planning balance.

### **Housing land supply**

96. It is common ground between the Appellant and the Council that there is no five years supply of housing land in Leeds, and there is a large measure of agreement in the calculation of the requirement [30]. The starting point in the calculation is Policy SP6 of the Core Strategy which provides for 70,000 dwellings from 2012 to 2028. There is a target for the provision of at least 3,660 dwellings to be provided during the first five years [22], requiring a step up to an annual average provision of at least 4,700 dwellings from 2017/18. With a base date of 1 April 2016, the level of housing required by the Core Strategy for the five years period up to 2020/21 is 22,460 dwellings.

97. The Appellant and the Council agree that there has been undersupply during the four years from 2012. Against a requirement for 14,640 dwellings, the Appellant calculates that 9,922 have been provided, whereas the Council gives a somewhat higher figure of 10,602. The difference relates to the contribution to supply adjudged to arise from long-term empty properties being brought back into use in 2015/16. Having regard to paragraph 47 of the NPPF, I share the view of these parties that a 20% buffer should be applied due to persistent under-

delivery. In consequence the figures put forward as the five years requirement are 31,798 dwellings by the Council and 32,614 dwellings by the Appellant [30].

98. The Appellant has submitted evidence that there is a sufficient supply of housing land for 18,711 dwellings [43], as follows<sup>28</sup>:

	Dwellings
Identified supply	15,436
Windfall	2,500
Empty homes	1,000
Less demolitions	225
Total supply	18,711

No contrary evidence on supply has been put forward by the Council and it has not disputed the Appellant's evidence. The level of supply set out above would be sufficient for 2.87 years using the Appellant's requirement figure and for 2.9 years using the Council's figure [30].

99. At both previous inquiries, housing land had been contested by the Council and the Appellant. The Council has subsequently reviewed its position in the light of recent appeal decisions for residential development in Leeds. Appeals at Boston Spa, Bramhope, Collingham and East Ardsley were all allowed by the Secretary of State in 2016 [33]. In each case he agreed with the Inspector that there was not a five years housing land supply.
100. FRAG did not raise housing land supply as an issue at the inquiry. Reservations were expressed about the size of the housing target of 70,000 dwellings in the Core Strategy by Stuart Andrew MP [84] and some local residents [89]. The Core Strategy was adopted relatively recently in November 2014. Mr Andrew drew attention to the LPEG report, in which there is reference to an estimated over-provision of housing in Leeds compared with household projections. However paragraph 2a-0154 of PPG makes clear that household projections are only the starting point for establishing housing need. Adjustments may be appropriate due to local circumstances, and account should be taken of employment trends, market signals, and affordable housing.
101. There is no detailed evidence before me to counter the position on housing land set out in the planning statement of common ground, which is consistent with recent appeal decisions. I conclude that there is a significant shortfall of housing land in Leeds, and the contribution of the site at Kirklees Knowl towards the provision of a five years supply of housing land carries considerable weight in support of the appeal proposal.

<sup>28</sup> The components of supply are reproduced from the tables on page 64 of Document A14.



## ***Heritage assets***

### *Farsley Conservation Area*

102. Farsley Conservation Area extends along the main route through the settlement, where closely-grouped terrace and higher-status housing, religious and industrial buildings are a legacy of rapid development during the nineteenth century. At its northern end, it includes the Recreation Ground and Rosemount Terrace, which are opposite the appeal site on Calverley Lane and Oaklands Road respectively. From these locations there are views over the fields of Kirklees Knowl, which clearly forms part of the setting of the conservation area.
103. The Conservation Area Appraisal (CAA) refers to the variety of the built form and Farsley's important industrial heritage<sup>29</sup>. It also notes the landscaped setting which helps Farsley to retain its independence from its surroundings. There are several other parcels of open land adjacent to the conservation area, but these are generally smaller in size than the appeal site and more closely contained by the built-up area. I also observed that, with the exception of Coal Hill, they comprise greenspace facilities serving the community (the recreation ground north of the Boulevard, the playing fields at Farsley Springbank Primary School, and the cricket ground and bowling green on Red Lane). In contrast the more extensive area of Kirklees Knowl comprises fields which provide a visual link with the open land further north<sup>30</sup>.
104. The CAA refers to long views towards the Aire Valley giving a sense of elevation, although it only identifies a long distance view from Town Street over existing buildings towards the north-east side of the Valley. The appeal site does not feature in this view. The Appellant's heritage witness acknowledged that the CAA was not comprehensive in this regard, and I consider that the views across the Aire Valley from the Recreation Ground and Calverley Lane, which are more extensive than those from Town Street and more clearly demonstrate the independence of the historic settlement from its surroundings, are also of importance. Although filtered by tree cover, the availability of these views from the Recreation Ground complements its function as a place for leisure activity, outside the built-up part of the conservation area. The revised masterplan shows development set back from Calverley Lane, with a green spine running through the site to Oaklands Road [19]. Nevertheless the proposed housing would be apparent in the foreground of the elevated views from the conservation area on Calverley Lane. I consider that it would detract from the open setting of this part of the conservation area, and in particular of the Recreation Ground.
105. FRAG refers to Oaklands Road as a historical route to Rodley [75], and to Bagley as historically distinct from Farsley. The maps submitted by FRAG indicate that Oaklands Road was constructed during the second part of the nineteenth century<sup>31</sup>. Much development in Farsley occurred around this time, and the map evidence also shows that nearby Bagley Lane pre-dates Oaklands

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<sup>29</sup> The CAA is Appendix 21 in Document F9.

<sup>30</sup> See, for example, the existing view from FRAG's viewpoint 3 in Document F3.

<sup>31</sup> Extracts from Ordnance Survey maps of 1850 and 1894 are at Appendices 8 & 9 of Document F9.

Road, and is an older link between Bagley and Rodley. The short part of Oaklands Road within the conservation area provides local access, and there is no clear evidence that it merits particular historical significance. The 1894 map also shows buildings extending from the historic core of Farsley along Bagley Lane to the cluster of development in what is now identified in the CAA as the Bagley character area. Kirklees Knowl affords a pleasant outlook from the north-eastern tip of the conservation area, but the views are not prominent, nor as extensive as from Calverley Lane due to the lower position of the land here. Experienced from this location, I do not consider that the change to setting resulting from the proposed residential development would adversely affect the significance of this part of the conservation area.

106. The appeal site forms part of the setting of Farsley Conservation Area, and makes an important contribution to its significance as experienced from Calverley Lane and the Recreation Ground. Here the development would detract from the setting of the conservation area, having a moderate adverse effect overall on the heritage asset. Having regard to paragraph 134 of the NPPF, this would represent less than substantial harm to the significance of the conservation area as a whole.

#### *Rodley Conservation Area*

107. Rodley Conservation Area is a compact grouping of buildings and spaces, centred on Rodley Lane to the north-east of the appeal site. It includes the historic core of the settlement with residential and public buildings along Rodley Lane, a nearby stretch of the Leeds and Liverpool Canal, and the farmstead of Rodley Fold Farm. It extends along Bagley Lane to the elevated terrace properties at Airedale Mount. These houses are the closest part of the conservation area to the appeal site, lying about 180m to the north-east of the Oaklands Road frontage. The upper part of the houses at Airedale Mount can be seen from within the appeal site<sup>32</sup>, but this is a limited view due to intervening tree cover and buildings, and the conservation area is not experienced in a meaningful way from Kirklees Knowl. Given this relationship I do not consider that the site forms part of the setting of Rodley Conservation Area.

#### *Old Poplar Farmhouse and cow shed*

108. Both the farmhouse and the cow shed to the west are grade II listed buildings. They are situated on the east side of Bagley Lane opposite the recent residential development at Bagley Hamlet. Both buildings are in residential use, and the list entry description explains that the former cow shed has been included on the list for group value only<sup>33</sup>. The buildings date from the eighteenth century; they are examples of the vernacular architecture of the time, constructed from coursed rubble with quoins and stone slate roofs. They would have been part of a former farmstead, but industrial and residential buildings have encroached, and they now lie within built development along Bagley Lane. They are separated from Kirklees Knowl by the houses at Bagley Hamlet. There is a narrow line of intervisibility between the listed buildings and the south-east corner of the site on Oaklands Road, but this would not enable Old Poplar Farm to be experienced in a meaningful way. FRAG refers to tithe records which show that a former occupant

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<sup>32</sup> Photograph F, Document A22.

<sup>33</sup> The list entry descriptions are at the appendix in Document A8.

of the farmhouse was a tenant of some of the fields within the appeal site [72]. I acknowledge that for a time there was a functional link between Old Poplar Farm and the site, but there is no indication that there was use of fields at Kirklees Knowl throughout the period when Old Poplar Farm was a working farm, and the form of the buildings themselves provide sufficient evidence of the original purpose of the farmhouse and cow shed. I do not consider that the appeal site falls within the setting of these listed buildings.

#### *Wadlands Cottage/ Farmhouse*

109. This grade II listed building is situated about 500m to the west of the appeal site, on higher land and beyond the Ring Road. It is within a row of dwellings on the north side of the former farmstead. The site itself cannot be seen from the public footpath which runs past the side of Wadlands Farm, but it is likely that the upper parts of dwellings on the northern part of the site would be visible<sup>34</sup>. The listed building is slightly higher than the footpath but it is also somewhat further from the site, and I do not consider that there would be any material difference in visibility from that position. FRAG points out that the fields at Kirklees Knowl were formerly part of Wadlands Manor [70]. Wadlands Farmhouse is located in an open agricultural landscape, and the previous association with Kirklees Knowl does not add to the significance of the listed building as a former farmhouse. Given the lie of the land and the separation of the site, only part of the proposed housing development would be likely to be visible from Wadlands Farmhouse. This additional development, within a wide view which encompasses a mosaic of open land and built form across the Aire Valley, would not materially alter the setting of the listed building, and it would not detract from the contribution which setting makes to the significance of that asset.

#### *St Margaret's Church*

110. This grade II listed building is situated about 2.6km to the north-east of the appeal site on higher land in Horsforth. The spire is a prominent landmark in the wider area, and there is intervisibility between the church and the site, as demonstrated by the photograph and photomontage from FRAG's viewpoint 17 (VP17). The additional presence of up to 300 dwellings at some distance from the church would not detract from the wider setting, nor from the contribution which setting makes to the significance of the asset.

#### *Rawdon and Rawdon Billing*

111. Rawdon and Rawdon Billing were suggested as non-designated heritage assets by FRAG'S professional heritage witness. Rawdon is a settlement about 3.5km to the north of the appeal site, on higher land on the opposite side of the Aire Valley. It was referred to as a historic town. Rawdon Billing is the hill above Rawdon where reference was made to the remains of human activity. No detailed information about the significance of either place was submitted and their heritage credentials have not been established.

#### *Conclusions in respect of heritage assets*

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<sup>34</sup> The existing view from FRAG's VP14 is in Document f3, and a photomontage is in Document F15.

112. The appeal site, or parts thereof, is within the setting of the listed buildings of Wadlands Cottage/ Farmhouse, and St Margaret's Church Horsforth. In neither of these cases, would the proposed development adversely affect the setting of the listed building or diminish the contribution that setting makes to its significance. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, where development would affect a listed building or its setting, special regard be given to the desirability of preserving the building or its setting. In this case there would be no adverse effects and the statutory test is not engaged. However I am concerned about the effect of the proposal on the setting of Farsley Conservation Area. Here I conclude that the proposal would have a moderate adverse effect overall, which would cause less than substantial harm to the significance of the conservation area as a whole. As a consequence there would be conflict with Policy P11 of the Core Strategy and Policy N19 of the UDP.

### ***Character and appearance***

113. The appeal site lies in the northern part of the Bradford Fringe, a unit of the pastoral fringe farmland identified in the LLA [28]. In the LLA, reference is made to undulating land with small to medium sized fields bounded by a mix of walls and hedgerows. These characteristic features are evident at Kirklees Knowl. Although there are visual links (above, para 103), this part of the Bradford Fringe is physically separated from the more extensive tract of pastoral fringe farmland to the west by the strong line of the Ring Road, and the settlements of Rodley and Farsley adjoin the appeal site to the north-east and south. There is urban development to the east on Oaklands Road and Bagley Lane, and a housing scheme is under construction on Calverley Lane to the west of the site [14-16]. Between this point and Oaklands Road an electricity transmission line carried by pylons crosses the site. Having regard to these urban influences and the severance caused by the Ring Road, I consider that the landscape of the site is of low sensitivity.

114. FRAG suggested that the site should be considered as a valued landscape [79], and in support of this position referred to the historic field structure, long-distance views, an association with Wadlands Manor, use by bats, the role of the land as forming part of the setting for Farsley Conservation Area, tranquillity, and importance as the only remaining farmed land adjacent to Farsley. It is clear from the representations of both FRAG and local residents [89] that the appeal site is valued by the local community. A more objective consideration is required, and, whilst they are not comprehensive, the range of factors set out in box 5.1 of GLVIA provides a useful approach in this regard. FRAG acknowledged that the site is not a rare landscape character type, and that it does not contain features which are considered to be particularly important examples. The association with Wadlands Manor is of local interest, but the Manor was extensive and there is a larger area of the estate beyond the Ring Road than at Kirklees Knowl. Evidence was submitted to the 2014 inquiry that the site was used for bat roosting. The previous Inspector concluded that, subject to conditions, the development was unlikely to result in harm to bats, and FRAG has submitted no evidence on this matter to the inquiry. No significant difference in the level of bat activity was recorded in a further study of bat activity in 2016<sup>35</sup>, and the

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<sup>35</sup> Appendix H, CD A3.

lower number of dwellings and retention of all trees with potential for roosts in the revised scheme would lessen the effect on bats. Whilst a public footpath abuts the southern boundary, there is no public access to the site for recreational purposes, and due to the background noise of traffic on the nearby Ring Road this is not a tranquil location. The fields of Kirklees Knowl afford a pleasant outlook in views towards the Aire Valley: they are, however, one component in those expansive views. The physical condition of the landscape is not degraded, and the site has importance in contributing to the significance of the conservation area. Overall, however, the qualities of the site are not such as to elevate the landscape to a level of importance. It is a pleasant but unremarkable parcel of land which is subject to urban influences, and I do not consider that it should be considered as a valued landscape for the purpose of paragraph 109 of the NPPF.

115. The masterplan shows two blocks of housing on either side of a central green spine [19]. The northern block would be contained between existing housing at Towler Drive to the east and tree cover along the north-west boundary. To the south of the green spine, the housing would be set further back from Calverley Lane, and a broad strip of the higher and less steeply sloping land would remain open. A significant part of the site would remain as open land, and, whilst some of the protected trees would be lost, it is intended that the retention of existing lengths of hedgerow and trees would be in accordance with arboricultural advice<sup>36</sup>, and that those retained would be incorporated into the development. The extension of built development onto the site would inevitably alter its character, but bearing in mind the unremarkable nature of the land and the intended form of the proposed housing, I consider that the harm to the landscape of the site merits no more than moderate weight.
116. Kirklees Knowl is largely contained by built development and the Ring Road, a context which has been reinforced by the Mulberry Manor housing scheme to the north of the Recreation Ground. It is effectively separated from the wider area of the Bradford Fringe beyond the Ring Road, and, given the nature and physical form of its surroundings, I consider that the development would cause only minor harm to the wider landscape. I am mindful that there has been recent development at Mulberry Manor and at Bagley Hamlet: however the presence of these schemes has not materially altered the nature of the surroundings, and it does not point to an adverse cumulative effect on the character of the area.
117. FRAG argues that development of the appeal site would result in the coalescence of Rodley and Farsley. Both these settlements are part of the main urban area, and built development extends between them and Leeds. Kirklees Knowl does provide a distinct break between Farsley and Rodley, although there is built development along Bagley Lane, and the open space of the appeal site is not readily apparent at street level on this route between the two settlements. It is clear from the representations of the local community that both Farsley and Rodley have distinct identities. Although not dependent upon physical separation, the presence of a gap is likely to reinforce local identities. The green spine through the site would maintain a gap between Rodley and Farsley, although this would be much less substantial than at present. The reduction in size of this gap would cause minor adverse harm to the character of the area.

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<sup>36</sup> Updated tree survey for trees at Bagley Lane, Farsley, CD A4.

118. I turn now to consider the visual effects of the development. FRAG made a number of detailed criticisms of the photographic material submitted by the Appellant [78]. In particular some of the panoramas have not been cylindrically generated using a tripod. The Appellant acknowledged that this was the case in respect of a series of panoramas from the east side of the Recreation Ground<sup>37</sup>. It does not seem to me that the discrepancies in approach highlighted by FRAG are so severe as to prevent the Appellant's visual material being of assistance in assessing the appeal proposal. In any event, FRAG submitted a series of photographs and photomontages, and the Appellant's landscape witness advised that he had no objection to using these as a point of reference.
119. From Calverley Lane, PROW No 18 and Oaklands Road, which run alongside the site, the development would be readily apparent. Due to the position of the proposed houses at the back of a green strip and tree planting, and at a somewhat lower level, they would not appear unduly prominent from Calverley Lane (FRAG VPs 1-3). Moreover, as the photomontages from VPs 1-3 indicate, the presence of foreground housing would not prevent long views across the Aire Valley. The new development would have a stronger presence from the footpath (FRAG VPs 4-6) and Oaklands Road (FRAG VP9), although over time this would be softened by new tree planting. I consider that there would be moderate harm to visual amenity from these vantage points.
120. From an elevated position on Coal Hill (FRAG VP13) there is an extensive view across the site, and the new development would appear as an encroachment on the open land of Kirklees Knowl. There was some debate at the inquiry as to whether the vantage point used by FRAG was on a public footpath. It appears that it is a short distance from the public footpath, but it is clearly on a well-used path providing a link across Coal Hill to Bagley Lane, and there would be a major adverse effect from this location. On the west side, there are views over the site from within the Recreation Ground (Appellant VPs A, B, E & F). The Recreation Ground is surrounded by mature trees. Even on the east side after leaf fall I do not consider that the filtered views of new housing set back from Calverley Lane would be harmful. I have already referred to the views from Wadlands Farmhouse (FRAG VP14) and St Margaret's Church (FRAG VP17) (above, paras 109 & 110): development on the appeal site would not be unduly prominent from these locations and would not materially alter the observed balance of built form and open land. I have reached the same view about other distant views from the A65 at Horsforth (FRAG VPs 15 & 16).
121. Existing housing in Rodley and Farsley abuts the appeal site, and there would be views of the development from properties at Petrie Crescent, Towler Drive, Airedale Mount on Bagley Lane (FRAG VP12), Bagley Hamlet, and Kirklees Rise. As dwellings in an edge of settlement location, other housing already forms part of their setting, and the proposed development would cause some harm to the outlook for occupiers. These are private viewpoints and accordingly I have given minor weight to this harm. Given the extent of urban influences in the surrounding area, I do not consider that the effect of the development would be materially greater from any of the viewpoints during night-time.

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<sup>37</sup> Figure RT24 , Document A4.

122. I conclude that the proposed development would have a minor adverse effect on the character of the surrounding area and cause moderate harm to the landscape of the site itself. There would be certain harm to visual amenity, most notably from Coal Hill, which carries major weight. In consequence there would be conflict with Policy P12 of the Core Strategy which seeks to conserve and enhance the character, quality and biodiversity of the landscape.

### ***Traffic movement and highway safety***

123. The Appellant has prepared updated highways and transport evidence for the inquiry which takes account of changes to the highway network since the 2013 inquiry [52]. Five developments, including Mulberry Manor, have been taken into account in calculating the base traffic flows for the design year of 2022 when the site is expected to be completed. It is agreed in the highways statement of common ground that other development proposals, including those at Leeds-Bradford Airport, do not need to be included in the assessment [31]. The Council and the Appellant have agreed in the highways statement of common ground that the impact of the proposed development on the highway network can be satisfactorily mitigated [31]. In contrast there is considerable concern expressed by FRAG and local residents about traffic conditions. FRAG has criticised aspects of the Appellant's assessment, in particular pointing to higher queue figures from the 2016 surveys at the Rodley Lane/ Ring Road roundabout than put forward at the 2013 inquiry. This comparison disregards the change from a priority to a signalised roundabout which occurred in 2015: the Appellant's highway witness explained that it is a function of the design of signalised roundabouts that queues form during the red phase. Whilst I have heard and read much about difficulties encountered by local residents using the highway network, there is no detailed assessment of traffic conditions before me other than that submitted by the Appellant. Although the revised scheme is for 300 dwellings, the Appellant's assessment has been prepared on the basis of an uplift of 5%, which enhances the robustness of the modelling exercise.

### ***Rodley Lane/ Ring Road junction***

124. This junction is situated a short distance to the north of the appeal site. Comparison of the 2022 base and design figures in the Appellant's updated traffic study indicates that the main effect would be on the Rodley Lane (south) arm, which would provide access to the Ring Road for traffic leaving the site by the eastern point of access. Increases in delay times from 154 to 218 seconds in the morning peak and from 299 to 342 seconds in the afternoon peak are predicted<sup>38</sup>. Queue lengths are expected to increase by 9-12 pcus at these times, and, whilst the degree of saturation is shown as already exceeding 100%, its level would increase further in both peak periods. It is proposed to increase the length of the two lane approach to the junction on this arm. Significant reductions in delay of 147 and 285 seconds in the morning and afternoon peaks compared with the base figures are expected [53], and queue lengths should also reduce<sup>39</sup>. In response to a query raised by FRAG, the Appellant's highway witness explained that the modelling took account of side accesses where *Keep Clear* markings are shown across the two approach lanes (Plan 11).

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<sup>38</sup> Tables 7.31 & 7.32 in Document A11 give figures for the 2022 design scenario at Rodley Lane.

<sup>39</sup> Tables 7.33 & 7.34 in Document A11 give figures for the 2022 design with mitigation scenario at Rodley Lane.

### *Dawsons Corner*

125. Dawsons Corner is a roundabout junction to the south-west of the appeal site where the A647 to Bradford and the B6157 meet the Ring Road. The modelling indicates that the addition of traffic development would cause significant increases in delay of 168 and 121 seconds in the two feeder lanes on the northern approach in the morning peak<sup>40</sup>. Queues of up to 27 and 44 pcus would be generated, and the degree of saturation would increase from 24% and 49% to 104% in each lane, thereby exceeding notional capacity. Delay times at the lanes leading directly into the roundabout would also increase. It is proposed to widen the carriageway on the northern approach to provide greater length in the middle lane leading into the roundabout (Plan 12). This additional capacity would restrict degrees of saturation in the morning peak on the northern approach feeder lanes to levels well below 100%, and reductions in delay of 17-18 seconds below the base are expected in the lanes leading to the roundabout<sup>41</sup> [53]. There would be some relatively modest increases in values elsewhere, but these would not pose capacity concerns.

### *Bagley Lane/ Rodley Lane*

126. There is evidence from both FRAG [80] and the Appellant of queuing at the Bagley Lane/ Rodley Lane junction. This crossroads junction is about 400m east of the Rodley Lane/ Ring Road roundabout, and FRAG agreed with the Appellant that queuing at Bagley Lane is likely to be caused by a build-up of traffic at the roundabout. The additional capacity proposed for the Rodley Lane (south) approach to the roundabout is expected to reduce queues and delays on the major road, and that improvement should facilitate movement at Bagley Lane. Modelling results indicate that considered in isolation the junction is within desirable capacity levels, and I agree with the Appellant that no mitigation is necessary at this location.

### *Highway safety*

127. Right turn manoeuvres are not permitted from Calverley Lane onto the Ring Road. However I heard of instances of such manoeuvres taking place which present a threat to highway safety. As part of the overall development, the island in the junction mouth would be enlarged to create a greater impediment to right turn manoeuvres (Plan13). This off-site work represents an important benefit of the scheme. Local residents expressed concern about conflict between road users within Farsley itself. There is no record of injury accidents occurring in the five year period up to October 2016 on either Calverley Lane or Bagley Lane in the vicinity of the site accesses. As these roads provide the most direct links to the main road network, I would expect that they would be used on many trips to and from the proposed housing development. I also heard concerns about the risk to pedestrians crossing the Ring Road near the Calverley Lane junction. Due to the high volume of fast-moving traffic this is difficult to accomplish at the present time. I do not consider that the appeal proposal would make the situation appreciably more hazardous, and the Ring Road can be crossed further north at Rodley Lane. There is no detailed evidence before me to

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<sup>40</sup> Tables 7.37 & 7.38 in Document A11 give figures for the 2022 design scenario at Dawsons Corner.

<sup>41</sup> Tables 7.39 & 7.40 in Document A11 give figures for the 2022 design with mitigation scenario at Dawsons Corner.



indicate that the appeal proposal would be likely to adversely affect highway safety in Farsley or elsewhere on the road network.

### *Conclusions on traffic movement and highway safety*

128. The detailed evidence before me indicates that the proposed off-site highway works would effectively mitigate against potential capacity problems at the Rodley Lane and Dawsons Corner junctions on the Ring Road, providing an improvement in comparison with the 2022 base scenario at Rodley Lane. The works at the Rodley Lane/ Ring Road junction should also result in an improvement in traffic conditions on Bagley Lane. These works are covered by the planning agreement (Document G9), which also provides an option for the Council to require payment of a Ring Road contribution as an alternative. This option is only to be exercised if the two junction schemes are no longer necessary because of proposed improvements by the Council to the Ring Road corridor. These alternative provisions of the planning agreement are necessary to make the development acceptable by ensuring that capacity concerns are addressed. I conclude that the appeal proposal would not reduce highway safety or restrict traffic movement in the vicinity of the appeal site, and that it would provide specific benefits through the highway works at the Rodley Lane and Calverley Lane junctions with the Ring Road. In this regard it would be consistent with Policy T2 of the Core Strategy.

### ***The Development Plan***

129. Kirklees Knowl is identified as a PAS site under Policy N34 of the UDP [25]. These sites were identified in order to provide a reserve of land for longer term development needs whilst maintaining the extent of the Green Belt. The accompanying text explains that it was not intended (at the time of adoption of the Review in 2006) that there would be a need to use any safeguarded land during the Review period. That period came to an end in March 2016. As the intention of Policy N34 is to provide a reserve of sites for future development, it is a relevant policy for the supply of housing. There is not a five years housing land supply in Leeds (above, paras 98 & 101), and in this circumstance paragraph 49 of the NPPF stipulates that such policies should not be considered up-to-date. Policy N34 is also out-of-date as it is time-expired.
130. Development of the appeal site for housing would conflict with Policy N34 itself. On the other hand there is a current need for housing land, and release of the site for that purpose would be consistent with the policy's objective of meeting development needs beyond 2016. I am mindful that in four recent decisions allowing appeals for housing in Leeds, the Secretary of State has endorsed the Inspectors' conclusions that Policy N34 is not up-to-date [33]. In the Collingham and Bramhope appeals, the decision letters also agree with the Inspector's conclusion that, although Policy N34 would be breached, that should attract little weight since it is time expired. For the above reasons, I find that the conflict with Policy N34 in this case is a matter which carries little weight.
131. Policy SP1 of the Core Strategy seeks to direct most new development to locations within and adjacent to urban areas, and it provides for use being made of a balance of greenfield and brownfield land [23]. The appeal site is adjacent to the MUA, and it is broadly compliant with accessibility standards for housing

development which specify walking times to services and bus stops (below, para 137). It is an accessible location in the terms of Policies H2 and T2. Moreover Policy SP10 refers to the release of UDP PAS sites for development, and the accompanying explanation refers to this existing reserve as one of the prime sources for housing allocations in the LDF. The development of Kirklees Knowl for housing would be consistent with the approach to the location of development in the Core Strategy.

132. As the appeal proposal would not adversely affect highway safety or traffic movement, it would also be consistent with Policy T2 in this regard (above, para 128). The planning agreement provides for affordable housing in accordance with the level of provision of 15% sought by Policy H5 [24]. Policy G4 is concerned with greenspace for residential development: areas of greenspace are shown on the masterplan and the planning agreement requires a scheme for its provision. There would, however, be conflict with Policy P11 of the Core Strategy and Policy N19 of the UDP due to the harmful effect on the setting of Farsley Conservation Area (above, para 112). I have also found certain harm to the character and appearance of the area, and in consequence the proposal would not accord with Policy P12 of the Core Strategy which seeks to conserve and enhance the landscape (above, para 122).

133. Whilst the proposal would comply with the approach to the location of development in the Core Strategy, it would conflict with Policies P11 and P12 concerning conservation areas and landscape. It would also conflict with UDP Policy N19 concerning conservation areas and Policy N34 as the land is designated as a PAS site. Policy N34 carries little weight, but nevertheless I conclude that the proposal would be contrary to the Development Plan considered as a whole.

### ***Other considerations***

#### *Prematurity*

134. Although the Council no longer pursues an objection on the ground of prematurity, that is a matter referred to by some local residents. Paragraph 21b-014 of PPG advises that the refusal of planning permission on the ground of prematurity is unlikely to be justified except where the development is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development which are central to an emerging local plan or neighbourhood planning, and the emerging plan is at an advanced stage. In this case the proposal would provide only about 0.4% of the Core Strategy housing requirement [41], and there is no detailed evidence before me that it would contribute to a cumulative significant effect. In any event the emerging SAP had not been submitted for examination at the date of the inquiry, and I do not consider that it had reached a sufficiently advanced stage to support an argument of prematurity.

#### *Affordable housing*

135. The explanation to Policy H5 of the Core Strategy refers to an annual need for 1,158 affordable dwellings. Because of the high level of need, a contribution towards affordable housing is sought from all residential schemes. In zone 2 there is a target of 15% provision, and the planning obligation would provide for

this level of affordable housing (or a commuted sum at the Council's discretion for off-site provision).

### *Flood risk*

136. The greater part of the site is within flood zone 1 where there is a low probability of flooding. A small area alongside the northern boundary is in flood zone 2 and another small area by Oaklands Road is in flood zone 3 (Plans 19a-c). No built development is proposed in these locations. Concern has also been expressed about the permeability of the site, and the prospect of run-off contributing to occurrences of flooding in the Rodley area [90]. The surface water strategy for the development involves restricting run-off to match greenfield rates, and this control could be the subject of a condition. With this safeguard, I do not consider that the development would worsen existing problems of flooding in the locality.

### *Facilities and services*

137. There is a good range of facilities and services in Farsley, and bus services along Bagley Lane provide a link to Leeds and give access to new Pudsey rail station. The highways statement of common ground sets out walking times to local facilities and bus stops. These are generally consistent with the requirements set out in Appendix 3 of the Core Strategy. A local resident suggested that the actual walk times would be somewhat greater than agreed by the Council and the Appellant (Document O22). I note that walk times have been calculated using an average speed of 400m in 5 minutes in accordance with Institute of Highways & Transport guidance, and this supports the robustness of the assessment. The proposed cycleway along the Ring Road would provide a link to New Pudsey rail station, and it would also connect to the cycle super highway at Dawsons Corner. The site is in an accessible location where trips to and from the proposed housing could be made by alternative means of travel than the private car. A travel plan is put forward to encourage a reduction in car trips, and implementation of the plan is a requirement of the planning agreement [12].

138. Some residents expressed concern about the adequacy of local facilities and services to support further development. The only detailed evidence on this matter is that from the Appellant which indicates that there is a doctor's and a dentist's practice in Farsley which are accepting new patients<sup>42</sup>. The education statement of common ground indicates that the appeal proposal, together with other development in the area, may generate a need for a new primary school [32]. The planning obligation reserves land within the site for this purpose for a period of seven years, providing an opportunity to ensure that additional school accommodation could be provided. Although the need for a new primary school would not be generated by the appeal proposal alone, there is no evidence of the availability of an alternative site and the provision of a site alone would be reasonably related in scale and kind to the development.

### *Economic implications*

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<sup>42</sup> Appendix 14, Document A15.

139. The Appellant advances several economic considerations as benefits of the scheme [59]. A number of jobs would be supported during the construction period, and the local economy would benefit from associated expenditure. These factors are not quantified, and as broad assertions they merit little weight. I acknowledge that the development would result in the payment of new homes bonus and council tax. However paragraph 21b-011 of PPG advises that it would not be appropriate to make a decision based on the potential for the development to make money for a local authority, and accordingly I give little weight to these consequences of the appeal proposal.

#### *Agricultural land*

140. The appeal site comprises a number of fields which are used for grazing [17]. The agricultural land is classified as grade 3a (6.2ha) and grade 3b (11ha)<sup>43</sup>. Grades 1, 2 and 3a are specified in the NPPF as the best and most versatile agricultural land, and paragraph 112 requires that the economic and other benefits of this land are taken into account. The field boundaries do not reflect the pattern of land quality, and none of the fields is made up wholly of grade 3a land. The Appellant's agricultural land quality report explains that in consequence this land cannot be farmed to reflect its greater potential. There is no detailed contrary evidence before me, and I do not consider that the loss of this relatively modest area of grazing land would have a material effect on agricultural production around the main urban area.

#### ***The planning obligations***

141. I have already referred to obligations concerning the reservation of a school site, affordable housing, off-site highway works, greenspace and a travel plan. Obligations also provide for a bus stop contribution which would provide £30,000 to provide or upgrade bus stops in the area, thereby encouraging the use of public transport. I am satisfied that the statutory tests in Regulation 122 of the CIL Regulations are met in respect of all the planning obligations, and accordingly their provisions are capable of being taken into account as material considerations in this appeal.

#### **Conditions (Document G8)**

142. I have considered the suggested conditions in the light of the advice in PPG and the discussion on conditions at the inquiry. I have already referred to a condition concerning surface water drainage. If the appeal is allowed and planning permission granted, it would also be appropriate for conditions on the following matters to be imposed. For the avoidance of doubt and in the interests of proper planning, it is important that the development is carried out in accordance with the specified plans, and that a maximum number of 300 dwellings is specified. To ensure that the development would be in keeping with its surroundings details of levels should be submitted with reserved matters concerning layout. For this reason and in the interest of nature conservation, works to retained trees should be submitted for approval, any of those trees which are lost should be replaced, and protection measures should be put in place during the construction period. Submission of a plan for a biodiversity area

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<sup>43</sup> Details of the agricultural land quality of the site are given in a MAFF report which is an appendix to the Appellant's agricultural land quality report (Appendix 3.2 in Document DOC2). At the date of the survey, 17.2ha of the land was in agricultural use.

and a restriction on the times when vegetation can be cleared are also important for nature conservation reasons. A contamination investigation would assist in ensuring a satisfactory residential environment, as would an investigation in respect of shallow mine workings.

143. To ensure highway safety and avoid disruption to traffic movement conditions are required concerning the provision of the vehicular access from Calverley Lane and a link across the site, further details of off-site highway works, and assessment of the condition of Calverley Lane and Bagley Lane. In accordance with Policy EN1 of the Core Strategy at least 10% of the predicted energy needs of the development should be provided from low carbon energy sources. Details of foul drainage should be submitted for approval to ensure that the site is satisfactorily drained, and to safeguard against flood risk mitigation measures in the flood risk assessment should be implemented. Finally a construction method statement should be submitted for approval to ensure that satisfactory arrangements are made for drainage, traffic movement and screening during the construction period.

### **Overall conclusions**

144. The proposal would cause less than substantial harm to the significance of Farsley Conservation Area, nevertheless I give great weight to the asset's conservation. In accordance with paragraph 134 of the NPPF, this harm must be weighed against the public benefits of the development. The provision of much-needed housing land to contribute towards a five years supply carries considerable weight. I attach significant weight to the affordable housing which would be brought forward by the scheme, to the capacity and highway safety benefits arising respectively from the alterations to the Rodley Lane and Calverley Lane junctions with the Ring Road, and to the opportunity to meet a potential need for an additional primary school on the appeal site. The improved connectivity from the cycleway along the Ring Road and the bus stop improvements would be of benefit to the wider community, and they merit moderate and minor weight respectively. In addition there would be certain economic benefits from the provision of jobs and expenditure in the local economy, although they carry only limited weight in support of the appeal proposal. Several of the matters put forward by the Appellant as benefits, such as the enhancement of grassland, the provision of open space, and the containment of surface water run-off, are necessary to mitigate the effects of the development, and consequently they have a neutral effect in the balance. I am in no doubt that the combination of public benefits clearly outweighs the less than substantial harm to the significance of the conservation area.
145. I have found that the proposal would be contrary to the Development Plan. This is in part due to conflict with Policy N34 of the UDP, but this is a policy which is out-of-date, and I share the view expressed by the Secretary of State and the Inspector in respect of a previous appeal at Bramhope that the use of Policy N34 to prevent development would be contrary to the terms of the NPPF. The NPPF is an important material consideration in this case. As there is not a five years supply of housing land in Leeds, relevant policies for the supply of housing should not be considered up-to-date, and, in accordance with paragraph 14 of the NPPF, where relevant policies are out-of-date planning 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 NPPF taken as a

whole, or specific policies in the NPPF indicate that development should be restricted. Footnote 9 of the NPPF includes policies relating to designated heritage assets in that category and, as I have found an adverse effect on the significance of Farsley Conservation Area, this provision applies.

146. It is, therefore, necessary to consider the balance of considerations in this case. The proposal would have a moderate adverse effect on the significance of Farsley Conservation Area. It would also have a minor adverse effect on the character of the surrounding area and cause moderate harm to the landscape of the site itself. I have given major weight to the harm to visual amenity from Coal Hill, but no more than moderate weight to the harm from other locations. There would be a range of benefits from the scheme which I have identified above (para 144), notably the provision of housing land, affordable housing, capacity and highway safety benefits arising from alterations to junctions on the Ring Road, and the opportunity to meet a potential need for an additional primary school. These benefits of the scheme clearly outweigh the harm I have identified. Accordingly, although the proposal does not comply with the Development Plan taken as a whole, I conclude that material considerations warrant a decision being taken other than in accordance with the Development Plan.

### **Recommendation**

147. I recommend that the appeal be allowed and that planning permission be granted subject to the conditions in the Annex to this report.

*Richard Clegg*

INSPECTOR

## **ANNEX - SCHEDULE OF SUGGESTED CONDITIONS**

- 1) Details of the access from Poplar Farm Lane, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan ref 454A.28A (Plan 1) and Calverley Lane proposed site access arrangements ref11040-GA-03C (Plan 10).
- 5) The number of dwellings to be constructed on the site shall not exceed 300.
- 6) All reserved matters applications shall accord with the revised parameters plan ref 454D 19 (Plan 9).
- 7) Plans showing existing and proposed ground levels shall be submitted to the local planning authority with the application for reserved matters approval of layout. The development shall be implemented in accordance with the approved plans.
- 8) A plan identifying those trees and hedges which are to be retained and those trees and hedges which are to be removed (the trees and hedges plan) shall be submitted to the local planning authority no later than the date of the application for reserved matters approval of layout. No development shall take place until the trees and hedges plan has been approved in writing by the local planning authority, and it shall thereafter be carried out in accordance with the approved trees and hedges plan.
- 9) No development, including ground preparation works, shall take place until all trees and hedgerows identified to be retained on the trees and hedges plan have been securely fenced off with protective barriers in accordance with a tree protection plan which has been submitted to and approved in writing by the local planning authority. The tree protection plan shall be prepared in accordance with *British Standard 5837:2012 Trees in relation to design, demolition and construction*. Within the protected areas no equipment, machinery or materials shall be used or stored, and no burning shall take place. Ground levels within the protected areas shall not be altered, nor excavations undertaken including for the provision of underground services without the prior approval in writing of the local planning authority.
- 10) No development shall take place until a written arboricultural method statement for tree care has been submitted to, and approved in writing by, the local planning authority. The development shall take place in accordance with the approved method statement. The method statement shall include the following provisions:

- a) No retained tree or hedge shall be cut down, uprooted or destroyed, nor shall any retained tree or hedge be pruned, topped, lopped or suffer root severance, other than in accordance with approved plans and other provisions of the method statement, without the prior approval in writing of the local planning authority.
  - b) The local planning authority shall be notified if any retained tree or hedge is removed, uprooted, destroyed or dies during the construction period. Another tree or hedge shall then be planted in accordance with details to be submitted to, and approved in writing by, the local planning authority.
- 11) No development shall take place until a plan showing full details of the access to the site from Calverley Lane, and prepared in accordance with plan ref 11040-GA-03C, has been submitted to, and approved in writing by, the local planning authority. None of the dwellings shall be occupied until the access has been constructed in accordance with the approved detailed plan.
  - 12) Prior to the occupation of the 100<sup>th</sup> dwelling occupied solely from Poplar Farm Lane, the vehicular link between the Calverley Lane and Poplar Farm Lane accesses shall be constructed.
  - 13) No development shall take place until plans showing full details of the following highway works, together with a timetable for their implementation, has been submitted to, and approved in writing by, the local planning authority:
    - i) Calverley Lane/ Ring Road alterations, as shown on plan ref 11040-GA-05C (Plan 13), to be implemented prior to occupation of the first dwelling.
    - ii) A6120 Ring Road footway/ cycleway scheme, as shown on drawing ref 11040/SK/04B (Plan 14), to be implemented prior to occupation of the 20<sup>th</sup> dwelling.
    - iii) A cycle link through the site between Calverley lane and Oaklands Road.
    - iv) A traffic calming scheme on Bagley Lane in the location shown on drawing ref 11040/SK/05B (Plan 15), to be implemented prior to occupation of the first dwelling.
    - v) A footway towards the southern boundary of the site between Calverley Lane and the residential development at Bagley Hamlet.
    - vi) Improvements to the footpath link between public right of way No 18 and the Kirklees Estate.
  - 14) No development shall take place until a survey of the condition of the carriageways of Calverley Lane and Bagley Lane, together with proposals for any mitigation works and a timetable for their implementation, has been submitted to, and approved in writing by, the local planning authority. Any approved mitigation works shall be implemented in accordance with the timetable.
  - 15) No development shall take place until a scheme for the disposal of surface water and foul drainage has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:



- i) The use of a sustainable urban drainage system for surface water as set out in the Drainage Strategy Report dated February 2012.
- ii) A programme for implementation of the works in relation to the water catchments and the phasing of development.
- iii) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site to the equivalent of greenfield run-off, and the measures taken to prevent pollution of the receiving ground water and/ or surface waters.
- iv) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout the lifetime of the development.

The scheme shall be carried out in accordance with the approved details and programme.

- 16) The development shall be carried out in accordance with the Flood Risk Assessment (FRA) dated February 2012 and the following mitigation measures specified in the FRA:
- i) No built development shall take place in the area identified as at risk of flooding during a 1 in 100 year flood event on Red Beck (figure 3 of the Hydraulic Modelling Technical Note dated 19 January 2012).
  - ii) No built development shall take place within 8m of Red Beck.
  - iii) The alignment and condition of the ordinary watercourse referred to in paragraph 2.4.2 of the FRA shall be fully investigated and no development shall take place until the easement requirement has been submitted to, and approved in writing by, the local planning authority.
  - iv) Finished floor levels of the dwellings shall be set no lower than 300mm above the surrounding ground levels.
- 17) No development shall take place until a contamination investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, remedial works shall be undertaken before development begins in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. Upon completion of remediation, a validation report shall be submitted to and approved by the local planning authority confirming that the site has been remediated in accordance with the approved measures and that the site is suitable for the development hereby permitted.
- If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 18) No development shall take place until intrusive site investigations have been carried out in accordance with the recommendations in paragraph 102 of chapter 12 of the Environmental Statement which has previously been

- submitted to and approved in writing by the local planning authority. The results of the site investigations shall be submitted for the written approval of the local planning authority. If the investigations identify the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the development, such works shall be undertaken before development begins in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.
- 19) No development shall take place until a scheme has been submitted to, and approved in writing by, the local planning authority which identifies how a minimum of 10% of the predicted energy needs of the completed development being obtained from decentralised and renewable or low carbon energy the following measures will be achieved. No dwelling shall be occupied until any renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources, or additional energy efficiency measures for that building has been installed and a post-installation report has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be retained in use and maintained for the lifetime of the development.
- 20) No later than the date of the application for reserved matters approval of layout, a plan identifying a bio-diversity area within the site shall be submitted to the local planning authority. The bio-diversity area shall include all trees where there is evidence of bat roosts and all trees with moderate or high potential to contain bat roosts, as set out in the extended phase 1 Habitat Survey Report by WYG dated November 2016 and supported by the Bat Survey Report by WYG dated November 2016. No development shall take place until the plan of the bio-diversity area has been approved in writing by the local planning authority.
- 21) No site works shall take place until a detailed plan for the protection, enhancement and management of the bio-diversity area, including a programme for implementation, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:
- i) Aims and objectives, including measures by which the success of the plan will be assessed.
  - ii) Measures to protect wildlife and habitats during the construction period.
  - iii) Habitat creation and enhancement measures, including target habitat communities and species, details of ground preparation, methods of vegetation establishment, and sources of plant materials.
  - iv) Details of additional enhancement measures, including new bird-nesting and bat-roosting opportunities.
  - v) Recommendations for future management.
  - vi) A programme of monitoring covering the construction period and at least the first five years thereafter.
  - vii) A programme of implementation.
- 22) No trees shall be felled, no vegetation shall be cleared and no demolition shall take place during the bird nesting season (1 March – 31 August inclusive) unless the absence of nesting birds has been confirmed by an ecologist within 24 hours before the start of such works. Written

confirmation of the absence of nesting birds should be submitted to the local planning authority within three weeks of the commencement of site clearance works.

- 23) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) Details of access, storage, parking, loading and unloading of all plant, equipment, materials and vehicles.
  - ii) A scheme of interim drainage measures during site works.
  - iii) A plan showing the route for construction traffic, which shall travel to and from the site using the Ring Road and Calverley Lane, and not through the built-up area of Farsley.
  - iv) Details of hoardings to screen the construction process, and of their maintenance.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Miss N Lieven QC	Instructed by the Council's Solicitor.
Mrs N Deol	Section Head, Legal Services.
Miss K Mansell	Principal Planning Officer.
Mr A Thickett BSc CEng MICE	Highways Officer.

### FOR THE APPELLANT:

Mr R Sagar	Partner, Walker Morris LLP.
He called	
Mr D Longdin BSc DipLA MA FLI	Partner, Randall Thorpe LLP.
Dr S Carter BSc PhD MCIfA FSAScot	Senior Heritage Consultant, Headland Archaeology (UK) Ltd.
Mr T Morley BEng(Hons) CEng MICE	Director Egorum Ltd.
Mr P M Owen BEng(Hons) CEng MICE MIHT	Director, Optima Highways & Transportation Ltd.
Mr J M Dunbavin BSc MCD MRTPI	Director, ID Planning Ltd.
Mr J Garbett <sup>44</sup>	Senior Associate, Walker Morris LLP.

### FOR FARSLEY RESIDENTS ACTION GROUP:

Mrs C Gibson and Mr M Joslin	Local residents.
They gave evidence themselves and called	
Mr M A Spence BA(Hons) MLD CMLI REIAP	Principal, MSEnvironmental.
Mr A Graham MIHBC	TheUrbanGlow

### INTERESTED PERSONS:

Mr S Andrew MP	Member of Parliament for Pudsey, Horsforth & Aireborough.
Councillor Andrew Carter CBE	Member of the City Council, and on behalf of Councillors Amanda Carter and R Wood, all of Calverley & Farsley Ward.
Mr M Ault	Local resident.
Miss L Banton	Local resident.
Mr I Bentley	Local resident.
Mr R Brooks FRmets	Local resident.

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<sup>44</sup> Mr Garbett did not give evidence in support of the Appellant's case, but contributed to the discussions on site ownership and the planning obligations.

Dr D Cotton BA PhD FHEA	Local resident.
Mrs T Cotton	Local resident.
Mr S Downes	Local resident.
Mr D Fairbrother	Local resident.
Mrs K Fletcher	Local resident.
Mr N Garratt	Local resident.
Mrs C A Glover	Local resident.
Mr D Harris	Local resident.
Mrs S Hill	Local resident.
Mrs S Johnston	Local resident.
Mrs L Kellett	Local resident.
Mr P Kellett	Local resident.
Mrs R Kemm	Local resident.
Mrs S E Lacey	Local resident.
Mrs K Lambert	Local resident.
Mr K Lambert	Local resident.
Mrs C Levi	Local resident.
Mr K Mellor MEd DipEd MIRTE FIMI	Local resident.
Mr A Naylor	Local resident.
Mrs C Parker	Local resident.
Mrs L Parish	Local resident.
Mr I Rhodes	Local resident.
Mr G Shepherd CEng	Local resident.
Mrs P Simpson MRTPI (rtd)	Local resident.
Mrs E Smalldon	Local resident.
Mr K Tanner	Local resident.

### **THE LPA'S DOCUMENTS**

- L1 Letter dated 15 November 2016 from Mrs Deol to The Planning Inspectorate concerning deemed reason for refusal No 1.
- L2 Letter dated 11 December 2016 from Mrs Deol to The Planning Inspectorate advising that the Council does not oppose the grant of planning permission.
- L3 Email dated 9 January 2017 from Mrs Deol to The Planning Inspectorate concerning the Council's position in respect of the appeal proposal.

### **THE APPELLANT'S DOCUMENTS**

- A1 Mr Sagar's closing submissions.
- A2 Mr Longdin's proof of evidence.
- A3 Appendices to Document A2.
- A4 Figures for Document A2.
- A5 Mr Longdin's rebuttal proof of evidence.
- A6 Appendices to Document A5.
- A7 Dr Carter's proof of evidence.
- A8 Dr Carter's rebuttal proof of evidence.
- A9 Mr Morley's proof of evidence.
- A10 Appendices to Document A9.
- A11 Mr Owen's proof of evidence.

- A12 Appendices to Document A11.
- A13 Mr Owen's rebuttal proof of evidence.
- A14 Mr Dunbavin's proof of evidence.
- A15 Appendices to Document A14.
- A16 Mr Roebuck's proof of evidence and appendices<sup>45</sup>.
- A17 Dr Webb's proof of evidence and appendices.
- A18 Letter dated 21 November 2016 from Mr Dunbavin to The Planning Inspectorate concerning the revised plans.
- A19 Letter dated 6 January 2017 from Mr Dunbavin to The Planning Inspectorate and bundle of appeal decisions concerning residential development in Leeds.
- A20 Note from Walker Morris concerning revised plans and Wheatcroft principles.
- A21 Booklet of 'cleaned' FRAG visualisations.
- A22 A3 booklet of figures from 2016 environmental statement.
- A23 List entry for Church of St Margaret, Horsforth.
- A24 Extracts from the Report of the Local Plans Expert Group; 2016.
- A25 Soils Site Report – Bagley Lane, Farsley; Cranfield University National Soil Resources Institute; 2017.
- A26 Note by Mr Owen concerning queuing on Rodley Lane South.
- A27 Letter dated 17 January 2017 from Mr Thornhill to The Planning Inspectorate concerning notification of the proposed development.

## **FRAG'S DOCUMENTS**

- F1 Mr Joslin's closing submissions.
- F2 Mr Spence's proof of evidence.
- F3 Mr Spence's technical methodology and figures.
- F4 Mr Joslin's proof of evidence on landscape matters.
- F5 Appendices to Document F4.
- F6 Mr Joslin's supplementary proof of evidence on landscape & visual impact matters.
- F7 Mr Graham's proof of evidence.
- F8 Mrs Gibson's proof of evidence.
- F9 Appendices to Document F8.
- F10 Mrs Gibson's supplementary proof of evidence.
- F11 Mr Joslin's proof of evidence on transport & highways matters.
- F12 Appendices to Document F11.
- F13 FRAG's rebuttal proof of evidence.
- F14 Response to Document A20.
- F15 Visualisations in respect of the revised scheme.
- F16 Graphic of dwelling height.
- F17 Visual impact tables from 2012 environmental statement.
- F18 Network diagram for Rodley Lane roundabout, from the Appellant's TRANSYT model.

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<sup>45</sup> Mr Roebuck and Dr Webb were not called to give their evidence, and their proofs are written representations on behalf of the Appellant.

## **OTHER PARTIES' DOCUMENTS**

- O1 Correspondence received in response to Document G3.
- O2 Correspondence received in response to Document G4.
- O3 Councillor Carter's statement.
- O4 Mr Bentley's statement.
- O5 Mr Brooks's statement.
- O6 Dr Cotton's statement.
- O7 Mrs Cotton's statement.
- O8 Mr Garratt's statement.
- O9 Mrs Glover's statement.
- O10 Mr Harris's statement.
- O11 Mrs Johnston's statement.
- O12 Mr Kellett's statement.
- O13 Mrs Kemm's statement.
- O14 Mrs Lacey's statement.
- O15 Mrs Lambert's statement.
- O16 Mr Lambert's statement.
- O17 Mrs Levi's statement.
- O18 Mrs Parish's statement.
- O19 Mr Rhodes's statement.
- O20 Mr Shepherd's statement.
- O21 Mrs Simpson's statement.
- O22 Mrs Smalldon's statement.
- O23 Extracts from Soils of the Leeds District, A Crompton & B Matthews. Submitted by Dr Cotton.

## **GENERAL DOCUMENTS**

- G1 List of core documents.
- G2 Agreed list of relevant documents from 2013 and 2014 inquiries.
- G3 Notification of redetermination and the re-opened inquiry.
- G4 Notification of revised plans.
- G5 Education statement of common ground.
- G6a-b Grant of outline planning permission and report concerning 70 dwellings on land at Ring Road/ Calverley Lane, Farsley.
- G7 Note agreed by the Appellant and the Council – Justification for S106 Agreement Matters.
- G8 List of suggested conditions agreed by the Appellant and the Council.
- G9 Planning agreement relating to the appeal proposal.

## **PLANS**

- 1 Location plan ref 454A.28A
- 2 Calverley Lane proposed site access arrangements; drawing ref 11040-GA-03B.
- 3 Masterplan layout ref 454A.22B.
- 4 Masterplan parameters – land use breakdown; drawing ref 454A.19C.
- 5 Masterplan parameters – landscape strategy; drawing ref 454A.23C.

- 6 Masterplan parameters – access and movement network; drawing ref 454A.20B.
- 7 Masterplan parameters – urban design principles; drawing ref 454A.21C.
- 8 Revised illustrative masterplan ref 454D.18.
- 9 Revised parameters plan ref 454D 19.
- 10 Revised Calverley Lane proposed site access arrangements; drawing ref 11040-GA-03C.
- 11 Rodley Lane/ Ring Road proposed alterations; drawing ref 11040/GA/08.
- 12 Dawsons Corner junction proposed alterations; drawing ref 11040/GA/07.
- 13 Calverley Lane/ Ring Road proposed alterations; drawing ref 11040-GA-05C.
- 14 Proposed A6120 Ring Road footway/ cycleway scheme; drawing ref 11040/SK/04B.
- 15 Location of proposed Bagley Lane traffic calming scheme; drawing ref 11040//SK/05B.
- 16 Conservation areas in Rawdon. Submitted by Dr Carter.
- 17 2013 Rodley Lane/ Ring Road proposed roundabout scheme; drawing ref 11040-GA-04A. Submitted by Mr Joslin.
- 18 Proposed site visit itinerary.
- 19 Flood zone plans.





# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

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