



Department for
Communities and
Local Government

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Our Ref: APP/C2741/V/14/2216946
Your Ref:

18 March 2015

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY LINDEN HOMES NORTH
AT BRECKS LANE, STRENSALL, YORK, YORKSHIRE
APPLICATION REFERENCE 13/03267/FULM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Zoë Hill BA (Hons) DipBldgCons (RICS) MRTPI IHBC, who held a public local inquiry 14 October - 7 November 2014 into your client's application for the construction of 102 dwellings along with associated highways infrastructure, landscaping and public open space in accordance with application reference 13/03267/FULM dated 4 October 2013. On 9 April 2014 the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the relevant planning authority, the City of York Council.

Inspector's recommendation and summary of the decision

2. The Inspector recommended that planning permission be refused. The Secretary of State agrees with the Inspector's analysis and recommendation, except where stated, and he has decided to refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

3. The Secretary of State has had regard to the Inspector's statement at IR1 which explains that the application was originally submitted for 104 dwellings and was subsequently reduced to 102 dwellings. Like the Inspector (IR1), the Secretary of

State has considered the application on the basis of 102 dwellings and he is satisfied that no prejudice arises to any party by his doing so.

4. In reaching this position 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. Having had regard to the Inspector's comments at IR5 – 6, the Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

Matters arising after the close of the inquiry

5. The Secretary of State received a representation on behalf of the applicant dated 3 March 2015 which was submitted too late to be seen by the Inspector. The Secretary of State has given careful consideration to this representation and he considers that it does not raise matters which require him to refer back to parties prior to his determination of this case. A copy of this representation is not attached to this letter but will be provided on written request to either of the addresses shown at the foot of the first page of this letter.

Policy considerations

6. In deciding the planning application, 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.
7. In this case, the development plan consists of policies YH9(C) and Y1(C1&C2) and the relevant parts of the key diagram of Regional Spatial Strategy for Yorkshire and the Humber (RSS) as set out in its (Partial Revocation) Order 2013. The Secretary of State considers that the development plan policies most relevant are those identified by the Inspector at IR18-20.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the Planning Practice Guidance (the Guidance), and those documents listed at IR23-26.

Main issues

Is the Site within the Green Belt?

9. The Secretary of State has carefully considered the Inspector's comments at IR186-199. He has had regard to the Inspector's remark that the York Green Belt boundary has never been identified in an adopted plan (IR186), but that none of the parties seek to claim that the application site does not fall within the outer edge of the Green Belt and he concurs with the Inspector that the site should be considered as within the outer edge of the Green Belt (IR187).
10. Having taken account of the Inspector's analysis at IR188-192, the Secretary of State shares her view that, whilst located adjacent to the developed edge of Strensall, the site is a sizeable area which significantly projects into the open

countryside, with open land on much of the two boundaries and along the whole eastern side (IR191). Recognising that the essential characteristics of Green Belts are openness and permanence, he agrees with the Inspector that the proposal would have a significant and harmful effect on openness, and that in terms of permanence, changes to the openness of the site should not be undertaken lightly (IR193).

11. The Secretary of State agrees with the Inspector's remarks about the five purposes of Green Belt land (IR194-197). Like the Inspector, the Secretary of State considers that the Green Belt function of checking the unrestricted sprawl of large built-up areas is a valid purpose here and that the purpose of safeguarding the countryside from encroachment also applies (IR194). He also finds no reason to disagree with the Inspector that, whilst developing this site would not have a direct and significant bearing on York's historic character, extending close to the rail corridor into the City would have a visual impact upon the green corridor formed alongside the Foss and so the proposed development would contribute to sprawl (IR195).
12. In considering the purpose Green Belts have in protecting greenfield sites and therefore assisting in urban regeneration, the Secretary of State agrees with the Inspector (IR196) that preventing development here, and on other Green Belt sites, is likely to encourage development of brownfield land because there is likely to be a consequent impact upon viability of doing so. Like the Inspector, he considers that a managed approach to releasing land for housing needs to be taken (IR196).
13. The Secretary of State concludes with the Inspector that the site falls within the general extent of the Green Belt and serves a number of Green Belt purposes, and that it falls to be considered under paragraph 87 of the Framework, wherein, "inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances" (IR199).

The Effect of the Proposed Development on Openness and the Purposes of the Green Belt

14. The Secretary of State has considered the Inspector's comments at IR200-203. He agrees that the proposed development would impact on the openness of the Green Belt (IR200), and that the site has a role in four of the five Green Belt purposes (IR201). For the reasons given by the Inspector (IR200-203), he also agrees with her conclusion that whilst being of a lower value than some Green Belt areas surrounding the site, it is nonetheless a Green Belt site and, as such, it is afforded significant protection (IR203).

Highway Safety and the Free Flow of Traffic

15. The Secretary of State has carefully considered the Inspector's comments about local concerns regarding traffic flow (IR204). However, for the reasons given at IR205, the Secretary of State agrees with the Inspector's conclusion that the relatively modest change to traffic flows likely to arise as a result of this scheme would not be such that this should count against the scheme in the planning balance.

Accessibility

16. For the reasons given by the Inspector at IR206-7, in terms of providing a reasonably sustainable environment and directly contributing to local facilities, the Secretary of State agrees with the Inspector's conclusions, and he does not accord weight in favour or against the scheme in this regard.

Prematurity

17. The Secretary of State has had regard to the Inspector's remarks at IR26 and IR31-32 about the emerging Local Plan. In common with the parties (IR32), the Secretary of State considers that the LP Publication Draft carries very little weight at the current time. Like the Inspector at IR208, the Secretary of State has considered the Guidance in relation to prematurity, and he has also given careful consideration to the Inspector's analysis at IR209-212. For the reasons given by the Inspector (IR208-211), the Secretary of State shares her view that allowing this proposal would not materially undermine the historic form of settlement growth in York (IR211) and that the site is not so substantial or its cumulative effect so great that it would undermine the plan making process which, in any event, is not at an advanced stage (IR210). The Secretary of State, like the Inspector, does not attach weight to the issue of prematurity in this case (IR212).

Matters Advanced in Support of the Scheme

- The Planning History of the Site

18. The Secretary of State has given careful consideration to the Inspector's analysis in respect of the planning history of the site (IR213 – 216) and he shares her view that the history of the site means its suitability for housing use should be viewed positively and that must carry some weight in the planning balance (IR214). However, for the reasons given by the Inspector at IR215, the Secretary of State agrees that this site cannot be justified on the basis of the approach taken at Germany Beck (IR215). Like the Inspector (IR216), he concludes that, in this case, the site is not allocated for housing or safeguarded for such purpose in any adopted plan, and that the history here offers limited support in favour of the site's development.

- Housing

19. The Secretary of State agrees with the Inspector that, whilst the extent of the City's housing land supply is clearly a matter for debate, on the evidence before him, a five year housing land supply cannot be demonstrated (IR217). Like the Inspector (IR218), the Secretary of State has taken account of the advice in the Guidance that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt. The Secretary of State has carefully considered the Inspector's remarks at IR219, including her view on the significance of housing need in the planning balance in the circumstances described by the Inspector. Whilst the Secretary of State has drawn no general conclusions on this matter, he does agree with the Inspector that, in the circumstances of this case, the unmet need for housing contributes to part of his overall planning balance. He has gone on to consider this further below.

- Affordable Housing

20. The Secretary of State has carefully considered the Inspector's comments at IR220-222. For the reasons given in those paragraphs he shares her view that whilst weight should be attached to providing affordable housing, particularly where there is a significant demonstrated need, such as here, he is not satisfied that this application offers anything other than that which would normally be sought in the Council area (IR222). He has gone on to attribute weight to this matter below.

- Economic Benefits

21. The Secretary of State has also carefully considered the Inspector's comments at IR223-225 on the economic benefits of the proposal. Whilst he shares the Inspector's view (IR223) that the scheme's economic benefits (outlined by the applicant at IR61) constitute a matter to be weighed in the planning balance, he nevertheless considers that those benefits carry some weight in the scheme's favour. He agrees with the Inspector that the New Homes Bonus payments and Council tax receipts would be significant, but do not attract weight in the planning balance (IR224). Turning to the developer's 106 contributions, for the reasons given by the Inspector (IR225), the Secretary of State agrees that no weight attaches to the additional education places and that a little weight attaches to the provision of public open space, sports provision and footpaths/bridges.

Planning Balance for a Site in the Green Belt

22. The Secretary of State has given very careful consideration to the Inspector's balancing exercise at IR226-227 and he has also had regard to the Guidance which states that "Unmet housing need ... is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt".

23. In terms of matters weighing in support of the application, the Secretary of State considers that the site's planning history is a matter which carries some limited weight; that the scheme's economic benefits carry some positive weight; and that the provision of public open space, sports provision and footpaths/bridges carries a little weight. The Secretary of State considers that, in the light of his conclusions on the need for housing and affordable housing at paragraphs **19 and 20** above, the 102 dwellings including 30% affordable dwellings offered by this proposal are benefits which carry greater weight than that attributed by the Inspector (at IR219, IR222 and IR227) and he affords significant weight overall to those particular benefits.

24. Turning to the harm which he has identified in this case, the Secretary of State has concluded (at paragraph 13 above) that the site should be considered as within the general extent of the Green Belt, that it serves a number of Green Belt purposes and that the proposed development falls to be considered under paragraph 87 of the Framework. This paragraph states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the Framework goes on to say that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. The Secretary of State has concluded (at paragraph 10 above) that the proposal would have a significant and harmful

effect on openness and he has further concluded (at paragraph 14 above) that the site has a role on four of the five Green Belt purposes. The Secretary of State attaches substantial weight to the harm which the application proposal would cause to the Green Belt.

25. The Secretary of State has carefully weighed these matters and he does not consider that the harm which he has identified would be clearly outweighed by the considerations which he has weighed in the scheme's favour. He concludes that very special circumstances do not exist to justify the proposal.

Other Matters

26. The Secretary of State has taken account of the other matters addressed by the Inspector at IR228-234. He does not consider that these matters change the planning balance above.

Conditions and Obligations

27. The Secretary of State has considered the suggested conditions at Annex A to the IR, the Inspector's comments on conditions at IR184 and IR229 as well as national policy, set out in paragraphs 203 and 206 of the Framework, and the Guidance. The Secretary of State is satisfied that the proposed conditions are necessary and meet the other tests identified at paragraph 206 of the Framework. However, he does not consider that the conditions would overcome his reasons for refusing permission.
28. The Secretary of State has had regard to the s.106 planning obligation, the Inspector's comments at IR7-10 and IR185, national policy set out at paragraph 203-205 of the Framework and the Guidance. For the reasons given by the Inspector at IR185, the Secretary of State agrees that the obligation tests set out in the Framework would be met.

Overall Conclusion

29. The Secretary of State has found that the scheme would cause substantial harm to the Green Belt and that this harm would not be justified by very special circumstances. To that extent, the Secretary of State also concludes that the scheme conflicts with the aims of development plan policies YH9(C) and Y1(C1). He considers that this conflict is such that he concludes that the scheme conflicts with the development plan overall.
30. The Secretary of State has considered the scheme against paragraph 14 of the Framework which sets out the presumption in favour of sustainable development and which states that, in cases where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole. In view of his conclusions on the harm to the Green Belt, the Secretary of State considers that the scheme does not amount to sustainable development and that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

31. Having concluded that the scheme conflicts with the development plan overall and that the scheme does not amount to sustainable development, the Secretary of State has found no material considerations of sufficient weight to determine the application other than in accordance with the development. Accordingly, he has decided to refuse planning permission.

Formal Decision

32. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's application for planning permission for the construction of 102 dwellings along with associated highways infrastructure, landscaping and public open space in accordance with application reference 13/03267/FULM dated 4 October 2013.

Right to challenge the decision

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

34. A copy of this letter has been sent to the City of York Council, Strensall with Towthorpe Parish Council, and Julian Sturdy MP. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Christine Symes

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Mrs Zoë Hill BA(Hons) DipBldgCons(RICS) MRTPI IHBC

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

Date: 19 January 2015

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPLICATION BY LINDEN HOMES NORTH

REGARDING CONSTRUCTION OF 102 DWELLINGS ALONG WITH ASSOCIATED
HIGHWAYS INFRASTRUCTURE, LANDSCAPING AND PUBLIC OPEN SPACE

AT

BRECKS LANE, STRENSALL, YORK

Inquiry opened on 14 October 2014

Brecks Lane, Strensall, York

File Ref: APP/C2741/V/14/2216946

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File Ref: APP/C2741/V/14/2216946
Brecks Lane, Strensall, York, Yorkshire

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 9 April 2014.
- The application is made by Linden Homes North to City of York Council.
- The application Ref: 13/03267/FULM is dated 4 October 2013.
- The development proposed is described as the construction of 102 dwellings along with associated highways infrastructure, landscaping and public open space.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: i) The extent to which the proposed development is consistent with Government policies on protecting Green Belt land (having regard to section 9 of the Framework); ii) The extent to which the proposed development is consistent with the development plan for the area; iii) Any other matters the Inspector considers relevant.

Summary of Recommendation: The application be refused.

Procedural and Preliminary Matters

Amended Plans

1. The application was originally submitted for 104 dwellings, although following discussions with Council Officers it was reduced to 102 dwellings. The description of the proposed development was amended to: **"Residential development of 102 dwellings with associated highways infrastructure, landscaping and public open space"**. **The public have been made aware of that alteration and no prejudice** would arise from consideration of the scheme on that basis. Thus this report is based upon the revised proposal. The full list of plans is set out at CD 01-01 & - 02.

Call-In Details

2. On the 9 April 2014, the Secretary of State called-in this application for his determination. He particularly wished to be informed about:
 - (a) The extent to which the proposed development is consistent with Government policies on Protecting Green Belt Land (Framework – Section 9);
 - (b) The extent to which the proposed development is consistent with the development plan for the area; and,
 - (c) Any other matters the Inspector considers relevant.

Inquiry Dates

3. The Inquiry sat on 14-17 October 2014 and 6 and 7 November 2014. The 6 November 2014 session was held as a Hearing style event.

Witnesses

4. Martin Grainger did not appear for the Council due to work pressures. Mrs Jane Healy-Brown was appointed to take his place and adopted Mr Grainger's evidence adding to it with a speaking note of her own¹.

Environmental Impact Assessment

5. The Applicant submitted a request for a Screening Opinion on 11 June 2012 which was responded to by the Council's formal opinion on the 4 July 2012². The Applicant then asked the Secretary of State on the 23 October 2012 for a screening direction which was issued on the 7 December 2012, confirming that the proposal represents development which requires Environmental Impact Assessment (EIA).
6. On the 23 August 2013 the Applicant submitted a Scoping Report culminating in the Council's formal scoping opinion on the 30 September 2013³. A comprehensive Environmental Statement (ES) was submitted with the application. Regulation 22(2) prescribes that where information is to be considered as part of an Inquiry or hearing further publicity is not required. This is on the basis that the Inquiry processes themselves are a sufficient means of notifying those affected. The definition of 'environmental information' in Regulation 2 confirms that all of the representations currently before this Inquiry comprise such information. For the avoidance of doubt, the Bat Survey and other information contained in the TEP Report⁴ now fall into this category. There has been no complaint about the adequacy of the ES or the EIA process raised during the course of the Inquiry.

S.106 Planning Obligation

7. The s.106 Planning Obligation requires a contribution of £70,247.00 for off-site sport provision and public open space and amenity land construction, management and maintenance.
8. An education contribution through the s.106 Planning Obligation would be made for 26 places in the Robert Wilkinson primary school equating to £306,930.00.
9. The s.106 Planning Obligation would require provision for 30% affordable housing split between affordable dwellings discounted at sale (11 units) and social rented dwellings (20 units).
10. To improve recreational access £10,000.00 within the s.106 Planning Obligation would provide for a footbridge over the River Foss (£8,000.00 of the total contribution) and improvement of footpaths in the area around the footbridge.

The Site and Surroundings

11. The site is located adjacent to the village of Strensall and is located approximately 4.5km from Haxby, 6.3km from Huntington on the outskirts of the

¹ INQ 5

² CD 02

³ CD 03

⁴ Mr Watts' Appendix 14

- City and approximately 9km from the centre of York itself. These centres provide local shopping and employment.
12. The site is located on the east side of Strensall village. The site encompasses approximately 4.6 hectares of land made up mainly of overgrown grassland, including an area of ridge and furrow. There is a small concrete hard-standing **area located on the site's** southern boundary. It also includes 0.63 hectares occupied by a tree belt on its eastern side.
 13. The site is accessed via Brecks Lane to the south. However, the site is adjacent to residential development on its western boundary from which there are three residential estate roads which terminate on the boundary of the site: those being Green Lane, Tudor Way and Heath Ride. Heath Ride terminates as an adopted turning head within the application site boundary.
 14. The eastern site boundary is planted with trees, with an open field and waste water treatment works beyond. Within the easterly tree belt and just beyond there are 25 mature trees that are covered by a tree preservation order (Tree Preservation Order CYC 285 (TPO))⁵. There are also 12 trees within the central and western part of the site that are covered by the TPO.
 15. To the north of the site, beyond an area of trees and riverside strip of more open land is the River Foss, after which lies open countryside. A rising water main crosses the site on the northern side.
 16. The southern boundary adjoins Brecks Lane, a narrow lane which provides access to the waste water treatment works, and adjacent to the lane is the York to Scarborough railway line. Beyond this lies open countryside. On the southern side of the site there is a section of overhead cable crossing the site, an area of hard-standing accessed from Brecks Lane and a section of hedgerow that protrudes into the site.

Planning Policy

17. The development plan for this area consists of policies YH9(C) and Y1(C1&C2) and the relevant parts of the key diagram of Regional Spatial Strategy for Yorkshire and the Humber (RSS) as set out in its (Partial Revocation) Order 2013⁶.
18. YH9(C) says: *The detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth set out in this RSS and must endure beyond the Plan period.*
19. Y1(C1) says: *In the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York City centre and the inner boundary in line with policy YH9C.*

⁵ CD 25

⁶ See CD 32 and CD 33 for more detail

20. Y1(C2) says: *Protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.*
21. All other policies provided are material considerations which can be afforded weight in accordance with Annex 1 of the National Planning Policy Framework (the Framework).

Planning Policy History

22. There is no definitive adopted plan showing the extent of the Green Belt in this area. The Council and Applicant place weight on the history of the site in terms of policy documents which have been produced in the process of clarifying the status of the site but which have not been adopted.
23. **The York Green Belt Local Plan 1991 Inspector's Report concluded that this site should be removed from the Green Belt, but suggested safeguarding the land might be appropriate. As a consequence, the site was not shown to be in the Green Belt in the York Green Belt Local Plan Post-Modifications (1995) although this plan was not adopted.**
24. The site was not shown to be in the Green Belt in the Southern Ryedale Local Plan Modifications (1996) but was identified as safeguarded land.
25. The site was not shown to be in the Green Belt in the City of York Local Plan 4th Set of Proposed Changes (2005), but was shown as safeguarded land.
26. The site was not identified as being in the Green Belt in the City of York Local Plan Publication Draft 2014 and was shown as a housing site although that document has now been halted⁷. That 'halt' took place on 9 October 2014 and the full motion setting it out is contained in the Supplementary Statement of Common Ground⁸ and is referred to in more detail in the agreed facts section relating to housing land.

Site Planning History

27. There has been a previous planning application made for residential development on this site which was refused in 1998 because, firstly, it was considered that there was adequate housing land available so development of the then safeguarded site would be premature and therefore conflict with a policy of the draft Local Plan and, secondly, for highways reasons including the failure to provide a Traffic Impact Assessment⁹.
28. The current application site includes an area of highway, a turning head, which forms part of the Heath Ride development.

The Proposals

29. The planning application proposes a residential development served using the existing culs-de-sac, that is Green Lane, Heath Ride and Tudor Way. The

⁷ Extracts of these documents are set out at CD 10-15

⁸ INQ 10

⁹ **The reasons for refusal can be found at page 4 of the Applicant's Statement of Case and in the Rule 6(6) Statement of Case**

proposed dwellings would be a mixture of detached, semi-detached and short terraces of up to 4 dwellings. Each would have a garden and parking provision. The dwellings would be of a relatively traditional design and so would reflect the character of the adjoining housing estate. In addition to the 102 dwellings there would be areas of open space, largely focused around the TPO trees on the site. The road layout would essentially be of culs-de-sac form, with pedestrian links between the areas. There would also be a pedestrian walkway along the eastern boundary. This boundary, which adjoins open fields, would be faced by rear and side elevations of dwellings with roads terminating close to the boundary.

Agreed Facts

The Council's Consideration of the Application

30. The Council Officers recommended that planning permission be granted (subject to a s.106 agreement and conditions) in the report to the Planning Committee on 20 February 2014. The Committee resolved to grant planning permission for the proposed development. However, as set out above the decision was subsequently called-in.

Housing Land Supply – Agreement between the Council and Applicant

31. The City of York Local Plan Publication Draft 2014 (LP Publication Draft), as set out above has been halted. Part of the Council motion which resulted in that halt sets out that "***Council believes that the current draft plan approved by Cabinet on 25th September:***

- *does not accurately reflect the evidence base and is therefore not based on objectively assessed requirement.*
- *is not the most appropriate strategy and has ignored reasonable alternatives rather than test the approach against them.*
- *is not deliverable over the plan period and is contrary to the combined methodological approach to the Leeds City Region.*

Council believes that the current proposals also fail to adequately reflect the results of the citywide consultations undertaken in July 2013 and July 20214.

Council believes that the current proposals will result in the plan being found unsound by the planning inspector leaving the city vulnerable.

Council instructs that planned consultation on the current proposals is halted.

In order to accurately reflect objectively assessed requirements, Council instructs officers to produce a report on housing trajectory to be brought to the next meeting of the Local Plan Working Group (LPWG) along with the relevant background reports.¹⁰

32. The Council and Applicant agree that, as such, very little weight can be placed on the LP Publication Draft. Nonetheless, for the purposes of the Inquiry, the Council and Applicant agree in the first supplementary Statement of Common Ground that housing land supply is equivalent to some 4.2 years and that there is

¹⁰ INQ 10

no need to interrogate the precise shortfall against the agreed five year requirement.

33. The Council and Applicant set out the subsequent further Statement of Common Ground¹¹ that when actual housing supply falls below planned supply, the future supply should be increased to reflect the likelihood of undersupply, in line with the Practice Guidance¹². In assessing the full, objectively assessed need (FOAN) and establishing a new housing requirement it is appropriate to address the undersupply over the full plan period rather than dealing with it in the early years of the Plan (sometimes referred to as the Liverpool approach). This also reflects the Practice Guidance for development plan formulation¹³.
34. The Council and Applicant agree that the RSS contains the only development plan based housing requirement for York (even though this has been revoked) and it is appropriate to use this as the basis of any calculation of under delivery. Since 2004, evidence provided demonstrates that over a 5 and 10 year period there has been under-delivery against the RSS housing requirement. It is agreed by **the Council and Applicant that this represents 'persistent under delivery' for the purposes of the Framework and Practice Guidance.**
35. **Whilst the Applicant considers that the Council's housing supply is optimistic it is agreed that there is a shortfall in the five year housing land supply requirement.**
36. The Council and Applicant agree that there is no justification for including windfall sites in the five year housing land supply figures.

The Main Issues

37. The main issues in this case are:
 - (a) whether the site should be treated as falling within the general extent of the Green Belt;
 - (b) if so, the effect of the proposed development on the purposes and openness of the Green Belt;
 - (c) the effect of the proposed development on highway safety and the free flow of traffic;
 - (d) the implications of the proposed development in terms of accessibility;
 - (e) prematurity;
 - (f) the benefits of the scheme, having particular regard to housing, affordable housing and the contribution to the local economy; and,
 - (g) if the development is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

¹¹ INQ 39

¹² Practice Guidance ID: 2a-019-20140306

¹³ Practice Guidance ID: 3-035-21040306 & 3-036-20140306

The Case for Linden Homes

Whether or not the site is in the Green Belt

38. The Statutory Development Plan comprises saved policies of the RSS together with its key diagram. The unique partial saving of the RSS was explained in a written ministerial statement which commented: -
- "The City of York does not currently have a Local Plan in place with defined Green Belt boundaries. The Environmental Assessment process indicated that revocation of the York Green Belt policies before an Adopted Local Plan was in place could lead to a significant negative effect upon the special character and setting of York. Following careful consideration of the consultation responses received, we have concluded that the best solution would be to retain the York Green Belt policies"¹⁴.
39. In the context of this Inquiry it is worth noting that the sole purpose identified for saving the general extent of the Green Belt related to the potential significant negative effect upon the special character and setting of York. Mr Wright, an interested party in this Inquiry, emphasised this point in his proof, but in cross examination he confirmed that neither the village of Strensall, nor development of the application site in particular, has any bearing on the special character of York. The Parish Council confirmed that preserving the special character of the setting of York was not one of the five purposes of the Green Belt on which it sought to rely when identifying other Green Belt harms. This accords with the views of the Council and Applicant.
40. In terms of the approach to taking development management decisions the Applicant considers that because the 'general extent' of the Green Belt is only broadly defined and is only 'illustrated' on a 'diagram' it is necessary to judge whether the appeal site should be treated as falling within the general extent of the Green Belt. As a starting point the Applicant makes plain the point that not all the land within the existing urban areas automatically lies within the general extent of the Green Belt; indeed the key diagram does not actually show that to be the case and it would be contrary to the specific requirements of the RSS set out in policies YH9C and Y1C. The Parish Council did not disagree with that view.
41. The Applicant has analysed all relevant appeal decisions including the nearest site at Cowslip Hill¹⁵ and was able to describe a consistent theme to the approach from these decisions. A clear example is given in the Germany Beck decision¹⁶. This decision letter confirms that the Secretary of State accepted the Inspector's conclusions, except where expressly stated, and took account of the Inspector's analysis relating to Green Belt status, only disagreeing with the conclusion in that case. The critical point is that the Secretary of State agreed that in determining whether a site is within the York Green Belt it would be necessary to test whether, on the basis of appropriateness, prematurity or precedent, there is any reason not to apply Green Belt policy for the time being.

¹⁴ Mr Watts Proof of Evidence Appendix 6

¹⁵ APP/C2741/A/00/1048645 Appendix V of Mr Borrow's Proof of Evidence

¹⁶ APP/C2741/V/05/1189897 which can be found at CD 22

42. The Secretary of State was of the view that she did not consider "the lack of a defined boundary is sufficient justification to arbitrarily exclude any site contained within the general extent of the Green Belt". The reference to the 'arbitrary exclusion' of 'any' site precedes the finding that the sites fell "within the general extent of the Green Belt". Given that finding, it is not a tenable proposition to expand the Secretary of State's reasoning to cover every bit of unbuilt-on land within the 6 mile belt from the centre of York.
43. The Applicant identifies similarities between the application site and the Westview Close appeal site¹⁷. The Applicant provides six clear reasons which support a finding that the appeal site does not lie within the general extent of the Green Belt. These are: that the site does not serve any function appropriate to the Green Belt; the site is not seen as part of the open countryside rather it is seen as a vacant sliver of land opposite an adjacent residential estate; the site appears as part of the urban environment, divorced from the countryside and hemmed in by suburban residential development with enclosure behind a tree belt, river and railway line; whilst it could serve as a small piece of incidental open space in relation to the adjacent dwellings, this informal use is not a Green Belt function; the site has not been identified as contributing to any Green Belt function in the Green Belt Appraisal of 2003 or in the updated assessment provided in the York Historic Character and Setting Technical Paper of 2011 and hence, technically the site serves no obvious Green Belt function in relation to York; and finally, releasing this site for development would not serve as an undesirable precedent in relation to similar small plots of land on the periphery of York – on the contrary, it is exactly what the Framework advocates.
44. For the Council it was suggested that the status of the application site cannot be determined definitively by considering the key diagram, other than that it falls within the general extent of the Green Belt. An overlay of the key diagram on an Ordnance Survey map was provided to illustrate this point¹⁸. The colour copying of the plans provided, figures 1 and 2, had proved to be difficult; but that was simply a reflection of the difficulty in projecting the very large scale of the key diagram onto an Ordnance Survey base.
45. **Neither the Applicant's witness**, nor the Parish Council witness, nor Mr Wright were supporters of this approach; **indeed the Parish Council's witness** spurned the potential assistance to his case from such an approach with the wise circumspection that it was a "dangerous" path to follow. It is worth noting that the Regulations governing the production of Regional Strategies direct that key diagrams and inset diagrams must be prepared "otherwise than on a map base". This provision is to be contrasted with the equivalent provision for the production of local development documents which confirms that a proposals map must "be reproduced from, or based on, an Ordnance Survey map". The Regulations were drawn in this way precisely to prevent key diagrams being interpreted on an Ordnance Survey map. As Mr Wright acknowledged key diagrams were never intended to convey that degree of specificity.
46. Overall, the Applicant invites a finding that the site does not lie within the general extent of the Green Belt. In these circumstances all parties agree that planning

¹⁷ APP/C2741/A/13/2191767 which can be found at CD 23

¹⁸ Mrs Healey-Brown's Speaking Note – INQ 5

permission should be granted. Paragraph 4 of Council's opening statement confirms that a proper application of paragraph 14 of the Framework would be engaged and that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The Parish Council's witness confirmed in cross examination that he, too, would not make a case against the development in the event that it was found to be outside the general extent of the Green Belt.

47. The Applicant accepts that the site could be found to fall within the general extent of the Green Belt as a matter of judgement. If so, the Applicant maintains that there are very special circumstances which would justify the grant of permission. In arriving at this view the Applicant accepts that the enhanced presumption in paragraph 14 of the Framework would not be applicable. Rather, the matter would fall to be determined on the planning Green Belt balance requiring very special circumstances to be demonstrated.

Very Special Circumstances

48. The legal position on the approach to assessing harm to Green Belt and considering very special circumstances is set out in two cases. The first of these is the recently decided Redhill Aerodrome appeal¹⁹, which overturned Mrs Justice Patterson's judgment and returned matters to the position prior to the Administrative Court's decision. That is to say that when assessing harm to the Green Belt, in particular "other harm", account should be taken of all relevant matters.
49. The second case was helpfully submitted by the Council on the second day of the Inquiry²⁰. In this case Mr Justice Sullivan (as he then was) confirmed "there was no reason why a number of factors ordinary in themselves cannot combine to create something very special"²¹.
50. Both the Parish Council and Mr Wright accepted in cross-examination that, contrary to their earlier positions, an accumulation of circumstances could combine to be very special.
51. The Applicant's and the Council's cases are closely aligned setting out the same considerations which, taken together, amount to very special circumstances. Those points, albeit set out slightly differently, are that: the site has been excluded from draft Green Belt boundaries on numerous occasions and is designated in the two most recent local plans for development; the application site makes a very limited, or no, material contribution towards Green Belt purposes; the shortfall in housing land supply means there is the need to release land for development; and, the scheme represents a sustainable form of development meeting local needs.
52. All the parties agree that in this scenario there would be harm arising to the Green Belt by reason of inappropriateness. However, the Council and Applicant

¹⁹ [2014] EWCA Civ 1386. A copy of the judgment handed down on 24 October 2014 is at INQ 43.

²⁰ [2004] EWHC 2759 (Admin) – R. (on the application of Basildon DC) v First Secretary of State INQ22

²¹ INQ22 Paragraph 10 of the Judgement – see also paragraph 17

agree that because of the site's characteristics, scale and location there would be no "other harms" arising to the purposes of the Green Belt.

53. The Parish Council maintained that harm would occur to the Green Belt purposes listed in paragraph 80 of the Framework in respect of preventing 'unrestricted sprawl' and 'safeguarding the countryside'. It was also suggested that there could be some harm arising from the proposals to the purpose of assisting urban regeneration. However, in cross examination it was confirmed that concerns under this heading related to the potential precedent effect that a grant of permission on the appeal site might cause rather than the direct effects of the proposals themselves.
54. When asked to consider the potential precedent effects the Parish Council was unable to challenge any **of the Applicant's findings that it would not prejudice the** boundary of the York Green Belt because the site, in the Applicant's view, has not been in the Green Belt for a period of two decades. Moreover, there are special circumstances here which would not set a precedent. Furthermore to meet objectively assessed development needs of the City, including for housing, land like this which could be included in the Green Belt will need developing. The approach should reflect that of the Westview appeal wherein its use was deemed to neither be premature nor set a precedent. In terms of the Practice Guidance there are no reasons that would significantly or demonstrably outweigh the benefits of the proposal taking the policies in the Framework and other material considerations into account. The Applicant does not consider that the development is so substantial or its cumulative effect so significant that to grant planning permission would undermine the plan making process, notes that the emerging plan is not at an advanced stage and that the proposal, in any event, would accord with the emerging plan as most recently envisaged. Indeed, those findings were not challenged at all by either Mr Wright or the Parish Council and may be safely relied upon.
55. The Parish Council concerns about unrestricted sprawl and safeguarding the countryside seem to be opposite sides of the same coin. The judgement on these points will turn on the assessment of the site specific characteristics. The Applicant and Council agree that *"the site characteristics relate the site visually to the village settlement such that the land does not serve any of the stated purposes of Green Belt (Framework paragraph 80) in particular it does not assist in safeguarding the countryside from encroachment nor is it necessary to be kept open to safeguard the special character and setting of the historic city (Policies YH9 and Y1 of the RSS). This is because the north and western boundaries of the site border existing residential development. The western boundary has three access points that terminate at its boundary or just within the site. These physical features relate the site to the adjacent housing schemes. The eastern boundary is very well defined with significant trees and other vegetation so that views across to the open land beyond are restricted. The southern boundary is adjacent to Brecks Lane and adjacent to the railway line. The essential characteristics of the Green Belt (Paragraph 79) are their permanence and their openness. Given the site characteristics, it does not contribute to the openness and permanence of the Green Belt and in my view there is therefore no 'other harm' to the Green Belt arising from development. The accords with the*

treatment of the site in the past".²² Independent Inspectors have also concluded likewise.

56. It is this lack of harm to Green Belt purposes which, **in the Applicant's view**, comprises the first building block of the case for very special circumstances. Whilst absence of harm to Green Belt purposes would not, in itself, constitute very special circumstances, **it is, in the Applicant's opinion**, an important starting point in the balancing exercise. The lower the harms, the lesser the weight required to tip the balance against them.
57. The Council and Applicant agree that the policy history of the site is highly cogent and deserving of significant weight. The Council suggested that the planning history of the site could constitute very special circumstances in their own right. The Applicant was slightly more confident that they were very special circumstances. Even the Rule 6(6) Party conceded in cross examination that the issue though not pivotal was of "significant weight".
58. The planning history of the site is not disputed²³. On every occasion on which the site has been considered through the development plan process over the last 25 years, it has ended up being shown as lying outside the Green Belt. In both the York Green Belt Local Plan and the Southern Ryedale Local Plan, the Inspector's recommendations followed a full examination process. The present landowners have been seeking a determination of their civil rights and liberties²⁴ on this issue for over 25 years. Each occasion upon which they have put their case to Inspectors and the Planning Authority they have had it accepted. Given the importance of consistency in decision making, it is seminal to give this set of circumstances very considerable weight. The Applicant considers that the description 'very special' does seem entirely apposite in these circumstances. The recently published local plan, whilst it is to be given very limited weight of itself, nonetheless represents a further step in the continuum of judgements which have been made about this site. The evolution of policy over this lengthy period has not undermined this history. Indeed, as the new plan suggests it has simply served to confirm it.
59. The need for housing in general and affordable housing in particular are matters to be given very substantial weight. The first agreed supplementary statement of common ground confirms that the Council cannot demonstrate an adequate five year supply of housing land. Neither footnote 9 to paragraph 14 of the Framework nor paragraph ID 3-034 of the Planning Practice Guidance operate to undermine their weight. The Government's policy in paragraph 47 of the Framework is to boost significantly the supply of housing and this remains undiminished even in light of the recent amendments to the Planning Practice Guidance (paragraphs 044 and 045).
60. Paragraph 89 of the Framework confirms that affordable housing is an issue of sufficient weight for it potentially to be an exception to normal Green Belt policy. Whilst the advice is not directly applicable in this case, it is an illustration of the

²² Diane Cragg's Proof of Evidence para 4.12

²³ It is set out in the Planning Policy History section of this Report

²⁴ See Article 6 of the Human Rights Convention and the 1998 Human Rights Act (namely whether the land should be allocated in or out of the Green Belt)

weight Government attaches to the provision of affordable homes and supports the general contention that the provision of such housing can contribute towards very special circumstances. The fact that the contribution towards affordable housing is simply in line with policy at 30% does not diminish the weight attaching to its delivery particularly in the circumstances of this case wherein there is a severe shortage of affordable housing with the 2011 Strategic Housing Market Assessment (SHMA) identifying an annual need for new affordable properties of 790 dwellings. That same SHMA identified that a household income of £41,321 would be required to access lower quartile owner occupation yet median average gross income in the City of York is £22,100, only half of that required²⁵.

61. The economic benefits of the proposal include construction employment for the proposed development. The Applicant has estimated this based on a construction cost of approximately £12.4 million pounds. Over a three year period this would be equivalent to an average of 82 job opportunities directly created per year. In addition there would be spin-off benefits in terms of spend in the local area that together with indirect and induced employment opportunities would lead to economic benefits. The Applicant estimates that the economic benefits after completion of the development would be around £2 million net annual additional expenditure from new residents. It is anticipated that a significant proportion of this would be retained locally and could support 11.5 additional jobs in the local area.
62. The fiscal benefits are also set out in the evidence. The proposed development would generate New Homes Bonus payments of £901,815 over six years. The scheme would also generate some £135,909 per annum in Council tax receipts once the units were occupied. In the context of the spending cuts these sources of income are, **in the Applicant's view**, a significant benefit. They are also local finance considerations which need to be taken into account under the terms of section 70 of the principal Act.
63. The Applicant draws attention to two final points; firstly, the Council's evidence confirms that even if there was an adequate supply of 5 year housing land the remaining considerations would still outweigh harm to the Green Belt and amount to very special circumstances. Secondly, the Applicant wishes to draw attention to the Germany Beck decision because, in that case, the Inspector identifies the planning history of that site (similarly excluded from the Green Belt via development plan processes) and the pressing need to allocate more land as constituting very special circumstances sufficient to outweigh harm to the Green Belt. Although the scale and nature of the cases are very different, the need for more housing land remains pressing and the development plan history of this site is, **in the Applicant's view**, even more compelling.
64. Overall, the Applicant invites findings consistent with their evidence and that of the Council that very special circumstances exist sufficient to outweigh the harm to the Green Belt and all other harms.

²⁵ Mr Watts' Supplementary Note on Affordable Housing INQ 23

Prematurity

65. Both Mr Borrowws for the Parish Council and Mr Wright put forward a case on prematurity²⁶. In cross examination, Mr Borrowws readily acknowledged that the term 'prematurity' was a term of art in the planning context. The advice in paragraph 014 reference ID 21b of the Practice Guidance was put to him. This currently represents national policy on the topic and largely follows similar advice previously contained in the General Principles Statement. The advice places significant restrictions on when prematurity may be a justifiable reason to refuse planning permission. There are two limbs to these restrictions. Firstly, development must be so substantial that to grant permission would undermine the plan making process by pre-determining decisions about the scale, location or phasing of development; and secondly the emerging plan must be at an advanced stage. Mr Borrowws readily acknowledged that neither restriction was satisfied in this case and that a prematurity argument, in the formal sense, could not be maintained.
66. Mr Wright acknowledges²⁷ part of the Practice Guide test by addressing the first limb of the restriction. He goes on to suggest that a decision to grant planning permission on "isolated areas" would be the "very antithesis"²⁸ of policy requirements. In essence, his argument relates to the nature of the spatial distribution of development in the overall area. He suggests that what he sees as a 'dispersal strategy' would be wrong. His case rests upon casuistic reasoning. Mr Wright suggests that policy YH9C of the RSS "requires development to be spatially distributed within the inner boundary provided that does not adversely impact on the setting and/or the special character"²⁹. This requirement cannot be deduced from the terms of the policy itself or the key diagram. Mr Wright acknowledged in cross examination that the specificity he projects onto the policy and the key diagram cannot be read in the wording of the policy itself.
67. At no point in his evidence does Mr Wright seek to suggest that the application site, by itself, would meet the first limb of the restriction contained in the Practice Guidance. When it was put to him that the proposed development was not so substantial as to meet the first limb, he agreed absolutely.
68. Mr Wright's argument therefore relies upon the 'precedent' effect that the grant of permission on the appeal site may have in order to meet the 'so substantial' test. Such criticism was anticipated and the Applicant had addressed it in the **Planning Witness's Appendix 7**³⁰ which was not challenged. Nor did Mr Wright produce evidence to demonstrate a harmful effect in this regard.
69. Mr Wright was asked by the Applicant to consider the second limb of the restriction in the Practice Guidance relating to the stage the emerging plan has reached. Mr Wright's view was that the emerging plan is more advanced than any predecessor, but he recognised that the Council's decision to suspend consultation on the recently published version of the local plan means very little weight can be ascribed to it.

²⁶ Mr Borrowws' Proof of Evidence para 7.9

²⁷ Mr Wright's Proof of Evidence para 4.12

²⁸ Mr Wright's Proof of Evidence Paragraph 4

²⁹ Mr Wright's Proof of Evidence Paragraph 4.17

³⁰ Mr Watts' Proof of Evidence Appendix 7

70. The Applicant concludes on this matter that, overall, the scale of the proposal is small compared to the city wide need; there would be no material precedent effect by a grant of permission; and the local plan is not at an advanced stage. For these reasons the objectors' prematurity argument simply cannot succeed.

Sustainability/Accessibility

71. The sustainability/accessibility issues raised should be seen in the broader context of sustainability set out in the Framework.
72. **The Applicant's** Transportation Planning witness confirmed that "more or less the whole of Strensall including local shops in The Village are within an acceptable walking distance of the site"; that "all of Strensall, Haxby, Huntington, Earswick and New Earswick are accessible within the accepted cycling catchment area for the site"; and that "the site is well served by bus services which will encourage residents and visitors to travel to and from the development by bus".
73. The Parish Council criticises the accessibility of the site. In particular, it relies upon an extract from the Council's site selection technical paper and shows that a number of important services lie beyond the Council's target distances. However, it was accepted that Institute of Highways and Transportation Guidelines, upon which the Council's targets were based, were just that. They had not and have not been taken up as policy in the Framework or the Practice Guidance despite their long-standing availability. The Council's target distances are based upon the suggested acceptable walking distances rather than the preferred maximum distances set out in the guidelines. For the Applicant, it was confirmed that all of the facilities identified were within the preferred maximum distances set out in the guidelines of between 1 and 2 kilometres.
74. The Parish Council considers that the overall sustainability of the site would have to be judged against the wider range of factors considered by the Council in their assessment process. It was agreed that there was no intention to replicate that wider process, or consider the relative sustainability of the application site against other potential sites in Strensall or elsewhere. As a result this evidence is necessarily limited in its cogency.
75. Finally, the Applicant considers that it is worth recalling that issues of sustainability/accessibility have been around for a long time. It is true that national policy places greater emphasis on sustainability than was previously the case, but the concept has been around in planning policy since the 1980's. The IHT guidelines have been around for many years. The current version is dated 2000 but was preceded by earlier advice. The application site has been through a series of development plan processes and assessments over many years. On each occasion the site has been judged inappropriate to include within the Green Belt and to be suitable for housing development. On each such occasion the issues of its sustainability/accessibility have been relevant. That 25 year continuum of decision making affecting the application site has recently been added to by the 2014 local plan draft. Whilst the policy emphasis may have changed nothing is fundamentally different.
76. The Parish Council confirmed that the correct test to be applied to the consideration of this issue is that set out in paragraph 32 of the Framework. This confirms that "development should only be prevented or refused on transport

grounds where the residual cumulative impacts **of development are severe**". It was also acknowledged that 'transport grounds' do include accessibility issues.

77. Overall, the Applicant invites a finding that the site is sustainable and suitable having regard to its accessibility by a variety of modes of transport.

Highways

78. A full Transport Assessment³¹ was provided in support of the application. That report followed the Guidelines on Transport Assessments. This included agreeing a scoping exercise with the Highway Authority prior to its submission. This assessment assumed the traffic impact of a development of 125 dwellings (almost 20% higher than the scale of development proposed). This was in order to ensure that the assessment was robust. However, in fact, the assessment overstates the impacts.
79. The Transport Assessment demonstrated that the highway infrastructure in the vicinity of the site will be capable of accommodating the additional traffic generated by the proposed development. The Applicant also notes that the Officer's Report to Committee³² confirms that the Highway Network Management Team did not object to the proposal, subject to conditions.
80. The Parish Council submitted evidence³³ of the details of some traffic counts that had been undertaken. The tables in the evidence simply describe the figures in terms of the 5 minute average or the hourly average. However, it was explained that the figures related to a flow rate. For the Parish Council it was explained that the peak 5 minute flow rate demonstrates the potential difficulties of accommodating traffic at several points on the network including: Brecks Lane/The Village junction, The Village, West End, and the Six Bells roundabout.
81. A rebuttal statement was submitted by the Applicant on the first day of the Inquiry³⁴. There had been a misunderstanding by the Applicant of calculations provided for the Parish Council **but it remains the Applicant's view that using a 5 minute flow rate measure was not an appropriate tool to assess the highway impacts of the proposed scheme. The Applicant's** rebuttal statement demonstrates that there is actually a good correlation between its traffic counts and those of the Parish Council. It was confirmed that the peak hour assessments carried out in the work for the Applicant are the right tool to use. It was also confirmed that in the traffic modelling a 12.5% factor was added to assimilate the peak within a peak. In response to the Inspector's questions it was acknowledged that this may not always fully capture the busiest school drop off periods. Nonetheless, the evidence provided demonstrated that there was considerable capacity in the network to accommodate the proposed scheme. This is supported by the Highway Authority.
82. The Applicant maintains that there is no justifiable reason to refuse planning permission on highway grounds. The test against which this judgement must be made is, once again, set out at paragraph 32 of the Framework.

³¹ CD 01-07

³² CD 05 page 27

³³ **Mr Burrows' Proof of Evidence Appendix 12**

³⁴ INQ 13

Ecology

83. A number of objection letters have raised concerns over ecology and there was some doubt raised about whether the most recent Bat Survey information had been properly distributed. No serious case on this topic has, however, been maintained through the Inquiry process. As set out at paragraph 4 above the Bat Survey information contained in the TEP report has now been available throughout the Inquiry process for questioning. In the circumstances there is no tenable basis upon which planning permission could be refused on ecological grounds.

Overall Balance and Applicant's Conclusion

84. Overall the Applicant maintains that the site should be treated as falling outside the general extent of the Green Belt and therefore granted planning permission in accordance with paragraph 14 of the Framework. However, alternatively, if the site is to be treated as falling within the general extent of the Green Belt very special circumstances exist which justify the grant of permission.

The Case for the City of York Council

85. The main issues are agreed. If it is concluded that Green Belt policies should not apply to the site, it is accepted that a proper application of paragraph 14 of the Framework would mean that planning permission should be granted, there being limited (if any) harm to interests of acknowledged importance. Under this scenario, and given that the main parties (and the Parish Council) agree that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits.

Green Belt

86. The question of whether the application site should be treated as falling within the general extent of the Green Belt is a matter of judgment. However, it is essential that this judgment be reached in the proper context.
87. The Government considered the retention of the general extent of the Green Belt around York to be of such importance that the Regional Strategy Green Belt policies were the only ones to survive revocation. The Council considers that this shows the weight that Government places on ensuring that the open land around this historic city remains protected.
88. The consistent line taken by decision takers (the Secretary of State particularly) has been that sites which fall within the general extent of the Green Belt should be subject to the strict controls of Green Belt policy. In this regard, the Council takes a different approach to the interpretation of the Germany Beck decision³⁵. The decision letter³⁶ reveals a precautionary approach to the York Green Belt rather than an endorsement of the **Inspector's precedent approach**. That is, until the precise boundaries of the Green Belt are fixed through a Local Plan, it is better to err on the side of caution rather than risk undermining the role that the Green Belt is intended to play.

³⁵ CD 20

³⁶ Paragraph 15 of the Decision Letter at CD 20

89. The consistent line taken by Government as to the importance it attaches to the protection of the Green Belt has, if anything, hardened in recent times. For example the revisions to Practice Guidance (6 October 2014) and the Written Ministerial Statements in July 2013 and January 2014. The recent reversal by the Court of Appeal of a rather more relaxed approach to Green Belt protection in the Redhill Aerodrome case only serves to underline this policy safeguard.
90. The Council acknowledges it is unfortunate that the identification of the precise Green Belt boundaries has never been completed. Nevertheless, we have to do the best we can with the evidence available, even if some question marks can be raised as to its robustness.
91. It is against this backdrop that a determination about the status of the application site should be made. As with most matters of planning judgment, a range of different factors must be taken into account, with no single element being necessarily determinative. More particularly, given the precautionary approach outlined above, any doubt about the status of the application site should be resolved in favour of Green Belt inclusion.
92. In the present case, an accumulation of factors lead to the conclusion that the site should be treated as if it were in the Green Belt.
93. Firstly, the map overlays produced for the Council show that the application site falls within the general extent of the Green Belt as shown on the key diagram of the York Structure Plan and taken forward into the Regional Strategy. The Applicant has criticised this approach, but has not come up with a better cartographic touchstone, nor was there any dispute regarding what the figures show. Key diagrams in the RSS may not be intended to be placed on an Ordnance Survey base. However, this is a unique situation: everyone accepts that there exists a general extent of Green Belt around York; the Development Plan says there is. In determining whether a particular site falls within that general extent, the key diagram must be a relevant (but not necessarily determinative) consideration. On this basis, the figures supplied by the Council³⁷ tend to support, rather than undermine, the presumption that the site lies within the general extent of the Green Belt.
94. Secondly, it is shown³⁸ that the site lies at about 6 miles from the centre of York **measured from St Sampson's Square**. This diagrammatic representation lends further support to the **site's** Green Belt status. Indeed, the Applicant does not take the point that the **site's location slightly beyond 6 miles excludes it** automatically from the general extent of the Green Belt. It is plainly a relevant consideration.
95. Thirdly, it is telling that the Cowslip Hill decision treated that appeal site as falling within the general extent of the Green Belt. That site lies further from the city centre than the application site, yet no one questioned its Green Belt status or the application of Green Belt policy to that proposal. This factor adds weight to the cumulative case in favour of the Green Belt status of this site.

³⁷ Appended to the Speaking Note of Mrs Healey-Brown - INQ 5

³⁸ Figure 3 appended to the speaking note of Mrs Healey-Brown also see INQ 44

96. Fourthly, the Germany Beck/Metcalf Lane and Elvington Aerodrome appeals³⁹ underline the importance that the Secretary of State has attached to maintaining the general extent of the York Green Belt. This strength of protection is highlighted in the latter appeal in which the Inspector noted that it would be **"perverse" to adopt a different approach than that used by the SoS in the Germany Beck/Metcalf Lane appeals**. Further still, the **Applicant's planning** witness indicated his support for the conclusions reached in Elvington Aerodrome decision.
97. Taking all of these factors together, both the Inspector and Secretary of State can be entirely satisfied that this application site does fall within the general extent of the York Green Belt and should be afforded the commensurate protection of Green Belt policy.

Very Special Circumstances

98. It is critically important that the correct test is applied. Paragraph 87 of the Framework requires that substantial weight be given to inappropriate development (such as the application scheme). Thereafter, planning permission should only be granted if the harm caused to the Green Belt by reason of inappropriateness, together with any other harm, is clearly outweighed by other considerations. **It is only if those "other considerations" are of sufficient weight that very special circumstances will exist. It is the cumulative weight of these other factors that matters; they do not need to be "very special" in their own right.** Both the Parish Council and Mr Wright fell into the trap of believing that each factor **needed to be "very special"**. As such, their analysis of the Green Belt planning balance is wrong in law and should be given commensurately less weight.
99. This is not a matter of form, but is critically important to adopting the right approach to Green Belt policy. By way of example, the Practice Guidance now reflects a number of Written Ministerial Statements as follows: ***"Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt."***⁴⁰
100. On the main objectors' approach, unmet housing need must be discounted from the Green Belt planning balance because it cannot, in its own right, **constitute "very special circumstances"**. This is wrong. Unmet housing need can be given weight in the planning balance, but if that were the only factor in favour of a particular development it would be unlikely (but not impossible) to tip the balance in favour of granting planning balance. But that does not mean that an unmet housing need, which does exist in York at present, cannot attract substantial weight in the Green Belt balance.
101. In the present case, there is little – if any – additional harm to the Green Belt or to other interests of acknowledged importance. Whilst it must be conceded that the presence of built development where there is currently none will reduce openness, this must be seen in the context of the characteristics of the application site itself. **In the Council's opinion, the site is visually and physically**

³⁹ CD 20

⁴⁰Planning Practice Guide ID: 3-034-20141006

- contained by mature vegetation and existing residential development. It is certainly not in the most open part of the Green Belt. In the Council's **view the** site-specific characteristics in the present case reduce the harm caused to the openness of the Green Belt.
102. On the other hand, there are a number of considerations that go to make up very special circumstances.
103. Firstly, there is currently an unmet need for housing. It is common ground that the Council will need to allocate sites currently in the general extent of the Green Belt (which it may do through the Local Plan) in order to bring forward a sufficiently deliverable supply of housing land that accords with paragraph 47 of the Framework. This is common ground and the Applicant does not renege on its acceptance, for the purposes of this Inquiry, that there is a deliverable supply of 4,880 dwellings. Even though there are differences between the Applicant and Council as to the deliverability of certain sites, these differences are not material for the purposes of this application given that both main parties reach the same end point: that there is not currently a deliverable five year housing land supply.
104. Equally, there is common ground on the following matters: the requirement figure of 996 dwellings per annum; that there should be 126 dwellings per annum to make up for past shortfalls against the Regional Strategy housing targets; and, the fact that a 20% buffer should be applied to the five year housing requirement.
105. The Council accordingly invites the Inspector to report the housing land supply position to the Secretary of State on the basis set out in the Supplementary and **further Statement's of Common Ground**⁴¹.
106. It is freely conceded that the absence of a five year supply of housing land may not be sufficient to clearly outweigh Green Belt and other harm, but it is a factor counting substantially in favour of the proposal.
107. Secondly, the proposed scheme would deliver affordable housing, which is a key objective of both central and local government. Both the Parish Council and Mr Wright sought to elide the delivery of market and affordable housing in order to argue that affordable housing should not be given any additional weight in the planning balance. Such an approach fails to appreciate that national policy treats affordable housing differently from general market housing, especially in Green Belt locations. This prioritisation of affordable housing is illustrated quite clearly in paragraph 89 of the Framework. Whilst the construction of new buildings in the Green Belt is, by definition, inappropriate development, **"limited affordable housing for local community needs" is not**. In other words, the provision of affordable housing is such a priority that the Government is prepared to accept the loss of Green Belt in order to deliver it. This is a matter that should attract significant weight in the planning balance, especially given the fact that the affordable units would simply not be delivered without the cross subsidy provided by the market housing.
108. Thirdly, the planning history of the application site through the various attempts to define the York Green Belt has indicated that it is suitable for

⁴¹ INQ 10 and INQ 39

development. Indeed, since 1996 the site has consistently been shown as within the settlement limits for Strensall through the 1998 deposit draft City of York Local Plan and the subsequent four sets of changes. The City of York Draft Local Plan incorporating the 4th set of changes was approved by Planning Committee for development control purposes in April 2005.

109. The views of the Inspector in the report on the inquiry into the York Green Belt Local Plan and the Southern Ryedale Local Plan about the characteristics of the site and the reasons for excluding the land from the Green Belt are still relevant and have informed the boundaries within subsequent planning policy documents. **The Inspector's report considered that** the eastern boundary of the application site formed a robust boundary for the settlement limits and was satisfied that the site did not serve any Green Belt purpose when considered against the purposes of Green Belt in the former Planning **Policy Guidance 2 'Green Belts'**. The Inspector acknowledged the benefits of safeguarding the land to allow for longer-term growth of the city and to minimise the impact of overly fast growth to Strensall village.
110. Overall, although the application site clearly falls within the general extent of the Green Belt identified in the Regional Strategy, the planning history is such that there was a reasonable prospect that it would not have been included within any formally identified boundary of the Green Belt. If only one of the many attempts to define that boundary had come to fruition. The planning history of the application site should carry substantial weight in the overall Green Belt balance.
111. Penultimately, the application site had been identified as a housing allocation in the publication draft of the York Local Plan. Given the fact that the consultation on the Local Plan has now been paused, we must accept that slightly less weight is attached to this factor. However, the planning history coupled with the lack of any site specific constraints of material weight, should mean that there is at least a reasonable prospect of the site being allocated in a future Local Plan, especially given the obvious need to release land within the general extent of the Green Belt so as to ensure a rolling supply of housing land.
112. Finally, the application site does not perform particularly well as a Green Belt site. Indeed, its poor performance against the key objectives of the Green Belt was probably one of the reasons why the application site was recommended in previous development plan attempts as a safeguarded site for future development.
113. As the Basildon decision⁴² makes abundantly clear, the accumulation of weight attributed to different factors is perfectly capable of outweighing Green Belt (and any other harm). In the present case, there is limited harm to the Green Belt and precious little harm to any other interests of acknowledged importance. On the other hand, there are a number of considerations which, when taken together, clearly outweigh this harm.

⁴² [2004] EWHC 2759 (Admin) - R. (on the application of Basildon DC) v First Secretary of State – INQ 22

Prematurity

114. The Parish Council surmised the grant of planning permission would be premature, in the sense meant formerly by the General Principles document and now in the Practice Guide. However, that argument was given up without much prompting. That was an entirely sensible concession. Mr Wright, on the other hand, clutched onto this particular straw despite the following obvious points: **Prematurity represents a high hurdle, since "refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination"**. The emerging Local Plan is not at an advanced stage. On the contrary, the fact that Members have resolved to halt the consultation on the publication draft reduces the weight that can be attached to it: as noted in the see Supplementary Statement of Common Ground between the Applicant and the Council.
115. It cannot rationally be concluded that the development is so substantial in its own right that it would prejudice the outcome of the Local Plan process and Mr Wright conceded as much. It is similarly untenable to argue that the grant of planning permission for this scheme would cumulatively have a significant impact. Mr Wright did seek to refer to a number of other sites which may be located within the general extent of the Green Belt, but did not see fit to mention them in his written evidence. **In any event, if one adopts the Council's approach** then there is no question of the formal identification of a Green Belt boundary being prejudiced. That is the development would have to be judged against the strict tests in the Framework. Prematurity really is an after thought in the present case. It simply cannot rationally form a basis for refusing planning permission.

Overall Balance and Council's Conclusion

116. For the reasons set out the Council invites the Inspector to recommend that planning permission is granted and asks that the Secretary of State accepts this recommendation.

The Case for Strensall with Towthorpe Parish Council

117. The Council and its consultant have confirmed that the site is within the general extent of the Green Belt, and we are also in no doubt that this is the case. The general extent of the Green Belt is defined in the statutory development plan for York, which the Yorkshire and Humber Plan of which Policy YH9(C) is the key policy. The permanence and longevity of the Green Belt is not at issue given that the general extent predates the Regional Strategy, having first appeared in the North Yorkshire County Council Structure Plan.
118. The Statement of Common Ground produced by the Council and Applicant states that the Local Plan is only in draft form. **The Council's Consultant witness** set out that the Local Plan intends to establish the detailed Green Belt boundaries, including around Strensall itself. The Local Plan will also determine whether this site is to be allocated for development following completion of a sustainability assessment and final appraisal against the evidence base.
119. The evidence base currently shows the site to have value as part of an **identified 'Regional Green Corridor' (Green Corridor Technical Paper, 2011), and to be 'natural and semi natural greenspace' (Open Space Study, 2008 and 2014).**

The 2014 Open Space Study overlays the various designation, which is confirmed by the fact that the Green Corridor Technical Paper has not been updated.

120. The Green Belt designation means it is necessary to establish whether there are very special circumstances that would outweigh the harm to the Green Belt of developing open land outside of the built up extent of Strensall. The Council has suggested that there are a number of material considerations that individually are not special circumstances, but cumulatively add up to being a very special circumstance.
121. Paragraph 87 of the Framework makes it clear that very special circumstances need to be demonstrated where an application is found to be inappropriate development in the Green Belt, such as in this instance. This paragraph does not suggest a number of matters can cumulatively add up to being a very special circumstance, just as it does not mention that one very special circumstance is sufficient to be of sufficient weight to outweigh the Green Belt status given that '**circumstances**' appears in the plural. The Parish Council are therefore of the opinion that very special circumstances have not been demonstrated because the Council has made it clear that the officer recommendation in the committee report to support the proposal was on a cumulative basis and that no one reason carries sufficient weight to be a very special circumstance in its own right.
122. **The Council's advocate** suggested that it is proper to consider all the matters together as cumulatively they add up to very special circumstances, and the **Applicant's planning witness** agrees with this approach, but they also agree that very limited weight can be given to the current draft Local Plan and the historic Local Plans. This means that the housing need, affordable housing target, and the history of the site should all be given very limited weight because these matters are only in draft form and currently only form part of the evidence base to the Local Plan.
123. Looking at each of the material considerations which have been purported to add up to one very special circumstance, the Council explained that the annual target that forms the basis of the five year land supply is the draft Local Plan, which we know is currently being questioned by Members. That questioning is to such an extent that during proceedings we have been presented with an update of the housing requirement which appears in the Publication version of the Local Plan. This update should be treated with extreme caution as it has yet to be subjected to public consultation or endorsement by Members. As is known, Members have asked Officers to review the objective assessment which the target may inform, if Members agree to use that figure in the future. It should therefore be given even less weight than the very limited weight the Council has said should be given to the original draft target that was presented at the start of this process, and has been relied upon by the Applicant and Council as the basis for determining the housing target. In light of this, housing need cannot be considered to be anything more than a material consideration at best, but the Parish Council query its relevance at all given it is currently being questioned.
124. The affordable housing requirement has been based on an interim policy that has been ratified by Members but it has not been subjected to consultation or the planning process. There is, therefore, no clear policy basis on which to establish whether the number of general and affordable houses is appropriate, and if the need is such that it is necessary to deviate from the adopted statutory

development plan which is the RSS. Furthermore, the interim policy is 5% less than the draft Local Plan policy, which has been subjected to public consultation. Our concern is that if this site is granted planning permission now it would not fully contribute to the level of affordable housing envisaged by the Local Plan. We heard from the Council and Applicant that the Council had a shortage of affordable homes, so surely providing less than the draft Local Plan would secure is not going to help the situation?

125. In any event, paragraph 34 of the Practice Guidance is clear that housing need is not likely to outweigh the harm to the Green Belt and other harm to constitute very special circumstances in decision making. This point should be given full material weight because it is set out in the update to the Practice Guidance that was only published in recent weeks.
126. In terms of the history of the site, we have heard how the basis on which the site has previously been suggested to be removed from the Green Belt relies upon draft development plan policies or out of date policies. These have now all been superseded by more up to date policy at regional and national level. This is on the basis that Policy E8 of the Structure Plan has been replaced by Policy YH9(c) of the Regional Strategy and the Framework. Both the Applicant and the Council consider that the intention to do something in historic draft plans prepared years in advance of current statutory guidance is material to the consideration of the application, but we have to disagree. The draft York Green Belt Local Plan and the 4th Set of Proposed Changes Local Plan were never adopted and the processes were aborted for reasons which bring into question their credibility.
127. In relation to the appearance of the site, we have heard that there are no buildings on the site. The Parish Council take the view that this means the site is open in character due to the lack of buildings. The lack of buildings therefore determines that this is open land, and as we know, preserving openness is the principal purpose of the Green Belt. The fact that it has never been built upon suggests it also has some permanence. Only through the Local Plan should this situation be altered as the Local Plan process is the appropriate means for determining Green Belt boundaries. Furthermore, it is the role of the Council to set the Green Belt boundaries rather than the decision making process, which is made clear in the Framework.
128. The Parish Council does not consider that even cumulatively the matters add up to one very special circumstance, never mind a number of very special circumstances. The Parish Council do not see how a number of considerations of very limited weight can collectively be considered to be of such benefit that they outweigh the harm to the Green Belt. This seems particularly difficult to justify, especially when Green Belts are expected to be given the highest level of protection to undeveloped open land.
129. In summary, whilst there is a housing need in York, the level of housing need **has not been confirmed and is subject to review following the Council's recent decision**. It would therefore be premature to suggest that this site should be released to meet a yet undefined housing need in a draft document. Especially through development of a greenfield site within the general extent of the Green Belt. Nick Boles has made quite clear that the Local Plan process is the means by which to release sites from the Green Belt, whilst paragraphs 84 and 85 of the

Framework also make clear that it is the responsibility of local planning authorities to review and set boundaries.

130. The five purposes of the Green Belt are set out at paragraph 80 of the Framework. Whilst the Parish Council would not contend that all five are met in the case of this site, and the Applicant accepts there is no need to, the Parish Council believe the following are relevant in this instance:

To check the unrestrictive sprawl of large built up areas: The Inquiry has heard a number of submissions notably from local residents concerned about the character of the settlement of Strensall: about the level of expansion, its elongated shape and that the appeal site is on the very periphery of the village. These submissions go to the character of the settlement and the desirability of managing the pattern of future development.

To assist in safeguarding the countryside from encroachment: The Parish Council considers that this is an open site of rough grassland which is undeveloped. Except for the fact that it is uncultivated and somewhat neglected it is otherwise characteristically agricultural land. If the site is lost to residential development it is difficult to see how the local planning authority could resist similar loss of surrounding agricultural land.

To assist in urban regeneration: Whilst it may be argued that of itself the protection of this site would only make a limited contribution to urban regeneration taken together with the protection of other open sites adjoining settlements such as Strensall its role becomes significant.

131. **In terms of sustainability considerations the Council's Local Plan Site Assessment Methodology measured the distance of the site to local facilities 'as the crow flies'.** This has acted to artificially mask the true impact of the proposal and the accessibility credentials of the site, because in some cases facilities are an additional 200m away due to the nature of the actual walking and cycling routes. **Furthermore, the site scores badly in the Council's site assessment methodology which was confirmed by the Applicant.** It should be noted that the **site assessment methodology is the Council's preferred method for assessing the relative sustainability and accessibility of sites.**

132. It is the view of the Parish Council that this site has very limited accessibility. Not only does the local community argue this but the Council themselves, the Strategic Housing Land Availability Appraisal (SHLAA)⁴³ appraisal states there is currently poor access to local services and facilities for this site. It is a fact that **the appendix flags up 'the significant distance to services and a primary school, medical facilities and convenience stores'.** The Parish Council and local residents have made submissions to the same effect and point to the fact that the site sits at the periphery of the settlement and hence its limited accessibility.

133. Irrespective of the sustainability criteria of the site, development within Green Belt is inherently unsustainable because the presumption in favour of sustainable development does not apply to Green Belts as is made clear by footnote 9 to paragraph 14 of the Framework.

⁴³ Mrs Cragg's Proof of Evidence Appendix 6

134. In conclusion, and if we turn back to the original reason for the Call In Inquiry, it has been demonstrated through the Inquiry that the proposal is not consistent with the statutory development plan policies for York, because the site is within the general extent of the Green Belt where development is to be considered inappropriate unless very special circumstances can be demonstrated. In this instance the Parish Council is of the opinion that very special circumstances have not been demonstrated. The Parish Council is also of the opinion that the proposed development is not consistent with Government policy for protecting Green Belt land given that development of the land would impact on the openness of the site. The Parish Council therefore seek that permission be refused.

Others Speaking in Support of the Parish Council's Position

135. **Cllr Doughty**⁴⁴ explained the strength of local opposition and that the scheme did not respect the aspirations of the Village Design Statement. He noted the rapid increase of the settlement to the size of a small town but without a commensurate increase in facilities. Cllr Doughty pointed out that he was not against development, indeed he had supported 53 dwellings on a brownfield site in the village. That said, the effect of that scheme on facilities has yet to be felt. **Cllr Doughty's main objection** relates to encroachment into the Green Belt, and his main concerns are those of access, congestion, unsustainability of the site and draining, including flooding of the land.

136. Cllr Doughty maintains his view that the proposal is premature because there is brownfield land across the City which should be developed first. The draft Local Plan is likely to be subject to amendment following the loss of majority in **the Council's leading group. As a result of this the draft has not progressed to consultation and is a long way from adoption.** In his view no development should take place on the application site and its inclusion as safeguarded land is questioned. In this regard he quotes from the comment of an officer within the Local Plans options team who indicates her view that the site should be treated as Green Belt. He is not satisfied by the arguments put forward to provide very special circumstances and reiterates the Framework advice that substantial weight should be given to green belt harm.

137. Traffic concerns were cited when this site was last considered for development yet no improvements have been made. The congestion caused at the level crossing and through The Village remains of concern. Requests for a crossing attendant at the Sheriff Hutton Road in the village were, he sets out, refused because it would be too dangerous due to lack of safe refuge. This would be the route for children within the proposed estate. There are also congestion issues at the primary school. Problems here are reflected in the wider road network particularly on the A1237.

138. In terms of access, the proposed site is 0.5km from the nearest bus stop, 1.6km (a mile) to the shops, 2.4 km (1.5 miles) to the primary school and 11.3km (7miles) to the city centre. This would result in a car-dominated environment and add to congestion, and that would adversely impact on bus routes.

⁴⁴ Cllr Doughty's Statement is at INQ 18

139. Children attending the secondary school are deterred from cycling because of **dangerous road links. It is unreasonable to consider that this site won't generate many children needing secondary education.**
140. The extension of the existing culs-de-sac mean that existing residents will have to put up with traffic flows during construction and afterwards.
141. Strensall does not have large employers so to seek work people would have to travel. Housing need in Strensall is therefore questionable.
142. Cllr Doughty explained that the site is on marshy land with drainage issues.
143. Cllr Doughty concludes by stating development at the peripheries of the settlement should be resisted and new development should not be approved until there are improvements to infrastructure and amenities. The scheme is, in his view, premature, harmful to the Green Belt and unsustainable.
144. **Mr Fisher**⁴⁵ provided the written evidence for the Parish Council on traffic impact and ecological concerns. In addressing the Inquiry he sought to respond **to matters raised by the Applicant's Transport Witness, particularly those raised** in his rebuttal. Mr Fisher explained how he had undertaken his assessment, based for practical reasons, on 5 minute surveys and then converted to an hourly equivalent. He clarified that he did not seek to suggest that peak level would take place over an hour. Mr Fisher agreed that the figures provided by each side for traffic projection in 2018 are broadly similar. He also clarified that he made no assessment of the capacity of the junction at Brecks Lane/The Village, accepting that it can cope with traffic; rather, his concerns relate to safety. Similar sampling/flow rates based on differing approaches (each being correct) were clarified by Mr Fisher in respect of traffic on The Village. He pointed to congestion being high in this area due to road configuration and parking. The same issue is identified in respect of recording traffic on West End near to the primary school. He clarifies that no intention of suggesting high flow rates are sustained over whole hours rather he sought to identify how significant traffic issues are at **peak times. Mr Fisher recorded that the Applicant's transport witness acknowledges that there is congestion at peak periods.** Mr Fisher also reports his experience over the last 20 years that traffic flows are greater during periods of inclement weather but notes that timing of the Inquiry prevents analysis of winter weather impacts on traffic flow. Mr Fisher reiterated the validity of his assessment in his conclusion.
145. **Cllr Marquis**⁴⁶ is the current Chairman of Strensall with Towthorpe Parish Council. He sought to draw attention to some 120 letters of objection which were made to this scheme and contrasts it with the 2 letters of support. The summary of those objections is as follows: congestion in the village, access to the development, pressure on education for primary school children, pressure on access to medical facilities, drainage problems, and the effect on ecology.
146. Access through the village is restricted because of parked vehicles, some as residents do not have off-street parking and some as a consequence of the

⁴⁵ **Mr Fisher's Rebuttal Statement is INQ 13**

⁴⁶ Cllr Marquis Statements are at INQ 29 and INQ 46

- popularity of local stores. There have been confrontations but few injuries. Adding additional traffic would make matters worse.
147. The drainage implications of another site are awaited, but even accepting that this site is connected to the system this is not satisfactory because the waste water treatment works at Walbutts, to which this site will be linked, only dewateres that waste and then the sludge is removed by tanker to the main sewage treatment works.
148. **Since the primary school was built in the 1970's**, 1350+ dwellings have been constructed with associated educational needs. As it stands the school lacks space and current development scheme will see three new classrooms with two portable buildings being removed. These works are needed and do not provide for further children from this site.
149. The only retail facility provided during this ongoing increase in housing took **place in the 1980's when 6 outlets were provided (hairdressers, security store, dentists, butcher, tanning salon and convenience store)**.
150. The on-site play space will not provide for the needs of older children and it is acknowledged that there is an existing deficiency in play space in Strensall.
151. Finally, the local plan change on 9 October 2014 seeks review of several aspects of the plan before it goes for consultation. The Parish Council consider allowing this development in these circumstances would be premature.
152. **Mr Parish**⁴⁷ set out the history of the Village Design Statement (VDS). Linden Homes objected to the VDS in respect of the appropriateness of its content. The **Council's** Solicitor suggested the difficult areas be moved to an annex. However, **this goes against the community's wishes in terms of identifying inappropriate** development. The VDS is an advisory document but it reflects the views of local residents, whom have concerns about the Green Belt and village infrastructure. Mr Parish concluded noting that the Council has no plan, the site is Green Belt and the Council is not taking on board the concerns of its citizens.
153. **Mr Chapman**⁴⁸ explained his concerns regarding the lack of consultation with the Parish Council and the local community. A public meeting was held after pressure from the Parish Council on 22 October 2013 and after further pressure from Julian Sturdy MP and Cllr Doughty on 16 November 2013. It is felt by the **Parish Council that this does not reflect the City of York Council's adopted** Statement of Community Involvement which seeks to encourage discussion early in the development process. Moreover, it does not reflect the extensive community engagement undertaken by the same developer elsewhere⁴⁹. There has also been concern about the availability of access to the Environmental Impact Assessment.

⁴⁷ Mr Parish's Statement is INQ 17

⁴⁸ Mr Chapman's Statement is INQ 28

⁴⁹ Mr Chapman provides a list in his Statement

The Cases advanced by Others Attending the Inquiry

154. **Julian Sturdy MP**⁵⁰ explained that he had sought the call-in of this proposal for which he is grateful. Constituents were disappointed by the way in which the application had been dealt **with and the Council's resolution** remains controversial. In terms of that resolution it is considered premature. The City Council's **Draft Local Plan was in its infancy when the decision was reached by the Council**. Whilst some weight should be given to emerging Local Plans, in this case the plan had only been subject to one consultation (it has now been held back for further consideration). Furthermore that application proposed 25% more housing than had been allocated in the initial draft of the Local Plan.
155. Mr Sturdy reiterated that York has never had an adopted Local Plan. He pointed out that, the committee report suggested that the land in question had **been 'reserved'** for future development in previous local plans, but as none of these previous plans was **ever formally adopted by the Council this 'allocation',** in his view, cannot be given serious weight. Moreover, while the current draft plan, until very recently, had the land allocated for the 102 homes proposed, a crucial vote at Full Council forced a return to the drawing board over the housing trajectory and allocations. As such little weight should be given to the emerging plan.
156. As local MP, Mr Sturdy drew attention to the Framework as an attempt to introduce localism into the planning system so as to help empower local people and help them shape their surroundings. He acknowledges that a group of dedicated local residents produced an excellent Village Design Statement. As part of that process it was found that an overwhelming majority of residents believe the village has seen too much development in the last 40 years. The views of residents must be considered before a decision is reached here which would further add to development.
157. Council officers accept that the site's Green Belt location means the **exceptional circumstances test must be met. In doing so the issue of 'reserved land' has been raised but this is not a matter** which is accepted, as already explained. In terms of other matters, the lack of a five year housing land supply has been raised. However, such a point was made in Thundersley⁵¹ in Essex and the Secretary of State rejected approval in those circumstances on a Green Belt site despite a housing shortfall of 0.7 years. Mr Pickle's **decision said** that a decision to allow that appeal for housing in the Green Belt risked setting an undesirable precedent for similar developments which would seriously undermine national Green Belt policy. Mr Sturdy considers that this applies to this site.
158. Whilst the Council considers that the site's characteristics mean it does not serve any of the Green Belt purposes set out in the Framework, Mr Sturdy disagrees. Strensall is unusual, in his view, because it retains its linear form with the built up area remaining close to the main road. Adding 102 dwellings at the northern tip of the village would detrimentally impact on the special character and setting of the village and would exacerbate the existing problems that arise as a result of the community being spread over a long distance.

⁵⁰ Mr Sturdy MP provided a Statement which is INQ 21

⁵¹ APP/M1520/A/12/2177157 (appended to INQ 4)

159. The application site also adjoins Strensall Common. A large part of that area is used by the Ministry of Defence but it is also important for wildlife. It is a Site of Importance to Nature Conservation and a Nationally Significant Nature Conservation Site, as set out in the draft local plan. As such, the application site, located between housing and this nature conservation area, fulfils the Green Belt role of 'safeguarding the countryside from encroachment'.
160. Turning to infrastructure, it is the local residents' view that it just will not cope with the demands from a development of this size. The Framework has a presumption in favour of sustainable development but the proposal is not considered sustainable by local residents. The site is known for drainage problems, both from standing water and from issues relating to foul sewage backing up particularly in Coulson Close. An attempt to get a pumping station adopted at Terrington, which affects this site, has to date not been successful. Adding a further 100 houses is inevitably going to cause concern.
161. Residents remain concerned about highway safety at the junction of the Village and Brecks Lane despite the Transport Impact Assessment claims that additional traffic can be accommodated without harm to road safety.
162. The developers accept that the development would result in greater demand for services and facilities but do not explain how this would be catered for. It is acknowledged that the primary school requires additional capacity, but it is not clear how that can be met, given that outdoor space is already limited.
163. The majority of facilities and amenities are approximately 1km from the site which would encourage car use and therefore add to parking and highway problems.
164. In all, for the reasons explained, Mr Sturdy seeks that the Secretary of State refuses the application.
165. **Mr Thorpe**⁵² spoke on behalf of the CPRE. He expressed concern that Strensall was now the size of a market town but with nothing like a similar level of facilities. The infrastructure for additional residents does not exist. Strensall has, in his view, taken more than its fair share of development. Housing requirements are likely to be reduced and this site should not be developed particularly given it is Green Belt. It is an attractive site near to Strensall Common Site of Special Scientific Interest. The settlement is also congested.
166. **Mr Wright**⁵³ provided a statement in advance of the Inquiry. He explained his position, based upon that statement and supplementary statement. Mr Wright considered that the development should be refused on the basis that it is contrary to policy (RSS YH9C), the Framework paragraph 84 and potentially premature (at a point when the emerging plan was anticipated to progress).
167. Paragraph 84 of the Framework steers development to sustainable locations, channelling development towards urban areas inside the Green Belt, inset villages or areas outside the Green Belt. Saved RSS policy YH9 requires the

⁵² Mr Thorpe's Statement is INQ 15

⁵³ Mr Wright's Supplementary Statement is INQ 4 and his original Statement is contained in the Inquiries Letters folder

detailed inner boundaries of the Green Belt to be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. Thus, it is necessary for the Local Plan to resolve the issue of inner development limits and urban capacity and what the historic pattern of development is such that it could safeguard the special character and setting of the city. Once that is determined then it would, in Mr Wright's view, be possible to see whether there is a need to allocate housing (or safeguarded land) outside the inner boundary and identify the spatial distribution of housing appropriate to protect what is special.

168. The Local Plan has been put on hold but, in any event, Mr Wright considers that it did not provide adequate evidence on the urban capacity of the inner core, what constitutes the historic city, what is special about the character setting of the city, the historic pattern of development and the appropriateness of the evidence base in respect of those issues.
169. **In Mr Wright's view, the Committee Report for this application fails to address paragraph 84 of the Framework and doesn't pay adequate regard to the only development Plan policies (the RSS ones) and places too much weight on the emerging plan, which is now on hold.** In terms of the Framework, the development plan is not out of date in relation to housing – there simply is no development plan. Mr Wright contends that inappropriate development which conflicts with Green Belt policy cannot be sustainable.
170. In terms of the planned approach circumstances have changed. For instance before local government reorganisation in 1996, the City Council did not have jurisdiction over much of the Green Belt so plans before that will not have fully considered housing locations that might be available to the Council now. The 2005 Development Control Plan should not be afforded weight as it was subject to 17,000 outstanding objections and no public scrutiny.
171. Mr Wright considers that Strensall, and thus the site, falls within the general extent of the Green Belt, and that the Council has misapplied Green Belt policy. There is no Green Belt plan which excludes any land from the Green Belt within the general extent shown on the RS plan, the Council has consistently approached the outlying villages as if there were no Green Belt and the Council is wrong to take that approach. The objectively assessed housing need is not a very special circumstance. This has been confirmed in cases such as *Thundersley*⁵⁴, *Fox Land & Property v SoS CLG* and *Castle Point BC, Copas v SoS CLG* and *Royal Borough of Windsor and Maidenhead*⁵⁵. Mr Wright therefore concludes that permission should be refused.
172. **Dennis Little** expressed concern about the suitability of the site with particular regard to traffic impacts. He expressed his concerns that local residents' views are not being taken into account and that the majority of all letters regarding this site expressed concern regarding highway safety. He also explained that the full effects of the Tannery conversion site, on another road out from the village core, remain to be seen.

⁵⁴ APP/M1520/A/12/2177157 (appended to INQ 4)

⁵⁵ Both appended to INQ 4

173. **Professor Gordon Leff** explained that he has been a resident of Strensall for 50 years, a time during which the settlement has changed from being a small integrated village to a commuter area. There has been significant pressure from car use which has become a significant hazard during rush hour. The medical centre which was an enlightened addition to the village is now under strain. The functioning of the village is at breaking point and its character has changed; it has simply become too big. There is significant protest against this proposal. The Green Belt issues are acknowledged but Professor Leff considers that the village character issue is significant too and has not been given adequate thought.
174. **Jane Widgery**⁵⁶ made submissions in support of the scheme. In particular she noted that the site is at the periphery of the settlement, with access roads deliberately providing access to the site and development has been anticipated for many years. Traffic from the development would exit via Brecks Lane and then go to The Village or Lords Moor Lane. The Village route is often congested, whilst Lords Moor Lane is not yet that second route gives access to York and beyond. Thus, those exiting the site would have a choice about the direction they chose to take. No other development site in Strensall provides that choice. Ms Widgery pointed out that 3-5 bedroom homes would not be sustainable since there are no jobs providing salaries that would support mortgages on such properties. Recognising the need for workers to travel by car makes this site a preferable one in Strensall because of its access to main roads without having to pass through the congested village core. Finally she notes that at least a site of this size can offer some benefits by way of s.106 Agreement.
175. **Julie Thompson**⁵⁷ had a statement read explaining that she has concerns about traffic and parking both through the Village and around the school. This is particularly an issue for potential future occupiers of the application site, because of its distance from the school and as parents often work so need to travel via the school. Despite wishing her child to be able to walk alone to school (as a developmental milestone), the dangers are such that she is reluctant to let this happen. The particular dangers arise from crossing between parked cars, the configuration of the road bends, that delivery vehicles tend to park on pavements blocking them, that large agricultural machinery often overhangs the pavement as it is manoeuvred through the Village, and, narrow and sloping pavements. Ms Thompson had sought that crossing facilities be provided but was told the visibility made it too dangerous.
176. The local primary school is, in her view, at capacity and is the largest in York despite it being a village school. Building work is currently being carried out to replace portable buildings. The dining hall is not big enough, making meal-times rushed, given the number of children who have to be fed. Whole school assemblies are uncomfortable because of the number of children and staff, with parents having to stand for performances as space, combined with fire regulations, would not allow for enough chairs in the hall. Class sizes are at 26-28 and having more children, as would happen if there is more development in the village, would only exacerbate problems.

⁵⁶ Ms Widgery's Statement is INQ 16

⁵⁷ Ms Thompson's Statement is INQ 34

Written Representations

177. In addition to correspondence from those who spoke at the Inquiry which is dealt with separately, eight letters were received in response to the Inquiry notification. These expressed the following points in addition to covering some of the matters raised by the Parish Council (i.e. its main witness and others speaking alongside the Parish Council witness). The transport/access points include concern that cycling is unlikely to be an alternative form of transport for residents of the appeal site as there are few safe /cycle lane routes. It is also pointed out that people walking to the school some 1.6km away may well have prams for younger children making the trip on foot more difficult and increasing the likelihood of car use. Concern is raised about speeding through the village and that there is no traffic management in The Village. It was also suggested that an access could be made from Flaxton Road with a new level crossing.
178. In terms of other issues raised in written correspondence it is considered that the distance to medical facilities is unreasonable and that those facilities are oversubscribed. Concern is raised that financial contributions for sports provision are unlikely to benefit local residents as there is nowhere for additional facilities. Moreover, provision for teenagers is particularly poor and this situation is likely to lead to greater car usage. The emerging local plan indicated 84 dwellings on this site but now 102 are proposed. It is suggested that other sites to the north of the settlement appear more sensible. It is considered that the site is chosen for financial reasons rather than being the best site. Local residents raise concerns that vibration and dust during construction will cause problems locally and that in the longer term pollution would arise from the future occupiers in terms of car fumes. It is also considered that **the Council's decision was** political with voting split on political lines.
179. One letter was received supporting the scheme on the basis that its development was always anticipated, the access to the site is better than elsewhere as it can use a route other than through the Village and, the school is considering adding additional floors which could accommodate more pupils.
180. This letter also included concerns regarding the representative of the Parish Council and their conduct, having regard to their involvement in the scheme and proximity of their dwellings to the site.
181. When the Council considered the proposal 122 letters of objection had been received by the Council to the original scheme. The details are set out in the **Council's Committee Report**⁵⁸. In addition to issues already set out, the main concerns are the impact of light pollution on the Green Belt, the potential for the congregation of youths on public open spaces, that there are no details of sustainable building codes, that there is no provision for allotments and, that there are safety concerns associated with the sewerage works access. Concerns are raised about the impact on privacy of existing occupiers and that a sunlight assessment should be undertaken for plot 1. **In terms of the scheme's design it** is considered that the details are not in keeping with the current estate, it is noted that the scheme shows culs-de-sac up to the boundary so development could be extended into the adjacent open fields and that this should be designed

⁵⁸ CD 05 internal pages 34-41 and details are provided in full at CD 04 and the associated file www.planningportal.gov.uk/planninginspectorate Page 34

out and, more generally, that design could be better. The adequacy of the emergency access is also questioned.

182. Following consultation on revised details 33 further letters were received mainly reiterating concerns but adding concerns about boundary treatments.

183. Two letters of support were received setting out that the scheme would be good for local business, bring money to the school and would give choice of housing for growing families. Those letters also sought a train station for Strensall and saying the road into Strensall is too fast and there should be a cycle lane.

Conditions and Obligations

184. The conditions in the amended format discussed at the Inquiry, with additional minor alterations that were discussed or otherwise required to achieve a more ready compliance with advice in the Practice Guidance which has replaced, in part, Circular 11/95, would be necessary in order to achieve an acceptable development, were the Secretary of State to consider the principle of the development to be acceptable. Those conditions are set out in the Schedule attached at Annex A. Where necessary, specific conditions have been addressed in the Conclusions above. The conditions set out would be relevant, necessary to make the development acceptable and otherwise comply with the necessary tests.

185. The s.106 planning obligation provides for affordable housing, education provision, public open space, a footbridge and footpaths, as set out in the details at paragraph 5 above. I have had regard to this planning agreement in the light of the tests set out in the Framework at paragraph 204. These state that a planning obligation may only be sought if it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. I am satisfied that there is a rationale behind the sums sought and that the sums are fairly and reasonably related in scale and kind. I am also satisfied that the affordable housing provision would be in line with current practice at this Council, albeit that there is obviously no development plan basis for them, and that it is appropriate in seeking a variety of house type and affordable tenure. Thus, from the information and evidence provided, I am satisfied that the obligation tests set out in the Framework would be met. It is therefore appropriate to take the obligation into account in the determination of this scheme. A compliance note regarding the s.106 Planning Obligation was submitted with the draft s.106⁵⁹ and I am satisfied that this confirms a reasoned basis for each of the obligation matters.

⁵⁹ This was submitted to the Planning Inspectorate on 22 September 2014 and forms part of the Inspectorate file

Inspector's Conclusions

[References to earlier paragraphs are in square brackets]

Is the Site within the Green Belt?

186. The York Green Belt boundary has never been identified in an adopted plan, although parts of boundaries have been identified. Because of this situation the Regional Spatial Strategy for Yorkshire and the Humber was only partially revoked so as to retain policies establishing the general extent of the Green Belt. [17-26, 38, 117, 136, 155]
187. I share the views of the Applicant, and some of the interested parties, that the idea of using the broad principle plan from the Regional Strategy to identify the Green Belt by overlaying it onto an Ordnance Survey base is not what that plan was intended for. It is evident that it is difficult to achieve this satisfactorily in printing terms and the result provides such a lack of detail that endorsing such an approach would be likely to lead to difficulties if repeated elsewhere within this Green Belt. However, in terms of general principles, despite being slightly **beyond the '6 mile' extent**, when measured from **St Sampson's Square**, none of the parties seek to claim that the application site does not fall within the outer edge of the Green Belt. Given the distances involved, the fact that the extent of the Green Belt is to have an outer edge 'about six miles from York city centre⁶⁰' and the unchallenged appeal decision at Cowslip Hill which is seen from the application site and is further from the City centre, the site should be considered as within the outer edge of the Green Belt. [40-42, 44, 88-96]
188. There is a lack of clarity about how land and buildings should be considered in terms of the Green Belt, particularly within larger settlements. In general terms, it is not appropriate to assume every un-built on piece of land within the general extent of the Green Belt should necessarily be considered as Green Belt, rather each case should be considered on its own merits. [90-91]
189. The site was not identified as specifically contributing to any Green Belt function in the *City of York Local Plan - The Approach to the Green Belt Appraisal of 2003* which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this document identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose. [43]
190. *The York Historic Character and Setting Technical Paper of 2011* addresses a number of areas where specific requests had been made to reassess areas set out in the above 2003 paper, both to include and exclude sites. Again whilst areas are re-evaluated, I do not agree with the conclusion that the application site, or indeed other sites without specific designation, serve no Green Belt function in relation to York albeit they are less critical, for instance in preserving green wedges, preventing coalescence or protecting views of The Minster. [39]

⁶⁰ Emphasis added to text

191. In this case the site is located adjacent to the developed edge of Strensall. However, whilst the Applicant suggests it is an enclosed site that could be seen as similar to the Westview Close appeal site, this is not a good match in site characteristics. Unlike that case, which related to 8 dwellings, the site is not a small sliver of land. Rather it is a sizeable area on which significant in-depth development, for 102 dwellings, is proposed. Moreover, despite being close to defensible boundaries, of the sort that might be chosen as settlement boundaries, the site significantly projects into the open countryside, with open land on much of the two boundaries and along the whole eastern side. The presence of the river, rail-line and road do not in my view form urban enclosure; rather they are features that can often be seen within the countryside. [43]
192. Although the site has been left to become somewhat scrubby with regenerative unmanaged plant growth, this does not justify removal from the Green Belt. If such an approach were supported it could encourage deliberate degeneration of urban edges in other Green Belt locations which would be wholly undesirable. The fact that the area is used for informal recreation has little bearing upon its status as recognised by the Applicant.
193. The essential characteristics of Green Belts are openness and permanence. I have no doubt that developing a greenfield site by constructing 102 dwellings would have a significant and harmful effect on openness. In terms of permanence there is nothing to suggest this site has ever been anything but open: openness has therefore been the characteristic physical state of the land to date and, as such, changes to it should not be undertaken lightly.
194. Having regard to the five purposes of Green Belt land, I heard and saw that Strensall is a settlement of considerable size which expanded dramatically in the latter part of the last century, resulting in substantial housing estates which appear disproportionate to the modest village core and facilities. Whilst that is something that has happened with the principle of a Green Belt in place, I consider that the Green Belt function of checking unrestricted sprawl of large built-up areas is a valid Green Belt purpose here. Similarly, the Green Belt purpose of safeguarding the countryside from encroachment also applies, given that that is currently an undeveloped field area, with exception of modest hard-surfaced areas, would become housing under this scheme. [53-56]
195. In terms of preserving the historic character of the City of York, Mr Wright identifies that the historic pattern of settlement is being controlled by the approach to development management. That plainly is the case, as the City is not simply expanding as it would have done without planning. However, to let the City expand without planning control would negate the purposes of the Green Belt in terms of preventing sprawl so, despite the likely truth in this observation, I do not attach weight to Mr Wright's assertion that the historic pattern of development is being constrained. Developing this site would not have a direct and significant bearing on the historic character of the City. Nonetheless, extending close to the rail corridor into the City would have a visual impact upon that transport route and there would also be an impact upon the Green corridor formed alongside the Foss and so the proposed development would contribute to sprawl.
196. The Framework also identifies the purpose Green Belts have in protecting greenfield sites and therefore assisting in urban regeneration, by encouraging the

recycling of derelict and urban land. Whilst this may be a relatively modest site and whilst the City Council appears likely to need to release greenfield land for housing, which may include Green Belt land, this does not mean this purpose fails to have value. Rather, preventing development here, and on other Green Belt sites, is likely to encourage development of brownfield land because there is likely to be a consequent impact upon viability of doing so. A managed approach to releasing land for housing needs to be taken and I am mindful that recent **advice in the Practice Guide makes it clear that "Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt".**

197. The only one of the five Green Belt purposes which this site offers nothing to is that of preventing neighbouring towns merging into one another. Strensall is a large settlement that has expanded into open countryside, but it is a significant distance (at the appeal site location) from the next settlement.
198. Whilst much is made of the fact that the site has **a history of 'almost' being a future development site shown on an adopted plan as outwith the Green Belt** none of those plans has been adopted. As such, whether or not weight is attached to that matter elsewhere, given my finding above as to the interpretation of the RS saved policies concerning the Green Belt, I am not satisfied that I should accord weight to the abandoned draft policies when concluding on the matter of whether or not the site is within the Green Belt.
199. In summary, on this first matter, I conclude that the site falls within the general extent of the Green Belt, and indeed serves a number of Green Belt purposes. Whilst the Green Belt has not been fully defined, the parties do not disagree that, should the Secretary of State find the site to be within the general extent of the Green Belt, it would fall to be considered under paragraph 87 of the **Framework, wherein, "inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances".**

The effect of the Proposed Development on Openness and the Purposes of the Green Belt

200. As set out above, the proposed development would impact on the openness of the Green Belt and openness is one of the essential characteristics of the Green Belt. [101, 128, 158]
201. Also, as set out above, the site serves two clear Green Belt purposes even if they are inter-related, and has a modest role in two other purposes; only one purpose is not served by this site. [130]
202. In terms of a qualitative assessment of the extent to which the site fulfils the purposes of Green Belt, it clearly has a lower level of importance than those sites specifically identified as being important to the historic character and setting of the City, as set out in the ***City of York Local Plan - The Approach to the Green Belt Appraisal of 2003*** and ***The York Historic Character and Setting Technical Paper of 2011***. Moreover, I am mindful that, when assessing the site for local plan allocation purposes, it is clear that the site was not considered highly. For instance, the Southern Ryedale Local Plan 1996 Inspector concluded that **'because of its lack of significant Green Belt functions and much stronger boundaries...the..site should be excluded from the Green Belt'** and went on to

recommend the site be safeguarded for essential development in the longer term. However, that Inspector nearly 20 years ago was assessing sites for development plan purposes and, furthermore they were doing so in Southern Ryedale rather than assessing comparative benefits of sites for the post local government reorganisation significantly expanded York area. I have assessed the site on the basis of its impact on openness and the purposes of the Green Belt as set out in the Framework and in light of current policy and relevant considerations.

203. Thus, whilst being a Green Belt site providing openness and fulfilling Green Belt purposes, it is of a lower value than some Green Belt areas surrounding the site. Nonetheless, I have concluded that it is a Green Belt site and as such it is afforded significant protection.

Highway Safety and the Free Flow of Traffic

204. It is clear that there are local concerns regarding traffic flow. This is a particular concern when traffic is stopped because of railway level crossings being used to let trains pass, traffic has difficulties passing through The Village which is the core of the historic part of the settlement and, where traffic congestion occurs around the school during peak periods of school-run drop off and collection. [81]

205. The traffic generated by the proposed development would have some impact on each of those situations. However, the highways data supplied by the Applicant, and supported by the Council as local Highway Authority, indicates that the roads have capacity to deal with the traffic generated. Moreover, it is important to acknowledge that motorists can use the Lords Moor Lane route to access other main employment and retail areas and so avoid the Village. Despite those facts, it is clear the peak periods, which may be relatively short-lived, already have traffic flow issues. I saw this at the school where the traffic **congestion clearly reflected what I heard in evidence. The Applicant's witness** accepted that hourly traffic rates do not reflect such peak time issues. However, that is an existing situation to which the proposed scheme would not be likely to add materially. It seems to me that other solutions to manage the situation might exist but they are not before me. More significantly it is the case that the traffic flow issues relate to specific events and the adverse impacts of those events dissipate quickly. As such, I do not consider that the relatively modest change to traffic flows likely to arise as a result of this scheme would be such that this should count against the scheme in the planning balance. [78-82, 137, 140, 144, 146, 161, 163, 172, 174-175, 177-179]

Accessibility

206. The site is located at the periphery of a linear settlement. That being the case the distances to walk to facilities particularly the primary school are considerable. It also seems unlikely that many future residents of the site would find employment in the immediate area given that it is largely residential. Those findings reflect the assessments made by the Council in its initial assessment of the site. As such, it is likely that many journeys would not be on foot or bicycle. There is, however, access to bus routes which would provide an alternative to use of the private car, but use of such services would require a reasonable walk limiting its benefits for some and making the car a more likely option.

Nonetheless, the relative proximity to facilities means that trips by car are, at least, likely to be relatively short. [71-77, 131-133, 138-139, 141, 148-150, 152, 162, 165, 177-179]

207. Balancing those factors out, I do not consider that the site would function so poorly that it would fail to provide a reasonably sustainable environment where occupiers would not feel part of a community. However, the proposal would not directly contribute to local facilities (s.106 contributions will be considered later in this report) and would not be particularly well located. On balance, therefore, I do not accord weight in favour or against the scheme in this regard.

Prematurity

208. The Practice Guidance sets out that the most likely circumstances which might lead to a refusal of planning permission on prematurity grounds are 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 that are central to an emerging local plan or neighbourhood plan and that the emerging plan is at an advanced stage but not yet formally part of the development plan for the area. [65-70, 114-115, 136, 151]

209. Guidance explains that refusal on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination; that is the case here. Thus it seems that circumstances would have to be of distinct and specific nature to consider prematurity to be of material weight in this case.

210. To allow dwellings on the appeal site might have implications in terms of the approach to releasing Green Belt land for housing. However, provided it is only done because there are clearly identified very special circumstances it seems, on the evidence before me, that this site is not particularly substantial or its cumulative effect so great that it would undermine the plan making process which, in any event, is not at an advanced stage.

211. The Practice Guidance allows for other circumstances which might render a **scheme 'premature'**. **Mr Wright suggested that allowing development here would** have implications in terms of historic patterns of settlement, which would have spread out from the City core. However, planning intervention through having a Green Belt means settlement growth has been managed in a particular way. Similarly planning protection of strays (open land) has influenced development. Thus, whilst a debate is to be had about where housing is to be sited, I do not consider that the historic form of settlement growth would be materially undermined by allowing this proposal. Nor, as set out above, do I consider it would necessarily have implications for Green Belt land, provided that very special circumstances are clearly set out; rather doing so would reinforce the established approach to Green Belt land. [54-167]

212. Thus, I do not attach weight to the issue of prematurity in this case.

Matters Advanced in Support of the Scheme

- The Planning History of the Site

213. The Council and Applicant attach significant weight to the planning history of this site. The planning history of the site establishes that there has been both

developer and Council (within two authorities) intention that this site is not protected as Green Belt but should be made available for development at some future point. The Green Belt Local Plan post modifications of 1995, some 20 years ago was essentially the turning point on this matter. Following that document the land has been identified as being safeguarded for future development in subsequent draft plans which have not come to adoption until the most recent emerging Local Plan which identified it for development, but that is now on hold. [102, 108-111, 126]

214. Clearly there has been significant consideration of this site in the past and it remains a site which the Council is seeking to promote. The history of the site means its suitability for housing use should be viewed positively and that must carry some weight in the planning balance. [57-58, 111]
215. The Germany Beck decision is cited as being of significance by the Applicant on the basis of similarities. The site has a similar background insofar as the policy position was leading towards development. Nonetheless, that site was determined by the Secretary of State to be Green Belt. **The Inspector's** recommendation placed weight on various factors, including the site history. The determination by the Secretary of State was based on the Green Belt status of the site being outweighed by very special circumstances relating to housing land supply. Unlike that case, in this case less weight is attached to the site history in this case as the site has mainly been identified as being safeguarded, rather than specifically identified for development with associated development briefs⁶¹. More significantly, since the determination of that decision there has been a material change in the Practice Guidance advice regarding the weight to be attached to housing land and Green Belt. Housing land supply is the next matter to be considered, but it should be clear that, in my judgement, this site cannot be justified on the basis of the approach taken at Germany Beck.
216. Whilst the Applicant may feel frustrated by this situation, planning policy designations do change or may not come to fruition and, in this case, the site is not allocated for housing or safeguarded for such purpose in any adopted plan. The history here offers limited support in favour of the site's development.

- Housing

217. The site would provide 102 dwellings for a City where the Council advises, repeatedly, that there is no five year housing land supply. The extent of that supply, identified as some 4.2 years for the purposes of this appeal, is clearly a matter for debate. In this case, the undersupply is less than a year but the requirement includes a 20% (i.e. a year's worth of supply) buffer. It is only fair to restate that the Applicant considers the margin is much greater, but equally the Council has halted progress on the Local Plan, it seems, because the supply housing requirement figures are considered to be too great. This is a matter which cannot be dealt with in this appeal. Nonetheless, and despite the indications that there has been a political power change that is likely to seek a tightening of housing requirement figures, on the evidence before me, a five year housing land supply cannot be demonstrated. [31-36, 59, 85, 100, 103-106, 123, 125, 129, 157, 171]

⁶¹Germany Beck Report Paragraph 24.7 Annex 20 to the Proof of Evidence of Mr Watts

218. That said, clear advice has been issued in an update to the Practice Guidance which explains that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt. [99-100]

219. I have concluded that this site should be treated as being within the Green Belt. Thus, on the basis of the material advice in the Practice Guide and in the absence of any adopted plan that indicates how, when, or if this site should be developed, it seems that the need for housing, by whatever margin, does not, alone, justify open market housing. Affordable housing is a separate matter addressed below. Having regard to the Green Belt balance exercise, it is reasonable to take the view that the unmet need for housing might contribute to part of an overall balance. In view of the Practice Guide advice, significant weight should not be given to this matter but it seems, modest weight could be attributed to provision of open market housing where there is unmet housing need.

- Affordable Housing

220. The Applicant places weight on the provision of 30% affordable housing on this site and there is no dispute between the parties that affordable housing is needed **in the Council's area. Affordable housing can be considered on exceptions sites** and may be acceptable in the Green Belt; the Framework sets out one of the exceptions that may be considered as not inappropriate development in the Green Belt as being '**limited affordable housing for local community needs under policies set out in the Local Plan**'. However, this is not a scheme for affordable housing; rather it is an open market housing scheme which would provide for an element of affordable housing. [59-60, 107, 124]

221. There is no Local Plan that sets out policies for affordable housing although it is common ground that this offer reflects what the Council would normally seek. Whilst objectors have noted that the most recent plan suggested a 35% affordable housing requirement to be used as the norm, which would not be achieved here, given the status of the emerging plan at this time little weight can be attached to that potential requirement. Nonetheless, this reinforces my view that the affordable housing being offered is not exceptional.

222. Whilst weight should be attached to providing affordable housing, particularly where there is a significant demonstrated need, such as here, I am not satisfied that this site offers anything other than that which would normally be sought in the Council area. Thus, the provision of affordable housing which would arise on this site forms part of the modest weight that can be attributed to providing for unmet open market housing as it would be expected as part of that form of development scheme.

- Economic Benefits

223. The Applicant has estimated this based on a construction cost of approximately £12.4 million pounds which would be equivalent to an average of 82 job opportunities directly created per year. There would be spin off benefits in terms of spend in the local area and subsequent economic benefits from the new residents. However, such benefits are of limited significance when balanced against the more significant weight of policy considerations. [61]

224. New Homes Bonus payments and Council tax receipts would be significant, but this does not attract weight in the planning balance, rather these matters are incentives for Councils to provide much needed housing on appropriate sites. [62]
225. The Applicant points to benefits arising as a result of the development and developer s.106 contributions. In terms of the latter benefits, they relate to the needs of the site (as indeed they should) and are not an advantage particular to this scheme. As such, the sum towards additional education places only exists because this site would result in need for such spaces. Thus, this is not a matter to which additional weight, in terms of benefits, should be attached. The provision of public open space, sports provision and footpaths/bridges again relates to needs generated by development of the site but also has some benefits which would extend beyond that for occupiers of the site. This attracts a little weight in favour of the scheme. [7-10]

Planning Balance for a Site in the Green Belt

226. There is clear guidance from the courts, for instance through the Basildon case, that small matters may cumulatively amount to very special circumstances sufficient to outweigh the presumption against inappropriate development in the Green Belt. [49-50, 98, 113, 120-122, 128, 134]
227. In this case some weight is to be attached to the planning history of the site, modest weight is attached to the provision of housing, including affordable housing as part of that scheme, and a little weight is attached to access, public open space and potential sports provision that would be secured through the s.106 planning obligation. Taken together, those matters do not, in my view, clearly outweigh the substantial weight to be attached to protection of this site which is in the extent of the Green Belt. Even were lesser weight attached to the site because it does not fulfil all the purposes of including land in the Green Belt and because its protection has no bearing on the key historic features of the City, I do not find the outcome of that balance would be altered. Therefore I do not find very special circumstances exist. [56]

Other Matters

228. The scheme would result in new neighbours and some degree of overlooking for the occupiers of existing dwellings along the western boundary. However, the orientation and siting, from what I could see (I was not asked to view from any dwelling) and the plans before me, indicate to me that an acceptable residential environment for existing residents would be retained. [181]
229. Concerns have been raised about drainage of the site but there is no objection from the statutory undertakers in this regard and conditions are proposed which should deal with adequate drainage of the site. It is not for this scheme to resolve difficulties elsewhere. [147, 160]
230. Adequacy of local facilities is raised alongside concerns about accessibility. The s.106 Planning obligation would provide facilities directly related to the proposed development. It is not for this proposal to remedy concerns for other parts of the community. Medical provisions would be considered on the basis of other regimes. [175]

231. Some concerns were set out in written representations regarding the design of the scheme and the proposed dwellings. However, in general terms, the housing reflects the adjacent site. One issue is worthy of more specific comment and that relates to the proposed highway layout. The Applicant explained that the current scheme should gain support from the road layout of the adjoining housing estate which gives clear access routes into the appeal site. However, I do not agree in that those arrangements were simply looking forward. Much the same could be **said of the highway layout which exists for this scheme despite the applicant's** clear view that the tree screen on the site boundary should be seen as a defensible one. I note that any further development would have to be judged on its own merits. [172, 181]
232. Whilst concern was expressed about access to the Environmental Impact Assessment, I was advised that **it was available for inspection at the Council's** offices but not available to view on-line. In these circumstances I am satisfied **that no party's interests were compromised.**
233. There was a more general concern about lack of public consultation in respect of the scheme. Nevertheless, whilst pre-application discussion may not have been of the type the local community desired, it is clear that there was some public involvement with the local community and the adequacy of statutory consultation requirements have not been disputed. [153]
234. The procedural conduct of the Parish Council is not a matter for this appeal; rather there are other ways in which that concern could be addressed. [180]

Inspector's Recommendation

235. I recommend that planning permission be refused. In the event that the Secretary of State disagrees with this recommendation and approves the application I recommend that the conditions in Annex A are attached to the permission. Moreover, should the Secretary of State disagree with my conclusion that the site is within the Green Belt, I agree with the main parties that there are no other grounds which would justify refusal of planning permission for the development proposed.

Zoë Hill

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton of Counsel

He called

Diane Cragg

Jane Healey-Brown BA

MA MRTPI

Rachel Macefield

City of York Council

Associate Director Ove Arup and Partners

Forward Planning Team Leader, City of York Council

FOR THE APPLICANT:

Andrew Williamson BA DipTP

MRTPI

He called

Michael Watts DipURP

(Dist) MRTPI

David Bell MEng CEng

MCIHT

Partner

Walker Morris Solicitors

Nathaniel Lichfield & Partners

Bryan G Hall

FOR THE RULE 6(6) PARTY (STRENSALL WITH TOWTHORPE PARISH COUNCIL):

Kathryn Jukes BA(Hons) DipTP

MRTPI

She called

Richard Borrows BSc

DipTP MRTPI

Planning Consultant

Also Representing the Parish Council were:

Cllr Paul Doughty

Cllr Keith Marquis

Michael Parish

Anthony Fisher BSc

John Chapman

Ward Councillor

Chairman of Strensall with Towthorpe Parish Council

Regarding the Village Design Statement

Regarding Highways and Ecology

Chairman of Strensall with Towthorpe Parish Council Planning Committee

INTERESTED PERSONS:

Julian Sturdy MP

George E Wright MA MRTPI

Jane Widgery

Phillip Thorpe

York (Outer) MP

Interested Party

Local Resident

Council for the Protection of Rural England (CPRE)

Professor Gordon Leff

Dennis Little

Local Resident

Local Resident

INQUIRY DOCUMENTS (handed in at the Inquiry excluding Core Documents)

- INQ 1 Appearances on behalf of Linden Homes
- INQ 2 Appearances on behalf of Strensall with Towthorpe Parish Council
- INQ 3 Notification of Event Letters and Press Notice
- INQ 4 Further Evidence of George Wright with appendices
- INQ 5 Speaking Note of Jane Healey –Brown (for the Council)
- INQ 6 Statement of Common Ground
- INQ 7 Opening on behalf of the Local Planning Authority
- INQ 8 Opening on behalf of the Applicant
- INQ 9 Opening on behalf of Strensall with Towthorpe Parish Council
- INQ 10 Supplementary Statement of Common Ground
- INQ 11 Annex A City of York Local Plan
- INQ 12 LDF Technical Paper - Green Corridors
- INQ 13 Rebuttal Statement by David Bell in relation to the evidence of Tony Fisher
- INQ 14 SHLAA site suitability for the application site
- INQ 15 Statement of Phillip Thorpe CPRE
- INQ 16 Oral Submission by Jane Widgery
- INQ 17 Statement of Mr Michael Parish
- INQ 18 Statement of Cllr Paul Doughty
- INQ 19 Draft s.106 Obligation
- INQ 20 Two Plans – Green Spaces Plan and s.106 Plan
- INQ 21 Statement of Julian Sturdy MP
- INQ 22 Journal of Planning Law Case Comment on R. (on the application of Basildon DC) v First Secretary of State [2014] EWHC 2759 (Admin) [2005] JPL 942 (QBD (Admin))
- INQ 23 Affordable Housing Note
- INQ 24 **Response to Davis Bell's Rebuttal** Statement of the evidence of Anthony Fisher BSc
- INQ 25 Proof of Evidence Summary of Richard Borrows for Strensall with Towthorpe Parish Council
- INQ 26 Extract of the National Planning Practice Guidance Paragraph 014 Ref ID: 21b-014-20140306 regarding prematurity
- INQ 27 Note on Calculation of Housing Requirement – Rachel Macefield
- INQ 28 Statement of John Chapman
- INQ 29 Statement of Cllr Keith Marquis with comments of Mr Richard Moore
- INQ 30 Suggested Planning Conditions
- INQ 31 Signed Planning Obligation
- INQ 32 Judgement Case No CO/2334/2013 – [2014] EWHC 754 (Admin) Bloor Homes
- INQ 33 Great York showing adjoining Authorities at 1991
- INQ 34 Statement of Julie Thompson
- INQ 35 CPRE – Response to the City of York Local Plan Preferred Options
- INQ 36 Further Draft of Conditions
- INQ 37 Additional Information on Housing Land Supply from the Council (submitted electronically during adjournment)
- INQ 38 Additional Information on Housing Land Supply from the Applicant (submitted electronically during adjournment)
- INQ 39 Further Supplementary Statement of Common Ground (submitted electronically during adjournment)

- INQ 40 Flaxton Town Map – submitted by George Wright
- INQ 42 Notification Letters
- INQ 43 Redhill -Case No: C1/2014/2773, 2756 and 2874 [2014] EWCA Civ 1386
- INQ 44 Better copies of Plans to go with Statement of Jane Healy-Brown
- INQ 45 Two Plans – Green Spaces Plan and s.106 Plan
- INQ 46 Closing Statement of Cllr Keith Marquis
- INQ 47 Closing Statement of Strensall with Towthorpe Parish Council
- INQ 48 Closing Statement of the City of York Council
- INQ 49 Closing Statement of the Applicant

CORE DOCUMENTS (adopting Council's numbering system)

- CD 01 Copy of the approved Application Documents and Plans
- CD 01-01 Application form and Location plan
- CD 01-02 Plans 1 to 48, Drawings - all at A4
- CD 01-03 Planning Statement
- CD 01-04 Design and Access Statement
- CD 01-05 Environmental Statement - As indexed - 1 to 16
- CD 01-06 Tree Survey
- CD 01-07 Transport Assessment
- CD 01-08 Residential Travel Plan
- CD 01-09 Flood Risk Assessment
- CD 01-10 Geotechnical – Desk Study Report
- CD 01-11 Noise Assessment
- CD 01-12 Odour Assessment
- CD 01-13 Archaeological Desk-based
- CD 02 EIA Screening Direction from the DCLG and Screening Opinion from City of York Council; CLG letter to M Watts at NLP dated 07.12.12; CYC letter to NLP dated 04.07.12; T&CP (EIA) Regs 2011 – Rights of Appeal
- CD 03 **LPA's scoping opinion and NLP scoping report; CYC letter to NLP dated 30 Sept 2013; NLP Scoping report – front cover to p33 Appendix – cover pages 1 to 9 – no contents**
- CD 04 Consultation Responses on the application
- CD 04 -01 Internal Responses - As indexed 1 to 10
- CD 04 -02 External responses – As indexed 1 to 10
- CD 04 -03 Contributor responses – As indexed A to Z
- CD 05 Case Officer p25-75 Committee Report; update report; and minute **(paras 51 to 59) of the City of York Council's Planning Committee dated 20th February 2014**
- CD 06 Yorkshire & Humber Plan – Regional Spatial Strategy to 2026 **(cover to cover)**
- CD 07 York Green Belt Local Plan **(NYCC Sept 91 1-39 plus 4 plans)**
- CD 08 York Local Plan – **Preferred Options (June 2013 plus Annex A Glossary and Annex B Bibliography)**
- CD 09 North Yorkshire Structure Plan 1995 **(Appendix A – Structure Plan Policies)**
- CD 10 York Local Plan Inspectors Report 1994 **p 1 to 349**
- CD 11 York Green Belt Local Plan – Modifications 1995 **(p1 – 44 + 4 maps)**
- CD 12 Deposit Draft York Local Plan, 1998, including Draft Local Plan incorporating the 4th set of changes Development Control Local Plan

- adopted April 2005 (*from front to back cover – no maps*)
- CD 13 York Green Belt Appraisal 2003; and, Green Belt Map North
- CD 14 Historic Character and Setting Technical Paper (2011) **4 pages plus annexes A to D**
- CD 15 South Ryedale Plan, Inspectors Report and Proposed modifications Extract: - page no number – amendments to Inset E (Strensall); Extract page 23 – paras 4.26 to 4.29 and policy H8; Whole of Southern Ryedale Local Plan; Report on Objections to the South Ryedale Local Plan
- CD 16 The Plan for Growth (*HM Treasury Dept for Business Innovation & Skills, - March 2011*) **beginning to end**
- CD 17 The Ministerial Statement issued by Greg Clark (Minister of State for Planning) entitled '**Planning for Growth**' (*1 page small print*)
- CD 18 Laying the Foundations: A Housing Strategy for England (November 2011) **Front to back**
- CD 19 DCLG letter of 3 March 2014 on Green Belt issues **signed by Nick Boles**
- CD 20 Appeal Decision APP/C2741/V/05/1189897 – Land at Germany Beck York (2007) and Appeal Decision C/2741/V/05/1189885 – Land at Metcalfe Lane, York (2007); **Joint report to Secretary of State; Secretary of State decision**
- CD 21 Appeal Decision APP/C2741/A/08/2069665 – Land at Elvington Aerodrome
- CD 22 Appeal Decision APP/C2741/V/05/118972 – Land at Field Lane, Heslington; **Report to Secretary of State; Secretary of State decision**
- CD 23 Appeal Decision APP/C2741/A/13/2191767 – Land at Westview Close, York (2013)
- CD 24 Public Rights of Way Map and Details
- CD 25 Tree Preservation Order CYC 285
- CD 26 Agreed Section 106 Agreement (see INQ Doc 31)
- CD 27 Affordable housing planning guidance – interim targets 2013
- CD 28 CYC Commuted sum payments for open space in new developments – A guide for developers approved in April 2007 and updated in July 2011
- CD 29 CYC Developer contributions to education facilities – July 2007
- CD 30 CYC Sustainable Design and Construction Interim Planning Statement approved November 2007
- CD 31 Village Design Statement - (not re-printed) (Appendix 11 to Proof of Evidence of Mr Watts)
- CD 32 The Strategic Environmental Assessment of the Revocation of the Yorkshire and Humber Regional Strategy Environment Report (AMEC 2012)
- CD 33 The Strategic Environmental Assessment of the Revocation of the Yorkshire and Humber Regional Strategy Post Adoption Statement (January 2013)
- CD 34 Site Selection Paper Main Report (June 2013) Main Report and Appendix 22
- CD 35 Community Infrastructure compliance Note
- CD 36 Emerging Local Plan and selected Appendices (see CD sub sections set out below)

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- CD 36-00 Report of the Cabinet Member for Environmental Services, Planning and Sustainability (to City of York Councillors 25 Sept 2014) (***Digital Title is Cabinet Report FINAL***)
- CD 36-01 Glossary of Abbreviations
- CD 36-02 Annex A: Local Plan Publication Draft and Proposals Map (***Digital Title is Annex A (1) Local Plan Publication Draft***)
- CD 36-03 Annex A: Local Plan Publication Draft and Proposals Map (***Digital Title is Annex A Proposals Map (North)***)
- CD 36-04 Annex B - Summary of the Previous Stages of Consultation (***Digital Title is Annex B combined[1]***)
- CD 36-05 Annex C: Draft Sustainability Appraisal (Main) Report (***Digital Title is ANNEX C SA of Local Plan (Publication Draft) Draft Report***)
- CD 36-06 Appendix F Appraisal of Spatial Strategy Policies (Amec 2014) (***Digital Title 12 Annex C Appendix F[1]***)
- CD 36-07 Appendix G Summary of Site Selection Methodology (Amec 2014) (***Digital Title is Annex C Appendix G [1]***)
- CD 36-08 Appendix H Appraisal of Allocations and Alternatives (Amec 2014) (***Digital title is Annex C Appendix H [1]***)
- CD 36-09 Annex D: Heritage Impact Appraisal (Amec 2014) (***Digital Title is Annex D Heritage Impact Appraisal [1]***)
- CD 36-10 HIA Appendix 2: Strategic Site and Allocations Rapid Appraisal (***Digital title is Annex_D_ - Appendix_2_Strategic_site_and_allocations_rapids[1]***)
- CD 36-11 HIA Appendix □.1: Housing Allocations Appraisal (***Digital title is Annex D - Appendix 4.1 Housing Allocations[1]***)
- CD 36-12 Housing Requirements in York: Evidence on Housing Requirements in York: 2014 Update (Arup) (***Digital title is City_of_York_Council_Housing_Requirements_in_York_2014_[1]***)
- CD 36-13 Local Plan Evidence Base: Open Space and Green Infrastructure (Amec 2014) (***Digital title is Open_Space_Study_Main_Report__o_[1]***)
- CD 36-14 CD36_14 Habitats Regulations Assessment of the Local Plan (Amec 2014 draft) (***Digital title is Open_Space_Study_Main_Report__o_[1]***)
- CD 36-15 Site Selection Paper Addendum (2014) City of York Council
- CD 37 Consultation draft 2013 – Changes up to withdrawal, p1-18 (submitted by Diane Cragg for the Council)

Please note digital references have been provided by the Council and are retained for information but have not been checked

Appendix A – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 3585-10G Site Layout
 - 3585- 12 Site location plan
 - 2334-7D Landscape Proposals
 - 2334-8D Landscape Proposals
 - 3585/15c Greenspaces Plan
 - 3585-13a Boundary Details
 - 860-ENG-01C Street Lighting Plan
 - 860-ENG-02B Proposed Drainage Strategy Layout
 - 860-S106/01E S106 Plan
 - 860-ENG-03B Proposed Site Levels Layout
 - 3585/PD/01B Welton Country with solar panels
 - 3585/PD/02B Welton Contemporary with solar panels
 - 3585-PD-03A Marston Cottage
 - 3585-PD-04B Marston Country with solar panels
 - 3585-PD-05A Marston Wide Special Cottage
 - 3585-PD-06B Marston Wide Special Contemporary with solar panels
 - 3585-PD-07B Everingham Cottage with solar panels
 - 3585-PD-08B Conisholme Cottage with solar panels
 - 3585-PD-09B Conisholme Country with solar panels
 - 3585-PD-10B Russet Cottage with solar panels
 - 3585-PD-11A Russet Contemporary
 - 3585-PD-12A Sutton Cottage
 - 3585-PD-13A Ht6 Cottage
 - 3585-PD-14B Ht6 Contemporary with solar panels
 - 3585-PD-15B Bentley Cottage with solar panels
 - 3585-PD-16A Bentley Contemporary
 - 3585-PD-17B Burnby Cottage with solar panels
 - 3585-PD-18B Burnby Country with solar panels
 - 3585-PD-19A Allerthorpe Cottage

- 3585-PD-20A Allerthorpe Country
- 3585-PD-21B Hunsley Cottage with solar panels
- 3585-PD-22B Hunsley Country with solar panels
- 3585-PD-23B Riplingham Cottage with solar panels
- 3585-PD-24 Linton 2 Plans
- 3585-PD-25B Linton 2 Cottage with solar panels
- 3585-PD-26B Hayton Cottage with solar panels
- 3585-PD-27B Hayton Country with solar panels
- 3585-PD-28 Poppleton Plans
- 3585-PD-29B Poppleton Cottage with solar panels
- 3585-PD-30B Poppleton Country with solar panels
- 3585-PD-31 Cotswold 1 Plans
- 3585-PD-32B Cotswold 1 Country with solar panels
- 3585-PD-33A Cotswold 2 Country
- 3585-PD-34A Cotswold 2 Cottage
- 3585-PD-35A Cotswold 3 Plans
- 3585-PD-36B Cotswold 3 Country with solar panels
- 3585-PD-37A Arram Contemporary
- 3585-PD-38A Garages

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved.

- 3) Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used for the proposed dwellings, roads and footpaths shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out in accordance with the approved materials.

Reason: To ensure the external appearance of the development is satisfactory and that it contributes to the character and appearance of the area.

- 4) No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme the principles of which shall accord with the landscape proposals shown on drawing numbers 2334-7D and 2334-8D. The scheme shall illustrate the number, species, height and position of trees and shrubs and shall be implemented within a period of six months of the completion of the development except in the case of the details along the eastern boundary with the new houses. Here the scheme shall be implemented in the first planting season following commencement of the development.

Any trees or plants which die, are removed or become seriously damaged

or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site and to ensure that the boundary adjacent to the eastern amenity area develops a degree of maturity prior to the occupation of any dwelling on the eastern boundary. This is in the interests of the protection of biodiversity, in the interests of residential and visual amenity and to accord with the requirements of the National Planning Policy Framework Sections 7 and 11.

- 5) No development shall take place, including the importing of materials and any excavations, until a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any development is commenced on site. The scheme shall include:
- (a) Sufficient information to ensure the safe retention and sound protection of the trees;
 - (b) Details and locations of protective fencing, phasing of works, type of construction machinery / vehicles to be used, arrangements for loading / off-loading, parking arrangements for site vehicles and visitors, locations for stored materials and the location of the marketing cabin.
 - (c) Construction details and methodology for paved areas that may encroach into the root protection area of the trees.
 - (d) Contact details for the arboriculture consultant or other suitably qualified person whom shall be overseeing protection of the trees for the duration of the development process.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of the area and the development in accordance with the National Planning Policy Framework section 11.

- 6) No development shall take place until, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development (including routing of deliveries, provision of car parking within the site and working hours for the construction site) shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of occupants of adjacent and adjoining properties during the development of the site in accordance with paragraph 17 of the National Planning Policy Framework.

- 7) No development shall take place until a detailed habitat management plan and enhancement scheme has been submitted to and approved in writing

by the Local Planning Authority. This shall include a method statement for the protection of habitat during construction and the post development management of the area. The development shall be carried out and managed in complete accordance with the approved details. The plan should include:

- (a) Details of what assessments, protective measures and sensitive work practices are to be employed, prior to and during construction, including timing of work and list of persons responsible.
- (b) Details of what measures are to be provided within the design of the new buildings and landscaping to enhance the biodiversity of the site.
- (c) Provision and protection of an area of buffer habitat alongside the eastern boundary hedgerow.
- (d) Details of a wildlife interpretation board to be placed at the eastern footpath entrance to the site from Brecks Lane and information leaflet to be provided for new residents explaining the bio-diversity value of the tree cover within the site and its habitat value in relation to Strensall Common.
- (e) Details of the inspection of any trees which may need to be felled, pruned or disturbed in the future, as close to the date of work as possible and no earlier than one month prior to any work to confirm the absence or otherwise of roosting or hibernating bats.
- (f) Details of what contingency procedures are to be in place in the event that bats are found following commencement of development.

Reason: To take account of and enhance the habitat and biodiversity of the locality in accordance with advice in the National Planning Policy Framework

- 8) No development shall take place until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall accord with the principles set out in drawing no 860-ENG-02B '**Proposed Drainage Strategy Layout**' and shall include a timetable for implementation. The development shall be carried out in accordance with the approved details. The details shall include:
- (a) Peak surface water run-off from the development attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha).
 - (b) Storage volume calculations, using computer modelling to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm.
 - (c) Proposed areas within the model to also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the

worst-case volume required. Therefore, maximum surface water discharge = 6.0 l/sec

- (d) Details of flow control device manhole to be submitted limiting the maximum surface water discharge to maximum 6.0 l/sec.
- (e) Details of attenuation pond to be provided.
- (f) Details of the future maintenance/management of the drainage system.

Reason: So that the Local Planning Authority may be satisfied that the site will be properly drained and that provision has been made to maintain it in accordance with the City of York Council Strategic Flood Risk Assessment (2013).

- 9) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
- (a) A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.
 - (b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (c) The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 10) Prior to the development commencing, or within such longer period as may be agreed in writing, details of the cycle parking areas, including means of

enclosure, shall be submitted to and approved in writing by the Local Planning Authority. Each dwelling shall not be occupied until the cycle parking area and means of enclosure has been provided in accordance with the approved scheme. The approved cycle parking shall not be used for any other purpose.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours and to accord with section 4 of the National Planning Policy Framework

- 11) Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period. The scheme shall be carried out in accordance with the levels shown on drawing no. 860-ENG-O3 rev B. The existing ground levels are shown and shall be maintained adjacent to the site boundary with existing residential properties.

Reason: To ensure that the approved development does not have an adverse impact on the character of the surrounding area and existing residential properties

- 12) Prior to the commencement of the development, or within such longer period as may be agreed in writing with the Local Planning Authority, a large scale detail of the each piece of equipment, any associated fencing and pathways on the equipped play area (as illustrated on drawing numbers 2334-7D and 2334-8D), together with a timetable for the implementation of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To accordance with policy L1c of the Development Control Local Plan 2005 which requires adequate provision of play space and amenity provision within the site and to accord with paragraph 73 of the National Planning Policy Framework.

- 13) Prior to the commencement of the development, or within such longer period as may be agreed in writing with the Local Planning Authority, large scale details of boundary treatment along the following boundaries shall be submitted to and approved in writing by the Local Planning authority:
- (a) The southern boundary of dwellings adjacent to Brecks Lane,
 - (b) The eastern boundary of dwellings adjacent to the tree line and footpath,
 - (c) The western boundary between Tudor way and Heath Ride (rear plots of 96 to 99, side boundaries of plots 93 and 102 and adjacent to the Heath Green),
 - (d) The northern boundary (forming the rear boundary to plots 4 to 7)

Each boundary treatment shall be installed in accordance with the approved details before that dwelling is occupied.

Reason: To protect the visual amenity of the site and the surrounding

area.

- 14) No dwelling to which this planning permission relates shall be occupied unless or until the carriageway basecourse and kerb foundation to the new estate road and footpath has been constructed. Road and footway wearing courses and street lighting shall be provided within three months of the date of commencement on the construction of the penultimate dwelling of the development.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.

- 15) Each dwelling shall not be occupied until the area shown on the approved plans for parking and manoeuvring of vehicles has been constructed and laid out in accordance with the approved plans. Thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

- 16) For each dwelling, a three pin 13 amp external electrical socket shall be installed on an external wall adjacent to the driveway of the property, or within the garage space. The socket shall comply with the requirements of BS1363 or an equivalent standard. Where mounted on an external wall, it must have a locking and weatherproof cover. The electrical socket shall be provided before each dwelling is occupied.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles / bikes / scooters in accordance with paragraph 35 of the National Planning Policy Framework

- 17) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, where remediation is necessary, a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 18) The site shall be occupied in accordance with the aims, measures and outcomes of the submitted residential travel plan dated October 2013. Within 12 months of first occupation of the development approved a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with local and national transportation and planning policies to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms

of transport to and from the site, together with parking on site for these users.

- 19) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local Plan 2005 and Paragraphs 4.1 to 4.6 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

- 20) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Development Order 1995), (or any Order revoking or re-enacting that Order), once the boundary treatment identified in condition 13 is constructed the approved boundary treatment shall not be replacement or additional fences, gates, walls or other means of enclosure erected or constructed.

Reason: To protect the visual amenity of the site and the surrounding area.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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