



Statement of Reasons

Site visit made on 18th June 2014

Hearing held on 17th June 2014

By Jonathan G King BA(Hons) DipTP MRTPI

A person appointed by the Secretary of State for Communities and Local Government

Report date: 22 July 2014

Application Reference: S62A/2014/0001

Site address: Land to the North of Hospital Lane, to the South of Mill Lane and to the East of Bouskell Park, Blaby, Leicestershire.

- The application is made under section 62A of the Town and Country Planning Act 1990.
 - The application dated 23 April 2014 is made by Gladman Developments Ltd and was validated on the same day.
 - The development proposed is outline planning application with access only. Proposed construction of up to 220 new dwellings (use class C3) and school drop off / pick up zone, with access and associated infrastructure.
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Summary of Decision:

1. The application is refused.

Procedural matters and background

2. The application site lies within the administrative area of Blaby District Council. That council has been designated under the provisions of s62A of the Town and Country Planning Act 1990, having the effect of allowing applications for major development to be made direct to the Planning Inspectorate for determination. This application has been made under those provisions.
3. On 9th June 2014, officers of the Planning Inspectorate on behalf of the Secretary of State published an Issues Report (IR), prepared under the provisions of the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013. This includes a description of the development and material considerations, and explores issues to be considered in relation to the application. Appended to that report are lists of statutory and non-statutory consultation responses; summaries of public representations; and a schedule of draft conditions (Annex A) put forward on a without prejudice basis.
4. I held public Hearings on the afternoon and evening of 17th June 2014 at Leicester Racecourse. I have taken account of all written and oral representations in reaching my decision.
5. I carried out a site visit, accompanied by representatives of the applicant and of Blaby District Council, together with a number of interested persons on 18th June 2014.

6. Shortly before the Hearing, the Council submitted the *Leicester and Leicestershire Strategic Housing Market Assessment* (GL Hearn), which had been commissioned by all of the planning authorities within the county. Subsequent to the Hearing, additional information was submitted by the applicant, comprising: a *Critical Review* of this new SHMA; a letter from Baker Consultants concerning bats and lighting impacts; and a covering letter dated 24th June. I accepted this information, which was then subject to formal notification. In making my decision I have taken into account the additional information and the responses received to the notification.
7. Subsequent to the Hearing, a planning obligation in the form of a Section 106 agreement has been concluded between the applicant and the Council, covering a substantial number of matters. It has been signed, but not dated. Although in this form the agreement is not valid, for the purposes of this Statement I have regarded it as being complete. Had I been minded to grant permission, I would have ensured that it was dated before issuing the decision. In the event, this has not been necessary.
8. Planning obligations should be used to make development acceptable that would otherwise be unacceptable. Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) states that a planning obligation can only constitute a reason for granting planning permission where the obligation is necessary to make the proposed development acceptable in planning terms, be directly related to the proposed development and fairly and reasonably related in scale and kind to the proposed development. I consider the various provisions of the agreement throughout this Statement by reference to these tests. Where I find that the tests have been met, the relevant terms of the agreement are material considerations in the determination of this application.

Issues

9. At the public Hearing I outlined the main issues which will guide my decision, as follows:
 - (a) *Whether the housing policies of the development plan for Blaby are out of date for the purposes of applying the National Planning Policy Framework; and consequently whether the presumption in favour of sustainable development should apply.*

And:

 - (b) *If the housing policies of the Development Plan are out of date, whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*

Alternatively:

 - (c) *If the housing policies of the Development Plan are not out of date, whether the development would accord with it. If it does comply, whether other material considerations indicate that it should be refused; and, if it conflicts, whether other material considerations indicate that it should be permitted.*

And:

- (d) *Whether the development would be sustainable, having regard to the 3 dimensions of sustainability set out in the Framework: economic, social and environmental, in particular with respect to:*
- (i) the contribution of the development to economic growth;*
 - (ii) the distribution of development within the District;*
 - (iii) the provision of affordable housing;*
 - (iv) the design of the development and the character and appearance of the area;*
 - (v) the countryside and the landscape character of the area;*
 - (vi) recreational assets;*
 - (vii) highway safety;*
 - (viii) accessibility by means other than the private car;*
 - (ix) local heritage assets;*
 - (x) local biodiversity interests;*
 - (xi) drainage and flooding;*
 - (xii) the provision of infrastructure and local services, including education; and*
 - (xiii) residential amenity.*

10. As the balancing exercises envisaged under issues (b) and (c) in large measure require consideration of the same economic, social and environmental aspects of sustainability listed under issue (d) I propose to consider those matters in advance of these issues.

11. The IR provides the context for my identification of the main issues, but does not form part of this Statement.

Reasons

12. In this statement, I do not repeat the bulk of the information contained in the IR. I refer to the relevant paragraphs of that document that support my reasoning in square brackets [thus].

Issue (a) Housing policies in the development plan

[IR paras 12 – 94]

13. The underlying legislative requirement is that an application for planning permission should be determined in accordance with the development plan (DP) unless material considerations indicate otherwise. One consideration of particular relevance to applications for housing development is whether the DP is out of date. This is critical to my decision in this case as, following the approach of the National Planning Policy Framework (NPPF), this will determine the precise tests to be applied. Where the DP is 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 as a whole. On the other hand, if the policies are not out of date, proposed development that accords with it should be approved, and that which conflicts should be refused unless other material considerations indicate otherwise. My second and third issues are therefore expressed as alternatives in order to cover both scenarios.

14. The development plan mainly, but not wholly, comprises the Blaby Core Strategy (CS), which was adopted as recently as February 2013. It was submitted for examination after the publication of the NPPF and was found sound. It is clearly not out of date by simple reference to its age.
15. However, with respect to policies for the supply of housing, the NPPF provides a very specific test as to whether they should be considered up-to date. They should not be considered up-to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. This should be viewed against the policy of the NPPF that local planning authorities (LPA) should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements. Where there has been a record of persistent under-delivery of housing, an additional buffer of 20% should be applied. There is no dispute that the 20% buffer should be applied in the present circumstances.
16. The IR sets out an assessment of whether a 5-year supply of housing exists, taking into account a range of variables, which I shall consider in turn:
 - the housing requirement.
 - the quantity of the deliverable supply, and
 - the approach to dealing with historic undersupply.

The housing requirement

17. The figure to be taken as the housing requirement is based on the "full, objectively-assessed housing need" (FOAN), which the NPPF says should be met by the LPA in their local plans. Recent court cases (*Hunston, S Northamptonshire* and *Solihull*) indicate that the FOAN should be a "policy off" figure, whereas the requirement in a local plan may be a "policy on" figure.
18. The housing requirement for Blaby district of 380 dwellings per annum (dpa) in the CS reflects that set out in the East Midlands Regional Strategy which, though forming part of the development plan at the time of examination, was revoked shortly after. That figure was arrived at by an assessment based on household projections dating from 2004. At the time of the CS Examination, this figure was considered by the Inspector to provide the only robust and agreed basis for housing provision which took account of wider needs in the Housing Market Area (HMA).
19. The NPPF permits LPAs to continue to draw on evidence that informed the preparation of regional strategies, supplemented as needed by up-to-date, robust local evidence. The housing requirement set in Regional Strategy has in some instances (eg Solihull, by reference to the West Midlands RS) been considered not to represent FOAN because it has been constrained by policy (ie it is a "policy-on" figure). However, in the South Northamptonshire case it was

held that the East Midlands RS figure was objectively assessed. I have no reason to take a different view.

20. Similarly, Planning Policy Guidance (PPG) says that considerable weight should be given to the housing requirement figures in adopted local plans which have successfully passed through the examination process, unless significant new evidence comes to light. However, evidence which dates back several years, such as drawn from revoked regional strategies, may not adequately reflect current needs. Some recent court judgments [*Hunston & S Northamptonshire*], advise that such evidence should be treated with some caution.
21. The underlying evidence is now 10 years old; and in the intervening period the national economy has experienced a major recession and a partial recovery, which would not have been forecast at the time. There have also been other important demographic changes, for example with respect to international migration, that could influence the need for housing. Notwithstanding the recession, subsequent household projections published by the Department of Communities and Local Government (CLG) from 2006, 2008 and 2011 have all been higher, for both the HMA and Blaby District. I regard this as significant new evidence which suggests strongly that the level of housing need of 380dpa in the CS may be an under-estimate.
22. PPG advises that where evidence in Local Plans has become outdated, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the CLG household projections should be used as the starting point, but the weight given to these should also take account of the fact that they too have not been tested or moderated.
23. In this case, new evidence is available in the form of two Strategic Housing Market Assessments (SHMA) that have recently been prepared respectively on behalf of the applicant and the Leicestershire planning authorities. These SHMAs have both been produced by independent planning consultants, at broadly the same time and both cover the same HMA and the same period. They both use as their starting point the latest CLG household projections from 2011, informed by the 2008 projections to take account of the impact of the recession on trends in household formation. They both factor in predictions for employment growth from a common source (albeit with slightly different dates); and both state that they have been prepared following the advice of the recently-published PPG.
24. It is therefore surprising, and a matter of considerable concern, that they come to radically different conclusions: the councils' SHMA identifies the FOAN for the HMA as between 3,775 and 4,215dpa for the period 2011-31, with the figures for Blaby as between 360 and 420dpa. In contrast, the applicant's figures are 7,082dpa for the HMA and 999dpa for Blaby. The very substantial difference amply serves to illustrate the statement in the PPG that establishing future need is not an exact science; and that no single approach will provide a definitive answer. It also emphasises how essential it is that evidence such as SHMAs must be rigorously tested in order to establish that it is robust.

25. The councils' SHMA has been "signed off" by officers and lead Members of all of the Leicester and Leicestershire planning authorities as representing FOAN across the HMA and for individual authorities, and it will inform plan making in the future. This lends some weight to the document insofar as, in contrast to the applicant's SHMA, it is agreed and has been the outcome of co-operation between the LPAs. However, neither SHMA has been tested through the development plan examination process, nor have they been subject to scrutiny at a public Inquiry.
26. The disparity of their output suggests strongly that certainly one, or conceivably both of the assessments will be significantly in error, but the evidence before me does not allow me to reach a definitive conclusion. There are, for example, figures in both for which no derivation is provided. It also appears that the applicant's SHMA, in taking account of aspirational employment growth of the Local Enterprise Partnership (LEP), has implicitly applied a "policy-on" approach, contrary to the judgments referred to above.
27. The "Critical Review" of the councils' SHMA on behalf of the applicant identifies a number of areas of disagreement, but omits any mention of the area which accounts for the greatest disparity: employment factors. It does not assist greatly in assessing the credibility of either SHMA.
28. In such circumstances, and having regard to the NPPF, I can place little or no reliance on these new SHMAs, especially given the huge disparity between the outcomes. Consequently, I am unable to accord to either any significant weight in the determination of this application, still less use their conclusions in substitution for the housing requirement set out in the CS.
29. Drawing these matters together, the present position is that while the more recent household projections suggest that the formally adopted housing requirement probably underestimates the level of need, it is not possible in the context of this planning application to identify with any confidence a more robust and credible figure for the purposes of calculating a 5-year supply of housing. In view of the importance of the existence of a 5-year supply to a decision as to whether the housing policies of the development plan are out-of-date, it would be imprudent to assume any other figure without firm evidence.

The quantity of the deliverable supply

30. The Council's calculation of housing supply is 3,356 dwellings, including 900 in the Lubbethorpe development. No account is taken of the possibility of windfall sites coming forward. Had the Council had evidence that windfalls could be relied upon, doubtless it would have identified it. But no such evidence has been forthcoming. Consequently, windfalls are not included in the total and I do not assume any flexibility may derive from this source.
31. A number of permissions for housing have been granted since 1st April this year, but in the absence of information about deliverability, it would not be prudent to include them in calculation of the supply figure. Nonetheless, it may be reasonably assumed that at least a proportion of these recently-permitted houses will be able to contribute to the housing supply over the 5-year period.
32. The sole substantial area of dispute between the Council and the applicant relates to the deliverability of the amount of housing that may be expected to be built at Lubbethorpe. The latter estimates just 250 within the relevant 5

year period. The difference of 650 dwellings makes a significant difference to the existence of a 5 year supply.

33. The Council's CS trajectory assumed that 1,000 dwellings would be delivered at Lubbethorpe in the relevant 5 year period, commencing in 2013/14, but to date none have been built. A revised trajectory has been produced, to deliver 900, but this assumes 150 in 2014/15 and 250 each in the following 3 years. To the extent that the submission of Building Notices may be taken as a firm intent to commence development, it would appear that the earliest that a start could be made would be in January 2015. On the basis of the assumed build rate of 250 in a full year, and a cautious assumption of a start towards the end January 2015, in round figures only about 40 dwellings would be built in 2014/15. This would reduce the total to 790 deliverable dwellings (40+250+250+250), 110 less than estimated by the Council. But even this is considerably higher than the 650 dwellings considered realistic by the Inspector in the Whetstone case determined in August 2013, which assumed a start to development in 2013/14.
34. There is no evidence to show that problems will arise over the sale of the Lubbethorpe site to the prospective developers; and I see no reason in principle why the outstanding planning conditions should not be discharged in time for a start to be made in early 2015. Further, given the availability of funding, one may be reasonably confident that the bridge over the M1 could be provided in time to avoid any constraint to delivery of development.
35. There is conflicting evidence as to whether it would be possible to complete or sell the number of dwellings required to meet the Council's trajectory. However, its evidence relating to larger sites is local, recent and includes a recessionary period. In view of the fact that the economy and the housing market are making a recovery, an assumption of 40 dwellings per annum for each developer does not appear unreasonable. Nor does the number of developers (approximately 6) that would be required. There can be no certainty in such matters, but this suggests that both the applicant and the Whetstone Inspector have been overly pessimistic in their outlook.
36. Against that background, I am content to proceed on the basis that the 5 year deliverable housing supply is presently approximately 3,246, 110 less than the Council's estimate. This figure could be inflated to a degree by recent permissions, but this is not assumed in my calculations below.

The approach to dealing with historic undersupply

The 5 year supply

37. Tables 3 and 4 of the IR were created to allow a comparison to be made between the number of years housing supply when calculated using the alternative "Liverpool" and "Sedgefield" approaches. The calculations take account of the additional 20% buffer (see para 14).
38. Taking account of my revised housing supply figure, and excluding all figures other than the CS requirement of 380, the following table may be created.

Deliverable supply: 3,246

Dwellings per annum	Liverpool approach	Sedgefield approach
380	6.02 years	4.88 years

39. Under the "Liverpool" approach, a greater than 5 year supply exists relative to the CS requirement. However, under the "Sedgefield" approach, a 5 year supply does not exist, albeit by a small margin. Nonetheless, if measured against the latter approach, the Plan must be considered out of date.
40. Neither the NPPF nor the PPG explicitly say which approach should be followed or, if either is acceptable, in what circumstances which is to be preferred. However, the PPG says that LPAs should aim to deal with any undersupply within the first 5 years of the plan period where possible. This is consistent with the NPPF and its key objective to boost significantly the supply of housing. It strongly suggests a leaning towards the "Sedgefield" approach.
41. At the time that the CS was being examined, both approaches were commonly used, though "Sedgefield" has since gained the ascendancy. The approach taken by the Inspector at that Examination was implicitly to endorse the "Liverpool" approach (ie that the shortfall in housing delivery since 2006 would be accommodated over the remaining plan period). The situation in practice is more complex, with the Council effectively adopting a "hybrid" approach, based on following its trajectory, though there is no support for this approach in the NPPF or PPG.
42. Having regard to how recently the Core Strategy has been examined and found sound, and in the absence of clear prescriptive guidance at the time on the approach to be taken, I take the view that it would not be in the interests of good planning to cast doubt on the Inspector's judgment and conclusions with respect to the approach taken to the 5-year land supply and the housing strategy more broadly, to which I return below. A number of my colleagues who have determined appeals in recent times have taken a similar view.
43. In reaching this conclusion, I have had regard to that fact that it is clear from the CS that there are good, pragmatic, local reasons why the historic undersupply should be addressed over a longer period – whether over the whole of the Plan period or a lesser period linked to the trajectory. This relates to the particular strategic locational policy for housing, whereby a very significant proportion is to be accommodated within the Sustainable Urban Extension (SUE). In view of the size of the SUE and the time required to bring it to fruition, it was from the start unavoidable and inevitable that the greater part of the planned housing there – which represents the greater part of the provision for the district as a whole - would not be delivered early in the Plan period. Given that I have no reason to revisit or question the CS Inspector's findings that the locational strategy is sound, the rate at which housing will be provided must take account of the practical deliverability of that strategy.
44. The quantitative provision of housing and the locational strategy are therefore fundamentally linked: one cannot be considered without the other. Against that very particular local background, I conclude that it is entirely reasonable that the CS should take the "Liverpool" approach (or a hybrid version of it).
45. If that approach is followed, the supply would be sufficient for over 5 years of deliverable sites. On that basis the housing policies should not be regarded as out-of-date.
46. I concluded earlier that the annual CS requirement, on which that calculation is based, was probably low, having regard to the rising trend of more recent household projections, but that a more robust and credible figure is not

available. For the purposes of this particular exercise it would not be prudent to assume any other figure. But even if such an assumption were to be made, I am satisfied that, as the supply of housing exceeds that required by the CS for 5 years by a margin of a full year, or 20%, one may have considerable confidence that a 5 year supply could be delivered, even at a significantly raised annual requirement rate.

Housing policy – conclusions

47. Taking into account the variables of the housing requirement; the quantity of the deliverable housing supply; and the approach to dealing with historic under-supply; and having regard to the policies and guidance of the NPPF and PPG, together with the housing strategy of the Core Strategy (including the locational strategy), I conclude that the housing policies of the DP are not out-of-date. I now turn to consider economic, social and environmental aspects of sustainability listed under my main issue (d).

Issue (d) Sustainability

48. In the interests of readability and in order to avoid repetition, the various aspects of sustainability considered below are taken in a different order to that set out above.

The distribution of development within the District

[IR paras 13-14]

49. As touched on in under my consideration of the first issue, the Core Strategy (Policies CS1 & CS5) seeks to focus the majority of housing development - at least 5,750 dwellings - within and adjoining the Principal Urban Area (PUA) in the northern part of the District. The majority of the housing and employment (some 4,250 dwellings and 21 hectares of employment) are to be delivered in one large Strategic growth area – the Sustainable Urban Extension). In summary, this approach looks to maximise 'self -containment' by offering necessary services and facilities within the new development; and requires development in locations that can access existing employment and other services and facilities more easily (in terms of proximity to key services and access to a choice of transport modes). The settlements adjoining the urban area generally have a more comprehensive and frequent public transport offer and a greater likelihood that residents will use it. In addition, the majority of employment opportunities are located within the City of Leicester and around junction 21 adjoining the PUA.
50. The residual housing requirements (at least 2,990 dwellings) will be provided outside the PUA, focussed in Blaby and the better served villages of the central area of the District. The reason for this is to allow development in areas with greatest access to employment, key services and facilities and with a good functional relationship with the City of Leicester. The supporting text to Policy CS5 explains that the distribution of housing has been based on the ability of settlements to accommodate additional growth and has been prepared in the policy context of urban concentration.
51. Policy CS5 indicates that at least 420 dwellings should be built in Blaby town in the period 2006-29. The Plan states that Blaby is a key settlement and should

be the focus for future development, but there are only limited opportunities for large scale growth. New growth is expected to be on greenfield sites.

52. I have no reason to question the CS Inspector's opinion that this quantity could be accommodated without undue harm to the character of the settlement or other significant adverse effects; and that the scale of additional housing reflects the size of the settlements and access to services and facilities while taking account of the potential availability of sites, recent completions and existing commitments. With well over half of the period still to run, that number has already been permitted. As 420 is explicitly a minimum figure, providing some excess would not necessarily cause harm. Indeed, it would provide a benefit in that it would go some way towards making up the shortfall of housing provision in the District, consistent with a principal objective of the NPPF. However, the proposed development would exceed that number by over 50%, a very considerable proportion. Development significantly in excess of the figure estimated to be appropriate at the time the CS was adopted has the potential to harm the character of the town. I consider this separately below.
53. The provision of housing, albeit important, is only one facet of the CS. It cannot be considered separately from the parallel locational strategy described above. Far from supporting that strategy, which is underpinned by sustainable principles, providing additional housing in Blaby could harm it, insofar as it could perpetuate or even worsen existing unsustainable out-commuting patterns. The degree to which it could or would compromise the broader strategy cannot be assessed with any precision. However, I consider that it would to some degree undermine a fundamental sustainable aspect of the CS. In short, although providing a significant number of new dwellings in the District is supported in principle, providing them other than in accordance with the locational strategy is not.

Accessibility by means other than the private car

[IR paras 118 – 133]

54. Without prejudice to my conclusions in the preceding section with respect to the locational strategy, the town of Blaby is generally well-served with local facilities, including the only town centre in the District. Its importance is reflected in Policy CS5, which identifies a housing requirement for an individual settlement outside the SUE second only to Countesthorpe. The District Settlement Hierarchy Report (2010) says that it offers access to shopping, employment and primary education and is well-connected to higher order facilities and services by a frequent public transport service.
55. There is some dispute about the precise distances on foot to various facilities. The preferred maximum walking distances identified by the Institute of Highways and Transportation are in some cases exceeded, but the bulk of the facilities would be more or less 1km from the centre of the site. Some, such as the Thistly Meadow primary school and the park, would be closer. Overall I am satisfied that the site is reasonably, if not always ideally located to most facilities, and closer than several other existing residential areas of Blaby.
56. The town centre, where many facilities are concentrated, is accessed along Hospital Lane and Welford Road, which are considered acceptable by the Highway Authority; and, at least in daylight hours, through the park and its proposed extension to Church Street. A Grampian-style condition (No14) has

been suggested with a view to improving the Wigston road pedestrian route. Within 2km are employment areas and a secondary school. Connectivity to the footpath and national cycle network would be very good, and would be upgraded as part of the development in accordance with a phasing scheme required under suggested condition 2. South Wigston station is only some 2.5 Km distant.

57. The site is presently not well-served by bus services. This would be addressed by the applicant making a financial contribution by means of the S.106 agreement to the provision of a bus service through the site for a period of 5 years; a bus stop within the site and a "real time" information system. The timing of the provision of the bus stop would be linked to that of the new accesses and the loop road between them, under suggested condition 10.
58. A travel plan would also be prepared (under suggested condition 15) that seeks to encourage sustainable travel; and this would be monitored under provisions also set out in the S.106 agreement. The agreement contains an additional clause which would oblige the applicant to fund bus passes for a period of six months for new occupiers. I accept that this may be desirable in the interests of promoting bus travel and may help new residents get into the habit of using buses. However, I agree with the applicant that it cannot be considered strictly necessary to the acceptability of the development, over and above the provision of the service itself. While I am satisfied that the provisions of the agreement with respect to the contributions towards the bus service; the travel plan; the travel plan monitoring and the real-time information system all meet the tests for planning obligations, that concerning bus passes fails the test of necessity. I therefore accord no weight to this element of the agreement in reaching my decision. The remaining provisions are material considerations in the determination of this application.
59. I conclude that, subject to conditions and to the matters addressed in the S.106 agreement, proposed development would be reasonably well located with respect to local facilities without the occupiers having undue reliance on the use of the private car, in accordance with the objectives of Policy CS10. It would score reasonably well when assessed against the "Building for Life 12" design assessment tool, discussed in more detail under the "Design" heading below, with respect to the "connections" and "facilities" topic.

The contribution of the development to economic growth

[IR paras 289-291]

60. The proposed development would bring some short term benefits during the construction phase in terms of employment and possibly an increase in local spending. But any such benefits are likely to be short-lived and fairly limited. In the longer term, the additional population would increase the potential for spending in local shops and suppliers and could improve the viability of local businesses. The Council would benefit from additional council tax payable and from the New Homes Bonus. But none of these things would apply uniquely to this development.
61. The provision of new accommodation would permit the population of Blaby to rise, potentially providing workers for local employment. However, there is a considerable amount of commuting from Blaby to work in other places. There is no reason to believe that the provision of more homes in Blaby would alter

that position substantially such that the settlement would become more sustainable.

Affordable housing

[IR paras 103 – 116]

62. The proposed development would provide up to 55 affordable homes, representing 25% of the total, in line with Policy CS7, ensured through the terms of the S.106 agreement. The proportion of rented and intermediate dwellings is also broadly consistent with the Council's requirement. In view of the disagreement between the applicant and the Council, I am satisfied that the wording of the agreement provides sufficient flexibility to provide an appropriate tenure split.
63. I am satisfied that the relevant provisions of the S.106 agreement meet the relevant tests for planning obligations.
64. Having regard to the substantial shortfall of affordable homes in the District and in Blaby, the proposed provision is a significant benefit that weighs in favour of the development.

The countryside and the landscape character of the area

[IR paras 145 – 163 & 183 - 191]

65. The site lies within an area identified as countryside under saved Policy C2 of the 1999 Local Plan, the boundaries of which are to be reviewed and designated in the Council's Allocations, Designations and Development Management DPD. That review has not yet taken place. In the meantime, the designation remains for the purposes of applying Policy CS18. Though that presumes against development that would have a significantly adverse effect on the countryside, it should be applied having regard to the acknowledgement in the more recent Core Strategy that new growth in Blaby town is expected to be delivered on greenfield sites.
66. The proposed development would occupy a number of arable fields lying to the east of, but barely contiguous with, the built-up area of Blaby. The part of the site that would be occupied by housing would be separated from the centre of the town by Bouskell Park, the proposed extension to the park, and the Thistly Meadow primary school. Only at its southern end would it link visually with housing on the southern side of Hospital Lane and with the school buildings. Elsewhere, the development would create a harmful visual interruption between the semi-rural park and the open countryside.
67. When approaching Blaby from the east, along Hospital Lane and Mill Lane, it is likely that the development would not have a significant visual impact, especially in the months when trees and plants are in leaf. From Hospital Lane, the tree planting along the eastern edge of the site would effectively screen views from that direction until the point when the urban influence of the bungalows on the other side of Hospital Lane would become apparent. From there, it is clear that one is entering a built-up area.
68. From Mill Lane, there would be some potential for the northern edge of the housing to be seen, but at some distance and with the view heavily filtered by roadside planting and the trees of Long Walk. The northern section of the site that is to be incorporated with Bouskell Park would lose its agricultural

- character. But, if laid out in a similar manner to the park, it would retain a semi-rural appearance consistent with the edge of the settlement.
69. Against that background I take the view that the proposed development would not have a significantly adverse effect on the appearance or character of the rural landscape in terms of Policy CS18, other than in relation to the matters identified elsewhere in this Statement by reference to heritage and recreational matters, to which I return below.
70. The greater effect would be in views from the west, from the park. At present, this forms the green edge to the town, beyond which are open fields with longer views confined by the visually dominant Long Walk woodland. The arable land is not in itself of high landscape or visual quality but, for the reasons set out under my consideration of heritage and recreational assets, together with Long Walk, it provides a rural setting which is an important element of character of the park, the conservation area and the settlement. If the development were to go ahead, that visual connection would be lost.
71. None of the individual trees or wooded areas on the site is covered by Tree Preservation Orders (TPO), but this is not unusual on land in local authority ownership, where control may be exercised without the need for statutory intervention. The absence of TPOs therefore does not indicate any lack of value. Indeed, the Long Walk, in particular, is recognised by the Council and members of the public as having significant landscape and amenity value.
72. Most of the trees on the site, including all individual specimens and groups assessed as being of high quality or value would be retained; and only 1 individual and 1 group of trees of moderate quality would be removed, together with some short sections of hedgerow.
73. A significant number of new trees would be planted, notably in the area proposed as an extension to Bouskell Park, along the western and southern site boundaries, and along the bridleway and the eastern access road. Consequently, there would be a net gain in tree cover. A proportion of hedgerows are also proposed to be kept.
74. I am satisfied that by means of a suggested condition (No 6) the trees to be retained would be suitably protected during the course of construction; and that the future management of the landscaped areas would be assured through the provisions of the S.106 agreement.
75. However, the landscape value of a proportion of the existing tree cover, notably Long Walk, would be diminished owing to the proximity of the proposed housing. Though it would remain as an attractive green spine through the development, it would no longer form part of the wider rural landscape. Similarly, while it is recognised that new landscape buffers may in time limit the direct visual impact of the development, they would in themselves alter the character of the park and the conservation area by providing a sense of enclosure.
76. For these reasons, I consider by reference to Policy CS2 that the proposed development would not respect the distinctive local character of Blaby and would not take sufficient account of local patterns of development and so would not be sympathetic to its surroundings. Although the proposal retains most existing trees and it is intended to plant significantly more, this would not successfully assimilate the development into its local landscape in accordance

with the objectives of saved Policy CE22. It would score poorly when assessed against the *"Building for Life 12"* design assessment tool, discussed in more detail under the "Design" heading below, with respect to the *"working with the site and its context"* and *"character"* topics.

Local heritage assets

[IR paras 164 -182]

The Conservation Area and Listed Buildings

77. Under the terms of S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant permission for development which affects a listed building or its setting, special regard must be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Under S.72, there is a general duty when taking planning decisions in a conservation area (CA) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. NPPF says that, when considering the impact of a proposal on a heritage asset (including by development affecting its setting), an assessment of the significance of the asset should be made, and this should be taken into account with a view to avoiding or minimising conflict between the conservation of the asset and any aspect of the proposal.
78. The Blaby CA includes part of the built-up area of the settlement and Bouskell Park. The site does not extend into it, but a small portion of the former, off Church Street and Mill Lane, lie close to the northern section. However, it would largely be unaffected by the proposed development, as no building is proposed in that area. It is conceivable that filtered views of the housing beyond the Long Walk tree belt might be visible from the eastern end, albeit at some distance, but the setting would not be significantly affected. The approach to Blaby, in which the spire of the Listed All Saints church is a prominent feature, would remain largely unaltered, notwithstanding the proposal to incorporate the farmland into Bouskell Park.
79. In contrast, the effect on Bouskell Park would potentially be both substantial and significant. It once formed the grounds of the Listed Blaby Hall, now converted to offices. But it still provides both a physical and historical context to the building, retaining much of its essential "parkland" character of open grass and trees. From it, clear open views eastwards towards Long Walk are obtainable over the western part of the development site, presently in agricultural production. Although the farmland in itself is of little landscape interest, it nonetheless provides an open and, critically, a rural outlook and setting for the park and to the eastern side of Blaby. The park creates an important green transition between the town and the countryside and is a very important element of the CA, clearly valued by local residents for its character and for informal recreation.
80. The eastern side of the park abuts the development site, separated only by a poor hedge and some immature trees. The Framework Plan shows new "buffer" planting on this boundary, but the proximity of the proposed housing would be such that it would almost certainly remain visible, notwithstanding the intention, as set out in the Design and Access statement (DAS) to create a "low-density staggered edge". Such planting would significantly alter the character of the park and this part of the CA, by depriving it of its rural setting

and openness. The park would become more urban and enclosed. Even if, in time, an effective natural screen could be created by landscaping, the effect on the park would still be harmful, as the screen itself would create a sense of enclosure. Importantly, the present views out of the park towards the Long Walk across open agricultural land would be lost.

81. Close to the eastern boundary of the park, where the shorter section of the Long Walk intersects, is the Listed ice house which formerly served the Hall. Together with its associated pond, it is a feature of historic interest for visitors, within an isolated setting reflecting its original purpose, and is entirely unaffected by other buildings. It lies approximately 10 metres from the edge of the site, and less than 50 metres from the where the development would take place. A number of pedestrian ways converge very close to the ice house, breaking through the planting along the edge of the park at the point identified in the DAS site analysis as "existing woodland entrance". These would be maintained as part of the development in order to permit pedestrian movement between the housing and the park and the proposed park extension.
82. Although there are mature trees and a low hedge between the ice house and the site, this woodland edge is visually permeable, even in summer when the trees are in leaf. Clear views towards the north-western section of housing would be obtainable from the entrance to the ice house and the area around it. In place of the present aspect over open agricultural land towards Long Walk would be views of houses and domestic enclosures having an urban, or suburban character at short range. The photomontages presented by "Land for Life" at the Hearing exaggerate the likely visual impact, not least because they show 3-storey dwellings where none are intended. Nonetheless, even the 2-storey buildings proposed would significantly detract from the character of the setting of the ice house. Its present sense of isolation which is integral to its original function, and its rural context would be permanently lost by reason of the development.
83. Blaby Hall is set some distance away from the critical eastern boundary of the park and is separated from it by a number of trees. Although its setting would be affected to some degree by reason of the change in character of the park, I do not believe that the impact would be great.
84. The Long Walk linear woodland and its pathway has no heritage designation, though it may have served the Hall. I consider the impact of the proposed development on it elsewhere in this statement. In my view, the effect would principally be by reference to recreation and to landscape character rather than historic interest.

Archaeology

85. Although there is no evidence of the site containing any archaeological features of importance, the possibility always remains that some may exist, even though geophysical surveys have not indicated any. The cautious approach of English Heritage and the County Archaeologist is acknowledged, having regard to the fact that some finds have been made in the vicinity. I appreciate that, once permission is granted, even in outline, there may be little flexibility to accommodate archaeology. However, in this case, I consider that it would be disproportionate to require the applicant to undertake trial trenching before a decision is taken on this application. I am satisfied that any necessary archaeological investigation could be assured by means of a condition in the

form suggested in the schedule (No 23), which is acceptable to the applicant. This approach is envisioned by the NPPF and saved Policy CE2 of the 1999 Local Plan.

Heritage: overall conclusion

86. By reference to the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would fail to preserve or enhance the character and appearance of that part of the CA occupied by Bouskell Park or the setting to the Listed ice house. Having regard to the guidance of the NPPF, it would cause substantial harm to the significance of both. Moreover, it would not make a positive contribution to local character and distinctiveness, contrary to Policies CS2 and CS20. Harm to the remainder of the CA and to the setting of other Listed Buildings, including Blaby Hall and the church, would be less than substantial; and any archaeology that may be encountered could be addressed satisfactorily by planning condition.

Recreational assets

[IR paras 158 – 163 & 265-270]

87. The principal existing recreational assets in the vicinity of the site comprise Bouskell Park and the network of rights of way and permissive paths.
88. Bouskell Park provides a pleasant setting for informal recreation, conveniently located close to Blaby centre and to residential neighbourhoods. Policy CS14 identifies it as having potential for improvement as a recreational resource. It is clear from public representations that it is valued by members of the public for its semi-rural parkland character and its historical associations with Blaby Hall, including the ice house and the pond. For the reasons set out with respect to my consideration of heritage assets and the landscape, I take the view that the quality of the recreational experience in the existing park would be reduced by the proposed development.
89. A bridleway links Hospital Lane with Mill Lane, joining with a footpath that runs north-westwards to Church Street and to a permissive path that continues through the Long Walk woodland belt and on to the wider Rights of Way network. For much of its length, the bridleway adjoins to the east a belt of maturing woodland that effectively screens views in that direction. But on the other side it adjoins fields and hedges and enjoys a more open aspect towards the settlement. However, the outlook is almost entirely rural, owing to intervening vegetation, notably the longer arm of Long Walk. The footpath runs partly alongside the cemetery before crossing an arable field, affording filtered views to Blaby, including the prominent church tower. Both rights of way represent useful practical and recreational assets within a rural setting.
90. A considerable length of the bridleway would run through the site and alongside the eastern boundary of the proposed housing development. Notwithstanding that some landscaping would be planted on its western side, its character would alter. The views would be constrained, either by the houses or planting; and the experience of walking through countryside largely unaffected by development would be diminished. In particular, views towards the dominant feature of Long Walk would either be lost or radically impeded.

91. A portion of the footpath crosses land which, though within the site, would not be developed for housing, but would become a northern extension to Bouskell Park. Under suggested condition 11, this would be upgraded to a footway / cycleway. The character of the walk would be altered, in that arable fields would be replaced by parkland, but I do not believe that the quality of the recreational experience would lessen.
92. Long Walk woodland belt contains a path throughout its length, part of a longer permissive footpath which runs through the park, past the ice house and then onwards to link to the footpath and the bridleway. The permissive path thereby provides a continuous connection between Blaby, through the semi-rural parkland into undeveloped countryside and rights of way beyond. The section through Long Walk is especially attractive because of the mature trees and undergrowth, greatly valued locally and beyond for its rural character and as a recreational and wildlife asset.
93. If the development were to go ahead, most of Long Walk would have housing to one side or the other; and a small section would have buildings to both sides. Although the houses would not be directly adjacent to the woodland, and the undergrowth provides a considerable amount of screening, at least in the months when in leaf, I believe that it would lose a significant amount of its character and recreational value. Rather than being a linear woodland passing through fields, within the countryside, it would become a pathway, albeit tree-lined and attractive, making its way through a housing estate. Similarly, the short section of the permissive path linking its southern end to the bridleway would become no more than a suburban walkway.
94. The provision of the park extension, amounting to some 3.73ha would be a significant recreational benefit. This would be in addition to the retention of woodland, and the provision of informal open space, landscape buffers and a children's play area, which in total would be around 10 ha. The provision of these facilities and their long term management would be secured by the S.106 agreement
95. Provision of open space is required by Policy CS15. Suitable management of areas of open space is necessary in the interests of good planning. The provision of the public open space (POS) and management relates solely to land within the application site and therefore it is directly related to the development. The amount of POS provided is significantly above the minimum required by policy. However there are sound design and landscaping reasons why the level of provision is necessary. The management provided for in the agreement would relate solely to the open space within the development. Its provisions are in line with the Council's SPD and are fairly related in scale and kind to the development.
96. I conclude that the open space and recreational provisions of the S106 agreement meet the relevant tests for planning obligations.

The design of the development

[IR paras 292- 302]

97. The application is in outline, with all matters other than access reserved for subsequent approval. Detailed design is therefore something that may be negotiated separately between the developers and the Council, constrained only by the physical context, such as the location and the presence of features

which are to be retained, such as Long Walk and existing rights of way, and the points of vehicular access that form part of the application. It is also to some degree constrained by the general principles described in the Design and Access Statement (DAS), though these would not preclude alterations to the detail at reserved matters stage.

98. It is appropriate that the Council should seek to achieve a high standard of design, consistent with the NPPF and the CS in order to raise design quality throughout the District. The *"Building for Life 12 Assessment"* (BfL12) is a useful tool which, under policy CS2, the Council uses for assessing the likelihood that a development will reach an acceptable standard [see IR Para 300 and Table 6]. Of the 4 aspects marked "red", all are to a large degree considered under my other topic headings. Of the 5 marked as "amber", 3 are acknowledged to be incapable of assessment at outline stage. I have no reason to believe that they cannot be satisfactorily addressed. I am also satisfied that the remaining *"public transport"* and *"Easy to find your way around"* topics either have been, or are capable of being resolved acceptably.
99. Without prejudice to my conclusions elsewhere with respect to the topics assessed as "red" by the Council [*Connection; Facilities; Character; and Working with the site and its context*], I conclude that there is no compelling reason to oppose this development by reference to the other elements of the BfL12 assessment.

Highway safety

[IR Paras 134- 144]

100. Access to the proposed development forms part of the application but, although the internal road layout is shown in general terms within the DAS, details would have to be submitted separately for approval as reserved matters (suggested conditions 1 & 9). However, there is no reason to believe that the site could not be laid out in a manner that would be safe for all road users, including pedestrians. The timing of the provision of the accesses and the loop road are covered by suggested conditions 5 & 9.
101. The proposed development would give rise to additional traffic which would have greatest impact on Hospital Lane. As I observed on my site visit, that road is heavily used at peak times. School crossing wardens are employed at the entrance of the school and on Welford Road to ensure the safety of children and parents. The effect of the traffic would be greatest at the new junctions with the site and at those at either end of the lane. Suggested conditions 12 and 13 would limit development until alterations to the mini roundabout at its western end had taken place and additional street lighting on Hospital Lane had been provided. Signalisation of the junction at the other end of Hospital Lane, with Leicester Road, is already planned by the Highway Authority. Under the terms of the S.106 agreement, a contribution would be made to the validation of computer software for the signals to take account of the proposed development. A further suggested condition has been put forward (No 16) requiring a Construction Management Statement to be prepared that, amongst other things, would limit the impact of construction traffic on road safety.
102. Subject to these conditions and the agreement, the Highway Authority is satisfied that the proposed development would be acceptable from the road

safety aspect. I am content that the S.106 contribution meets the tests for planning obligations.

School drop-off / pick-up area

103. A new drop-off point for the Thistly Meadow primary school is proposed within the site as part of the development, serving a new pedestrian access. At present there is a small lay-by on Hospital Lane outside the school which allows children to be dropped-off and picked-up safely from vehicles. Although busy at the morning peak time, I did not observe any congestion or particular road hazard resulting from its use. Given the proximity of the proposed development, it is likely that most pupils living within the development would walk to the school. Although some parents might take children by car, for example in bad weather, or on the way to work, I doubt whether the use of the lay by would increase significantly or that any such increased use would give rise to any highway safety problems. A new, additional drop-off point of the size proposed cannot be justified, and is not supported by the Highway Authority. On the other hand, the provision of a smaller facility might be convenient and would reduce the potential for any local congestion that might arise.
104. Therefore, while I raise no objection to its provision, the proposed drop-off point as envisaged by the application and the S.106 agreement is not necessary; and, if it is to be provided, it need not be of the size specified. Its inclusion as a specific requirement in the S.106 agreement cannot therefore be justified by reference to the tests for planning obligations. I therefore accord no weight to this element of the agreement in reaching my decision.
105. However, insofar as the proposed drop-off point forms part of the development, it is appropriate that details of its layout and landscaping should be submitted and approved, as required by suggested conditions 6 and 9.

Biodiversity interests

[Paras 183 – 211]

106. The arable fields that cover the majority of the site have little intrinsic wildlife interest. In itself, their loss, whether to built development or to the park extension, would have little adverse ecological consequence. None of the site has been formally designated as having wildlife or ecological interest. The existing trees, hedgerows, ponds and watercourses all provide potential habitat for a range of wildlife but, notwithstanding the concern expressed by individuals and community groups, the County Ecologist is of the view that few significant features of more than local interest have been identified. By way of providing a safeguard, a condition (No21) has been suggested requiring an updated ecological survey in relation to protected species to be carried out before reserved matters are submitted; and, if any are found, requiring mitigation measures to be put in place.
107. Long Walk acts as a wildlife corridor, albeit that it is already heavily used as a path for recreation and dog walking so that it is already subject to considerable disturbance. It is likely that, if the development were to take place, both it and other features with wildlife potential would become more disturbed.

108. Most of the existing habitats would be retained and supplemented by new planting, and there could be some additional potential for habitat creation and provision of wildlife corridors through the site. Under suggested condition No 20, a scheme for ecological mitigation, enhancement and future management would be required to be submitted and carried out, with the intention of reducing the impact on the existing wildlife value of the site and, so far as practical, increasing its potential. This would relate to the landscape proposals; the sustainable drainage schemes; reducing light spill in order to reduce the effect on foraging bats; providing bat boxes to supplement those already in Bouskell Park; and submission of a management plan for existing and created habitats.
109. If permitted, the proposed development would inevitably have some impact on local wildlife and their habitats, but I am satisfied that, through the imposition of these conditions, it would be unlikely to be significantly adverse. Having regard to the Council's Phase 1 Vegetation and Habitat Survey (2008); the applicant's ecology reports; the views of the County Ecologist; and the absence of any objection from Natural England, I conclude that there would be no significant breach of Policies CS2 or CS19, or the NPPF objective of conserving and enhancing biodiversity.

The provision of infrastructure and local services

Education

[IR Para 232– 241]

110. It is appropriate for the development to make provision for necessary additional school places by virtue of Policies CS11 and CS12 and the Council's Planning Obligations and Developer Contributions Supplementary Planning Document (SPD). Financial provision is made in the S.106 agreement, expressed as a formula, as the precise number of dwellings is not presently known at this outline stage.
111. It is agreed between the applicant and the Local Education Authority (LEA) that sufficient secondary and post-16 educational provision is available to meet the likely demand from the development. My consideration is therefore limited to primary places. If the maximum of 220 dwellings were to be built, the Department for Education's usual formula would give rise to a need for 53 places. It is also agreed that, in calculating the amount of the contribution, account should be made of the number of existing surplus places at schools within walking distance of the development.
112. However, the applicant and the LEA disagree over whether account should be taken of places that will be funded through planning obligations already in place relating to other development. Consequently the S.106 agreement contains 2 alternative clauses (the "First Education Formula", representing the view of the applicant, and the "Second Education Formula", representing that of the LEA). I agree with the applicant that account should be taken of places for which funding already exists. To do otherwise would be unreasonable, in my view, and would fail the relevant tests for planning obligations: the contribution would in part be unnecessary, and would not be reasonably related in scale.
113. For those reasons, I conclude that the "Second Education Formula" does not comply with the relevant tests. However, the "First Education Formula"

complies with the relevant tests and makes appropriate provision for school places.

Library

[IR Paras 262-263]

114. It is reasonable for the development to make a contribution to static library facilities in Blaby by virtue of Policies CS11 and CS12 and the Council's Planning Obligations and Developer Contributions Supplementary Planning Document (SPD), which sets out specific costs by reference to the size of the houses permitted. Financial provision is made in the S.106 agreement, expressed as a formula, as the precise number of dwellings is not presently known at this outline stage.

115. The formula has been arrived at by reference to the number of residents per dwelling, the proportion of library users in the population and the cost of providing library materials; and is not disputed by the applicant. The SPD indicates that the amounts per dwelling are said to be adjusted to reflect the CIPFA (Chartered Institute of Public Finance and Accountancy) submitted costs of providing library services. I am satisfied that this element of the S.106 agreement meets all of the relevant tests.

Police Contribution

[IR Paras 242-261]

116. The Council's SPD does not specify the amount of contribution that will be sought in relation to making provision for policing, recognising that the impact of development will alter with different types and scales of development. Other than for building / works or land, contributions are assessed on a case by case basis.

117. Leicestershire Police has requested contributions relating to a wide range of matters, only some of which have been agreed by the applicant. I am satisfied that the proposed contributions relating to these: the start-up equipment; vehicles; additional radio call capacity; database capacity; additional call handling; and hub equipment all meet the relevant tests for a planning obligation.

118. The remaining matters, relating to the provision of an automatic number plate recognition (ANPR) equipment; mobile CCTV and premises remain in dispute. The S106 agreement includes alternative "strike-out" clauses which reflect the different positions taken by the parties.

Premises

119. The need for increased staff required in connection with policing the proposed housing area would in turn create an increased need for accommodation. The police have said that they occupy buildings to capacity and there is no evidence to the contrary. The scale of the contributions equates to the building cost of providing sufficient floor space to accommodate the additional staff associated with the development. On that basis, the contribution appears to meet the relevant tests for planning obligations.

120. I recognise that the applicant considers this contribution to be unnecessary, primarily because the police have disposed of buildings and have not consistently sought contributions. I agree that it would not be appropriate for a contribution to be sought where provision is being made from other sources, such as existing mainstream central and local funding. However, the police point to an impact assessment which concludes that most of the capital costs incurred by growth will not be covered in that way. Moreover, although the police may not have been consistent in their approach to seeking contributions, that has no bearing on this case, provided that what is sought fairly and reasonably relates to the development in question and does not seek to make up for the needs brought about by others.
121. I conclude that the provision of the S106 agreement relating to the provision of additional police premises complies with the relevant tests for planning obligations.

ANPR and mobile CCTV

122. The police use ANPR cameras and mobile CCTV as an aid to crime detection and prevention. An appropriate increase in this infrastructure could be justified by the development. The development would result in an increase in vehicle movements and therefore additions to the ANPR infrastructure in appropriate locations near the site would be directly related to the development.
123. The police seek a contribution equating to 66% of the cost of a single ANPR camera and a single mobile CCTV unit. Although they point to a range of factors including the size of the development and its location, it is unclear how the figure of 66% of the cost has been reached or how the scale of the contribution relates to the scale of the development. It is not sufficient to say that it is a matter of judgment. As such it appears that this contribution is not reasonably related to the scale of the development.
124. For those reasons, I direct that the provisions of the S.106 agreement with respect to the ANPR and CCTV do not comply with the relevant tests and so I do not attach any weight to them
125. I note the representations on behalf of the police with respect to the S.106 agreement, seeking assurance that contributions paid to the Council for police purposes should be passed on. Even though some agreements do include such provisions, it is not essential for them to include such a positive obligation. The agreement requires that the Council (or other parties) should use the contributions only for the purposes which they have been paid. The Council is the responsible authority and should be able to be relied upon to manage contributions appropriately.

Other facilities

Health

[IR Paras 271-273]

126. A development of the size proposed would clearly give rise to an additional demand for health services significantly in excess of what would be generated by the quantity of housing promoted in the Core Strategy. It is not known whether the difficulties reported by members of the public concerning access to

medical and dental care should be regarded as exceptional. However, no provider has indicated that the proposed development would lead to a significant shortfall of provision locally. I have no basis on which to draw a firm conclusion on the issue. However, it is unlikely to be a determinative issue in this case.

Utilities

[IR274-276]

127. Having regard to the availability and capacity of utilities, I am satisfied that the proposed development could be accommodated satisfactorily.

Waste

[IR Para 264]

128. There is no requirement for a contribution to be made in relation to household waste management.

Drainage and flooding

[IR paras 217-223]

129. Provided the proposed development would be carried out in accordance with a scheme designed to limit run-off to local watercourses to a rate no greater than the undeveloped site; and for the proposed dwellings to be built above a specified level, then I am satisfied that the risk of local flooding should not increase. Although I acknowledge that flooding has occurred in the vicinity of the site in recent times, it would not be appropriate through conditions or the S.106 agreement to address pre-existing problems. The Environment Agency is content that such matters, together with provision for maintenance access to be provided to watercourses, may be addressed by means of suggested conditions 17 – 19; and through a Sustainable Urban Drainage System (SUDS) management plan secured through the S.106 agreement. The provisions of the NPPF and of development plan policies CS22 and CF5 would be met.

130. I am satisfied that the suggested conditions and the relevant provisions of the agreement meet the relevant tests.

Residential amenity

[IR paras 224- 228]

131. The site does not adjoin any existing residential development. Consequently, there would be no potential for the housing to give rise to any direct adverse effect on the living conditions of local residents, other than potentially during the construction phase. There is a row of bungalows to the south of Hospital Lane, on to which the proposed vehicular accesses would lead. That would give rise to more traffic on the road and to additional turning movements. But, as the dwellings are set back and are accessed by a service road, any adverse effects would be negligible. Recreational use of the proposed extension to the park could cause some additional noise for residents of dwellings to the north and north-west of the site, but the effect is unlikely to be significant. Having regard to the illustrative Framework plan and the DAS, I have no reason to believe that the living conditions of future occupiers of the site would be any different to what may commonly be enjoyed in any conventional housing development.

132. I conclude that living conditions of existing and future residents would be acceptable, having regard to the objectives of saved policy R1 of the Local Plan.

Other matters

Loss of agricultural land

[IR Paras 212-216]

133. Around three quarters of the site may be regarded as “best and most versatile” land, being classified as Grade 2 or 3a in the Agricultural Land Classification. Of this, approximately one-third (or a quarter of the overall site) is the higher Grade 2. This is located in the northern part of the site which is not proposed for built development. Though theoretically reversible this land, which is to be used as an extension to the park, is in practice never likely to be brought back to agriculture. The terms of the S.106 agreement expressly prohibit the use of land which would be transferred to the Council as Public Open Space for any other purpose.
134. The NPPF encourages the use of previously developed “brownfield” land; and, where the use of agricultural land is demonstrated to be necessary, the use of poorer quality is preferred to that of a higher quality. Notwithstanding the undoubted benefits of providing a substantial number of new dwellings, including affordable homes, no necessity has been demonstrated for the use of this land by reference to compliance with the CS strategy for the location of development. The economic and other benefits of good quality agricultural land should be taken into account.

Ground conditions

[IR Para 277-280]

135. The risk of the site being contaminated is low. Nonetheless, a condition (No 22) has been put forward that provides a framework within which remediation may be carried out in the event that contamination is unexpectedly found.

Air quality

[IR Paras 281-284]

136. Other than during the construction phase, the proposed development is unlikely to have any significant impact on air quality, whether taken alone or in combination with other developments. Even during the construction phase, any impact could be mitigated by site management.

Noise

[IR Paras 285-288]

137. The potential for adverse noise impact arising from the development is low. Any existing noise, for example through traffic, capable of affecting future occupiers could be addressed at the reserved matters stage, in the context of the proposed layout.

Crime

138. Although Long Walk would be an important physical element of the overall layout and of significant recreational, wildlife and amenity value, I am aware of

concern expressed regarding the risk of increased crime that might arise, in view of its proximity to the proposed housing and the fact that it would be unlit and incapable of passive surveillance. This would be contrary to one of the objectives of Policy CS2 to “design out crime” and the NPPF. It is a factor that weighs against the development. Fear of crime is capable of being a material consideration, but it is not a determining factor in this case.

Conclusion

139. Consideration of the foregoing matters reveals that in some respects the proposed development may be regarded as sustainable by reference to one or more of the dimensions of sustainable development set out in the NPPF but, in others, and to varying degrees, it would not. Similarly, it complies with some parts of the development plan, but not others. Under my final issue, I draw together these conclusions with respect to the various matters addressed and carry out the balancing exercise required under the NPPF, having regard to its central tenets as set out at the beginning of Issue (a).

Issue (c) compliance with the development plan and the balancing exercise

140. The development plan is not out of date and provides for a 5 year supply of housing. The provision of up to 220 dwellings in the District is in accordance with the aspirations of the Core Strategy to provide sufficient homes to meet the needs of present and future generations and, by the addition of a buffer of a further 20% housing in line with the NPPF, to take account of historic undersupply, providing a realistic prospect of achieving the planned supply. In view of the emphasis placed by the NPPF on the need to provide homes speedily and to make up previous shortfalls in provision, this is a weighty consideration in favour of the development. So too would be the provision of up to 55 affordable homes having regard to the very significant shortfall both in Blaby and the District generally.

141. On the other hand, the development is not in accordance with the locational strategy of the CS, which itself is based on inherently sustainable principles. The locational strategy for housing is indivisible from the policy to provide sufficient homes. Building a substantial number of new dwellings other than in accordance with the thrust of the strategy to direct development to the SUE is not sustainable.

142. The proposed enlargement of Bouskell Park would substantially exceed what would normally be required to be provided by a residential development of the scale proposed. Together with upgraded footpaths and cycleways, this would represent a significant benefit in terms of recreational provision.

143. However, the proposed development would fail to preserve or enhance the character and appearance of that part of the CA occupied by Bouskell Park or the setting to the Listed ice house. It would cause substantial harm to the significance of both by reference to the NPPF; and be contrary to the related objectives of the CS.

144. The value of the park in terms of recreational potential and enjoyment by visitors would be diminished. I consider this to be very significant and only partly offset by its proposed extension. The harm is not capable of mitigation by means of landscaping. The recreational value of the Long Walk woodland,

other permissive footpaths and statutory rights of way within the site would also be reduced, contrary to the objectives of Policy CS14.

145. The development would occupy about 10Ha of agricultural land, of which approximately three-quarters is classified as "best and most versatile". The effective loss of this land is not sustainable in terms of the cost to productive potential. Even where significant development of agricultural land is demonstrated to be necessary, preference should be given to the use of poorer quality land. But there is a sufficient supply of housing and no such necessity has been demonstrated. Apart from the issue of crime, which weighs against the development, the other consequences of the development are either neutral in effect, or capable of being wholly or mainly mitigated by the terms of the S.106 agreement and the conditions which could be imposed. None, individually or collectively are determinative of the application.

Conclusion

146. To a very large extent, the benefits of the new market and affordable housing in social and economic terms would be negated by the lack of conformity with the broader locational strategy. The social and environmental benefits would be very considerably outweighed by the harm to the character and appearance of Bouskell Park; to the heritage assets and to the recreational value of the park, the Long Walk woodland and the statutory and permissive footpaths; and by the loss of high quality agricultural land.
147. Taking all factors into account, I conclude on balance that the proposed development would be contrary to the development plan as a whole and would be unsustainable. Material considerations do not indicate that the decision should be other than to refuse permission in accordance with the guidance of the NPPF.
148. For the reasons outlined above I consider that this application should be refused.

Jonathan G King

INSPECTOR