

Mr N Paterson-Neild  
Barton Wilmore  
Beansheaf Farm House  
Bourne Close  
Calcot  
Reading  
RG31 7BW

Our Ref: APP/X3025/A/10/2140962

30 June 2011

Dear Mr Paterson-Neild,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY WATES DEVELOPMENT LTD  
LAND AT PICKET PIECE (LAND TO THE NORTH AND SOUTH OF OX DROVE  
AND SOUTH OF WALWORTH ROAD), ANDOVER, HAMPSHIRE  
APPLICATION REF: 10/00242/OUTN**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI, who held a public local inquiry which opened on 5 April 2011, including a site visit on 7 April, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Test Valley Borough Council to refuse outline planning permission for a mixed-use development comprising up to 530 dwellings, a local centre offering community facilities and retail units, public open space, vehicular, pedestrian and cycle access and landscaping, in accordance with planning application ref: 10/00242/OUTN, dated 5 February 2010.
2. The appeal was recovered for the Secretary of State's determination on 25 November 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

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

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusions and with his recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

## Policy Considerations

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the South of England Plan (the RS), adopted in 2009 and the saved policies of the Test Valley Borough Local Plan (the TVBLP), adopted in 2006. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR11-12.
5. The Secretary of State has made it clear, following the judgment of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin), that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration. However, while the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.
6. Other material considerations which the Secretary of State has taken into account include PPS 1: *Delivering Sustainable Development* and its associated *Planning and Climate Change Supplement*; PPS3: *Housing*; PPS4: *Planning for Sustainable Economic Growth*; PPS5: *Planning for the Historic Environment*; PPS7: *Sustainable Development in Rural Areas*; PPS9: *Biodiversity and Geological Conservation*; PPS10: *Planning for Sustainable Waste Management*; PPG 13: *Transport*; PPG17: *Planning for Open Space Sport and Recreation*, including its Companion Guide *Assessing Needs and Opportunities*; PPS22: *Renewable Energy*; PPS23: *Planning and Pollution Control*; PPG24: *Planning and Noise*; PPS25: "Development and Flood Risk"; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy (CIL) Regulations 2010 as well as those documents set out at IR13.
7. The Secretary of State has also taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, dated 23 March 2011, which emphasises that the Secretary of State will attach significant weight to the need to secure economic growth and employment.

## Procedural matters

8. In reaching this position the Secretary of State has taken into account the Environmental Statement submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as set out at IR4. The Secretary of State is satisfied that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impacts of the appeal.

## **Main Issues**

9. The Secretary of State agrees with the Inspector that the main issue in this case is whether the Council can demonstrate an up to date 5 year supply of deliverable housing sites, such that there is no over-riding need to develop the appeal site and set aside the general policy of restraint on development in the countryside (IR153-155).

### Development plan

10. The Secretary of State agrees with the Inspector's reasoning and conclusions on the development plan as set out in IR156-158. He agrees that the appeal proposal would conflict with TVBLP saved policy SET03, which only permits development in the countryside if there is an overriding need for it to be so located. He has gone on to consider whether there are material considerations sufficient to outweigh this development plan conflict.

### Housing land

11. For the reasons given in IR159-170, the Secretary of State agrees with the Inspector's conclusions at IR170 that there is a strong justification for attempting to remedy the shortfall in the short to medium term rather than over the SEP period as a whole.
12. For the reasons given in IR171-196, the Secretary of State agrees with the Inspector's conclusions at IR197 that compared against the 5 year requirement of 2,012 dwellings (IR170), there is only 3.3 years provision, and even when compared against the Council's preferred requirement of 1,685 dwellings it only amounts to some 3.9 years provision.
13. Given the lack of an up to date 5 year supply of deliverable housing sites, the Secretary of State has gone on to consider the appeal under paragraph 71 of PPS3, having regard to the policies in PPS3 including the considerations in paragraph 69. For the reasons given in IR201-213, the Secretary of State agrees with the Inspector's conclusions at IR209 that this proposal should be considered favourably. He has noted the Inspector's view at IR212 that the Ministerial Statement 'Planning for Growth' lends significant weight to this proposal, which would provide much needed housing in a sustainable location close to significant employment opportunities, and he agrees that the Ministerial Statement weighs in favour of the proposal.

### Other matters

14. For the reasons given in IR214-222, the Secretary of State agrees with the Inspector's conclusions on transport, affordable housing, infrastructure and community facilities, access, density and delivery.

### Conditions and obligations

15. The Secretary of State has had regard to s.106 agreement between the appellant and the Council, and has considered it in the light of Circular 05/2005

and the Community Infrastructure Levy (CIL) Regulations 2010. He agrees with the Inspector's assessment of the obligation as set out at IR214-216 and is satisfied that the obligations comply with Circular 05/2005 and the tests set out in Regulation 122 of the CIL regulations.

16. The Secretary of State has considered the proposed conditions set out in the Appendix C of the IR, the Inspector's comments at IR223-225, and the policy tests set out in Circular 11/95. He agrees with the Inspector that conditions 33-35 inclusive should not be imposed, and considers that the other conditions are reasonable and necessary and comply with the provisions of Circular 11/95.

### **Overall conclusion**

17. The Secretary of State has considered whether there are material considerations sufficient to outweigh the conflict with the development plan. The proposal represents a sustainable housing development which would be well located to assist economic growth, and the Secretary of State does not consider that any of the points raised in opposition by interested persons weigh materially against it. He concludes that material considerations, including the lack of a 5-year supply of housing land, weigh significantly in favour of allowing the appeal and setting aside the general policy of restraint on development in the countryside, and outweigh the conflict with the development plan.

### **Formal Decision**

18. Accordingly, for the reasons given above, the Secretary of State hereby allows your client's appeal and grants planning permission for outline planning permission for a mixed-use development comprising up to 530 dwellings, a local centre offering community facilities and retail units, public open space, vehicular, pedestrian and cycle access and landscaping, in accordance with planning application ref: 10/00242/OUTN, dated 5 February 2010, subject to the conditions at Annex A of this letter.
19. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
20. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
21. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

## **Right to challenge the decision**

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

23. A copy of this letter has been sent to Test Valley Borough Council and those who appeared at the Inquiry. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

**Maria Stasiak**

Authorised by the Secretary of State  
to sign in that behalf

## **ANNEX – CONDITIONS**

1. Applications for the approval of all the reserved matters for the first phase of the development referred to herein shall be made within a period of 3 years from the date of this permission. Applications for the approval of all remaining reserved matters shall be made within a period of 7 years from the date of this permission. The development to which the permission relates shall be begun not later than which ever is the later of the following dates:
  - i) 3 years from the date of this permission: or
  - ii) 2 years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Approval of the details of the layout, scale, and external appearance of the building(s), and the landscaping (herein called "the reserved matters") for each phase of the development, shall be obtained from the local planning authority in writing before any development is commenced within that phase of the development.

### **Design Principles**

3. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the Master Plan (drawing number 12212-32 revision M), the S106 Phasing Plan (drawing number 12212-93 revision E) contained within the Planning Obligation Agreement and specifically shall be in accordance with the following aspects of the Design and Access Statement February 2010 and parameter plans:
  - a) Design Vision and Concept (page 34);
  - b) The Land Use Parameter Plan (drawing number 12212-76 Revision D);
  - c) The scale and massing parameters (Table 5 page 48) (as amended by Barton Willmore letter dated 26th May 2010 in relation to the primary school building), the Building Heights Parameter Plan (drawing number 12212-78 Revision D) and the AOD Heights Parameter Plan (drawing number 12212-79 Revision D);
  - d) The Density Parameter Plan (drawing number 12212-77 Revision D);
  - e) The Landscape and Open Space strategy (page 52), Soft Landscape Elements (Table 10), Hard Landscape Elements (Table 11), Boundary Treatments (Table 12) and Street Furniture (Table 13);
  - f) Layout and Appearance principles on pages 60-63 including Tables 14, 15 and 16);
  - g) Urban Design Principles and Character Zones (pages 64 and 66, and paragraphs 4.88-4.118);
  - h) Space Typology principles (pages 78, 80-83);
  - i) Architectural Strategy including Colour Palette (Table 18) on page 84 and building form details and materials (table 19) on page 85;
  - j) Access and Movement principles (page 90), Pedestrian and Cyclist Network principles (page 94), Vehicular Network principles (page 96), and Highway Design Parameters Table 20 on page 98.

## **Highways**

4. Prior to the commencement of development within each development phase full details of the layout for the parking and manoeuvring on-site of contractor's and delivery vehicles during the construction period of that development phase shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period within that development phase.
5. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no vehicular or pedestrian access, other than that shown on the approved plans, shall be formed to the site.
6. No dwelling shall be occupied until a connection between it and the highway proposed for adoption has been constructed to at least binder course level for use by pedestrians, cycles and vehicles.
7. Prior to the commencement of development within each phase details of the cycle parking for that phase of the development shall be submitted to and approved in writing by the local planning authority. No dwelling within that phase of development shall be occupied until the approved cycle parking serving that dwelling has been provided on site and shall be retained thereafter for their intended purpose.
8. Within each development phase no development hereby permitted shall be commenced within that development phase until the local planning authority has approved in writing detail of:
  - a) The width, alignment, gradient and surface materials for any proposed roads/footways/footpaths/cycleways within and serving that development phase including all relevant horizontal and longitudinal cross sections showing existing and proposed levels;
  - b) The type of street lighting including calculations, contour illumination plans and means to reduce light pollution within and serving that development phase;

The development shall be carried out in accordance with these approved details.

## **Landscaping**

9. No development shall take place within each phase until full details of both hard and soft landscape works relating to that phase have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure and boundary treatment; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc)

10. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
11. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development within each phase or in accordance with the programme agreed with the local planning authority.
12. A landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of any phase of the development for its permitted use. The landscape management plan shall be carried out as approved unless otherwise agreed in writing by the local planning authority.

### **Protected Species**

13. Details of the dormouse related mitigation and enhancement measures for each phase shall be submitted to and agreed in writing by the local planning authority, prior to the commencement of any development related to each phase. Such details as may be agreed in writing shall include details of a construction and post construction lighting plan as well as details as to how the development seeks to comply with the requirements of section 6 of the WSP Environmental Picket Piece Dormouse Report and Mitigation Strategy report dated March 2011. Any such details as may be agreed shall thereafter be implemented in accordance with the agreed details.

### **Trees & Hedgerows**

14. Development within each phase shall not commence until:
  - a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
  - b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
  - c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
  - d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree;
  - e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

15. The plans and particulars submitted in accordance with condition 14 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.
16. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the occupation of each building for its permitted use.
  - a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the local planning authority.
17. All hedges or hedgerows on the site unless indicated as being removed shall be retained and protected on land within each phase in accordance with details submitted to and approved in writing by the local planning authority for the duration of works on land within each phase unless otherwise agreeing in writing by the local planning authority. In the event that hedges or hedgerows become damaged or otherwise defective during such period the local planning authority shall be notified in writing as soon as reasonably practicable. Within one month a scheme of remedial action, including timetable for implementation shall be submitted to the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable. Any trees or plants which, within a period of 2 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

### **Sports Pitches and Play Areas**

18. Prior to the commencement of development within phase 1b (as shown on the S106 Phasing Plan (drawing number 12212-93 revision E) contained within the Planning Obligation Agreement) details of the full pitch/pavilion layout/MUGA and their specification shall be submitted to and approved in writing by the local

planning authority. The development shall be carried out in accordance with the approved details.

19. Prior to the commencement of development within each relevant phase details of the layout and specification for children's play spaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

### **Archaeology**

20. No development shall take place (including site clearance), until there has been submitted to and approved by the local planning authority a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work, which has been submitted by the developer and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved programme.

### **Design and detailing**

21. Within each development phase no development shall take place until samples and details of the materials to be used in the construction of all external surfaces within that development phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
22. The sports pitches, MUGA and any buildings within the local centre shall not be lit by any external form of lighting without the prior written consent of the local planning authority. Development shall be carried out in accordance with the approved details.

### **Environment and Water**

23. Within each development phase no development shall commence until a method of demolition and construction for that development phase has been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority. No piling or any other foundation designs using penetrative methods shall take place without the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.
24. No development phase shall be commenced until such time as a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to the completion of the development of that phase and thereafter managed and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. Those details shall include:
  1. infiltration tests, carried out to BRE 365 standards, to determine the requirement;
  2. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the

- site and the measures taken to prevent pollution of the receiving groundwater;
3. a timetable for its implementation; and
  4. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

### **Ground Conditions**

- 25.** Prior to the commencement of development within each phase (or such other date or stage in development as may be agreed in writing by the local planning authority), the following components of a scheme to deal with the risks associated with contamination of that phase shall be submitted to and approved in writing by the local planning authority:
1. A preliminary risk assessment which has identified:
    - i. All previous uses;
    - ii. Potential contaminants associated with those uses;
    - iii. A conceptual model of the site indicating sources, pathways and receptors;
    - iv. Potentially unacceptable risks arising from contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  3. The site investigation results and the detailed risk assessment (2) 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.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) 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 express consent of the local planning authority. The development of each phase shall be carried out in accordance with the approved details.
- 26.** A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for each phase of the development shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a “long-term monitoring and maintenance plan”) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
- 27.** If, during development, contamination not previously identified is found to be present at the site then no further development within that phase (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted to and received written approval from the local

planning authority for an amendment to the remediation strategy detailing how this unsuspected contamination is to be dealt with.

28. Development shall not commence within each phase until details of the proposed means of foul sewerage disposal serving that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

### **Construction**

29. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, shall take place before the hours of 0730 nor after 1800 on Mondays to Fridays; before the hours of 0800 nor after 1300 on Saturdays; and at all on Sundays and public holidays.
30. No deliveries of materials or removal of spoil during the construction of the development shall take place before 0915 or after 1500 on Mondays to Fridays, or before 0800 or after 1300 hours on Saturdays. There shall be no deliveries of materials or removal of spoil during the construction of the development on Sundays and public holidays.
31. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no overhead electricity or service lines shall be erected or placed above ground on site except as may be agreed in writing with the local planning authority in relation to temporary rerouting of existing services whilst the development is undertaken.
32. Details of the measures to be taken to prevent mud from vehicles leaving the site during the construction works being deposited on the public highway shall be submitted to and approved in writing by the local planning authority and fully implemented prior to the commencement of development of each phase and retained on site for the duration of the construction period of that phase.

## **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.



The Planning  
Inspectorate

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

by **David Wildsmith** BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Date: 20 May 2011

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**TOWN AND COUNTRY PLANNING ACT 1990**

**TEST VALLEY BOROUGH COUNCIL**

**APPEAL BY**

**WATES DEVELOPMENTS LTD**

Inquiry opened on 5 April 2011

Land at Picket Piece (land to the north and south of Ox Drove and south of Walworth Road), Andover,  
Hampshire

File Ref: APP/C1760/A/10/2140962

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**File Ref: APP/C1760/A/10/2140962**

**Land at Picket Piece (land to the north and south of Ox Drove and south of Walworth Road), Andover, Hampshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 “the Act” against a refusal to grant outline planning permission.
- The appeal is made by Wates Developments Ltd against the decision of Test Valley Borough Council “the Council”.
- The application Ref 10/00242/OUTN, dated 5 February 2010, was refused by notice dated 30 September 2010.
- The development proposed is a mixed-use development comprising up to 530 dwellings, a local centre offering community facilities and retail units, public open space, vehicular, pedestrian and cycle access and landscaping.
- The inquiry sat for 4 days on 5 to 8 April 2011 and was subsequently closed in writing on 6 May 2011. I made an accompanied visit to the site and surrounding area on 7 April 2011.

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

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**Procedural Matters**

1. The application was submitted in outline, with only access to be determined at this stage. The Council refused planning permission for 5 reasons, as follows:
  - i. The proposal is contrary to policy SET03 of the Test Valley Borough Local Plan (2006) (TVBLP) in that there is no overriding need for this development in a countryside location. The Council has identified a Housing Land supply of more than 5 years in accordance with PPS3 “Housing” (2010) and therefore there is insufficient reason to depart from policy SET03.*
  - ii. The Walworth Road, Walworth Roundabout, Enham Arch Roundabout, Picket Twenty Roundabout and Folly Roundabout and other parts of the surrounding road network are unsuitable in their present condition to take the type and amount of multi-modal traffic likely to be generated by the proposal. In the absence of a completed legal agreement to secure improvements to these the proposal is contrary to policies TRA04 and TRA09 of the TVBLP and the Infrastructure and Developer Contributions Supplementary Planning Document (SPD) (2009).*
  - iii. In the opinion of the Planning Authority the proposal involves development that cannot be reconciled with national planning policy guidance in PPG13 “Transport” in that it fails to make the best possible use of opportunities to reduce reliance on the private car. The failure to utilise alternative means of transport to the private car would result in an unacceptable increase in the number and length of car journeys to the detriment of the environment and the locality. In the absence of a completed legal agreement to secure alternative means of transport the proposal therefore conflicts with PPG13, policies TRA01, 03, 04, and 09 of the TVBLP and the Infrastructure and Developer Contributions SPD.*
  - iv. In the absence of a legal agreement to secure the provision of affordable housing and its retention in perpetuity to occupation by households in*

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*housing need, the proposal is contrary to policy ESNO4 of the TVBLP and the Infrastructure and Developer Contributions SPD.*

*v. In the absence of a legal agreement to secure the provision of infrastructure and community facilities directly related to and necessary for the development, the proposal is contrary to policy ESN30 of the TVBLP and the infrastructure and Developer Contributions SPD.*

2. However, the Council only defended the first of these at the inquiry, being content that the other 4 reasons would be satisfactorily addressed by an Agreement (Doc JNT/7), made under Section 106 (S106) of the Act. This was submitted to the inquiry in its finally agreed form, although due to the large number of individual parties to the Agreement and the number of signatories the signed and completed version was not submitted until 3 May 2011. I discuss this S106 Agreement and the last 4 reasons for refusal later in this Report, but in the main I concentrate on the first reason for refusal.
3. An appeal was lodged on 17 November 2010 and was subsequently recovered for determination by the Secretary of State by letter dated 25 November 2010. The reason given for recovery is that the appeal involves proposals for residential development of over 150 units on a site of over 5ha, which the Secretary of State considers would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. The Secretary of State did not identify any specific matters upon which he particularly wishes to be informed, so my Report concentrates on the Council's reasons for refusal, as already noted.
4. The Statement of Common Ground (SoCG - Doc JNT/1) explains that a Scoping Opinion (Core Document (CD) 2.2) was provided to the appellant by the Council. The main parties agree that the scope of the submitted Environmental Statement (ES – CD1.4-CD1.6) meets the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999 No 293) as amended, and that the appellant has assessed the significant environmental effects of the proposed development.
5. On 4 April 2011, prior to the opening of the inquiry, I visited the locality of the appeal site on an unaccompanied basis. I also visited the appeal site, surrounding area and other nearby approved and proposed housing sites on 7 April 2011, in the company of representatives of the appellant and the Council.
6. My Report contains a description of the appeal site and its surroundings; the gist of the matters agreed between the appellant and the Council; the material points of the cases of the appellant, the Council and interested persons; and my conclusions and recommendations. Copies of the proofs of evidence and statements of those witnesses who provided them are included as accompanying documents. Appendix A lists those who appeared at the inquiry. Appendix B contains a list of documents (referred to in brackets). Appendix C contains the conditions which I recommend should be imposed on any planning permission granted in respect of the appeal. Appendix D is the list of scheme plans upon which my recommendation is based. The original scheme plans had been amended, prior to the application being presented to the Council's Planning Committee. Details of these amendments are set out in section 3.2 of Doc JNT/1. Finally, Appendix E is a list of abbreviations used throughout this Report.

## The Site and Surroundings

7. The appeal site, totalling some 25.5 hectares (ha), is designated as being within the countryside by the TVBLP Proposals Map. It lies on the eastern edge of Andover within the residential area of Picket Piece and is bounded by properties fronting Walworth Road to the north and Ox Drove to the south, together with some additional land to the south of Ox Drove. To the west the site is bounded by sports pitches, beyond which lies the Walworth Industrial Estate. The site, which does not lie within an identified flood zone, rises to the east and to the south, with Ox Drove at a higher level than Walworth Road. The main part of the site comprises a number of residential land holdings which are used for such purposes as providing extended residential gardens and for grazing. It also includes a poultry farm and areas of pasture to the south of Ox Drove.
8. The area immediately surrounding the site contains similar land uses with a mixture of residential and arable land and also includes a number of employment uses such as the Andover Commercial Centre, Andover Self Storage and the Ox Drove Depot of small industrial uses. The London to Exeter railway line lies some little distance to the north, separating Picket Piece from the ongoing major residential development area at East Anton, and the countryside which surrounds it. To the south, between the London Road and the A303 lies the further major residential development area of Picket Twenty. Further details of the site and its surroundings can be found in the main SoCG at Doc JNT/1.

## Planning Policy

### *National Planning Guidance*

9. The SoCG sets out the relevant national planning guidance against which this proposal needs to be assessed and the documents themselves can be found at CD3.1 to CD3.14. I agree this to be:
  - i. Planning Policy Statement (PPS) 1: "Delivering Sustainable Development" and its associated "Planning and Climate Change Supplement"; PPS3: "Housing"; PPS4: "Planning for Sustainable Economic Growth"; PPS5: "Planning for the Historic Environment"; PPS7: "Sustainable Development in Rural Areas"; PPS9: "Biodiversity and Geological Conservation"; PPS10: "Planning for Sustainable Waste Management"; PPS22: "Renewable Energy"; PPS23: "Planning and Pollution Control" and PPS25: "Development and Flood Risk";
  - ii. Planning Policy Guidance (PPG) 13: "Transport"; PPG17: "Planning for Open Space Sport and Recreation", including its Companion Guide "Assessing Needs and Opportunities"; and PPG24 : "Planning and Noise";
10. Although not specifically referred to in Doc JNT/1, also relevant are:
  - iii. Circulars 11/95: "The use of Conditions in Planning Permissions" (CD7.4) and 05/2005: "Planning Obligations" (CD7.3);
  - iv. The Community Infrastructure Levy (CIL) Regulations 2010 (CD7.3).

### *The Development Plan*

11. The development plan for the area comprises the South East Plan (SEP): "Regional Spatial Strategy (RSS) for the South East of England" (May 2009); and

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the Test Valley Borough Local Plan 2006 ("the TVBLP"). Although the Secretary of State has signalled his intention to revoke the RSS through the Localism Bill, the SEP was part of the development plan at the time this inquiry was held and still forms part of the development plan at the time of the writing of this Report. A list of policies in the SEP agreed by the parties to be relevant to this appeal can be found in CD4.1 to CD4.29. Of particular relevance are the housing targets set out in policy H1 (CD4.1) and AOSR2 (CD4.13) which point to the need for 6,100 new houses to be built within the Northern Test Valley (NTV) area in the period 2006 to 2026. The Government Office for the South East (GOSE) confirmed, following a query from the Council regarding policy H2 (CD4.2), that the SEP target figures include an allowance for previous under-supply (see Appendix 7 in Doc LPAB/0/3).

12. The policies of the TVBLP have been subject to the procedures set out in Schedule 8 of the Planning and Compulsory 2004 Act and a list of the relevant "saved" policies are set out in section 7 of Doc JNT/1. Both parties generally agree that once the S106 Agreement is taken into account, it is only TVBLP policy SET03 that this proposal would be at odds with. Amongst other things this states that development in the countryside will only be permitted if (a) there is an overriding need for it to be located in the countryside; or (b) it is of a type appropriate in the countryside, as detailed in other TVBLP policies. It should be noted that at the present time some development is permitted in Picket Piece, despite its countryside location, under TVBLP policy SET06 which allows for frontage infilling in the countryside, subject to compliance with certain criteria.

#### *Supplementary Planning Guidance/Documents*

13. The following documents are relevant:
- i. "The Andover Town Access Plan" - Supplementary Planning Document (SPD) adopted by the Council in 2009;
  - ii. "Affordable Housing" - SPD adopted by the Council in 2008;
  - iii. "Infrastructure and Developer Contributions" – SPD adopted by the Council in 2009;

#### **Planning History**

14. There have been no planning applications of note on this site but the policy background is of relevance, and can be summarised as follows. The Initial Deposit Draft of the TVBLP Review (CD6.2) was published for public consultation in January 2003. This identified land at Picket Piece as safeguarded for development post-2011 (policy AND14) with the land between Picket Piece and the Walworth Industrial estate allocated for an extension to the industrial estate (policy AND04.1). At this time, land east of Ickneild Way (now known as East Anton) and land at Picket Twenty were proposed for allocation for housing development as Major Development Areas (MDAs) and to meet the housing requirements of the then Hampshire Structure Plan. The Revised Deposit Draft plan (CD6.3) was published in January 2004 and maintained the safeguarded land status of land at Picket Piece post-2011 and the allocation of the industrial estate extension.
15. In September 2005, following the TVBLP Public Inquiry, the Inspectors' Report (CD6.4) recommended that Picket Twenty be deleted from the TVBLP and that

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Picket Piece should be included. With specific reference to Picket Piece the Inspectors took the view that the area already had the semi-urban character of an existing mainly residential community on the edge of Andover and they had no hesitation in concluding that Picket Piece had the potential for a planned extension to the existing urban area. The Inspectors' Report identified that land ownership was one of the principal reasons for the Council not suggesting the area for allocation in the Plan period.

16. In preparing the Council's Local Development Framework (LDF) Core Strategy (CS) Pre-submission draft Development Plan Document (DPD) (CD6.5), the Council identified the east of Andover as the preferred location for development (draft policy SSA1 page 89). This draft submission document, published in October 2008, identified Picket Piece for the strategic allocation of development for 800 dwellings. The CS has subsequently been withdrawn due to concerns expressed by the appointed Inspector, concerning matters such as whether the strategy was sufficiently spatial, whether the vision was sufficiently clear and whether the document was more akin to a Local Plan than a CS. It is common ground between the parties that none of the concerns expressed by the Inspector related specifically to the allocation of land at Picket Piece.

### **The Appeal Proposal**

17. Full details of the proposed development are set out in Section 1 of Doc JNT/1, with further detailed information to be found in the Design and Access Statement (DAS – CD1.3). In summary the application relates to an outline proposal for up to 530 dwellings, together with a primary school and a local centre which would include 400sqm of retail floor space, 200sqm of Class A1 to Class A5 floor space, and a 300sqm community facility. Formal and informal open space would be distributed across the site, including a Multi Use Games Area (MUGA) and a small sports pavilion.
18. The residential element of the proposal would comprise a mix of dwelling types, ranging from 2-bedroom flats to 4-bedroom houses. 40% of the dwellings would be affordable, with a tenure split of 70/30 in favour of social rent, with the remainder being a mix of shared ownership and discounted market properties, in groups of 10-15 units across the site.
19. The development would include buildings up to 3 storeys in height, with a maximum height of 13m within the residential areas and 15m for the commercial units within the local centre. Density for the site as a whole would average 34 dwellings per hectare (dph). However there would be variation within the site to include high density areas (40-50dph), medium density areas (30-40dph) and low density areas (20-30dph). The higher density areas are proposed to be located towards the western end of the site, closest to the Walworth Industrial Estate, with the medium and lower density areas in the central and eastern parts of the site (CD1.3 & CD1.13.8).
20. In terms of landscape and ecological mitigation, existing hedgerows within the site would be retained, to provide a mature landscape context for the development, with additional planting to supplement the hedgerows and provide further screening. A number of wildlife habitats are present on the site, including the possible presence of dormice, and full consideration has been given to ensure that adequate and appropriate mitigation is incorporated.

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21. Two primary access points to the site are proposed, by means of roundabout junctions, both from Walworth Road. These have been subject to a Stage 1 Road Safety Audit (CD1.16 & CD8.9). These junctions would be linked by a loop road passing through the site, which would have spur roads leading off it. There would be no general vehicular access onto Ox Drove, although a secondary point of access, for pedestrian, cycle and emergency vehicle use (and potentially public transport) is proposed from Ox Drove in the south-western corner of the site. In addition, it is agreed that utilities such as water supply, foul and surface water drainage, gas, electricity, and telecommunications could be satisfactorily provided.

### **Other Agreed Facts**

22. In addition to the matters outlined above, the main SoCG (Doc JNT/1) also confirms that agreement has been reached between the appellant and the Council under the following broad headings: affordable housing; landscape and visual impact; agricultural land quality; drainage and water resources; design; impact on the amenities of neighbouring properties; archaeology; air quality; noise and vibration; ground conditions; and waste and sustainability.
23. Further matters of agreement on highways and transportation matters are set out in the SoCG made between the appellant and Hampshire County Council as local Highway Authority (Doc JNT/2). These cover such topics as the transport assessment, site access arrangements and mitigation measures, including a Residential Travel Plan aimed at encouraging residents of the proposed development to travel by means other than the private car. Further details of some of the agreed mitigation measures are given later in this Report, when I discuss the S106 Agreement.
24. An Ecology SoCG has also been agreed between the appellant and the Council (Doc JNT/3). In summary the main parties agree that an appropriate and sufficient level of survey has been undertaken to establish the ecological baseline of the appeal site regarding features and species of ecological value. It is further agreed that although additional survey and site specific mitigation measures would be necessary to inform any subsequent detailed applications, sufficient information has been obtained to determine the current outline proposal.
25. In particular, surveys have confirmed the presence of the hazel dormouse and the parties agree that the scope and timing of the surveys undertaken to date are adequate to determine the relative value of the site for this species, with survey data consistent with only a small resident population. In recognition of the legislative protection afforded to the hazel dormouse and its specific habitat requirements a site-specific Dormouse Mitigation Strategy (DMS) has been prepared, meaning that the site could be developed without contravening local or national planning policy or conflicting with either UK or European legislation relating to this species. The agreed DMS is appended to Doc JNT/3.
26. Finally, a Supplementary SoCG dealing with matters of housing land supply was submitted to the inquiry (Doc JNT/4). It is agreed that the major differences between the parties lie in the debate over the likely rate of delivery of a small number of key sites (East Anton and Picket Twenty) and over the genuine availability of a small number of further sites to contribute to the supply of land for the 5 year period April 2011 to March 2016. The specific sites which fall into

this category are the former Shepherds Spring School, land at Roman Way School and land at River Way.

27. It is agreed that the requirement for house building should be based on the provisions of the SEP and there is agreement on the figures for completions in the period April 2006 to March 2010. The SoCG comments that figures for completions in the year April 2010 to March 2011 can only be an estimate at this stage with slightly different figures being put forward by each side. That said, it is agreed that the differences in this regard are small, and that the table set out below<sup>1</sup> is a reasonable estimate of the requirements in both NTV and Test Valley Borough as a whole, for the coming 5 year period.

		<b>Northern Test Valley</b>	<b>Test Valley Borough</b>
1	SEP requirement 2006-2026	6,100	10,200
2	Completions 2006-2011 (estimated)	1,038	1,602
3	Residual requirement 2011-2026	5,062	8,418
4	5 year requirement 2011-2016 based on residual requirement	<b>1,685</b>	<b>2,805</b>
5	5 year requirement 2011-2016 at SEP rate	1,525	2,505
6	Shortfall in provision 2006-2011 (estimated)	487	903
7	5 year requirement 2011-2016 working off shortfall over next 5 years	<b>2,012</b>	<b>3,408</b>

28. The reason for including figures for Test Valley Borough as a whole is that historically, County Structure Plans have split the Borough into 2 separate housing areas. This approach has been carried forward into the SEP, which divides the Borough into 2, with NTV forming that part of the Borough which lies outside the South Hampshire sub-region and also excluding that part within the New Forest National Park. That said, the parties concentrated on the situation in NTV at the inquiry and I have taken the same approach in my assessment.
29. In the above table Row 4 represents the Council's favoured approach, which would see the shortfall in the period 2006-2011 made up over the remaining 15 years of the SEP period, resulting in a 5 year requirement of 1,685 for NTV. In contrast, the appellant considers that the shortfall should be made up over the next 5 years, resulting in a 5 year requirement of 2,012 for NTV.
30. In terms of housing supply the table overleaf, summarised from a more detailed table in Doc JNT/4, clearly indicates the difference between the 2 parties. Put

<sup>1</sup> Taken from Table IET1 from Mr Tant's proof of evidence (Document APP/0/1), where full calculations can be seen

simply, the Council's position is that it has either a 4.8 year or 5.8 year supply of housing land, depending on whether the shortfall is made up over 5 years or 15 years respectively, whereas the appellant's case is that on the same basis the supply only amounts to 2.8 years or 3.3 years.

Scenario	Shortfall Calculation		Council's Position	Appellant's Position
<b>North Test Valley 2011/12 to 2015/2016</b>	Shortfall made up over 5 years (appellant's position)	5 year Requirement	2,012	2,012
		Supply	1,945	1,114
		Balance	-67	-898
		Year's Supply	4.8	2.8
	Shortfall made up over 15 years (Council position)	5 year Requirement	1,685	1,685
		Supply	1,945	1,114
		Balance	260	-571
		Year's Supply	5.8	3.3
<b>Whole of Test Valley 2011/12 to 2015/2016</b>	Shortfall made up over 5 years (appellant's position)	5 year Requirement	3,408	3,408
		Supply	3,126	1,873
		Balance	-282	-1,535
		Year's Supply	4.6	2.8
	Shortfall made up over 15 years (Council position)	5 year Requirement	2,805	2,805
		Supply	3,126	1,873
		Balance	321	-932
		Year's Supply	5.6	3.3

## Cases of the Parties

### *The Case for the Council*

The material points were:

31. Development control operates in a plan-led system such that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material circumstances indicate otherwise. The development plan in this case comprises the May 2009 SEP together with the saved policies of the 2006 adopted TVBLP. The appellant was unsuccessful in securing Picket Piece either as a housing

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- allocation or as a safeguarded site in the adopted TVBLP. No legal challenge was made to the Council's adoption of the TVBLP in June 2006.
32. The appeal proposal is in fundamental conflict with the strategy and policy basis of the TVBLP, being a large scale housing development within the defined countryside on greenfield land beyond the settlement limits of Andover. Policy SET03 and the Proposals Map are central to the TVBLP and the fact that no other policy breach is raised by the appeal in no sense weakens the strength of the case against the proposal. It is accepted by the appellant that if the decision in this case is taken in accordance with the development plan then the appeal should be dismissed.
  33. The planning system regulates the supply of housing land in 3 main ways. Firstly, through the numerical housing requirement policies in the development Plan. Secondly through the process of plan, monitor and manage (PMM); and thirdly through the PPS3 requirement to maintain an identified 5 year supply of deliverable sites. The quantum of housing to be delivered in the administrative area of Test Valley is set by the SEP. Although this is up to date, having been adopted as the RSS in May 2009, the Government's intention is to abolish it, leaving the Council to set its own locally derived housing target.
  34. In this regard it should be noted that the originally submitted version of the SEP contained a figure of 5,000 homes for NTV, a figure which the Council supported. However this was increased to 6,100 houses as a result of both the Examination into the SEP and the Secretary of State's Proposed Changes to the Plan (paragraph 7.5 of Doc LPA/0/1). The Council formally objected to these increases and took the opportunity, following the Government's announcement of the revocation of RSS on 6 July 2010, to establish its own Interim Housing Requirement of 5,700 dwellings for NTV, approved at a Full Council meeting in September 2010 (paragraph 7.6 of Doc LPA/0/1). The 6 July revocation decision has, however, been quashed and as a consequence the RSS as it stood on 5 July 2010 forms an ongoing part of the development plan, although the Government's commitment to revoke RSS remains and is now consolidated into the Localism Bill, published in December 2010.
  35. Historically Southern Test Valley (STV) has formed part of the South Hampshire sub-region and has a separate dwelling provision figure from NTV (see Appendix 3 in Doc APP/0/3). This split has been continued in the SEP and notwithstanding the comments set out above it is common ground that the SEP dwelling requirement figure for NTV is 6,100 additional dwellings over the period 2006–2026 (CD4.13). The policy also includes a column giving an annual average figure for each district; that for NTV is 305. However paragraph 7.8 of the SEP (Appendix 4 to Doc LPA/0/3) explains that the annual average figures should not be regarded as annual targets but are intended to be used in monitoring progress towards achievement of Plan objectives, and to inform the management of housing supply.
  36. In relation to PMM there is no development plan requirement to achieve an annual average rate of development. In any event, the ebb and flow of the market means that some years will be below 305 dwelling completions, other years will be above. In fact paragraphs 62 to 64 of PPS3 refer to the principles of PMM in terms of the authority's housing trajectory rather than any development plan annual requirement. Appendix 6 in Doc LPA/0/3 sets out housing completions from 2006 forwards. Completions were low for the first 3 years

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following adoption of the TVBLP because neither strategic housing allocation (East Anton and Picket Twenty) had yet started. Once East Anton started to produce housing completions from September 2009 onwards the rate of housing completions has almost matched (295 for 2009/2010) and then exceeded (estimated 364 for 2010/2011) the 305 annual average rate.

37. The appellant speaks of a "shortfall" of 487 due to completions in the years 2006–2010 being below the "average" rate of 305. However for the reasons stated above there is no requirement to match an annual average and in any event as the appellant recognised, the projected completions over the next 5 years will, at some 1,945 dwellings, virtually meet both the "shortfall" of 487 as well as the annual rate of 305. Any criticism of the Council's position is therefore unfounded as its housing trajectory is addressing the very matters the appellant complains about.
38. The key issue in this case is whether the Council has a 5 year housing land supply (see paragraph 4 of Doc APP/0/2). The appellant has effectively conceded that this is to be judged in relation to NTV rather than to the Borough as a whole, as evidenced by the reference to Andover being a self-contained housing market (paragraphs 7 & 12 of Doc APP/4). Clearly it would make no sense to release more housing land at Andover in response to a land supply shortfall in STV, the area of the Borough which relates to Southampton and the south Hampshire sub-region. Provided that a 5 year supply can be demonstrated there would be no reason to release greenfield land for strategic housing which is not needed. In those circumstances the development plan should be followed.
39. Even if the housing land supply is less than 5 years, such that paragraph 71 of PPS3 is engaged, that does not of itself mean that planning permission should be given. The weight to be attached to any shortfall is a matter for the decision maker (how much "favourable consideration" is given to the shortfall). The weight may depend upon a range of circumstances. The extent of the shortfall will always be relevant. Thus a supply of say 4.5 years would be quite different to a supply of 2.5 years. It may also be relevant to know why the shortfall has arisen. If it is because there is just not enough housing land to accommodate the required number of houses then that would be a weighty consideration in favour of releasing more housing land. That is not the situation here.
40. Equally if the shortfall in supply arises from market conditions, for example a lack of demand for housing such that the house-builders are building fewer houses even though they have the ability to build at a higher rate, then any shortfall in supply would be of less importance. In those circumstances adding to the supply would be unlikely to achieve anything since the problem is with the market itself rather than being due to a shortage of land for housing. This is the reason for the flat housing market which has been experienced over most of the country for the last few years.
41. An acceptance of the appellant's case would mean that the flatter the housing market becomes, such that the house-builders scale back on the rate of delivery of housing from sites under construction because there is no market to sell into, increasing amounts of housing land will need to be granted planning permission in order to maintain a 5 year supply. Such a conclusion cannot be right or indeed sensible. Such a situation is recognised by paragraph 66 of PPS3.

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42. The 5 year requirement should be assessed on a conventional residual basis, giving rise to a figure of 1,685 dwellings. This is the way the calculation has always been done, save for those rare occasions when past building rates have been used to calculate the requirement. This is how the Council has calculated the requirement (see paragraph 6 of Doc JNT/4), and is accepted by the appellant as being the conventional way of identifying the requirement. It is also in accordance with the letter dated 18 March 2010 from GOSE responding to this precise question (CD7.2).
  43. The indented paragraph on page 2 of this letter, relied upon by the appellant as suggesting some different calculation, refers to the Annual Monitoring Report (AMR) and PMM actions and not to the 5 year housing land supply calculation. This is why the paragraph is further indented, given a separate symbol and put in brackets. There is simply no basis for suggesting that the "shortfall" should be made up in the next 5 years and be added to the 5 year requirement. The appellant's witness Mr Tant has mixed up the 2 different matters of identifying the 5 year housing requirement and the separate process of PMM.
  44. In terms of housing land supply, the extent of the difference between the parties is clearly shown on the table in the Housing Land SoCG (Doc JNT/4). The Council's case is that it has a supply of 1,945 dwellings equivalent to a 5.8 years supply or 260 dwellings in excess of the 1,685 requirement. The major differences between the parties arise as a result of Mr Hewett's evidence. His evidence is unreliable, demonstrably so in respect of the evidence he gave at the Redbridge Lane inquiry in STV in September 2010 where subsequent events have shown that his evidence was plain wrong.
  45. On that occasion he successfully persuaded the Inspector that delivery of housing from Abbotswood (a large Greenfield site in STV) would be delayed as a result of a protracted arbitration process concerning the sale of land. As it turned out, this proved to be completely wrong (as the Council had argued) and the sale of land was completed within the originally anticipated timescale. Mr Hewett sought then, as he seeks now, to paint the worst possible picture in relation to housing delivery. The "Doomsday scenario".
  46. However the matter of housing delivery should not be assessed on a pessimistic basis, nor on an overly optimistic basis, remembering that one is making judgements and forecasting ahead for 5 years. 5 years is a long time in the housing market. Over the last 5 years the market has moved from boom to bust. There is no reason to forecast that the market will not return to a healthy state. It will ebb and flow (as recognised by the appellant) as it always has done. The only sensible approach is to assume a reasonable market over the 5 year period recognising that the ups and downs over this period will in all probability even themselves out. In relation to NTV there are 5 sites in contention, as set out below.
  47. East Anton. This large strategic site with a capacity of at least 2,500 dwellings has been producing dwelling completions since September 2009. There are currently 3 separate outlets Taylor Wimpey, Bryant Homes (also Taylor Wimpey – referred to hereafter as Bryants) and Bellway Homes (Bellway). There had been 356 completions as at 28 February 2011 (updated paragraph 7.20 of Doc LPA/0/1) and 398 completions up to 31 March 2011 according to Table 5 of Doc APP/0/5. This is equivalent to an annual rate of 250 dwellings a year, although it is not suggested that forward projections should be based on this rate.

48. Rather, both Taylor Wimpey and Bellway project a forward rate of delivery of 180 dwellings per annum, that is 60 units per outlet per year. Based on a 60/40 split between market and affordable housing this means completing just 36 market houses and 24 affordable units per outlet each year. In relation to the market housing, that is well below a sales rate of 1 unit per week. Such a rate should be readily achievable. It is also consistent with the evidence from Persimmon as to the likely rate of delivery from Picket Twenty. Indeed Persimmons have indicated a target level of 140 dwellings per annum, but have used the 120 figure to build in an appropriate level of contingency (Appendix 14 to Doc LPA/0/3).
49. Mr Hewett, for the appellant, was content to call the evidence on delivery from Boyer Planning (acting for Taylor Wimpey) misleading, even though he has not spoken to the author of the letter on this topic sent to the Council (Appendix 15 in Doc LPA/0/3). Nor has he attempted to speak to personnel at Taylor Wimpey, or Bellway on the same topic. He has produced no written material whatsoever in relation to East Anton providing independent verification of his forecast of delivery. The impression he gave at first instance was that he had had detailed discussions with whoever was in charge of sales in the Sales Office on site. However in cross-examination it appeared that most of his information had come from studying whatever material was on public display combined with a conversation with sales staff. In this regard Mr Hewett accepted that neither Taylor Wimpey nor Bellway would release other significant information to him.
50. Mr Hewett's Table 5 (in Doc APP/0/5), setting out completions at East Anton, is plainly wrong since the first reserved matters were only approved in April 2009 with the first occupation in September 2009, such that there were no completions in the year 1/4/2008 to 31/3/2009. Much of the material he relies on is an analysis of what has happened in the market over the last 1-2 years and not a careful analysis of what is likely to happen over the next 5 years. He has then forecast forward using the lowest possible figures for each and every one of the next 5 years. Such an approach is wholly unreasonable and should be rejected.
51. That Taylor Wimpey should sell off serviced parcels of the site for other house-builders to develop, as has happened with Bellway, is entirely usual for a site of this size. There is no reason to reject Taylor Wimpey's evidence that they are actively considering expressions of interest from other developers in respect of further parcels of land. The fact that Bellway may have bought at the top of the market says nothing about whether further parcels will be sold. Delivery from East Anton should be judged on the basis that there are likely to be 3 outlets producing houses in the future, as at present. Accordingly, the Council maintains that East Anton is likely to deliver  $180 \times 5 = 900$  units over the next 5 years.
52. Picket Twenty. For this large site, outline planning permission for 1,200 dwellings was granted in January 2008 and a number of reserved matters applications for a total of 543 dwellings have been approved to date. Exactly the same issues arise here, although Mr Hewett puts forward an even lower rate of completions than at East Anton for reasons he does not explain. The Council strongly maintains that its evidence can be relied on and that it is therefore reasonable to conclude that Picket Twenty is likely to produce completions as set out in the table at paragraph 7.17 of Doc LPA/0/1, totalling 653 dwellings over the 5 year period.
53. River Way, Andover. This site, lying within the urban area of Andover, to the north-eastern side of the town, is owned by Tesco and has been submitted as

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part of the Council's Strategic Housing Land Availability Assessment (SHLAA). It is relied upon by the Council to produce 123 dwellings. Mr Tant for the appellant accepted in cross-examination that in relation to flooding matters the sequential test was capable of being satisfied such that the objections to the site are those put forward by Mr Hewett (see paragraphs 5.46-5.56 of Doc APP/0/5).

54. The various matters identified by Mr Hewett will need to be addressed but there is no reason why they should prevent the site coming forward over the course of the next 5 years. The written evidence from Tesco is that the site will be developed within that time frame (Appendix 26 in Doc LPA/0/3) and the SHLAA indicates that if the issue of ground water protection can be fully addressed, development of the site is considered achievable (CD6.12). The site is considered to meet the criteria for sites to be deliverable, set out in paragraph 54 of PPS3 (CD3.3), namely to be available, suitable and achievable. Therefore it should not be discounted from the supply, as maintained by the appellant.
55. Former Shepherds Spring School. This is a rectangular plot of land, highly suitable for housing, identified within the SHLAA to be a site with a presumption in favour of residential development. Although originally a playing field for the adjoining school there was no public use of it and it has clearly been un-used as such for some time now. Indeed, Hampshire County Council, as Education Authority, has confirmed that it is surplus to requirements. The former primary school buildings themselves have been refurbished to provide other educational uses which do not require a playing field.
56. The Council undertook a robust PPG17 compliant audit of Public Open Space in 2008 (CD6.20), using the guidance in the PPG17 Companion Guide "Assessing Needs and Opportunities" (CD3.10). The audit identifies some 5ha of accessible open space of varying types to the east of the site. In addition there are 8.25ha of new playing fields to be provided as part of East Anton, some 2.25ha in excess of what that development requires, conveniently located for the Almain Ward. The audit did not include those private sites within the Borough which provide a recreation function as there is no certainty that such open spaces would be available for public use and the Council has no statutory control over them. Taking all the above points into account it should be concluded that this site is likely to be granted planning permission for 50 dwellings by the Council when it receives the application from the County Council.
57. Land at Roman Way. This irregular shaped site, which does not form part of the school playing field, is also considered within the SHLAA to be a site with a presumption in favour of residential development. It was never part of the school playing field but is referred to as surplus informal and social land. (Appendix 24 to Doc LPA/0/3). There appears to be no reason why it should not be granted planning permission for 12 dwellings. Sport England would not be a consultee on the application.
58. Taking the above points into account, the Council has demonstrated that it has some 5.8 years housing supply such that paragraph 71 of PPS3 is not engaged. Even if it were concluded that this paragraph is engaged, there would seem to be little purpose to be served in granting planning permission for another large strategic site in exactly the same location as East Anton and Picket Twenty serving the same market for housing particularly when the problem is identified as being due to a lack of buyers for the reasons that are well known to everyone. Moreover there is no guarantee that the site will actually be developed given the

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- difficult market conditions and high up front infrastructure costs involved. On this point it should be noted that Wates is no longer a house-builder itself.
59. Regard should be had to the approach of the Secretary of State in the Metacre decision in the Fylde Borough Council area (Doc LPA/5). Although in that case there was accepted to be less than 5 years supply of housing land, weight was given to the conflict with policies of the Local Plan as well as to the fact that the Council would themselves be determining their own housing targets once the RSS was abolished. The same situation pertains here in Test Valley. The appeal proposal is contrary to the TVBLP for the reasons already given. Moreover the Council had objected to the RSS imposing 6,100 houses on NTV, its Option 1 figure being 5,000. The Council has engaged Nathaniel Lichfield and Partners to advise it on the appropriate future level of housing development and will incorporate this into the forthcoming CS documents. It cannot be assumed that the housing requirement will remain at 6,100.
  60. The Council acknowledges that there is a recognised housing need within Test Valley, but the need for affordable housing cannot itself make this proposal acceptable. The Council's target for affordable housing, set out in the Housing Strategy 2008-2011 (CD6.7) is 100 dwellings per year. This is to be increased to 150 units for 2010/11 and 2011/12 before increasing further to 200 units for 2012/13 to reflect the significant delivery from greenfield allocations (section 9 of Doc LPA/0/1).
  61. The mechanism for providing affordable housing is set out in TVBLP policies ESN04-06 and any site granted planning permission will be expected to provide 40% affordable housing and significant amounts of affordable housing are coming forward and will continue to come forward at East Anton and Picket Twenty. As referred to in para 59 above, there is no guarantee as to when the appeal site would be developed in any event.
  62. With regard to "Planning for Growth" and the Ministerial Statement<sup>2</sup> (Doc APP/3), this can only be accorded limited weight at this stage. It shows a proposed direction of travel but it remains to be seen how it translates into policy and how it sits with the localism agenda, which clearly pulls in the opposite direction. It cannot and should not override what are clear planning objections to the release of this site now. If, as the Council contends, there is no overriding need for this site to be granted planning permission at the present time, then there is no basis for deciding the appeal other than in accordance with the development plan.
  63. The Council is able to meet the housing needs of its area (as referred to in the 4<sup>th</sup> paragraph of the Ministerial Statement) and has a 5 year supply of housing land thereby maintaining a flexible and responsive supply of land for housing (as referred to in the 5<sup>th</sup> paragraph, item (ii) of the Statement). Against that background this proposal is fundamentally in conflict with the strategy and policy basis of the TVBLP, being major greenfield development in the defined countryside beyond the settlement limits of Andover.
  64. In terms of paragraph 69 of PPS3, the proposed development has not been demonstrated to be in line with the spatial vision for the area. This is a matter to

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<sup>2</sup> Letter from the Chief Planner at the Department for Communities and Local Government (DCLG) dated 31 March 2011, together with Written Ministerial Statement from the Minister for Decentralisation, dated 23 March 2011

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which considerable weight should be attached. PPS12<sup>3</sup> paragraph 2.3 states that “spatial planning plays a central role in the overall task of place shaping...”. The spatial vision for the Andover area will be determined through the CS process.

65. Although the Council recognises that Picket Piece was its preferred site in the now withdrawn CS, the grant of planning permission now would mean that no other housing allocations would be needed to meet the requirements of the SEP through to 2026. It would therefore prejudice all decisions about location of future housing in NTV thereby disqualifying, and effectively disenfranchising, all those who wish to participate in the LDF process. In this regard it should be noted that at the time of submitting the CS there remained 20 unresolved objections to the identification of Picket Piece as a strategic housing allocation and a number of possible alternative residential sites, included in the Council’s SHLAA, are actively being promoted in NTV.
66. It is also noteworthy that the Inspector who conducted the exploratory meeting into the now withdrawn CS advised the Council to look again at its strategic housing allocations to ensure that they were justified and to change them if they were not (page 14 of CD6.6). Also that the Inspectors’ Report into the TVBLP concluded that there was little to choose between the various omission sites (paragraph 10.3.203 of CD6.4).
67. Mr Powell spoke of the need to end the uncertainty as to the future of Picket Piece, but the history of Picket Piece is nothing out of the ordinary. It was considered through the last Local Plan Inquiry and ultimately rejected as a housing allocation in 2006. The right way forward, particularly given its size and scale, is for it to be looked at again in the context of the LDF process. It was entirely the decision of Wates to make this planning application and to prosecute it at this appeal thereby adding to the sense of uncertainty for local residents.
68. Accordingly no case is made out by Wates for the grant of planning permission for Picket Piece now, and the Secretary of State should therefore be recommended to dismiss this appeal.

### ***The Case for the Appellant***

The material points were:

69. The appeal proposal, for up to 530 dwellings is for a mix of dwellings ranging from 2-bed flats up to 4-bed houses. This mix would be suitable for all areas of the market and attractive to affordable housing providers as shown by the statement from Sovereign Housing Group in Appendix 2 within Doc APP/0/3. It is accompanied by a S106 Agreement (Doc JNT/7), with many of its provisions being deliberate and conscious attempts to help the new residents become a community and strengthen the existing community of Picket Piece.
70. The appeal site lies outside the settlement boundary of Andover. Therefore its development for housing would, without more, be contrary to policy SET03 of the TVBLP. However, the policy’s supporting text makes clear that development may be permitted if there is a clear justification for an exception to the general policy of restraint. In this case the benefits of the proposal and its contribution to “Planning for Growth” (Doc APP/3) provide such justification and hence the

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<sup>3</sup> Planning Policy Statement 12 (PPS12): “Creating strong safe and prosperous communities through Local Spatial Planning” - 2008

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development is in accordance with the development plan. Even if this is not accepted to be the case, it is clear that there are material considerations of significant weight which would justify a departure from the development plan and override any breach of policy SET03.

71. It is agreed between the Council and the appellant that in every other respect the appeal proposal is acceptable and in accordance with the development plan. This means, for example, that there is agreement regarding the absence of harm to the landscape setting of Andover and the quality of the countryside around it. The land at Picket Piece is backland, paddocks and a poultry farm. It is not high quality agricultural land and some important features such as established hedgerows would be improved by the landscaping elements of the proposals.
72. It is also common ground that Picket Piece is a sustainable location for new housing development and that the development itself would be sustainable. The location effectively<sup>4</sup> adjoins the existing eastern edge of Andover. There are good pedestrian and cycle routes into the centre of Andover and the Railway Station which would be improved by the proposals.
73. Localism and the history of the proposal. The proposal to develop Picket Piece is an example of localism in practice. Development of land at Picket Piece was not initially a developer-led proposal but was first mooted by the Council itself as it consulted on the future of Andover in 2000 (Appendices R2 & R3 to Doc APP/0/4). A group of residents then instructed planning consultants in order to have the site progressed through the Local Plan process. It was only after this that Wates became involved, using their skill and experience as developers to create a viable proposition out of this patchwork of small ownerships. Since that time there has been consistent dialogue with the local residents and the Council, both on the strategic future for the site and on the detail of development.
74. This means that there are many in the community who support the proposal and have done so for some years. At the time of the planning application there were 28 letters in support and only 2 more than this in opposition. There has been a repeat of this support at the appeal stage, with the Planning Inspectorate receiving an unusually high number of individual letters of support.
75. There are also those who oppose the proposal, through letters and a petition. However, it should be noted that in terms of numbers some letter writers also signed the petition, which was completed by opponents of the scheme going door to door in the area and also by gathering signatures in the centre of Andover. Some opponents who comprise the "Save Picket Piece Campaign for Intelligent Development" spoke at the inquiry through a representative. They made it clear that they are not opposed to significant residential development coming forward on the land, perhaps in the region of 250 or 225 homes, but that their main opposition is to the particular form and density of the current appeal proposal.
76. The proposal would have benefits beyond those needed for the new houses themselves as there would be mains sewerage and a mains gas supply in the area for the first time and cable TV and broadband would also become available. Existing residents would have access to a new bus service to and from the centre of Andover running every half-hour during daytime on week days and Saturdays.

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<sup>4</sup> "effectively" because there is currently one field between the western edge of the appeal site and the eastern edge of the Walworth Road industrial estate but this will be filled by the proposed expansion of the industrial estate.

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There would also be local shops, one of which the S106 Agreement requires to be a food shop, and a local school.

77. Whilst it is a fact that a number of local residents would benefit as their land would be used for the development this cannot simply negate the support or mean the clear benefits to the local community should be discounted. Consistent with Government Guidance in both PPS1 and PPS3 the aim of the proposal is to create a new sense of place. Although communities are about people and not facilities, the physical infrastructure which would be provided in this case would contribute to the strengthening of the community.
78. The planning policy history of the site is one of it being progressed through the plan-led system. This began with planning briefs in 2000 and the site was then to be safeguarded to meet housing need post-2011 in both the initial and final deposit versions of the TVBLP (CD6.2 & CD6.3). Those plans said of the site "it adjoins the built-up area of Andover (as proposed to be extended). Although the site is in the countryside, it has more of an urban than rural character". These planning briefs are expressly noted as the genesis of the adopted plan (see paragraph 1.1.2 and the timeline fig 1.1 in CD6.2). An assessment was also carried out against sustainability criteria (see Doc APP/0/4). In both deposit versions of the TVBLP land at Picket Piece was to be safeguarded for housing development from 2011 onwards. (See policy AND14.1 in CD6.2).
79. There was an old style public inquiry into objections to the TVBLP, which entailed a fully adversarial examination of the strengths and weaknesses of a large number of potential housing sites around Andover. Section 10.3 of the Inspectors' Report is relied on by the appellants (CD6.4). In short it considered all the sites against both the best location for an MDA (found to be east of Andover) and sustainability criteria. Picket Piece came out ahead of all other omission sites and was therefore recommended to be brought forward immediately, rather than saved for post-2011 (recommendation at page 209 of CD6.4). The recommendation was to bring the site forward for at least 850 dwellings. The Inspectors also recommended that no sites be safeguarded.
80. However, the Council did not accept the recommendation to promote the site in the TVBLP and instead chose Picket Twenty on the assumption that this would come forward more quickly, but as it has turned out that site has not produced a single completion to date. Moreover, the Council accepted the recommendation that no sites be safeguarded which meant that despite Picket Piece being judged to be suitable for at least 850 houses in 2006, it lost all status in the TVBLP. At the time this was not seen as too great a set-back since the site could come forward again through the LDF process. This duly happened, with the site being promoted up to pre-submission draft stage of the CS as the only strategic housing allocation, covered by detailed policy SSA1 (Appendix 3 in Doc LPA/0/4). If this policy were in force there is no dispute that the appeal proposal would comply with it and be promoted by it. Yet, for reasons agreed to be unrelated to the promotion of Picket Piece, the CS DPD was abandoned in 2009.
81. The Council's case is that this history and the consideration of the site since 2000 now counts for nothing. However, unlike the recent Secretary of State decision to dismiss an appeal relating to a housing proposal in the Fylde Borough Council area (Doc LPA/5), submitted by the Council to support its case, this is not an opportunistic application and appeal. Nor is it the type of unwelcome development forced on a community or brought forward without regard to the

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plan-led system that the localism agenda seeks to avoid. On the contrary this is a proposal where the appellant has always sought to comply with the plan making process.

82. It is significant that the debate within the community, put before the inquiry, has not centred on whether or not Picket Piece should be developed for housing, but rather on the detail of this particular scheme and the density it proposes. The conclusion can properly be reached that there is a wide consensus between the Council, the local community and the appellant on Picket Piece coming forward for residential development. The differences are essentially on timing and numbers of new dwellings. That is why the proposals are fairly described as being in accordance with a "localism" agenda.
83. "Planning For Growth" (Doc APP/3). The current ratio of both lower quartile and median earnings to house prices in Andover is lower than both the regional and national average, showing that the affordability of housing in this relatively self-contained housing market is less than in comparable towns. This is an indication that house prices may be being kept high by restricted supply, which makes it harder for employees in Andover to buy a house than elsewhere. This issue is recognised by the Economic Strategy for Andover (CD6.10) which makes clear that the choice of housing in the town needs expanding to seek to attract more families and graduates to come to or stay within the town.
84. This is reflected in the current Housing Strategy for 2008-2011 (CD6.7), which reports that house prices have increased in Test Valley by 196% in the last 10 years and that an average key worker salary is only 57% of the income needed to purchase a home, compared with 75% in England as a whole. In addition, there are over 3,430 current housing applicants registered in Test Valley with some 1,450 looking to live in Andover (Appendix 2 in Doc APP/0/3). To help address such matters the Housing Strategy has, as an Action Plan Target, "That a suitable mix of new homes in terms of size, type, cost and tenure are delivered to support economic development in both rural and urban areas".
85. Both the Economic Development Strategy and the Strategic Housing Market Assessment (SHMA) (CD6.10 & CD5.1) have highlighted the need to ensure that there is a suitable mix of housing to ensure that young people remain in Test Valley, especially in Andover, and older people are able to remain in homes that meet their needs. This will mean building the right types of housing for higher earners and families but importantly for the first time buyers leaving college or university and wishing to settle in Test Valley.
86. The new homes proposed through the appeal scheme would be located adjacent to the Walworth Industrial Estate (which is proposed to be expanded) and would also be well located for other new industrial development in Andover and for jobs within Andover generally. The works prior to construction and the construction itself would bring employment in the "kick start" fashion sought by "Planning for Growth". Furthermore, there are provisions in the S106 Agreement to ensure that local apprenticeships are offered, arising out of the construction work. This is clearly a development to which the guidance in the Ministerial Statement applies (Doc APP/3) and, precisely because of the urgency of planning for growth, that guidance is in very clear terms.

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87. In respect of the issues in this appeal the current local plan is “out of date<sup>5</sup>” as it was adopted in June 2006 and now consists of saved policies only, including policy SET03. It dates from prior to the requirement to maintain a 5 year land supply in PPS3 (introduced in November 2006). Most significantly however, the TVBLP does not seek to address housing need or delivery post-2011, as can be seen from figure 6.1 of the TVBLP (CD6.1). Strategic guidance on long-term housing needs to 2026 has been set out in the SEP, and the Council’s CS was intended to provide the local policy framework beyond 2011, taking account of the RSS. However, as noted above, the CS has simply not emerged in the timescale anticipated.
88. However it is clear that Picket Piece was being proposed as the strategic site post-2011, so this appeal proposal is precisely the sort of development which “Planning for Growth” indicates should be brought forward and brought forward immediately. The proposal could be approved without compromising national policy since national policy has always been in support of housing to meet need.
89. The proposal meets every aspect of the check list in the 5<sup>th</sup> paragraph of the Ministerial Statement. Indeed the Council expressly agreed items (i), (iii), (iv) and (v) and accepted that this guidance creates a new context for consideration of these proposals, compared to that in which the Council took its decision. However, although the Council’s witness strove to maintain that the decision on this proposal would have been the same, even if this Ministerial Statement had been in force at that time, the reality is that it simply should not have been.
90. The Council maintains that the 2<sup>nd</sup> sentence of the 4<sup>th</sup> paragraph and item (ii) of the 5<sup>th</sup> paragraph support its case. These state that local planning authorities should “make every effort to identify and meet the housing, business and other development needs of their areas, and respond positively to wider opportunities for growth, taking full account of relevant economic signals such as land prices”; and “take into account the need to maintain a flexible and responsive supply of land for key sectors including housing”.
91. But it is difficult to see how either of these passages could justify refusing or delaying the grant of planning permission for housing development to an unspecified date in the future, save that it would not be before the end of 2012. Read with any degree of objectivity the new guidance means there is an overwhelming case for the grant of planning permission in this appeal, regardless of whether the Council can show a 5 year land supply. A 5 year land supply does not justify holding back what the Council agrees is “sustainable housing development” now. Indeed that is precisely what the clear urgency of “Planning for Growth” is designed to avoid.
92. Contrary to the view of the Council, the letter from the DCLG Chief Planner states that the Ministerial Statement is capable of being regarded as a material planning consideration, and especially draws attention to the weight which the Secretary of State will give to this statement in cases that come before him for decision. Furthermore, paragraph 1 of Annex A to the letter explains that the Statement sets out the steps the Government expects local planning authorities to take with immediate effect. In addition, it is made clear that the Secretary of State will take the principles in the Statement into account when determining applications

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<sup>5</sup> As referred to in the last line of the third paragraph of Annexe A to Document APP/3

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- that come before him for decision and that in particular he will attach significant weight to the need to secure economic growth and employment.
93. It is simply not correct to say that the issue of a 5 year land supply is the one that should determine this appeal. Paragraphs 68 and 70 of PPS3 do not create any embargo on the grant of planning permission where there is such a supply. The only reason for refusal in this case comes from the breach of TVDLP policy SET03. That is a strategic policy within the plan but even within its wording it recognises there will be cases where other facts should override it. This appeal is clearly such a case.
94. 5 year Land Supply. The figures and mathematics are agreed, as set out in the Housing Land SoCG (Doc JNT/4). The supply of housing land in NTV which is "deliverable" in terms of PPS3 paragraph 54 is 2.8 years if the shortfall is to be addressed in the next 5 years or 3.3 years if it is not to be worked off until 2026. The same figures apply when the position is calculated for Test Valley as a whole. In contrast the Council can only show a 5 year land supply if no attempt is made to address the shortfall over the shorter term, but to take the full remaining period to 2026, and if all its assumptions on delivery are correct.
95. The Council maintains that the letter from GOSE of the 18 March 2010 (CD7.2) justifies its approach. However, read as a whole the letter does not provide justification for simply putting matters off further and further into the future. On the contrary it gives clear guidance on what to do where there is divergence from the "run rate". In such circumstances "pending the adoption of the core strategy" it requires "proposed remedial actions to get back on course". Although the Council agrees that there is significant divergence from the "run rate" it has not taken and is not proposing any "remedial actions".
96. Secondly the letter indicates that if there are shortfalls there should be a plan-led means by which they should be remedied in the longer term and a PPS3-based short-term response in terms of granting planning permissions in the interim, in order to maintain housing delivery. The letter also states "All authorities should also have a housing delivery plan that drives general delivery and, in particular, any catching up to be done. Depending on local circumstances shortfalls could be tackled in the short term or the longer term. However GOSE would not wish to see authorities "back-loading" delivery unless there is a high level of certainty that such a strategy is justified and will deliver". It is clear that the Council is backloading in this case by putting off the shortfalls for as long as the plan period allows.
97. However all the local considerations point unequivocally to dealing with the shortfall in the shorter term. These include a consistent record of the Council not reaching the "run rate"; the consistent revision of forecasts downwards as the year for delivery gets closer (see Doc APP/6); and an agreed "rising and substantial need for affordable housing". In addition, the Council acknowledges that house prices in Test Valley are significantly higher than the national averages and that this, combined with lower than average wage levels for many jobs in the Borough, means that affordability of housing remain a key issue for local people. All these factors argue strongly for dealing with shortfalls sooner rather than later, a view supported by SEP policy H2 (CD4.2).
98. The Council also accepts that since 2006 there has been unacceptable divergence from the "run rate" as it has failed to meet it by much more than 20%. In such

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circumstances paragraph 65 of PPS3 requires “appropriate management action”. This could be to “update the quantity and mix of different categories of land within the 5 year supply of deliverable sites to redress the balance of land available for development”. The Council accepts that it has taken no such action yet this guidance requires unacceptable divergence to be dealt with quickly and “within the 5 year supply of deliverable sites”.

99. Unless it is considered acceptable in the circumstances of this appeal, to allow the shortfall arising from consistent under-performance since 2006 to go unaddressed (other than simply adding it to the residual requirement to 2026), then it is set out in Doc JNT/4 that there is not a 5 year housing land supply either in NTV or Test Valley as a whole. In those circumstances the Council’s witness expressly accepted that the appeal should be allowed.
100. The appellant’s case is that in NTV there is a shortfall in the period 2011/2012 to 2015/2016 arising from a realistic supply of just 1,114 units against a need for 2,012 (or 1,685 on the Council’s approach). The 5 year land supply calculation can only be a snap-shot at any one time and the appellant has rightly accepted that the facts on some sites have changed. Although the Council was critical of evidence presented to other public inquiries by the appellant’s witness Mr Hewett, such as the Redbridge Lane inquiry in STV, this evidence has, when read objectively, been shown to be fair and broadly correct. In fact despite his doubts regarding certain sites, such as Abbotswood, Mr Hewett still allowed for a significant number of units to come forward on them (see Docs APP/1 & APP/2).
101. The Council has had to attack Mr Hewett’s evidence because even if it is only partly right it prevents any credible case being made for a 5 year land supply. Contrary to the Council’s assertions, Mr Hewett has not used the lowest possible figures for his forecasts. Rather, his evidence combines his experience and his consideration of actual performance on housing sites, regionally and nationally; trading statements from the major housing developers (see Appendix E to Doc APP/0/7); and information on current levels of delivery from other house builders such as Barratt Homes (see Appendix H to Doc APP/0/7) to produce robust and realistic forecasts.
102. Set against this are the assertions of the developers of those sites, put forward in evidence by the Council (Appendices 14 & 15 in Doc LPA/0/3 and Appendix C in Doc LPA/0/4). However, it should be noted that the appellant has not been able to test the evidence of Boyer Planning, Savills or Taylor Wimpey. The Council’s witness, rightly, did not suggest that he had independently assessed what they say and they did not attend the inquiry to explain why their future estimates differ so much from past performance and current sales targets at the sites. The appellant maintains that developers already operating at East Anton and Picket Twenty have a vested interest in planning permission not being granted for the appeal proposal, as it would prevent additional competition arising.
103. On this point it should also be noted that Mr Hewett’s view was that the most reliable figures of delivery do not come from Strategic Land Managers, such as the authors of the correspondence relied on by the Council, but from those actually responsible for selling the houses. The most reliable evidence before the inquiry, that which has been tested and withstood cross-examination, is that of the appellant, from Mr Hewett. Mr Hewett’s evidence has been accepted by the Council in many cases in this appeal and the Council no longer relies on sites which it had previously insisted should be taken into account. These are Redland

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Tile Works, Michelmersh; 6 and 6a Bridge Street; 24a High Street; 7-11 Salisbury Road; junction of Chantry Street and West Street; and Valley View. This demonstrates that the evidence of this witness is reliable.

104. The real differences between the parties come down to consideration of just 5 sites, as detailed below. Full details of how the appellant's 5 year forecasts of housing delivery have been derived are set out in Mr Hewett's proof of evidence at Docs APP/0/5 & APP/0/7 and I simply summarise them below.
105. East Anton. This site is owned by Taylor Wimpey and is currently being developed under the dual branding of Taylor Wimpey and Bryants. Land for 188 plots has also been sold to a 3<sup>rd</sup> developer, Bellway. This site is forecast to deliver 554 units, compared to the Council's figure of 900 units as detailed in Table 5 of Doc APP/0/5. This Table shows some 44 dwellings per annum from both Taylor Wimpey and Bryants, and a lesser figure of between 22 and 32 dwellings per annum from Bellway. Mr Hewett acknowledged that this table contained an error, as it wrongly indicated some delivery from the site in 2008/9. However, this error, which arose as a result of simply apportioning known completions equally to both 2008/9 and 2009/10, does not go to the heart of the issues here, and does not diminish the value of Mr Hewett's evidence.
106. The Council's forecasts rely on 3 developers each delivering 60 dwellings per year, well in excess of the figures indicated in recent trading statements from the major housing developers (Appendix E to Doc APP/0/7). In this regard it should be noted that as detailed in Appendix 15 to Doc LPA/0/3, Bellway only envisage delivering 60 units per year "if the housing market picks up". It should also be noted that new developers will need to be found to take over after Bellway has completed its 188 units. The evidence is that currently there are at best "expressions of interest" yet the Council's prediction relies on completions from these areas in 2013.
107. Although the appellant is predicting a significantly lower delivery from this site than the Council, the appellant's figures still include predictions which are above the national averages and above the figures for other regional house builders at the moment. Development to date on this site has seen Taylor Wimpey, Bryants and Bellway agree deals with Housing Associations which will see 229 affordable housing units completed on this site by the end of 2011 (Appendix P in Doc APP/0/7). However, it is of note that current funding arrangements relating to affordable housing are about to expire, and that this is likely to have an adverse impact on future deliverability. It should also be noted that in addition to the above, Taylor Wimpey and Bryant have also agreed the sale of 52 units to the Ministry of Defence (MoD) (also Appendix P in Doc APP/0/7). Neither of these occurrences should be considered to be the norm.
108. Picket Twenty. Persimmon Homes own this site and are developing it out under the dual branding of Persimmon Homes and Charles Church. Land for 53 plots has also been sold to a third developer, Bloor Homes. This site is forecast to deliver 353 units, as set out in Table 4 to Doc APP/0/5. This is based on some 66 dwellings per annum for Persimmon Homes and Charles Church combined, and a lesser figure of some 20 to 33 dwellings per year from Bloor Homes. This compares to the Council's figure of 653 units. The Council's forecast relies on evidence provided by the developers themselves, to the effect that the 2 main developers will be able to deliver 60 units each per year. However, these figures contradict actual completion rates from national house builders, which average

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29 units per annum per outlet, and are also 42% above the performance of plc house builders locally (see Appendix H to Doc APP/0/7).

109. These responses from the Picket Twenty developers therefore need to be looked at carefully. Reading between the lines they are making the same points as Mr Hewett and accepting that the current position is unlikely to get back to the rates of housing delivery that have been reached in the past. Yet to make up the target the Council has to assume that there will be flat annual rate of delivery of 120 homes (and boosted by Bloor Homes in the early years). Moreover, no credible explanation has been given for these developers increasing their forecasts of delivery from 100 a year to 120 over the past 6 months, when every indication is that estimates should be revised downwards (see Appendix 14 to Doc LPA/0/3). There is simply no independent evidence in support of the delivery rates predicted by the existing house builders on their own sites.
110. Land at River Way. This site is owned by Tesco and is forecast by the Council to deliver 123 dwellings. However, there are a number of planning constraints which are very likely to adversely affect the development of this site, and which cannot easily be assessed from a simple site visit. These include flood risk and the need for a sequential test (see CD3.14) together with the fact that a number of features cross the site, such as a watercourse, gas main, overhead electricity cables and pylons. In addition, the site is in the Inner Source Protection Zone for boreholes located on the site, which provide the main water supply for Andover (paragraphs 5.48-5.50 of Doc APP/0/5).
111. Taken together these constraints are likely to have onerous implications for any development on the site and the appellant has therefore assumed that no dwellings would be delivered on this site within the 5 year period. With regard to responses from Tesco itself, it is clear that no tests have yet been carried out and the constraints have not been examined or allowed for (paragraph 5.51 of Doc APP/0/5). In PPS3 terms it cannot even be said that the site is available now. Furthermore, as Tesco does not build houses it would need to persuade the Council, the Environment Agency and a new developer that the constraints can be viably overcome.
112. Shepherd's Spring and Roman Way school sites. These sites form parcels of land which are considered by Hampshire County Council to be surplus to requirements. The Council has forecast that the Shepherd's Spring site will deliver 50 dwellings and the Roman Way site 12 dwellings. However, even though the Secretary of State for Education is satisfied with the disposal of the sites, this does not obviate the need to adhere to the policy requirements in paragraph 10 of PPG17 (CD3.10). This requires an assessment to be undertaken to clearly show that the open space or the buildings and land in question are, indeed, surplus to requirements. It should include such elements as public consultation; a differentiation between the quality and value of a facility; and an accessibility component (see paragraph 6.52 of Doc APP/0/1).
113. In summary, without a full PPG17 assessment it cannot be assumed that Sport England and the Secretary of State for Communities and Local Government would not raise objections to the disposal of the sites for residential development. As such, delivery of the sites within the 5 year period cannot be assured. Accordingly the appellant has assumed zero delivery from these 2 sites.

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114. Contrary to the Council's assertions the appellant has not painted an unfair "Doomsday scenario", but rather has undertaken a realistic assessment of likely housing delivery in the light of recent experience of the housing market and common sense. The calculation of a 5 year supply is not an exact science turning on precise numbers of weeks or small numbers of months, but the details set out above point to a broad indication that there is not a reliable and robust 5 years supply of housing land in NTV or indeed in Test Valley as a whole. As already noted, the Council's witness acknowledged that if that is right then the appeal should be allowed.
115. In terms of PPS3 this is a case where paragraph 71 applies and planning permission for this new housing should be considered "favourably" against the criteria in paragraph 69 of this guidance. There is much common ground on this point between the main parties. The Council agrees all the criteria in paragraph 69 point to allowing the appeal with the exception of the last, which requires local planning authorities to have regard to "Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives, eg addressing housing market renewal issues".
116. Because of this criterion the Council argues that this appeal should be refused to allow the CS to come forward. However, the CS has already been delayed from the date of 2008/2009 when it needed to be progressed if it was to provide the required guidance for post-2011. To await the CS means a minimum of another 20 or so months delay (to the end of 2012) before any policy basis is formed to address the existing housing shortfall and with it, the exacerbation of the need for affordable housing. Furthermore, paragraph 72 of PPS3 makes clear that prematurity should not be the sole reason for refusing planning permission.
117. One of the reasons the CS was delayed in 2009 was not because it contained too much housing land but because it did not contain enough. Moreover, the Inspector identified a total of 8 points which the Council needed to consider and was not simply concerned about housing land supply (CD6.6). As the Council's response to the Inspector's next steps made clear, the issue on this point was how to find more greenfield sites to meet the full SEP target of 6,100 dwellings, rather than the earlier, lower figure of 5,000 dwellings, as assumed in the CS DPD. Whilst this would require further investigations to be undertaken, it was never suggested that Picket Piece, which had been clearly identified as the appropriate option for a new strategic housing site, should be abandoned.
118. In addition, the appellant's housing figures show a need for the CS to find far more than 500 houses, as confirmed in the Council's housing trajectory which relies on delivery from both "unallocated sites" and also on allocated sites "to be identified". Accordingly, allowing this appeal would not prevent any other land coming forward and the Council can only assert that it would by pre-judging that it will be preferable to increase density at East Anton and Picket Twenty rather than considering other alternatives (see paragraphs 7.45-46 in Doc LPA/0/1).
119. It is acknowledged that there is a theoretical benefit in starting again and all sites having a fresh chance to argue their case. But as the Council agreed, there are no new major sites which have not already been considered and, importantly, which were not considered by the Inspectors in the forum of the TVBLP inquiry (see CD6.4). There is no good reason to further delay sustainable housing coming forward simply for a further round of the planning process. To do so

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would be absolutely contrary to the "Planning for Growth" guidance which is to be given immediate and significant weight.

120. Third party Representations. As well as objections in principle to this particular proposal and its density, third party objectors were also concerned about traffic generation and congestion on Walworth Road. They were working on about 1,000 new cars, on the basis of 2 per dwelling, but this does not take account of the housing mix or the TRICS<sup>6</sup> data for sites such as this. There is an agreed statement from the Highway Authority as well as a transport assessment (part of the ES) and the evidence from the appellant's transport witness (Docs JNT/2, CD1.5d & APP/0/9). In essence there is no dispute between these bodies that when the proposal is assessed against published standards and empirical evidence it is acceptable in terms of highway safety and capacity. It would also bring forward improvements to the network for pedestrians and cyclists which would benefit all road users, not just the new residents at Picket Piece.
121. There was also a concern that since Wates would enter a joint venture agreement the site would somehow not turn out as planned. However, whilst there can be no absolute guarantee regarding the form or timing of future development, very clear reassurance on this point has been provided through a statement explaining how Wates operate (Doc APP/10). Wates intends to remain a joint partner with a selected developer and has placed money in the budget for this year to purchase options. This brings in the best expertise and would help the site come forward. In any event, the shape and future of this development is set out in considerable detail by the master plan and the provisions of the S106 Agreement which bind the land and anyone who owns it in the future, not simply those who have ownership at this minute.
122. Dormice. Doc JNT/3, agreed with the Council, endorses the methodology for dealing with any dormice which may be on the site. There have been extensive surveys and the mitigation proposed has been considered the most appropriate if the development is to go ahead. Although there would be residential activity this has been taken into account such that the mitigation would, in terms of the physical use of hedgerows and the habitat for dormice, be an improvement. The agreed statement has been brought forward in consultation with Natural England who would be the statutory body determining any licences which would be necessary to remove and then re-establish dormice. The suggested planning condition incorporates this agreed statement and thereby guarantees appropriate mitigation, meaning that the appeal could be allowed without breach of the Habitat Regulations or the European protection for dormice.
123. Conditions and Section 106 Agreement. There is very broad agreement on the suggested conditions. In relation to the 3 that are in dispute it is not that there is any objection to what they require. The issue is that they would simply be duplicating information which would come forward at the reserved matters stage, or would be setting parameters for the reserved matters which are there in any event. The appellant could and would comply with them but they are unnecessary. Finally, the parties agree that the S106 Agreement contains provisions which are necessary and proportionate and comply with the relevant tests of the Circular 05/2005 and CIL Regulation 122 (both CD7.3).

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<sup>6</sup> TRICS – a national trip generation database, allowing the user to determine trip characteristics associated with broadly similar existing developments elsewhere in the UK

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*Conclusions*

124. This is a site where planning permission for up to 530 dwellings would provide benefits and comply with the objectives of localism and "Planning for Growth". These would far outweigh any harm arising from developing a site outside the settlement boundary, as considered appropriate in 2006, but even then expected to be altered post-2011 by the CS. Granting permission would end the uncertainty not over the future of the site, because that is clearly going to be for housing development, but over the timing of that development. Delaying the grant of permission for the emergence of the CS would be wholly contradictory to the urgency of the "Planning for Growth" guidance.
125. The arguments against granting permission may appeal to the Council's policy planners, but they are divorced from the reality of the housing need in Andover with its above average house prices but below average earnings; divorced from the serious and rising affordable housing need; and divorced from the need to facilitate housing development to kick start economic growth. The arguments of pure planning policy should not prevent this development and should not prevent the realisation of what have long been the aspirations for this site, from the Council as much as anybody else. In view of all the above points the Inspector is asked to recommend that the appeal be allowed.

***The Case for Interested Persons Supporting the Proposal***

The material points were:

126. **Mr Andrew Powell**, a local resident who owns a chicken farm on the Ox Drove and has lived, worked and raised a family here for over 30 years. Although he stands to gain financially if the appeal is successful, as some of his land is included in this proposal, he argues that the issues at stake are much broader than personal financial gain. Planning policy is clearly necessary but it should be remembered that there are real people on both sides of this debate who live and work in Picket Piece and it is their lives and homes that are involved.
127. Currently, Picket Piece struggles to sustain itself as a community. Despite the recent piecemeal addition of some new houses along Walworth Road, the infrastructure and sense of community is declining. There is only 1 bus per week, the chapel has gone, the village hall is constantly in need of financial support, the post office is under pressure and there is no doctor, school or shop. In addition there is no mains drainage, no gas and only poor internet access. This proposed development, together with the S106 Agreement, represents an opportunity to create a sustainable and vibrant community in an attractive setting for current and future residents. A range of new services would be available enabling residents to look to their own community rather than constantly having to travel elsewhere.
128. It would also give financial economic stimulus to the wider Andover area and provide affordable housing opportunities for young people, hopefully giving them the chance to remain in the area, in a house that they can afford, instead having to move away. The current average age of the residents of Picket Piece, clearly significantly increased over the last 30 years, shows that the majority of young people are forced out in search of affordable housing elsewhere. In short this development would be good news for Picket Piece.

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129. It should also be remembered that it was the Council who initiated this whole process over 10 years ago, when local authority planners identified Picket Piece as a site suitable for residential development as part of their preparations for the Local Plan. But things are no further forward 10 years later, despite any number of plans, documents and options and despite the fact that Picket Piece has always emerged as an area suitable for development. The site was even recommended for development by Planning Inspectors as part of the TVBLP process.
130. Over the years this has resulted in a huge cost in tax-payers' money, but outstanding issues of deliverability have now been resolved and a S106 Agreement is in place. Any further LDF planning exercise would, in all probability, be delayed, scrapped or radically altered by the time the Council is even half way through its work. All the while, swathes of farmland at East Anton and Picket Twenty are taken out of production whilst the paddocks, scrub and previously developed land which form the bulk of this appeal site continue to support an ever expanding rabbit population and not much else.
131. All this delay and uncertainty is having an adverse impact on the community. Speaking personally, Mr Powell says that it is making life very difficult as it is impossible to plan investment decisions on his farm. Technology and the regulatory framework continually move forward and poultry farming is no exception. The uncertainty means that he is unable to commit to the future either here or elsewhere. The jobs of his employees are at risk and he cannot reassure them as to their future. Many of his neighbours are in the same position, unable to move on with their lives. This lengthy delay is unfair on the residents of Picket Piece. Clearly the planning process moves in mysterious ways but to be left in limbo for 10 years is unreasonable.
132. If this appeal is unsuccessful there would be another policy vacuum, leading to ad hoc decision making, piecemeal development and a general decline in investment in the area. For these reasons the appeal is fully supported.
133. **Mr Peter Spurgeon**, a local resident of Picket Piece. He and other local residents own pieces of land that are not viable in today's factory farming environment but which, together, may change Picket Piece from a string of houses on either side of the road to St Mary Bourne, into a viable village community. This would be the best way to save Picket Piece as the new, enlarged, community would provide a sufficient cohesive population of diverse ages, interests and wealth to justify resources of a local school, shops, medical and recreational facilities and a more regular bus service to Andover, Whitchurch, Basingstoke and Winchester.
134. At the last public inquiry the figures would have balanced with new housing at East Anton alone and the Inspectors recommended Picket Piece to be developed in preference to Picket Twenty and all the other proposed sites. However, the Council decided that Picket Twenty was more "deliverable" than Picket Piece. Andover has relatively low unemployment and capacity for more industrial development, in particular at an extended Walworth Industrial Estate. Affordable housing is needed for the youth of Andover and possibly for immigrants from the European Union countries that suffer worse recession. This development would provide an opportunity for the Council to think positively and prepare for an expanding and prosperous future.

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135. As regards the benefits to Andover, here is an opportunity to use S106 Agreement contributions from the appellant to support improved parking at the train station, maintenance of the swimming pool and upgrading of the bus station. Other S106 sums and negotiated monies would go towards roads, allotments and open spaces. This money would be in addition to the additional community charges from properties proposed to be built at Picket Piece and would help Andover even more, making it easier to fill the industrial sites, providing more employment opportunities and making it easier for first time buyers to be able to start their lives in new affordable homes.
136. There may be many other housing schemes waiting to come forward, but these are large-scale development proposals amounting to many more dwellings than the development plan envisages, put forward by rival developers to try to delay progress and to protect their own "work in progress". The SEP has identified a requirement for a development of this size and Picket Piece has already been recommended as a preferred housing location by Local Plan Inspectors. The Government is trying to encourage house-building to avoid the collapse of the construction industry and the loss of jobs.
137. The appellant knows that there is a demand for the mix of housing that it proposes and has followed correct procedures throughout, despite the changing stance of the Council. Agreements have been reached with all the landowners, to guarantee deliverability and a S106 Agreement has been negotiated to the satisfaction of the Council. The appeal should therefore be allowed.

### ***The Case for Interested Persons Opposing the Proposal***

The material points were:

138. **Mr Chris Prentice**, a local resident, speaking for himself and on behalf of the "Save Picket Piece" campaign. Those wishing to save Picket Piece are not opposed to any development on the land in question and accept that the land will most probably be developed in the future. However, if it is decided that there is a need to develop this site, then there should be a reduction in the proposed density. "Sense and sustainability" should be the guiding rule, as this would be entirely in tune with the Government's Localism Bill which indicates that the planning system will be radically reformed and that residents will have a much greater involvement in the development of the communities in which they live.
139. The "Save Picket Piece" campaign concurs with the views expressed in The Taylor Review<sup>7</sup> (see Doc IP/0/3). It is opposed to bland housing estates crammed onto the edge of towns and the unintended consequences of development on brownfield land, such as "urban cramming" and the inappropriate loss of gardens and other urban green space. Affordable housing for local people should be achieved through small groups of houses not a development of the size currently proposed.
140. Contrary to what some of those who support the proposal allege, it is disputed that the existing community struggles to sustain itself. The village hall is under new management and is now growing and thriving, as are the businesses on the Commercial Centre where there is a local shop and Post Office which has survived the latest round of cuts whereas others have not. Many of the benefits

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<sup>7</sup> The Taylor Review of Rural Economy and Affordable Housing: *Living Working Countryside* – July 2008

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referred to by supporters of the proposal would not be available to existing local residents, and the appellant has failed to consider any of the reasonable points put to it at a recent meeting. There is no need for a new school in the village, save to serve the proposed new housing and any new surgery is likely to be funded by expanding existing services at their current locations, for example in Andover and at St Mary Bourne.

141. Concerns are expressed that there would be disruption during construction and that the proposed roundabouts, giving priority to right-turning traffic approaching from the west, would disrupt the eastbound traffic flow and would inevitably lead to major road congestion at peak times in the village. This would be reversed in the evenings, leading to increased accidents as frustrated drivers would take risks following a long wait to exit out of the estate roads. Existing residents in the vicinity of these roundabouts are also concerned about increased road noise and light pollution as headlights would directly shine onto living room windows.
142. Despite a change in Government, the appellant is still pursuing a high density development that is not in keeping with the area and would swamp the village and its character with a near 1,000% increase in dwellings and road traffic. This proposed dwelling density has been considerably further impacted by the moving of a second football pitch onto the same plot of land with no resultant downgrading in the number of dwellings.
143. Although the appellant and some Councillors have cited the Government's Council Tax matching offer as an incentive to going ahead with this proposal, it is this inquiry's duty to protect the interests of the existing Council Tax payers of many years as well as those of the Borough as a whole. The development proposal takes no account of the remaining Picket Piece residents and the impact this development would have upon them. Any benefits that may accrue from enhanced utility services such as mains gas, mains sewerage and broadband would not be subsidised in any way by the developer. The issue of the problems of sustainability by overdevelopment of this site and the detrimental impact that this would have on the area have been completely dismissed in favour of maximising profit.
144. Pressure is being put upon our planning departments to release greenfield land on the basis that other supported developments are not building fast enough, but build targets cannot be met without demand and extra supply would not address this point. The Chief Executive of Wates is on record as saying that it has extraordinary land stocks awaiting the right conditions for development. Given the current demand situation this current proposal can only add to those stocks, further blighting our situation of uncertainty, potentially into the realms of decades rather than years. This is especially the case as Wates would not develop the site on its own, such that there can be no guarantee that a single house would be built within the next 5 years.
145. It is time that an end to this speculation is made. The "Save Picket Piece" campaign is not opposed to the development of the site provided it is proportionate, in keeping with the area and if this extra housing is really required. It is considered that the Council's housing waiting list is at least 20% (possibly much more) over-inflated by multiple out-of-Borough applications. A development of this magnitude would seriously blight the lives of existing residents and should not be allowed to continue. A decision should be made and

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made quickly. The development is entirely speculative and premature and should be refused by this public inquiry.

### **Written Representations**

146. A number of letters both supporting and opposing the proposal (including a small petition in opposition) were submitted at appeal stage and can be seen at Doc IP/1. In addition, a larger petition opposing the proposal together with other letters both opposing and offering support were submitted at application stage. These include objections from Boyer Planning on behalf of Taylor Wimpey UK Ltd (the developer of land at East Anton), together with Savills who are objecting on behalf of Persimmon Homes and the Picket Twenty landowners.
147. Written objections have been received from the Parish Councils of St Mary Bourne, Goodworth Clatford, Smannel and Longparish, whilst letters of support include some on behalf of further landowners who request that their land be included within the development site. A letter expressing interest in the proposal, but neither supporting nor objecting, has been received from the local MP, the Rt Hon Sir George Young.
148. In the main the written representations add no materially different points to those raised by the interested persons who spoke at the inquiry. All other areas of concern are addressed either by the obligations in the S106 Agreement or by the suggested conditions. In addition, many of the objections relating to highway and transportation concerns, including those from the Parish Councils, are directly addressed in Appendix RGHC to Doc APP/0/9.

### **Conditions**

149. A schedule of 32 agreed conditions, to be imposed should planning permission be granted, is set out at Appendix C. A further 3 conditions have been suggested by the Council but the appellant does not consider their imposition to be necessary as they deal with topics which fall within the reserved matters. The Council acknowledges this, but nevertheless argues that such conditions would provide useful guidance to assist the submission of future reserved matters applications. In addition it indicated that an identical condition to that suggested as No 34 was supported recently at another local appeal (Doc LPA/9).

### **Planning Obligation**

150. As noted above, the Council refused planning permission for a total of 5 reasons, but other than the first, all were felt capable of being addressed by an appropriate legal agreement. These reasons for refusal related to the need for highway and transport improvements; concerns about the sustainability of the site; the need to secure the provision of an appropriate level of affordable housing; and the need to secure the provision of infrastructure and community facilities directly related to and necessary for the development.
151. These have all been addressed by means of a completed S106 Agreement, made between the appellant, the Council, Hampshire County Council as local Highway Authority and a large number of local land owners (see Doc JNT/7). Its obligations are summarised in Section 21 of the main SoCG (Doc JNT/1), but in brief they cover the following:
- i. affordable housing: 40% of development: 212 new homes in groups of 10-15 across the site;

- ii. a new on-site 1-form entry primary school;
- iii. a local centre including a community building (or off-site contribution as an alternative) together with a foodstore and other shops;
- iv. a package of transport-related measures, totalling some £1.978M, including:
  - a) £550,000 towards pedestrian and cycle improvements;
  - b) £505,000 to improvements at Andover's bus and railway stations;
  - c) £225,000 towards schemes in the Andover Town Access Plan;
  - d) £464,000 to establish a new public transport service to serve the development;
  - e) £30,000 for bus stops to serve the development;
  - f) £174,000 towards improvements to the Folly Roundabout;
  - g) £35,000 to kerbing and other works along the Harroway;
  - h) A Residential Travel Plan to encourage residents of the proposed development to travel by means other than the private car;
- v. a health care contribution of £36,800;
- vi. provision of on-site sports pitches, a MUGA; a pavilion; children's play areas and public open space;
- vii. an Apprenticeship training scheme;
- viii. a Public Art contribution of £44,520;
- ix. funding for a Community Worker (£70,000);
- x. a contribution of £326,904 towards swimming pools in Andover; and
- xi. a commitment for all homes to achieve Code for Sustainable Homes Level 3.

152. Should planning permission be granted the Council considers that this Agreement would make proper provision for planning contributions arising from the appeal development and meet the requirements of Circular 05/2005 and Regulation 122 of the CIL Regulations 2010 (CD7.3).

*My conclusions begin on the next page*

## **Conclusions<sup>8</sup>**

153. As already noted, the Council refused planning permission for this proposal for 5 reasons <sup>[1]</sup>. All except the first of these cites the absence of a legal agreement as the principal cause of conflict with the stated development plan policies. However, what was termed a “final agreed version” of a S106 Agreement was submitted to the inquiry <sup>[2]</sup>. During the inquiry this was going through a process of signing and engrossment, but was not available in its fully completed form when the inquiry finished sitting. A completed version has, however, now been received and I am satisfied that it adequately addresses the outstanding matters covered by reasons for refusal (ii) to (v).
154. Moreover, in my assessment the Agreement accords with guidance in Circular 05/2005 and also satisfies the requirements of CIL Regulation 122, as the obligations it contains would be (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development <sup>[123]</sup>.
155. As a result, I have concluded that the main consideration in this case is whether the Council can demonstrate an up to date 5 year supply of deliverable housing sites, such that there is no over-riding need to develop the appeal site and set aside the general policy of restraint on development in the countryside.

### ***Compliance with the development plan***

156. Although the Secretary of State has signalled the fact that RSS are to be abolished with the Localism Bill, the SEP formed part of the development plan at the time this inquiry was held and also when my Report was written <sup>[11]</sup>. Therefore, despite the indication from the Council that it is likely to seek a lower housing figure as and when it is able to determine its own housing requirement, it is common ground at present that it is the SEP’s figure of 6,100 dwellings for NTV which needs to form the basis of current assessments <sup>[11,27,35]</sup>.
157. In terms of the TVBLP, the only policy with which a conflict is alleged is SET03 “Development in the Countryside” which, in summary, only permits development in the countryside if there is an overriding need for it to be so located <sup>[12]</sup>. No such need is claimed in this case, nor does the proposed use (predominantly housing) constitute an “appropriate” countryside use as also referred to in policy SET03. In simple terms the proposed development therefore has to be considered as in conflict with this policy <sup>[12,32,70]</sup>.
158. However, the appellant’s case is that there are other material considerations, relating to such matters as housing need, the 5 year housing land requirement and the planning history of the site which, together, indicate that the appeal should be allowed and planning permission granted, despite this development plan conflict <sup>[70]</sup>. I consider these matters in the following sections of this Report.

### ***Housing need and consideration of the 5 year housing land requirement***

159. There is no dispute between the parties that to accord with the housing requirement for NTV set out in the SEP, 6,100 dwellings need to be provided

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<sup>8</sup> References in superscript square brackets are to preceding paragraphs in this Report, upon which my conclusions draw.

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between 2006 and 2026 <sup>[11,27,35]</sup>. This equates to an average yearly requirement of 305 units. To the end of March 2011 there have been an estimated 1,038 completions, leaving a residual requirement of 5,062 dwellings. It is with regard to the correct way to deliver this residual figure that the parties differ <sup>[27,30,42,97]</sup>. Taking its lead from guidance offered by GOSE, the Council maintains that the appropriate way to deliver the remaining dwellings is on the basis of dividing the residual figure by the number of years to the end of the SEP period (15 in this case), to give a new "annual rate" or "run rate" of 337 dwellings. Applying this rate to the next 5 years the Council argues that the appropriate 5 year requirement is 1,685 dwellings <sup>[27,29,42]</sup>.

160. However, the appellant's case is that to adopt this approach would ignore the fact that progress on delivery over the first 5 years of the SEP has been significantly lower than expected, on the basis of initial average rate of 305 dwellings. The appellant maintains that such a rate should have delivered 1,525 dwellings up to the end of March 2011, and the fact that this has not been achieved means that there is a shortfall of 487 dwellings, which should be addressed in the short term, over the next 5 years <sup>[27,97]</sup>.
161. In support of this view the appellant points to policy H2 in the SEP, dealing with managing the delivery of the regional housing provision <sup>[97]</sup>. Amongst other matters this policy indicates that in planning for the delivery of housing local planning authorities should take account of the need to address any backlog of unmet housing needs in the first 10 years of the Plan. Although I share the Council's view that this comment relates to an estimate of previous under-supply at the commencement of the SEP period <sup>[12]</sup>, it nevertheless provides an indication that as a general rule, under-supply should be dealt with in the short to medium term rather than the longer term.
162. In view of the above points the appellant argues that the 5 year requirement for 2011-2016 should be calculated as 5 years at the initial annual rate of 305 dwellings (totalling 1,525) plus the shortfall of 487 leading to a 5 year requirement of 2012 dwellings <sup>[27,29,100]</sup>. Clearly there is a significant difference between the parties on this matter, amounting to some 327 dwellings.
163. Although the Council's method of calculation reflects what could be called common practice the advice from GOSE, referred to above, makes it clear that if there are shortfalls there should be a plan-led means by which they should be remedied in the longer term. In addition it states that there should also be a PPS3-based short term response in terms of granting permissions in the interim, in order to maintain housing delivery <sup>[96]</sup>. Reference was made in evidence to an indented paragraph in this GOSE guidance. It appears that this does not relate directly to the 5 year requirement, but rather sets out the need for action to be taken if delivery starts to diverge significantly from the average "run rate" <sup>[43,95]</sup>.
164. Nevertheless, a legitimate way of attempting to address any under-delivery compared to the average "run rate" would be to strive to increase delivery over a particular period, which is just what the appellant has suggested here. The alternative, which appears to be the Council's option, is to take no specific management action but rather simply aim to ensure the required quantum of housing is delivered by the end of the SEP period. Having said this, the Council's projected completion figure over the next 5 years of 1,945 dwellings is not dissimilar to the appellant's preferred figure of 2,012 <sup>[30,37,44]</sup>.

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165. However, as a matter of principle the Council's approach does not appear to accord with further advice in the GOSE letter, which states that all authorities should also have a housing delivery plan that drives general delivery and, in particular, any catching up to be done. It goes on to advise that depending on local circumstances shortfalls could be tackled in the short or longer term but that GOSE would not wish to see authorities "back-loading" delivery unless there is a high level of certainty that such a strategy is justified and will deliver <sup>[96]</sup>.
166. Considering first whether there is a high level of certainty that such a strategy is justified, no persuasive evidence has been submitted to warrant not addressing this shortfall in delivery in the short to medium term. In contrast, the submitted evidence points to a pressing need for new housing in the area, both market and affordable <sup>[60,83-85]</sup>. Indeed, housing provision in the area is a recognised problem as detailed in the Council's Housing Strategy 2008-2011 with its Action Plan Target which seeks to deliver a suitable mix of new homes in terms of size, type, cost and tenure <sup>[84]</sup>.
167. The Council acknowledges that there is a recognised housing need within Test Valley, but points to the fact that the mechanism for providing affordable housing is set out in TVBLP policies ESN04-06. Accordingly it maintains that the provision of 40% affordable housing on offer through this proposal does not justify the conflict with policy SET03 <sup>[60,61]</sup>. It is the case, however, that there are a significant number of housing applicants currently registered in Test Valley, with some 1,450 of these (42%) looking to live in Andover <sup>[84]</sup>. Although third parties allege that the waiting list contains a substantial number of duplicate applications, no firm evidence to support this view was submitted <sup>[145]</sup>.
168. The Council's target for the delivery of affordable housing, set out in its Housing Strategy 2008-2011 is 100 dwellings per year, although the intention is to increase this to 200 units per year by 2012/13, in order to reflect the significant delivery expected from greenfield allocations <sup>[60]</sup>. The 100 unit and 200 unit targets have not been devised to satisfy the level of housing need in the Borough, but are simply seen as being a reflection of what can realistically be achieved in relation to available land and resources. Nevertheless, taken together the over-riding picture that these facts and figures present is one in which there is a real and pressing need to ensure the right mix of dwellings is provided sooner rather than later.
169. In terms of delivery up to 2026, that this matter is hampered by the fact that no CS is in place at the present time and is not likely to be adopted until late 2012 at the earliest <sup>[116]</sup>. Nevertheless, the Council's Housing Trajectory for NTV does rely on a significant number of projected completions on unallocated sites and "to be identified" allocated sites <sup>[118]</sup>, such that it is difficult to have the necessary high level of certainty that the strategy of making up the shortfall over the whole SEP period would deliver the required quantum of housing.
170. The appropriate way to deal with any shortfall in housing delivery has to be a matter of judgement, and that it is difficult to come up with a single "right" figure. However, in the particular circumstances of this case I favour the appellant's approach as there seems to be a strong justification in attempting to remedy the shortfall in the short to medium term rather than over the SEP period as a whole <sup>[96,97]</sup>. Whether or not the shortfall should best be addressed over the next 5 years or a slightly longer period, the fact remains that a figure in excess of the Council's preferred figure of 1,685 dwellings ought to be the requirement

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sought. In the absence of any alternative figures put forward in evidence I shall adopt the appellant's figure of 2,012 dwellings <sup>[29]</sup>.

### ***Housing supply projections against the 5 year requirement***

171. The Housing Land SoCG shows that there is agreement between the parties on the likely delivery of housing from many of the small and medium sized sites, but that there are important and significant differences on a few key sites <sup>[47-57,104-113]</sup>. Overall this means that whereas the Council claims that 1,945 new dwellings would be completed over the 5 year period to the end of March 2016, the appellant's predicted figure for the same period is 1,114 dwellings. Put simply the Council's predictions amount to a 4.8-year supply against the requirement of 2,012 dwellings, with the appellant's figures amounting to a 2.8 year supply <sup>[30]</sup>. I visited each of the sites in dispute as part of my accompanied site visit and deal with them in the following paragraphs.
172. East Anton. This large, strategic site at the north-eastern side of Andover is currently being developed by Taylor Wimpey, Bryants and Bellway. Since September 2009 it has produced 398 completions (to the end of March 2011), equivalent to 250 dwellings per year, although the Council does not suggest that forward projections should be based on this rate <sup>[47]</sup>. Indeed, to date development on the site has a somewhat unusual profile, with 52 of the houses already built having been bought by the MoD and 229 affordable units expected to be available by the end of 2011 through Sentinel Housing Association, as a result of a form of grant funding which has since been withdrawn <sup>[107]</sup>.
173. Over the coming 5 years the Council reports that both Taylor Wimpey and Bellway predict a delivery of 180 dwellings per annum, at 60 units per outlet (36 market houses and 24 affordable units). However, Bellway only have land to develop for 188 units and the delivery rate of 60 units per year is only stated as being achievable "if the housing market picks up" <sup>[106]</sup>. Elsewhere in the evidence this developer refers to an assumption of being able to deliver 40 units per year.
174. Despite this, the Council has maintained its assumption that the East Anton site will deliver 180 units per year for the remainder of the 5 year period up to 2015/16 and indeed beyond that up to 2021/22. Such a delivery rate could only be achieved if other developers move on to the site, but whilst the Council refers to expressions of interest from third party developers for parcels of land lying to the north of the existing area being developed, no firm evidence of any such interest has been submitted <sup>[51]</sup>.
175. Set against this is the evidence from the appellant, primarily from Mr Hewett, based on an analysis of trading statements from both Taylor Wimpey and discussions with staff in the on-site sales offices of these developers. The Bellway trading statement of March 2010, based on a total of 180 sites, indicates an annual average of 25 completions (private plus affordable), with the equivalent figure for Taylor Wimpey being 35 completions, again including affordable housing units <sup>[101]</sup>.
176. The information from the various sales' staff was not obtained in writing and this clearly places a question mark against the weight which can be attributed to it as the figures cannot be independently verified. However, when considered alongside the figures in the trading statements from these developers, set out above, the figures quoted by Mr Hewett do not seem unreasonable. Indeed, these trading statements call into question the much higher predictions of 60

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units per year from the developers of East Anton which, in themselves, have not been independently verified <sup>[101-103]</sup>.

177. Clearly, the current developers of East Anton have a vested interest in presenting an optimistic picture of delivery as they are likely to want to resist competition from additional sites competing for the same market <sup>[102]</sup>. Equally, the appellant has a vested interest in putting forward pessimistic rates of delivery from existing sites in order to boost the case for an additional housing site. In reality the actual situation could well lie somewhere between the positions of the 2 parties.
178. Notwithstanding the above points, I have noted that in preparing his evidence, Mr Hewett substantially increased the figures attributable to each developer to be above the current national averages and those of other regional house builders, in order to provide what he referred to as realistic forecasts. These amount to some 44 units (private plus affordable) per year from both Taylor Wimpey and Bryants and a lower figure of between 22 and 32 for Bellway <sup>[102,104,105]</sup>.
179. In view of all the above points the appellant's case represents a more realistic and reliable delivery figure than that put forward by the Council. Accordingly I consider it likely that the East Anton site would deliver 554 dwellings (both private and affordable) over the next 5 year period. This is some 346 dwellings less than the Council's projection.
180. Picket Twenty. This site is located to the south-east of the town and was allocated in the TVBLP for 1,200 dwellings. Outline planning permission for 1,200 dwellings was granted in January 2008 and a number of reserved matters applications for a total of 543 dwellings have been approved to date. There is a single volume house builder for the majority of the site, Persimmon, together with another developer (Bloor Homes) who are developing a total of 53 dwellings on the site. Persimmon intend to develop the site under 2 brand names, Persimmon Homes and Charles Church <sup>[108]</sup>.
181. Written evidence has been submitted from Persimmon, adopted by the Council, which advises that the Picket Twenty site should be assumed to deliver 120 dwellings per annum (excluding the contribution from Bloor Homes) <sup>[109]</sup>. Although this would be below Persimmon's target level of 140 dwellings per annum, the developer argues that it would build an appropriate level of contingency into the forecasts in the event that completion rates are slower than anticipated <sup>[48]</sup>. In contrast the appellant argues that delivery is likely to be much lower, at about 66 dwellings per annum for the combined Persimmon Homes and Charles Church element (private and affordable housing combined), with 20 to 33 dwellings per annum from Bloor Homes over a 2-year period <sup>[108]</sup>.
182. Again there are significant differences between these predictions and in each case there is little in terms of independent verification of the figures, with the Council's projections coming from the developers themselves and the appellant's based largely on oral comments made by sales staff. However, the appellant's figures are more closely supported by the small amount of additional information that has been submitted, than are the Council's.
183. As with East Anton, this additional information includes the trading statements from a number of house builders, which clearly indicate that current completions are lower than the Persimmon forecasts for Picket Twenty <sup>[101,106]</sup>. Indeed the Persimmon Trading Update of January 2011 appears to indicate that on average it completed about 25 dwellings per site during 2010, a figure which includes

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affordable housing. Other corroborative evidence is scanty but figures have been produced showing that other major house builders, operating in the local area, report completions of around 24 to 29 dwellings per annum. In addition, submitted evidence relating to Barratt Homes and David Wilson Homes refers to private sales averaging 25 per year per site <sup>[101]</sup>.

184. Having had regard to all the above information I consider the Council's estimates of likely delivery from the Picket Twenty site to be overly optimistic and not supported by other relevant data. The appellant's figures are more robust and, accordingly, I consider that this site is more likely to deliver about 353 dwellings over the coming 5 year period, as projected by the appellant, than the Council's figure of 653 completions.
185. Land at River Way, Andover. This site, lying within the urban area of Andover, to the north-eastern side of the town, is owned by Tesco and has been submitted as part of the Council's SHLAA for 123 dwellings <sup>[53,110]</sup>. The site is fairly large and reasonably flat and has existing housing to its northern and southern sides, with a Tesco store and car park to its west. Open land and playing fields lie to the east, across Pilgrims Way. It is considered within the SHLAA to be a site with a presumption in favour of residential development and in view of this and the above points the site appears to be suitable for housing development.
186. Although the appellant has questioned its availability at the present time it is being promoted for development by the landowner and the Council therefore considers it to be available. Having had regard to other sites within the SHLAA given this same rating there is no reason to take a contrary view on this point.
187. However, although the appellant accepted that in relation to flooding matters the sequential test was capable of being satisfied, the site does appear to have a number of other potential constraints to development. A number of these are set out in the SHLAA itself, such as ground water protection, tree preservation orders, impact on the strategic road network and the presence of overhead pylons. Other matters highlighted by the appellant are the presence of a watercourse and gas main crossing the site. The SHLAA indicates that if the issue of ground water protection can be fully addressed, development of the site is considered achievable <sup>[54]</sup>.
188. The only supporting information put forward by the Council is an emailed communication from Tesco indicating that the company hopes to be in a position to move this site forwards in the very near future, but has not developed the scheme to any great degree recently. According to the company, the figure of 123 dwellings and the 1-5 year timing window are still considered to be the most accurate assessment available <sup>[54]</sup>.
189. The absence of any firm indication that development of this site is being actively pursued, coupled with the presence of the aforementioned constraints, weighs against its full inclusion in the 5 year programme. Furthermore, as pointed out by the appellant, as Tesco is not a house builder itself it would need to persuade the Council, the Environment Agency and a new developer that the constraints could be viably overcome <sup>[110]</sup>. Nevertheless, in some ways the characteristics of this site do not differ greatly from others in this same SHLAA category, which are not in dispute. In addition, having had regard to the highest annual figures thought by the appellant to be realistic (the 44 dwellings per annum at East

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- Anton) <sup>[104,105]</sup>, the available evidence suggests that this site could be developed within a 3 year period, provided the constraints can be satisfactorily addressed.
190. Because of the above points this is a difficult site to have any certainty about. Clearly, development cannot go ahead at all if the constraints cannot be overcome, but both the Council and Tesco appear to have confidence in this regard and despite the appellant's misgivings there is no firm evidence before me to the contrary. It is possible, of course, that development could begin on the site within the 5 year period, but not until the latter part such that the full 123 dwellings may not be achieved. However, I have nothing to guide me to any alternative figure. On balance, having regard to all these points, it is my view that the site would meet the criteria of PPS3 paragraph 54<sup>[54]</sup> and it is therefore not unreasonable to keep the Council's estimate of 123 dwellings being delivered from this site within the next 5 years.
191. Former Shepherd's Spring and Roman Way School sites. These sites form parcels of land which are considered by Hampshire County Council to be surplus to requirements. They are both identified within the SHLAA to be sites with a presumption in favour of residential development and both are being promoted for development by Hampshire County Council as landowner <sup>[55,57]</sup>. The Shepherd's Spring former primary school site, forecast by the Council to deliver 50 dwellings, used to be used as school playing fields, with no use by the wider community. This playing field is no longer needed by the new education use on the site. The smaller Roman Way School site, forecast by the Council to deliver 12 dwellings was never used as part of the playing field, being described as informal and social land <sup>[57]</sup>.
192. The Secretary of State for Education is satisfied with the disposal of the sites, but as pointed out by the appellant, this does not obviate the need to adhere to the policy requirements in paragraph 10 of PPG17 which requires an assessment to be undertaken to clearly show that the open space or the buildings and land in question are, indeed, surplus to requirements <sup>[112]</sup>.
193. The Council has undertaken a Public Open Space Audit which it describes as being robust and PPG17 compliant, in accordance with the guidance in the PPG17 Companion Guide <sup>[56]</sup>. However, the appellant is critical of the audit as it does not include some of the considerations referred to in the Companion Guide <sup>[112]</sup>. This seems to be a fair criticism, as there is no obvious indication that the audit has involved an element of public consultation, nor that accessibility of the various facilities has been considered. Furthermore, PPG17 seeks to ensure that even private open spaces such as sports fields are included in any open space audit, where they have public value, and it does not appear that this aspect has been considered in the Council's exercise. Indeed the Introduction to the audit simply indicates that its purpose is to identify the existing provision of public open space in terms of quantity and quality.
194. However, there is no good reason why an applicant for planning permission on these sites could not undertake the necessary independent assessments required to demonstrate that they are surplus to requirements and have local support <sup>[112]</sup>. In this regard there is a shortfall in public open space within the Alamein Ward at present, but this will be addressed, at least to some extent, by the provision of the proposed new playing fields of some 8.25ha of to be provided as part of East Anton, some 1.2km from the Shepherd's School site <sup>[56]</sup>.

195. Again, the extent of information before me regarding these school sites is not definitive, and there can be no certainty one way or the other as to whether planning permission would be granted for them. However, there is no firm indication that there would be any insurmountable problems relating to these sites and so, on balance it is reasonable to accept the Council's case that they should be included as part of the deliverable 5 year supply.
196. Summary. Bringing all the above points together I conclude that with regards to the 5 sites in dispute, they should be considered as contributing the following numbers of dwellings to the 5 year supply:
- East Anton – 554 dwellings;
  - Picket Twenty – 353 dwellings;
  - Land at River Way, Andover – 123 dwellings;
  - Land at former Shepherd's Spring School – 50 dwellings;
  - Land at Roman Way School – 12 dwellings.
197. As a result the realistic housing land supply figure is 1,299 dwellings. Compared against the 5 year requirement of 2,012 dwellings, it only amounts to some 3.3 years provision. Even when compared against the Council's preferred requirement of 1,685 dwellings it only amounts to some 3.9 years provision. On either reckoning it is therefore clear that the Council cannot demonstrate a robust and realistic 5 year supply of housing land.
198. Although the Council maintains that it is important to consider both the extent of the shortfall and the reasons for it, a shortfall amounting to some 1.7 years, as on the above preferred figures, is significant and attempts need to be made to address it. I have noted the Council's explanations as to why progress on housing delivery was slow in the post-2006 period, including the fact that work on approving applications for the large development sites at East Anton and Picket Twenty had to await the formal adoption of the TVBLP <sup>[36]</sup>. However, there is no firm indication before me that the Council has sought to take appropriate management action, as referred to in PPS3, to address these matters and attempt to get housing delivery back on course <sup>[98]</sup>.
199. It is a fact that market conditions are likely to be a big contributory factor to the current shortfall in supply, with house-builders building fewer houses than they have the potential to. However, although the Council argues that adding to the supply would be unlikely to achieve anything in such circumstances <sup>[58]</sup>, an increased supply of housing land with the potential for a further developer or developers contributing to delivery may well be an appropriate response in the current climate.

***Implications of the failure to demonstrate a 5 year supply of housing land***

200. Guidance on the actions to be taken where local planning authorities cannot demonstrate an up to date 5 year supply of deliverable housing sites is given in paragraph 71 of PPS3. This indicates that in such circumstances authorities should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in paragraph 69 <sup>[64,115]</sup>.

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201. In turn, paragraph 69 sets out a number of matters which local planning authorities should have regard to when deciding planning applications, and the Council agrees that the appeal proposal accords with the first 4 of these as it would achieve high quality housing; would provide a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people; would represent a suitable and sustainable site for housing; and would use land effectively and efficiently <sup>[115]</sup>.
202. The only criterion with which the Council maintains the proposal would conflict is the last, which requires local planning authorities to ensure "the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives, eg addressing housing market renewal issues" <sup>[115]</sup>.
203. It is the Council's case that the proposed development is not demonstrated to be in line with the spatial vision for the area, as this will be determined through the CS process. The Council further argues that to grant planning permission for this site now would mean that no other housing allocations would be needed to meet the requirements of the SEP through to 2026 <sup>[65]</sup>. This would therefore prejudice all decisions about the location of future housing in NTV, thereby disqualifying and effectively disenfranchising all those who wish to participate in the LDF process.
204. In effect the Council appears to be arguing that a decision on the future of this land should await the adoption of the CS <sup>[64,65,116]</sup>. However, whilst there is clearly no adopted CS in place at the present time, and therefore no detailed up to date pronouncement regarding spatial strategy, the appellant maintains that there already is an existing spatial vision for the Borough, established through the TVBLP, many policies of which have been saved. This spatial vision identifies Andover as a principal location for major housing development, with such development primarily to the east. From the evidence placed before me this does not seem an unreasonable assertion <sup>[78-80]</sup>.
205. It is clear that this spatial vision was formulated in early 2000, was incorporated into the adopted TVBLP and was still guiding the Council's strategic planning choices at the time of the preparation of the Pre-Submission Draft of the CS DPD in October 2008 <sup>[16]</sup>. Indeed this CS DPD, which sought to make provision for an additional 5,000 dwellings in NTV (rather than the 6,100 now contained within the SEP), proposed a single strategic housing allocation at Andover - Picket Piece. This allocation was to accommodate approximately 800 new homes, together with a range of associated facilities, on a site broadly similar to the current appeal site <sup>[16]</sup>.
206. I have noted the Council's comments that at the time of submitting the CS there remained a number of unresolved objections to the allocation of Picket Piece, along with a number of alternative proposals in the form of omission sites. I have also noted the Council's reference to the fact that its current SHLAA contains a number of possible residential sites which are actively being promoted in NTV <sup>[65]</sup>. However, many of the sites so referred to have already been assessed by the Council at the CS stage, and also by Inspectors during the TVBLP Public Inquiry. Even though the TVBLP Inspectors concluded that there was little to choose between the various omission sites, the Picket Piece site has

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consistently been found to be superior to other sites as a sustainable location for development, which would not cause harm to important environmental assets.

207. Whilst these points are not intended to prejudge any future decisions the Council makes regarding its CS, they do demonstrate that a decision in favour of development on the appeal site would be consistent with the spatial vision for development in NTV which the Council has been pursuing over the last 10 years or so <sup>[16,78-80]</sup>. Because of this, allowing this appeal would not result in any material conflict with the last criterion of PPS3 paragraph 69. Moreover, the very fact that the Council had made a firm commitment to development at Picket Piece in the Pre-Submission Draft of its CS DPD indicates that TVBLP policy SET03 need not be a barrier to development on the site.
208. On a related matter, although the Inspector who conducted the exploratory meeting into the withdrawn CS advised the Council to look again at its strategic housing allocations, this does not necessarily point to any concerns regarding development at Picket Piece. Indeed the Inspector suggested that the Council also look again at a further 7 matters, in an effort to rescue the CS <sup>[117]</sup>. Finally on this topic, it is of note that the Council commented that to respond to the Inspector's suggestions and the final version of the SEP it would need to find more land for housing rather than less <sup>[117]</sup>.
209. The above points lead me to conclude that the appropriate response to the lack of a demonstrable 5 year supply of deliverable housing land is to consider this proposal favourably. This view is strongly reinforced by the "Planning for Growth" letter of 31 March 2011 from the DCLG Chief Planner which accompanies the Written Ministerial Statement from the Minister for Decentralisation <sup>[86,89,92]</sup>. This Ministerial Statement makes it clear that the planning system has a key role to play in helping to rebuild Britain's economy, by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. It sets out the steps the Government expects local planning authorities to take, with immediate effect, and is an important material consideration in this case.
210. The Statement explains that the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Here, the proposed development would not only bring employment to the area as a result of the works prior to construction and the construction itself, but would also provide up to 530 new dwellings on land adjoining a major employment area at the Walworth Industrial Estate <sup>[14,86]</sup>. The Statement also expresses a clear expectation that the answer to development and growth should, wherever possible, be "yes", except where this would compromise the key sustainable development principles set out in national planning policy. The expectation is that local planning authorities will, wherever possible, approve applications where plans are absent, out of date, silent or indeterminate <sup>[87]</sup>.
211. In this case there is agreement between the parties that the development proposed would be sustainable <sup>[72]</sup>. Moreover, the current TVBLP is out of date as it was adopted in June 2006 and now consists of saved policies only. Importantly it dates from prior to the requirement to maintain a 5 year land supply in PPS3 (introduced in November 2006) and does not address housing need or delivery post-2011 <sup>[87]</sup>. The CS of the LDF, which should provide the local policy framework beyond 2011, has not emerged in the timescale anticipated. At the present time, therefore, the local policy framework post-2011 has to be

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considered indeterminate, although the SEP provides the broader, strategic guidance on long-term housing needs.

212. The Council maintains that the Ministerial Statement can only be accorded limited weight at this stage as it simply shows a proposed direction of travel and cannot and should not override what are clear planning objections to the release of this site now <sup>[62]</sup>. However, the starting point for these views is the premise that the Council has a 5 year supply of housing land and can thereby maintain a flexible and responsive supply of land to meet the housing needs of the area. For the reasons already given I do not consider this to be the case. Moreover, the Council's comments seem to be at odds with what I take to be the clear intention of the Ministerial Statement. I therefore take a contrary view to the Council on these points and conclude that the Ministerial Statement lends significant weight to this proposal, which would provide much needed housing in a sustainable location close to significant employment opportunities.
213. The Council highlighted the approach of the Secretary of State in the Metacre decision in the Fylde Borough Council area. In that case there was accepted to be less than a 5 year supply of housing land, but weight was nevertheless given to the conflict with policies of the Local Plan as well as to the fact that the Council would themselves be determining their own housing targets once the RSS was abolished <sup>[59]</sup>. However, whilst there are clearly some similarities between that case and the matter before me, there are also significant differences, not least the fact that the principle of the appeal proposal has been supported by the Council itself as recently as 2008, in the pre-submission draft of the CS DPD. A further key difference is that the Metacre appeal was not considered against the backdrop of the "Planning for Growth" Ministerial Statement, whereas the current appeal clearly must be.

#### ***Other matters – including the submitted S106 Agreement***

214. I noted, at the start of my Conclusions, that the Council had refused planning permission for a further 4 reasons but that all were considered capable of being addressed by the submitted Section 106 Agreement. Having examined the obligations set out in the Agreement I share this view <sup>[151]</sup>. I further consider that the Agreement would accord with the requirements of Circular 05/2005, CIL Regulation 122 and the Council's SPD on Infrastructure and Developer Contributions.
215. In summary the 2<sup>nd</sup> and 3<sup>rd</sup> reasons for refusal, alleging conflict with a number of TVBLP transport policies would be addressed by the package of transport measures totalling some £1.978M. The 4<sup>th</sup> reason for refusal, dealing with affordable housing, would be addressed by the agreed provision of 40% of the total number of housing being provided as affordable units, dispersed in groups of 10-15 across the site. Schedule 7 in the S106 Agreement also deals with matters such as tenure, restrictions on occupation and nominations.
216. Finally, the 5<sup>th</sup> reason for refusal, dealing with necessary infrastructure and community facilities, would be dealt with by the provision of the following: a new 1-form entry primary school and a local centre including a community building together with a foodstore and other shops; a health care contribution to improve the Shepherd Springs Medical Practice; an Apprenticeship training scheme; a Public Art contribution and funding for a Community Worker. With regards to sport and recreation there would be a contribution towards swimming pools in

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Andover; the provision of on-site sports pitches; a MUGA; a pavilion; children's play areas and public open space.

217. Access is a matter to be determined at this stage and the submitted drawings show the proposed junction arrangements. These indicate that the development would be served by means of a new compact roundabout on the Walworth Road, to provide access towards the eastern side of the site, together with a new mini roundabout, also on Walworth Road, to provide access at the western end of the site. These junctions would be linked by a loop road passing through the site, which would have spur roads leading off it. There would be no general vehicular access onto Ox Drove, although a pedestrian/cycle/bus only access is proposed onto this road in the south-western corner of the site <sup>[21]</sup>.
218. The access arrangements and detailed junction designs have been approved by the local Highway Authority and would be adequate and appropriate for the proposed development. Furthermore, the proposed roundabouts would provide a form of traffic calming along Walworth Road, by introducing locations where drivers have to slow down to negotiate the new junctions. In turn this is likely to improve conditions along Walworth Road by reducing traffic speeds and thereby bringing about safety improvements for drivers, cyclists and pedestrians <sup>[120]</sup>.
219. Matters raised in writing and at the inquiry by third party objectors have, in the main been dealt with under the main consideration, above, or would be addressed through the provisions of the S106 Agreement and the controls and safeguards set out in the suggested conditions, which I deal with shortly. In particular a comprehensive transport assessment has been undertaken as part of the ES <sup>[4,23,120]</sup>. The proposed development would clearly bring about a significant change to the area in terms of traffic volumes and travel patterns, but assessments of the likely impacts and measures to address and influence the changing situation have been agreed with the local Highway Authority. As a result the fears expressed by interested persons, regarding such things as excessive traffic volumes, delays, congestion and an increased risk of accidents, are unfounded <sup>[141,142]</sup>. Whilst there may well be some disruption during congestion, this would not be uncommon with a major development project, but would not, in its own right, be sufficient reason to oppose this development.
220. I have noted the concerns expressed by third party objectors that the proposed density would be too high and result in a development which would be out of keeping with the area. However, the Council has raised no objection to the proposed density, which is shown on the submitted plans and within the DAS to range between 20dph and 50dph. Although there is now no national indicative minimum density detailed in PPS3, the PPS3 requirement to make efficient use of land still stands and there is no suggestion that the density range proposed would be in conflict with any TVBLP policy. In view of these points there is no reason to be critical of the proposed density in this case, or its distribution across the site <sup>[19]</sup>.
221. I have also been mindful of comments that the village hall and the businesses on the Commercial Centre are growing and thriving and that the existing community does not struggle to sustain itself. However, it is not surprising that opinion is divided on subjective matters such as this and insufficient evidence has been submitted for me to be able to reach a firm view on them <sup>[127,140]</sup>. Nevertheless, facilities and businesses such as those just mentioned would not be harmed by the proposed development.

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222. Concern was also expressed by third party objectors attending the inquiry that even if planning permission is granted for this proposal there is no guarantee that it would start to deliver houses in the short term, especially as it has been indicated that Wates would not necessarily develop the site on its own <sup>[144]</sup>. Whilst there can be no guarantee regarding early delivery from the site, witnesses for the appellant made it clear at the inquiry that money is available in the budget for this year to purchase options. Furthermore, the evidence indicates a history of Wates making quick progress on housing delivery on its acquired sites, at least insofar as those listed in the submitted document are concerned <sup>[121]</sup>. Overall, I do not consider that anything raised on this topic is of sufficient weight to count against planning permission being granted now for this site.

### **Conditions**

223. A number of conditions, compliant with the tests in Circular 11/95, were discussed at the inquiry and are contained in Appendix C to this Report. The vast majority are agreed between the main parties but 3, relating to matters concerning the size and positioning of domestic garages and the surfacing materials to be used for access tracks are in dispute. The Council considers that they should be imposed if outline planning permission is to be granted, in order to provide the appellant with some certainty regarding the Council's requirements on these points, so that subsequent applications for the approval of reserved matters can be dealt with efficiently <sup>[123]</sup>.

224. However, whilst the Council's desire in this regard is understood, I am not persuaded that it is necessary to impose these detailed conditions at this stage. They are clearly matters which relate to the detail of layout, appearance and hard landscaping and as such can be dealt with at reserved matters stage. In this regard I have noted that an identical condition to that suggested by the Council as No 34 was supported recently at appeal by a colleague Inspector, but as full details of that case were not submitted I am unable to assess how similar the circumstances were to the appeal before me <sup>[149]</sup>. Nevertheless, although I do not recommend their inclusion at this stage, if the Secretary of State decides to grant planning permission, following consideration of my Report, the appellant will at least understand what the Council's view of such matters is likely to be when it considers future applications for the approval of the reserved matters.

225. In view of these points I therefore conclude that if the Secretary of State decides to grant planning permission, then the conditions set out in Appendix C, with the exception of Nos 33-35 inclusive, are appropriate to the development proposed and all meet the relevant tests set out in Circular 11/95.

### **Summary and overall conclusion**

226. This proposal for outline planning permission for up to 530 dwellings is, when simply taken at face value, in conflict with TVBLP policy SET03 as it amounts to new housing development in a countryside location. However, the supporting text to this policy indicates that development within the countryside may be permitted if there is a clear justification for an exception to the general policy of restraint <sup>[12,70]</sup>. It is clearly the case that the Council has envisaged circumstances when it would be appropriate to override the restrictions placed on development by this policy as it was proposing major housing development itself at Picket Piece as an integral part of the now withdrawn draft CS.

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227. Work on developing the CS is still ongoing, but a new version is unlikely to be formally adopted until late in 2012. There is, however, a need to ensure a steady and reliable supply of new housing to meet the existing and future needs of the Borough in accordance with PPS3 guidance and regional targets expressed in the SEP. Although the Government has indicated its intention to abolish the SEP along with other Regional Strategies, it still forms part of the development plan at the present time. Indeed it provides the only clear guidance for housing provision in the area, post-2011. Whilst the Council will be in a position to determine its own housing targets once the SEP has been abolished, it cannot be known for certain what those targets will be, although it is apparent at the present time that the Council would seek to reduce the requirement from the figure of 6,100 dwellings currently contained in the SEP <sup>[33,59]</sup>.
228. Nevertheless, on the basis of the figures discussed above there is a strong possibility that the Council would still have difficulty demonstrating a robust and reliable 5 year supply of deliverable housing land in NTV, even with a somewhat reduced target. In such circumstances PPS3 points to appropriate management action, such as the granting of new planning permissions where no harm to the spatial vision would ensue. Notwithstanding the current absence of an adopted CS, there are strong indications that the release of the appeal site for housing land would not conflict with the area's spatial vision, nor undermine any wider policy objectives <sup>[16,78-80]</sup>.
229. This proposal represents a sustainable housing development which would be well located to assist economic growth, as sought through the recent Ministerial Statement "Planning for Growth". In terms of its impact on the locality, opinion is divided. There is a strong body of opposition, but also significant support for the proposal. To some extent this is not surprising, in view of the appreciable number of local residents whose land forms part of the overall appeal site. But notwithstanding this, those supporting the scheme include many local residents of long standing who consider that the proposal would bring clear benefits to the local community. I share this view and consider that any harm which would arise from the proposed development would be more than outweighed by the benefits.
230. I have had regard to the environmental information contained in the ES, to the comments on it from the statutory consultees and members of the public, to the mitigation measures proposed, and to the environmental information derived from evidence given at the inquiry and contained in representations to the inquiry. I have also given due consideration to the list of suggested and largely agreed conditions, as well as the obligations secured through the Section 106 Agreement.
231. Overall I conclude that the Council is unable to demonstrate an up to date 5 year supply of deliverable housing sites, and that despite the conflict with TVBLP policy SET03 other material considerations weigh significantly in favour of allowing this appeal and setting aside the general policy of restraint on development in the countryside. The proposed development would accord with relevant Government planning guidance and I do not consider that any of the points raised in opposition by interested persons weigh materially against it. Because of this I shall recommend that the appeal be allowed, subject to conditions.

## **Recommendation**

232. I recommend that outline planning permission be granted for the scheme as shown on the drawings listed in Appendix D to this Report, subject to the conditions detailed in Appendix C.

*David Wildsmith*

INSPECTOR

## **APPENDIX A**

### **APPEARANCES**

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

Mr Adrian Trevelyan Thomas      Of Counsel, instructed by the Borough Solicitor  
Test Valley Borough Council, Beech Hurst,  
Weyhill Road, Andover, Hants, SP10 3AJ

He called

Mr Graham Smith BA MA      Planning Policy Manager, Test Valley Borough  
DipMan MRTPI      Council

#### **FOR THE APPELLANT:**

Mr Peter Harrison QC      Instructed by Mrs Victoria Back, Cripps Harries  
Hall LLP

He called

Mr Ian Tant BSc(Hons)      Senior Partner, Barton Willmore LLP  
BTP MRTPI

Mr Mark Hewett      Director, Intelligent Land

Mr Richard Hutchings      Director, WSP UK Ltd  
Eur Ing BSc CEng MICE  
FCIHT CMILT MAPM

#### **INTERESTED PERSONS SUPPORTING THE PROPOSAL:**

Mr Andrew Powell      Local Resident

Mr Peter Spurgeon      Local Resident

#### **INTERESTED PERSONS OPPOSING THE PROPOSAL:**

Mr Chris Prentice      Local Resident

## **APPENDIX B**

### **DOCUMENTS**

#### **Core Documents**

##### **PLANNING APPLICATION DOCUMENTATION**

CD1.1      Outline planning application including Application forms, appendices and  
covering letter, reference 10/00242/OUTN dated 5 February 2010

CD1.2      Planning Statement prepared by Barton Willmore

CD1.3      Design and Access Statement prepared by Barton Willmore

- CD1.4 Environmental Statement (Main Volume)
- CD1.5 Environmental Statement (Appendices including Flood Risk Assessment)
- CD1.6 Environmental Statement (Non-Technical Summary)
- CD1.7 Retail Capacity Assessment prepared by Barton Willmore
- CD1.8 Agricultural Issues Report prepared by Reading Agricultural Consultants
- CD1.9 Sustainability Statement prepared by WSP Group
- CD1.10 Planning Application Drawings and Plans:
  - CD1.10.1 - Location Plan (drawing ref: 12212-25 Rev K);
  - CD1.10.2 - Master Plan (drawing ref: 12212-32 Rev K);
  - CD1.10.3 - Block Plan (Illustrative Layout) (drawing ref: 12212-68 Rev F);
  - CD1.10.4 - Access Plans (drawing ref: 2422/SK/034 Rev C, 2422/SK/037 Rev B, and 2422/SK.038 Rev B);
  - CD1.10.5 - EIA Land Use Parameter Plan (drawing ref: 12212-76 Rev B);
  - CD1.10.6 - EIA Density Parameter Plan (drawing ref: 12212-77 Rev B);
  - CD1.10.7 - EIA Building Heights Parameter Plan (drawing ref: 12212-78 Rev B);
  - CD1.10.8 - EIA AOD Heights Parameter Plan (drawing ref: 12212-79 Rev B).
- CD1.11 Letter from Barton Willmore to Test Valley Borough Council dated 8 March 2010 enclosing revised Landscape and Visual Assessment (chapter 8 of the Environmental Statement) and corresponding Appendix 8.11 Schedule of Tree Retention and Removal
- CD1.12 Letter from Barton Willmore to Test Valley Borough Council dated 14 May 2010 enclosing amended plans in respect of junior sports pitch location
  - CD1.12.1 - Master Plan (drawing ref: 12212-32 Rev L);
  - CD1.12.2 - Block Plan (illustrative layout) (drawing ref: 12212-68 Rev G);
  - CD1.12.3 - EIA Land Use Parameter Plan (drawing ref: 12212-76 Rev C);
  - CD1.12.4 - EIA Density Parameter Plan (drawing ref: 12212-77 Rev C);
  - CD1.12.5 - EIA Building Heights Parameter Plan (drawing ref: 12212-78 Rev C);
  - CD1.12.6 - EIA AOD Heights Parameter Plan (drawing ref: 12212-79 Rev C)
- CD1.13 Letter from Barton Willmore to Test Valley Borough Council dated 26 May 2010 enclosing amended plans in respect of primary school site and amended scale parameters:
  - CD1.13.1 - Master Plan (drawing ref: 12212-32 Rev M);
  - CD1.13.2 - Block Plan (illustrative layout) (drawing ref: 12212-68 Rev H);
  - CD1.13.3 - EIA Land Use Parameter Plan (phase 1) (drawing ref: 12212-76 Rev D);
  - CD1.13.4 - EIA Density Parameter Plan (phase 1) (drawing ref: 12212-77 Rev D);
  - CD1.13.5 - EIA Building Heights Parameter Plan (phase 1) (drawing ref: 12212-78 Rev D);

- CD1.13.6 - EIA AOD Heights Parameter Plan (phase 1) (drawing ref: 12212-79 Rev D);
- CD1.13.7 - EIA Land Use Parameter Plan (overall development) (drawing ref: 12212-37 Rev G);
- CD1.13.8 - EIA Density Parameter Plan (overall development) (drawing ref: 12212-38 Rev F);
- CD1.13.9 - EIA Building Heights Parameter Plan (overall development) (drawing ref: 12212-39 Rev F);
- CD1.13.10 - EIA AOD Heights Parameter Plan (overall development) (drawing ref: 12212-40 Rev E).
- CD1.14 Letter from Barton Willmore to Test Valley Borough Council dated 15 July 2010 regarding amended access plans and Housing Need and Supply Report (July 2010):
  - CD1.14.1 – 24m compact roundabout (eastern end) (drawing ref: 2422/SK/48 Rev C);
  - CD1.14.2 – Mini-roundabout (western end) (drawing ref: 2422/SK/50 Rev B);
  - CD1.14.3 – Site Access Context Plan (drawing ref: 2422/SK/53 Rev A)
- CD1.15 Letter from WSP Group to Barton Willmore dated 15 July 2010 regarding access proposals
- CD1.16 Stage 1 Road Safety Audit Designers Response dated July 2010 prepared by WSP
- CD1.17 Letter from Barton Willmore to Test Valley Borough Council dated 2 August 2010 enclosing updated Housing Need and Supply Report (August 2010)
- CD1.18 Letter from Barton Willmore to Test Valley Borough Council dated 27 August 2010 enclosing revised Housing Land Supply tables

**CORRESPONDENCE AND DOCUMENTS ASSOCIATED WITH THE APPLICATION**

- CD2.1 Pre-Application correspondence between Test Valley Borough Council and Barton Willmore 24 June 2009 – 19 January 2010
- CD2.2 Scoping Opinion Of Test Valley Borough Council (ref 09/01371/SCON) dated 13 August 2009
- CD2.3 Test Valley Borough Council letter to Barton Willmore dated 15 January 2010
- CD2.4 Planning Performance Agreement dated 16 December 2009
- CD2.5 Pre-Application correspondence between Test Valley Borough Council and Barton Willmore 24 June 2009 – 19 January 2010
- CD2.6 Test Valley Borough Council officer's report to Northern Area Committee dated 16 September 2010 including update report
- CD2.7 Minutes of Test Valley Borough Council Northern Area Committee Meeting dated 16 September 2010
- CD2.8 Test Valley Borough Council Northern Area Committee Decision Notice dated 30 September 2010

**NATIONAL PLANNING GUIDANCE**

- CD3.1 PPS1 (Delivering Sustainable Development) 2005

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- CD3.2 Climate Change Supplement to PPS1 2007 and Consultation on a Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate (2010)
  - CD3.3 PPS3 (Housing) 2010 (and Technical change to Annex B, Affordable Housing Definition Consultation document dated February 2011)
  - CD3.4 PPS4 (Planning for Sustainable Economic Growth) 2009
  - CD3.5 PPS5 (Planning for the Historic Environment) 2010
  - CD3.6 PPS7 (Sustainable Development in Rural Areas) 2004
  - CD3.7 PPS9 (Biodiversity & Geological Conservation) 2005
  - CD3.8 PPS10 (Planning for Sustainable Waste Management) 2005
  - CD3.9 PPG13 (Transport) 2010
  - CD3.10 PPG17 (Planning for Open Space Sport and Recreation) 2002 including Assessing Needs and Opportunities: a Companion Guide to PPG17 and Consultation paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment (2010)
  - CD3.11 PPS22 (Renewable Energy) 2004
  - CD3.12 PPS23 (Planning and Pollution Control) 2004
  - CD3.13 PPG24 (Planning and Noise) 1994
  - CD3.14 PPS25 (Development and Flood Risk) 2010

**SOUTH EAST PLAN: REGIONAL SPATIAL STRATEGY FOR THE SOUTH EAST 6 MAY 2009 RELEVANT POLICIES:**

- CD4.1 Policy H1 (Regional Housing Provision 2006-2026)
- CD4.2 Policy H2 (Managing the Delivery of the Regional Housing Provision)
- CD4.3 Policy H3 (Affordable Housing)
- CD4.4 Policy H4 (Type and Size of New Housing)
- CD4.5 Policy H5 (Housing Design and Density)
- CD4.6 Policy SP3 (Urban Focus and Urban Renaissance)
- CD4.7 Policy CC1 (Sustainable Development)
- CD4.8 Policy CC2 (Climate Change)
- CD4.9 Policy CC3 (Resource Use)
- CD4.10 Policy CC4 (Sustainable Design and Construction)
- CD4.11 Policy CC7 (Infrastructure and Implementation)
- CD4.12 Policy CC8 (Green Infrastructure)
- CD4.13 Policy AOSR2 (Scale and Location of Housing Development 2006-2026)
- CD4.14 Policy T1 (Manage and Invest)
- CD4.15 Policy T2 (Mobility Management)
- CD4.16 Policy T4 (Parking)
- CD4.17 Policy T5 (Travel Plans and Advice)
- CD4.18 Policy NRM1 (Sustainable Water Resources and Groundwater Quality)
- CD4.19 Policy NRM2 (Water Quality)
- CD4.20 Policy NRM4 (Sustainable Flood Risk Management)
- CD4.21 Policy NRM5 (Conversion and Improvement of Biodiversity)

- CD4.22 Policy NRM7 (Woodlands)
- CD4.23 Policy NRM9 (Air Quality)
- CD4.24 Policy NRM10 (Noise)
- CD4.25 Policy NRM11 (Renewable Energy)
- CD4.26 Policy W2 (Sustainable Design, Construction and Demolition)
- CD4.27 Policy C3 (Areas of Outstanding Natural Beauty)
- CD4.28 Policy C4 (Landscape and Countryside Management)
- CD4.29 Policy C5 (Managing the Rural-Urban Fringe)
- CD4.30 The SEP, Report of the Panel (Examination in Public November 2006-March 2007) August 2007

#### **HAMPSHIRE COUNTY COUNCIL POLICIES AND REPORTS**

- CD5.1 Central Hampshire and New Forest Strategic Housing Market Assessment Final Report November 2007 prepared by DTZ

#### **TEST VALLEY BOROUGH COUNCIL PLANNING POLICY AND GUIDANCE**

- CD6.1 Test Valley Borough Council Local Plan adopted 2 June 2006
- CD6.2 Test Valley Borough Council Local Plan Review – Initial Deposit Draft January 2003
- CD6.3 Test Valley Borough Council Revised Deposit Draft Local Plan published January 2004
- CD6.4 Test Valley Borough Council Local Plan Public Inquiry Inspector's Report Part 1 September 2005
- CD6.5 Test Valley Borough Council Local Development Framework Core Strategy Development Plan Document pre-submission draft document published October 2008 (withdrawn)
- CD6.6 Test Valley Borough Council Test Valley Development Plan Document Core Strategy Explanatory Meeting Inspector's Notes dated 16 April 2009
- CD6.7 Test Valley Borough Council Housing Strategy 2008 – 2011
- CD6.8 Test Valley Borough Council Annual Monitoring Report December 2010
- CD6.9 Test Valley Borough Council Corporate Plan 2007-11
- CD6.10 Test Valley Borough Council Economic Development Strategy 2010/2011
- CD6.11 Report and Minutes of Test Valley Borough Council Cabinet Committee Meeting dated 12 May 2009
- CD6.12 Test Valley Borough Council Strategic Housing Land Availability Assessment May 2010
- CD6.13 Test Valley Borough Council Housing Land Supply Statement dated September 2010
- CD6.14 Test Valley Borough Council Local Development Scheme 2010 – 2015, September 2010
- CD6.15 Test Valley Borough Council Statement of Community Involvement 2009
- CD6.16 Report to Test Valley Borough Council Cabinet Committee Meeting dated 1 September 2010 (item 8 "Establishing an Interim Housing Requirement")
- CD6.17 Test Valley Borough Council local lettings policy

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- CD6.18 Test Valley Borough Council Infrastructure and Developer Contributions Supplementary Planning Document (February 2009)
  - CD6.19 Test Valley Borough Council Affordable Housing Supplementary Planning Document (March 2008)
  - CD6.20 Test Valley Borough Council Public Open Space Audit, Test Valley Borough Council, 2008

**OTHER GOVERNMENT PUBLICATIONS AND CORRESPONDENCE**

- CD7.1 Communities and Local Government Strategic Housing Land Availability Assessment: Practice Guidance July 2007 (now withdrawn)
- CD7.2 GOSE letter dated 18 March 2010
- CD7.3 Circular 05/05: Planning Obligations (and Community Infrastructure Levy Regulations 2010)
- CD7.4 Circular 11/95: The Use of Conditions in Planning Permissions
- CD7.5 Planning Obligations Practice Guidance (DCLG 2006)
- CD7.6 DCLG Guidance on Local Information Requirements and Validation (March 2010)
- CD7.7 Town and Country Planning (Development Management Procedure) Order 2010
- CD7.8 Strategic Housing Market Assessments: Practice Guidance 2007
- CD7.9 Delivering Affordable Housing 2006

**TRANSPORT**

- CD8.1 Transport Assessment
- CD8.2 Proposed access strategy
- CD8.3 Hampshire County Council's Transportation Contributions Policy
- CD8.4 Hampshire County Council Highways Contributions (2008)
- CD8.5 Cycle Strategy and Network Supplementary Planning Document (March 2009)
- CD8.6 Test Valley Cycling Strategy
- CD8.7 Andover Town Access Plan Supplementary Planning Document (April 2009)
- CD8.8 Residential Travel Plan
- CD8.9 Stage 1 Road Safety Audit
- CD8.10 'A New Deal for Transport: Better for Everyone' (White Paper)
- CD8.11 Test Valley Access Plan, Supplementary Planning Document (June 2010)

**OTHER PLANNING APPEAL AND HIGH COURT DECISIONS**

- CD9.1 Redbridge Lane, Nursling, Hampshire Officers Report to Committee ref: 09/01706/OUTS
- CD9.2 Redbridge Lane, Nursling, Hampshire Appeal Decision Ref: APP/C1760/A/10/2127652 dated 3 November 2010
- CD9.3 Land off Glebe Road, Market Harborough, Leicestershire Appeal Decision Ref: APP/F2415/A/09/2114425 dated 1 February 2010
- CD9.4 Cala Homes (South) Limited 10 November 2010 and 7 February 2011 High court Decisions

## **Inquiry Documents**

### ***Documents submitted jointly by the Local Planning Authority and the Appellant***

- JNT/1 Statement of Common Ground – Final Agreed Version 8 March 2011
- JNT/2 Agreed Statement on Highways and Transportation Matters – January 2011
- JNT/3 Ecology Statement of Common Ground – 24 March 2011
- JNT/4 Supplementary Statement of Common Ground – Housing Land - 1 April 2011
- JNT/5 List of agreed conditions
- JNT/6 Plan showing suggested locations for site visit
- JNT/7 Completed Section 106 Agreement

### ***Documents submitted by the Local Planning Authority***

#### ***Proofs of evidence***

- LPA/0/1 Proof of evidence of Mr Graham Smith
- LPA/0/2 Maps to the proof of evidence of Mr Graham Smith
- LPA/0/3 Appendices to the proof of evidence of Mr Graham Smith
- LPA/0/4 Rebuttal proof of evidence (including appendices) of Mr Graham Smith

#### ***Other documents***

- LPA/1 Letter of notification of the inquiry, and list of persons notified
- LPA/2 Full version of email, to replace the incomplete version at Appendix 14 of Mr Smith's evidence
- LPA/3 Flood Zone plan for River Way
- LPA/4 Plan showing 3 housing sites in Southern Test Valley
- LPA/5 Secretary of State decision, dated 23 March 2011, relating to an appeal by Metacre Ltd (APP/M2325/A/10/2127459)
- LPA/6 Revised version of letter dated 27 February 2010 to replace incomplete version at Appendix J of Mr Smith's evidence
- LPA/7 Additional conditions proposed by the Council but not agreed with the appellant
- LPA/8 Appeal decision APP/C1760/A/10/2134116 dated 26 November 2010
- LPA/9 Closing submissions on behalf of the Council

## ***Documents submitted by the Appellant***

### ***Proofs of evidence***

- APP/0/1 Proof of evidence of Mr Ian Tant
- APP/0/2 Summary proof of evidence of Mr Ian Tant
- APP/0/3 Appendices to the proof of evidence of Mr Ian Tant
- APP/0/4 Rebuttal proof of evidence (including appendices) of Mr Ian Tant
- APP/0/5 Proof of evidence of Mr Mark Hewett
- APP/0/6 Summary proof of evidence of Mr Mark Hewett
- APP/0/7 Appendices to the proof of evidence of Mr Mark Hewett
- APP/0/8 Rebuttal proof of evidence (including appendices) of Mr Mark Hewett
- APP/0/9 Proof of evidence (with figures and appendices) of Mr Richard Hutchings
- APP/0/10 Summary proof of evidence of Mr Richard Hutchings

### ***Other documents***

- APP/1 Redbridge Lane – response to Mr Graham Smith’s rebuttal, by Mr Mark Hewett
- APP/2 Abbotswood – response to Mr Smith’s rebuttal, by Mr Mark Hewett
- APP/3 Planning for Growth – Letter to Local Planning Authority Chief Planning Officers from Steve Quartermain, Chief Planner at DCLG
- APP/4 Outline of short opening on behalf of Wates Developments Ltd
- APP/5 Revised version of Table 211 to replace incomplete version at Appendix M of Mr Hewett’s evidence
- APP/6 Table showing TVBC housing completion forecasts and actual completions, prepared by Mr Hewett
- APP/7 Update position regarding the S106 Agreement
- APP/8 Site visit risk assessment
- APP/9 Closing submissions on behalf of Wates Developments Ltd
- APP/10 Statement from Wates Developments Ltd, submitted shortly before the commencement of the inquiry.

## ***Documents submitted by interested persons***

### ***Proofs of evidence or statements***

- IP/0/1 Statement from Mr Andrew Powell supporting the appeal proposal
- IP/0/2 Statement from Mr Peter Spurgeon supporting the appeal proposal
- IP/0/3 Statement from Mr Chris Prentice opposing the appeal proposal

### ***Other documents***

- IP/1 Bundle of letters of representation submitted at appeal stage, both supporting and opposing the appeal proposal

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## **APPENDIX C**

### **CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED**

#### **Conditions Agreed with the Appellant**

1. Applications for the approval of all the reserved matters for the first phase of the development referred to herein shall be made within a period of 3 years from the date of this permission. Applications for the approval of all remaining reserved matters shall be made within a period of 7 years from the date of this permission. The development to which the permission relates shall be begun not later than which ever is the later of the following dates:
  - i) 3 years from the date of this permission: or
  - ii) 2 years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

**Reason:** To comply with the provision of S92 of the Town & Country Planning Act 1990.

2. Approval of the details of the layout, scale, and external appearance of the building(s), and the landscaping (herein called "the reserved matters") for each phase of the development, shall be obtained from the local planning authority in writing before any development is commenced within that phase of the development.

**Reason:** To comply with Article 4 of the Town and Country Planning (General Development Procedure) Order 1995 (or any other revoking and re-enacting that Order).

#### **Design Principles**

3. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the Master Plan (drawing number 12212-32 revision M), the S106 Phasing Plan (drawing number 12212-93 revision E) contained within the Planning Obligation Agreement and specifically shall be in accordance with the following aspects of the Design and Access Statement February 2010 and parameter plans:
  - a) Design Vision and Concept (page 34);
  - b) The Land Use Parameter Plan (drawing number 12212-76 Revision D);
  - c) The scale and massing parameters (Table 5 page 48) (as amended by Barton Willmore letter dated 26th May 2010 in relation to the primary school building), the Building Heights Parameter Plan (drawing number 12212-78 Revision D) and the AOD Heights Parameter Plan (drawing number 12212-79 Revision D);
  - d) The Density Parameter Plan (drawing number 12212-77 Revision D);
  - e) The Landscape and Open Space strategy (page 52), Soft Landscape Elements (Table 10), Hard Landscape Elements (Table 11), Boundary Treatments (Table 12) and Street Furniture (Table 13);
  - f) Layout and Appearance principles on pages 60-63 including Tables 14, 15 and 16);
  - g) Urban Design Principles and Character Zones (pages 64 and 66, and paragraphs 4.88-4.118);

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- h) Space Typology principles (pages 78, 80-83);
  - i) Architectural Strategy including Colour Palette (Table 18) on page 84 and building form details and materials (table 19) on page 85;
  - j) Access and Movement principles (page 90), Pedestrian and Cyclist Network principles (page 94), Vehicular Network principles (page 96), and Highway Design Parameters Table 20 on page 98.

## **Highways**

4. Prior to the commencement of development within each development phase full details of the layout for the parking and manoeuvring on-site of contractor's and delivery vehicles during the construction period of that development phase shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period within that development phase.

**Reason:** In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA06 and TRA09.

5. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no vehicular or pedestrian access, other than that shown on the approved plans, shall be formed to the site.

**Reason:** In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

6. No dwelling shall be occupied until a connection between it and the highway proposed for adoption has been constructed to at least binder course level for use by pedestrians, cycles and vehicles.

**Reason:** To ensure that the road, footway, footpath, cycleway, street lighting and surface water drainage are constructed to an appropriate standard to serve the development in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA06, TRA09 and ESN30.

7. Prior to the commencement of development within each phase details of the cycle parking for that phase of the development shall be submitted to and approved in writing by the local planning authority. No dwelling within that phase of development shall be occupied until the approved cycle parking serving that dwelling has been provided on site and shall be retained thereafter for their intended purpose.

**Reason:** In order to ensure the development contributes towards achieving a sustainable transport system and to provide parking for cycles in accordance with Test Valley Borough Local Plan 2006 policy TRA02.

8. Within each development phase no development hereby permitted shall be commenced within that development phase until the local planning authority has approved in writing detail of:
- a) The width, alignment, gradient and surface materials for any proposed roads/footways/footpaths/cycleways within and serving that development phase including all relevant horizontal and longitudinal cross sections showing existing and proposed levels;

- 
- b) The type of street lighting including calculations, contour illumination plans and means to reduce light pollution within and serving that development phase;

The development shall be carried out in accordance with these approved details.

**Reason:** To ensure that the road, footway, footpath, cycleway, street lighting and surface water drainage are constructed to an appropriate standard to serve the development in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA06, TRA09 and ESN30.

### **Landscaping**

9. No development shall take place within each phase until full details of both hard and soft landscape works relating to that phase have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure and boundary treatment; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc)

**Reason:** To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Local Plan 2006 policy DES10.

10. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

**Reason:** To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Local Plan 2006 policy DES10.

11. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development within each phase or in accordance with the programme agreed with the local planning authority.

**Reason:** To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Local Plan 2006 policy DES10.

12. A landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of any phase of the development for its permitted use. The landscape management plan shall be

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carried out as approved unless otherwise agreed in writing by the local planning authority.

**Reason:** To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Local Plan 2006 policy DES10.

### **Protected Species**

13. Details of the dormouse related mitigation and enhancement measures for each phase shall be submitted to and agreed in writing by the local planning authority, prior to the commencement of any development related to each phase. Such details as may be agreed in writing shall include details of a construction and post construction lighting plan as well as details as to how the development seeks to comply with the requirements of section 6 of the WSP Environmental Picket Piece Dormouse Report and Mitigation Strategy report dated March 2011. Any such details as may be agreed shall thereafter be implemented in accordance with the agreed details.

**Reason:** To ensure that the favourable conservation status of protected species on the site is secured in accordance with Test Valley Borough Local Plan 2006 policy ENV01, ENV05, DES09 and PPS9.

### **Trees & Hedgerows**

14. Development within each phase shall not commence until:
- a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
  - b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
  - c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
  - d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree;
  - e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

**Reason:** To prevent the loss during development of trees and natural features and to ensure so far as is practical that development progresses in accordance

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with current best practice in accordance with Test Valley Borough Local Plan 2006 policy DES08.

15. The plans and particulars submitted in accordance with condition 14 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

**Reason:** To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Local Plan 2006 policy DES10.

16. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the occupation of each building for its permitted use.

- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
- b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written consent of the local planning authority.

**Reason:** To ensure the avoidance of damage to existing trees and natural features during the construction phase and to enable the development to integrate into the landscape in accordance with Test Valley Borough Local Plan 2006 policy DES01, DES10 and DES08.

17. All hedges or hedgerows on the site unless indicated as being removed shall be retained and protected on land within each phase in accordance with details submitted to and approved in writing by the local planning authority for the duration of works on land within each phase unless otherwise agreeing in writing by the local planning authority. In the event that hedges or hedgerows become damaged or otherwise defective during such period the local planning authority shall be notified in writing as soon as reasonably practicable. Within one month a scheme of remedial action, including timetable for implementation shall be submitted to the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable. Any trees or plants which, within a period of 2 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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**Reason:** To ensure the avoidance of damage to existing hedgerows and natural features during the construction phase, to enable the development to integrate into the landscape and to ensure the favourable conservation status of protected species on site in accordance with Test Valley Borough Local Plan 2006 policy ENV05, DES01, DES10 and DES08.

### **Sports Pitches and Play Areas**

18. Prior to the commencement of development within phase 1b (as shown on the S106 Phasing Plan (drawing number 12212-93 revision E) contained within the Planning Obligation Agreement) details of the full pitch/pavilion layout/MUGA and their specification shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure appropriate provision of formal sports facilities in accordance with Test Valley Borough Local Plan 2006 policy ESN22.

19. Prior to the commencement of development within each relevant phase details of the layout and specification for children's play spaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure appropriate provision of children's play areas in accordance with Test Valley Borough Local Plan 2006 policy ESN22.

### **Archaeology**

20. No development shall take place (including site clearance), until there has been submitted to and approved by the local planning authority a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work, which has been submitted by the developer and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved programme.

**Reason:** The site is potentially of archaeological significance in accordance with Test Valley Borough Local Plan 2006 policy ENV11.

### **Design and detailing**

21. Within each development phase no development shall take place until samples and details of the materials to be used in the construction of all external surfaces within that development phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Local Plan 2006 policy DES07.

22. The sports pitches, MUGA and any buildings within the local centre shall not be lit by any external form of lighting without the prior written consent of the local planning authority. Development shall be carried out in accordance with the approved details.

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**Reason:** To safeguard the amenities of the area and/or in the interests of road safety and to ensure that there is no detrimental impact on protected species in accordance with Test Valley Borough Local Plan 2006 policy AME03, ENV01 and PPS9.

### **Environment and Water**

23. Within each development phase no development shall commence until a method of demolition and construction for that development phase has been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority. No piling or any other foundation designs using penetrative methods shall take place without the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

**Reason:** The site is in a sensitive location with respect to groundwater and in order to protect the quality of drinking water supplies the working methods will need to be carefully considered, in accordance with Test Valley Borough Local Plan 2006 policies HAZ03, ENV09, ENV10 and HAZ04.

24. No development phase shall be commenced until such time as a surface water drainage scheme for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to the completion of the development of that phase and thereafter managed and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. Those details shall include:

1. infiltration tests, carried out to BRE 365 standards, to determine the requirement;
2. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater;
3. a timetable for its implementation; and
4. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

**Reason:** To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance in accordance with Test Valley Borough Local Plan 2006 policy HAZ02 and PPS25.

### **Ground Conditions**

25. Prior to the commencement of development within each phase (or such other date or stage in development as may be agreed in writing by the local planning authority), the following components of a scheme to deal with the risks associated with contamination of that phase shall be submitted to and approved in writing by the local planning authority:

1. A preliminary risk assessment which has identified:

- i. All previous uses;
  - ii. Potential contaminants associated with those uses;
  - iii. A conceptual model of the site indicating sources, pathways and receptors;
  - iv. Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The site investigation results and the detailed risk assessment (2) 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.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) 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 express consent of the local planning authority. The development of each phase shall be carried out in accordance with the approved details.

**Reason:** The site is located above the Lewes Nodular Chalk Formation which is designated as a Principal Aquifer. Due to the historical use of the site (as identified by the applicant in the Environmental Statement) there is the potential for contamination to be present on site and in accordance with policy ENV10 of the Test Valley Borough Local Plan 2006.

26. A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for each phase of the development shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

**Reason:** To demonstrate that remedial works have been carried out in accordance with the agreed strategy.

27. If, during development, contamination not previously identified is found to be present at the site then no further development within that phase (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted to and received written approval from the local planning authority for an amendment to the remediation strategy detailing how this unsuspected contamination is to be dealt with.

**Reason:** The site is located above the Lewes Nodular Chalk Formation which is designated as a Principal Aquifer. Due to the historical use of the site (as identified by the applicant in the Environmental Statement) there is the potential for contamination to be present at the site which may impact on groundwater in accordance with Test Valley Borough Local Plan 2006 Policy ENV10.

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28. Development shall not commence within each phase until details of the proposed means of foul sewerage disposal serving that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the development complies with Test Valley Borough Local Plan 2006 policy ESN30 and PPS25 and to ensure adequate residential amenity and services to each dwelling and building hereby permitted.

### **Construction**

29. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, shall take place before the hours of 0730 nor after 1800 on Mondays to Fridays; before the hours of 0800 nor after 1300 on Saturdays; and at all on Sundays and public holidays.

**Reason:** To protect the amenities of the adjoining occupiers during the construction period in accordance with Policy AME04 of the Test Valley Borough Local Plan 2006.

30. No deliveries of materials or removal of spoil during the construction of the development shall take place before 0915 or after 1500 on Mondays to Fridays, or before 0800 or after 1300 hours on Saturdays. There shall be no deliveries of materials or removal of spoil during the construction of the development on Sundays and public holidays.

**Reason:** To protect the amenities of the adjoining occupiers during the construction period in accordance with Policy AME04 of the Test Valley Borough Local Plan 2006.

31. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no overhead electricity or service lines shall be erected or placed above ground on site except as may be agreed in writing with the local planning authority in relation to temporary rerouting of existing services whilst the development is undertaken.

**Reason:** To protect the amenities of the adjoining occupiers during the construction period in accordance with Policy AME04 of the Test Valley Borough Local Plan 2006.

32. Details of the measures to be taken to prevent mud from vehicles leaving the site during the construction works being deposited on the public highway shall be submitted to and approved in writing by the local planning authority and fully implemented prior to the commencement of development of each phase and retained on site for the duration of the construction period of that phase.

**Reason:** In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA01.

### **Conditions at Issue with the Appellant**

33. Any garage/carport which faces directly on to the highway shall be built at least 6m from the highway boundary.

**Reason:** To provide space in front of the garage to enable vehicles to wait off the highway whilst garage doors are open/closed and in the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

34. Any single garage on the site shall measure a minimum of 3m x 6m internally and be constructed as such, unless the proposed residential property is also served by at least a separate bicycle shed, in which case any single garage shall measure a minimum of 3m x 5m internally. Any garage on the site shall be made available for the parking of motor vehicles at all times.

**Reason:** In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA02 and TRA06.

35. At least the first 4.5m metres of any access track measured from the nearside edge of carriageway of the adjacent existing or proposed highway shall be surfaced in a non-migratory material prior to the use of the access commencing and retained as such at all times.

**Reason:** In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

## APPENDIX D

### SCHEME PLANS

No.	Drawing No.	Title
1	12212-25 Rev K	Location Plan
2	12212-32 Rev M	Master Plan (CD1.13.1)
3	12212-68 Rev H	Block Plan (illustrative layout) (CD1.13.2)
4	12212-76 Rev D	EIA Land Use Parameter Plan (phase 1) (CD1.13.3)
5	12212-77 Rev D	EIA Density Parameter Plan (phase 1) (CD1.13.4)
6	12212-78 Rev D	EIA Building Heights Parameter Plan (phase 1) (CD1.13.5)
7	12212-79 Rev D	EIA AOD Heights Parameter Plan (phase 1) (CD1.13.6)
8	12212-37 Rev G	EIA Land Use Parameter Plan (overall development) (CD1.13.7)
9	12212-38 Rev F	EIA Density Parameter Plan (overall development) (CD1.13.8)
10	12212-39 Rev F	EIA Building Heights Parameter Plan (overall development) (CD1.13.9)
11	12212-40 Rev E	EIA AOD Heights Parameter Plan (overall development) (CD1.13.10)
12	2422/SK/48 Rev C	24m Compact Roundabout (eastern end) (CD1.14.1)
13	2422/SK/50 Rev B	Mini-roundabout (western end) (CD1.14.2)
14	2422/SK/53 Rev A	Site Access Context Plan (CD1.14.3)

**APPENDIX E****LIST OF ABBREVIATIONS**

AMR	Annual Monitoring Report
CD	Core Document
CIL	Community Infrastructure Legislation 2010
CS	Core Strategy
DAS	Design and Access Statement
DCLG	Department for Communities and Local Government
DMS	Dormouse Mitigation Strategy
DPD	Development Plan Document
dph	dwellings per hectare
EIA	Environmental Impact Assessment
ES	Environmental Statement
GOSE	Government Office for the South East
ha	hectare
LDF	Local Development Framework
m	metre
MDA	Major Development Area
MoD	Ministry of Defence
MP	Member of Parliament
MUGA	Multi Use Games Area
NTV	Northern Test Valley
PMM	Plan, Monitor and Manage
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RSS	Regional Spatial Strategy
SEP	South East Plan
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SPD	Supplementary Planning Document
sqm	Square metres
STV	Southern Test Valley
The Council	Test Valley Borough Council
TRICS	Trip Rate Information Computer System
TVBLP	Test Valley Borough Local Plan