

Mr Christopher Francis  
West and Partners  
Isambard House  
60 Weston Street  
London  
SE1 3QJ

Our Ref: APP/X3025/A/10/2141924

12 July 2011

Dear Mr Francis,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY NEWLANDS DEVELOPMENTS LIMITED  
LAND TO THE SOUTH OF CLIPSTONE ROAD EAST, FOREST TOWN,  
MANSFIELD, NOTTINGHAMSHIRE  
APPLICATION REF: 2010/0432/NT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Stephen Roscoe BEng MSc CEng MICE, who held a public local inquiry on 15 and 16 March, along with a site visit on 17 March, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Mansfield District Council to refuse outline planning permission for the formation of an access off Clipstone Road East and the development of the site to provide up to 313 dwellings together with associated roads and sewers and ancillary local public open space at land to the South of Clipstone Road East, Forest Town, Mansfield, Nottinghamshire, in accordance with planning application ref: 2010/0432/NT, dated 6 September 2010.
2. The appeal was recovered for the Secretary of State's determination on 13 December 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).

## **Procedural matters**

4. After the inquiry an application for an award of costs was made by the appellant against Mansfield District Council; this matter is dealt with under a separate decision letter.

## **Policy Considerations**

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the East Midlands Regional Plan (RS) published in March 2009, and the saved policies of the Mansfield District Local Plan, adopted in November 1998. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR10-15. The emerging Core Strategy is at an early stage, and the Secretary of State has given it limited weight.
6. 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.
7. Other material considerations which the Secretary of State has taken into account include PPS3: Housing; PPS4: Planning for Sustainable Economic Growth, 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 IR16-25.
8. 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.

## **Main Issues**

9. The Secretary of State agrees with the Inspector that the main issues are those set out in IR106.

## Development plan

10. The Secretary of State agrees with the Inspector's reasoning and conclusions on the development plan as set out in IR136. He agrees that the appeal proposal

would conflict with the aim of Local Plan saved policy E6(B) and the employment land allocation set out on the Proposals Plan. He has gone on to consider whether there are material considerations sufficient to outweigh this development plan conflict.

### Employment land

11. For the reasons given at IR113-115, the Secretary of State agrees with the Inspector that it is questionable whether the LP allocation is now appropriate (IR115), that the proposal would not have a harmful effect on the provision of employment land in the surrounding area, and that there is some justification for a departure from the Local Plan in this instance (IR116).

### Housing land

12. For the reasons given in IR117-122, the Secretary of State agrees with the Inspector's conclusions that the proposed proportion of affordable housing adds weight to the acceptability of the proposal (IR122), that the proposal would have a beneficial effect on the provision, mix and inclusive nature of housing land in the surrounding area, and that there is some justification for a departure from the Local Plan in this instance (IR123).
13. The Council consider that there is a greater than 5 year supply of deliverable housing land. The Secretary of State has noted that in this case, the Inspector considers that the Council's assessment of housing land has adopted a reasoned approach using contemporary figures and that the Inspector therefore has no reason to doubt that they are sufficiently robust and provide a fair reflection of the current situation (IR120).
14. In a recent decision case relating to an adjacent site (APP/X3025/A/10/2133133), the Secretary of State considered that there were shortcomings in the Council's estimated 5 year supply of deliverable housing land. He has taken into account the grant of planning permission in that case, and is content that (notwithstanding minor differences of judgement about the deliverability of specific sites between the two Inspectors) there is a greater than 5 years supply.

### Other considerations

15. For the reasons given in IR124-129, the Secretary of State agrees with the Inspector's conclusions that: the appeal site would be able to accommodate the proposed development in accordance with good practice and current guidance on the creation of high quality and sustainable communities (IR124); the proposal would be acceptable in terms of transportation (IR125); the development would be acceptable in terms of flood risk, utility infrastructure and noise (IR126); the development would be acceptable overall in terms of ecology and any future designation of the Sherwood Forest region (IR127-128); and the demand for school places that would arise would be likely to be able to be accommodated within the existing school facilities in the surrounding area (IR129).

## Conditions and obligations

16. The Secretary of State has had regard to the 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 IR131-134 and is satisfied that the obligations comply with Circular 05/2005 and the tests set out in Regulation 122 of the CIL regulations.
17. The Secretary of State has considered the proposed conditions set out in the Annex to the IR, the Inspector's comments at IR135, and the policy tests set out in Circular 11/95. He considers that the conditions are reasonable and necessary and comply with the provisions of Circular 11/95.

## **Overall conclusion**

18. The Secretary of State has considered whether there are material considerations sufficient to outweigh the conflict with development plan policies. The proposal would provide much-needed residential accommodation, including affordable housing, in a sustainable location. It would result in the efficient use of land identified as being suitable for development and, in the context of the employment land situation, would not prejudice job opportunities. The Secretary of State considers that these material considerations are sufficient to outweigh the development plan conflict.

## **Formal Decision**

19. Accordingly, for the reasons given above, the Secretary of State hereby allows your client's appeal and grants planning permission for the formation of an access off Clipstone Road East and the development of the site to provide up to 313 dwellings together with associated roads and sewers and ancillary local public open space at land to the South of Clipstone Road East, Forest Town, Mansfield, Nottinghamshire, in accordance with planning application ref: 2010/0432/NT, dated 6 September 2010, subject to the conditions at Annex A of this letter.
20. 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.
21. 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.

## **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 Mansfield District 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

**Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, but only in respect of those matters not reserved for later approval:
  - 9704\_001 Location Plan
  - 9704\_020 Site Entry Design
- 5) The development hereby permitted shall be carried out in accordance with the principles of the following approved documents:
  - Planning, Design and Access Statement dated June 2010
  - Travel Plan dated 23 June 2010
- 6) No development shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological context of the development, together with an implementation phasing plan, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved scheme and phasing plan.
- 7) No development shall take place until a foul sewage drainage scheme, together with an implementation phasing plan, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved scheme and phasing plan.
- 8) No development shall take place until details of the method of working, in the form of an environmental management plan to include the control of noise, vibration, dust emissions and the deposit of debris from construction traffic on the public highway have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until a site clearance methodology that enables progressive site stripping to facilitate the safe movement of any active animals to a wider habitat, including amphibians and reptiles, has been submitted to, and approved in writing by, the local planning

authority. Development shall be carried out in accordance with the approved methodology.

- 10) No development shall take place until the applicant, or its agents or successors in title, has secured the implementation of a programme of archaeological work, including a scheme of geological survey and recording, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.
- 11) No development shall take place until details of measures to ensure access to the footpath to the east of the site together with a phasing plan for their implementation have been submitted to, and approved in writing by, the local planning authority. The approved measures shall be provided in accordance with the approved phasing plan.
- 12) Construction works, including the delivery of materials to and from the site, shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.
- 13) The construction of any dwellings on the site shall not commence until the access arrangements, as shown on drawing no. 9704\_020, have been completed in accordance with the approved details.
- 14) Any trenches dug during the construction of the development hereby permitted, which are to be left open overnight, shall be left with a sloping end or ramp to allow an animal that may fall in to escape. Any pipes over 200mm in diameter should be capped off at night to prevent animals entering.

## **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.



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

by Stephen Roscoe BEng MSc CEng MICE

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

Date: 12 May 2011

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**APPEAL BY NEWLANDS DEVELOPMENTS LTD**  
**MANSFIELD DISTRICT COUNCIL**

Inquiry held on 15 & 16 March 2011

Site Visit held on 17 March 2011

Land to the South of Clipstone Road East, Forest Town, Mansfield, Nottinghamshire

File Ref: APP/X3025/A/10/2141924

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## **GLOSSARY**

EIA	Environmental Impact Assessment
SoCG	Statement of Common Ground
RS	Regional Strategy
MARR	Mansfield and Ashton Regeneration Route
HMA	Housing Market Assessment
LP	Local Plan
ELR	Employment Land Review
LDF	Local Development Framework
IPG	Interim Planning Guidance Note
EMR	Employment Monitoring Report
SHLAA	Strategic Housing Land Availability Assessment
AMR	Annual Monitoring Report
CS	Core Strategy
HMR	Housing Monitoring Report
pSPA	Potential Special Protection Area
UKBAP	National Biodiversity Action Plan
LBAP	Local Biodiversity Action Plan
NE	Natural England
NWT	Nottinghamshire Wildlife Trust

**File Ref: APP/X3025/A/10/2141924**

**Land to the South of Clipstone Road East, Forest Town, Mansfield, Nottinghamshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Newlands Developments Ltd against the decision of Mansfield District Council.
- The application Ref 2010/0432/NT, dated 25 June 2010, was refused by notice dated 6 September 2010.
- The development proposed is the formation of an access off Clipstone Road East and the development of the site to provide up to 313 dwellings together with associated roads and sewers and ancillary local public open space.

**Summary of Recommendation: The appeal be allowed.**

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**Preamble**

1. This report includes: descriptions of the site, surrounding area and the proposed development; a summary of the planning history and relevant policies; the material points of representations made; my appraisal and conclusions; and my recommendations. Document references are shown in square brackets and, in my appraisal and conclusions, the numbers in subscript indicate the relevant paragraphs of the report to which reference is made. Details of those who took part in the Inquiry and comprehensive lists of the documents and plans referred to are attached at the end of the report. Recommended conditions are attached as an appendix.

**Procedural Matters**

2. At the Inquiry, an application for costs was made by the appellant against the Council. This application is the subject of a separate Report.
3. The planning application which is the subject of this appeal was submitted as recorded above [CD1-7]. An application for a screening opinion [CD8], pursuant to Regulation 5 of the Environmental Impact Assessment (EIA) Regulations 1999, was made in October 2008 in respect of the proposed residential development. The Council confirmed, by letter dated 19 November 2008 [CD9], that an EIA would not be required.
4. An appeal was made on 1 December 2010 [G4] against the refusal of permission by the Council [G5] following a report to its committee [CD10 & 11]. The appeal was recovered by the Secretary of State on 13 December 2010 [G6] under Section 79 of the Town and Country Planning Act 1990. This was as the appeal involved a proposal for residential development of over 150 units on a site of over 5ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities. The Council subsequently withdrew refusal reasons 1 and 2 [G8].
5. The Inquiry sat for two days on 15 and 16 March 2011. I carried out an accompanied site visit on 17 March 2011 following the closure of the Inquiry. This included viewing the appeal site and other development sites located around Mansfield. I was accompanied throughout this site visit by representatives of the appellant and the Council. I also undertook unaccompanied site visits of the surrounding area on 14 and 17 March 2011. Following closure of the Inquiry,

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the main parties were invited to make further submissions in relation to the Ministerial Statement of 23 March 2011 concerning Planning for Growth [ND6 & MDC13]. The parties were then given the opportunity to respond to each others submissions [ND7 & MDC14].

### **The Site and Surroundings**

6. The appeal site and its surroundings are described in the Statement of Common Ground (SoCG) [G7] which has been agreed between the Council and the appellant. Photographs of the site and surrounding area are included in the Design and Access Statement submitted with the planning application [CD7].
7. The site occupies an area of some 10.44ha and is situated to the south of Clipstone Road East which is subject to a 40mph speed limit. The site falls progressively from north to south and is generally enclosed by narrow hedgerows. To the west, it is bounded by the houses, gardens and small holding plots of properties in Lime Grove and the White Gates Public House which is on Clipstone Road East. To the east, it abuts a public footpath which runs between Clipstone Road East and Newlands Road, and beyond this is further agricultural land which has a frontage to Crown Farm Way. To the south, it is bounded by Newlands Road, which is a bridleway, and beyond this is the Crown Farm Way Business Estate. The estate comprises a range of large warehouses and manufacturing buildings which are partially screened in views from the site by mounding and tree belts.
8. The site is located on the east side of Forest Town, a settlement within the urban area of Mansfield. Forest Town developed following the establishment of a local colliery which has now closed. Forest Town expanded during the early part of the 20<sup>th</sup> century and has seen further expansion with infill and renewal development. Clipstone Road East links Forest Town with Clipstone, another mining settlement.

### **Planning Policy**

9. The development plan comprises The East Midlands Regional Plan or Regional Strategy (RS) [CD16 & JW2 App 4] and the Saved Policies of the Mansfield District Local Plan (LP) [JW2 App 5 & CD18].
10. The RS was adopted in 2009, and Policy 1 sets out core objectives for the region. This policy includes objectives to ensure that new affordable and market housing addresses need and extends choice in all communities throughout the region. The objectives also seek to improve economic prosperity by ensuring that sufficient land of a good quality is available to support economic activity. Furthermore, an improvement in accessibility to jobs, homes and services is sought through the encouragement of new development patterns that reduce the need to travel especially by car. RS Policy Northern SRS3 encourages employment land allocations along the Mansfield and Ashfield Regeneration Route (MARR).
11. RS Policy 7 deals with the regeneration of the Northern Sub-Area, within which the appeal site lies, and specifically seeks to strengthen the Mansfield-Ashfield Sub-Regional Centre by providing jobs and houses within their urban areas. On regional housing provision, Policy 13a seeks to achieve an annual housing provision in Mansfield of 530 units between 2006 and 2026, totalling 10,600 units over the period. The Council adopted this total and an adjusted annual figure of 589 units on 2 November 2010 [CD14 & 15].

12. RS Policy 14 seeks to ensure that affordable housing targets are adopted by local planning authorities in line with the Housing Market Assessment (HMA) for their area. The appeal site lies within the Nottingham Outer HMA which also includes Ashfield and Newark/Sherwood. The target in the HMA is for 9,200 dwellings to be provided between 2005/06 and 2026, which equates to an average of 460 dwellings per annum.
13. The LP was adopted in 1998 to guide development in the period up to 2006. One of the main categories for the overriding strategic objectives of the LP is economic growth and development, where objectives are aimed at accommodating residential, industrial and commercial development. Saved Policy E6(B) identifies the appeal site, together with adjacent land, as being appropriate for the development of a business park falling within use Class B1 only, but which may also include the development of a hotel. The policy states that planning permission will be granted for such development. The supporting text to the policy advises that planning permission had already been granted for employment uses on land within the Crown Farm Way Business Estate, which was then a designated Enterprise Zone. The text adds that this left the business park area, including the appeal site, to provide complimentary but alternative employment opportunities in the locality. The appeal site is shown as an employment proposal/consolidation area on the LP Proposals Map.
14. Policy DPS1 seeks to provide for the scale of development necessary to meet the needs of the district. The reasoned justification for this policy identifies the need to regenerate and restructure Mansfield's economy to cater for the needs of Mansfield's present and future population. It adds that the allocation of sites for employment purposes is essential to attract inward investment to the district.
15. Saved LP Policy H2 states that planning permission will be granted for housing development within the urban boundary, provided that it meets various criteria including its integration with the existing pattern of the settlement and surrounding land uses. Saved Policy H5 lists sites known to be available and suitable for housing at the time of adoption of the LP. Two sites where housing would be acceptable if other development did not proceed are also listed, but the appeal site is not one of these two. Saved Policy H14 requires housing development to include affordable accommodation, with Section 106 obligations negotiated where there is a demonstrable lack of such accommodation.
16. The East Midlands Sub-Region Employment Land Review (ELR) of March 2008 [CD23] recommends that new employment land within the higher part of a range between 23.7 and 35.2ha will be required in Mansfield between 2006 and 2026. It also recommends that such a figure should be used to inform the emerging Local Development Framework (LDF).
17. The ELR identifies the appeal site as a committed/potential site. The review gives the site and the adjoining land a market score of 35 within the 9 Mansfield sites which have a range of 28 to 37; with the lower scores in the range indicating a higher level of market interest and commercial viability the particular site. As a consequence, the appeal site is said to have poor market interest and commercial viability.
18. The ELR also gives the appeal site and the adjoining land a policy/sustainability score of 53 within the Mansfield sites range of 44 to 57. Lower scores in the range indicate a greater accord with policy and the principles of sustainable

- development. As a result, the site is said to score relatively poorly for employment use against a high score for development interest in other uses. These elements are however mutually reinforcing where poor market interest can encourage other uses.
19. The Council published Interim Planning Guidance Note 7 on Affordable Housing in February 2008 (IPG7) [CD24]. For developments of more than 30 dwellings, it sets an on-site requirement of 20% of the total number of units with proportions of 66% social rented and 34% intermediate shared ownership [CD24 para 7.4].
  20. The District's Employment Monitoring Report (EMR) for 2010 [CD19] indicates that there is 111.47ha of employment land and premises provided, permitted, proposed or identified between April 2006 and March 2010. This represents a 68.01ha surplus of employment land and premises over the net demand predictions in the ELR [CD23].
  21. The Council's Strategic Housing Land Availability Assessment (SHLAA) of 2009 [CD20i] identified 74 housing sites as not being inappropriate for such development. It also suggests that these sites could accommodate an estimated 11,378 dwellings. These sites included the appeal site (Site No.96 SHLAA015) and the adjoining land also identified for business park use in the LP (Site No.91 SHLAA055). The assessment for the appeal site concluded that it was an appropriate site for housing development within five years.
  22. The Council's Draft SHLAA of 2010 [CD20ii] identified 86 housing sites that could accommodate 17,089 dwellings. The conclusions for the appeal site (No. 96) and the adjoining land (No. 91) repeated those of the 2009 assessment.
  23. The Council's Fifth Annual LDF Monitoring Report (AMR) of December 2009 identifies that the district's housing land supply from existing permissions and remaining allocations will be exhausted partway through 2015/16 [CD30 Tbl 5.2]
  24. The Council's Sixth Annual LDF Monitoring Report of December 2010 [CD22] tracks progress in terms of the Council's key LDF milestones. It identifies 204 affordable housing completions between 2005/06 and 2009/10 [CD22 Tbl 5.2].
  25. The Council published a discussion paper in June 2009 titled A Strategic Approach to Development [CD26]. This paper identifies an area around the appeal site as a potential location for an urban eco-extension (Option E). It does however repeat previous concerns regarding the marketability of employment development in this area, pointing out difficulties in respect of accessibility and land values together with the long time taken to achieve significant development on the nearby Crown Farm Business Estate.
  26. The paper also identifies options along the MARR, to the south and west of the Mansfield urban area, for strategic mixed use urban extensions (Options A and G). Sites within these option areas are considered to be marketable due to their accessibility, particularly as the MARR road link was constructed in part to create opportunities for new high quality employment development. Both areas are said to have been the subject of strong developer interest. The area within Option G was also identified in the RS as an appropriate area for a strategic employment site due to its accessibility.

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27. The paper suggests that a pragmatic approach will be required to determine what the market can deliver and that there needs to be significant interest in any proposed areas in order to see them brought forward. It cautions however against ruling out future development in other suitable locations outside the MARR, and mentions the appeal site in this regard. It does however suggest that sites such as the appeal site may be required to meet Mansfield's housing requirement, although not for a number of years due to the current housing land supply situation.
  28. As part of its LDF process, the Council published a Core Strategy (CS) Issues and Options Report [CD17] in connection with a consultation period that ran between June and August 2010. In terms of housing, the report describes Mansfield as a district where, despite the plentiful provision of land for housing, the annual rate of new completions has failed to reach the targets set by the RS. It adds that the local economy is re-structuring due to the decline in the coal mining and textile industries and is recovering with growth in business services and manufacturing [CD17 para 2.1].
  29. Under Option Spatial Vision 1, the report sees a Mansfield in 2026 where the MARR is the focus for significant new job growth. It also sees the gap between the deprived and more affluent areas of the district having been reduced by better quality housing stock with affordable housing provided to meet identified needs. It also identifies that the provision of significant levels of additional dwellings and the need for new employment opportunities will inevitably mean that currently undeveloped land in the district will be required for development [CD17 para 4.3]. The report also draws attention to one of the Council's Corporate Plan Objectives which is to ensure decent homes for all [CD17 para 4.8]. The report generally repeats the findings in relation to the urban extensions along the MARR which were suggested in the 2009 discussion paper [CD17 Issue EP2].
  30. I have also had particular regard to PPS3, PPS4, PPS25, Circular 11/95 and Circular 05/2005.

### **Planning History**

31. The planning history of the appeal site is described in the SoCG [G5] which has been agreed between the Council and the appellant. Policy E6(B) of the LP [CD18], which was adopted in 1998, sets out that planning permission will be granted on the site for the development of a business park falling within use Class B1 only, but which may also include the development of a hotel. Outline planning permission was granted on 17 September 2001 for the development of the site as a Class B1 business park [CD12]. Subsequent applications were submitted pursuant to Section 73 of the 1990 Act to extend the time for the submission of the reserved matters conditioned by the outline planning permission [CD13]. The last permission granted pursuant to Section 73 expired on 31 December 2007. No development was brought forward within the life of these permissions.
32. The site was identified as being suitable for residential development in the Council's SHLAA for 2009 [CD20i]. The appeal site, and other sites identified through the SHLAA process which the Council considered suitable for residential development, were included in the 'Dwellings Available' calculation of the five year supply in the Council's Housing Monitoring Report (HMR) for 2010 [CD21].

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As the appeal site and the neighbouring land to the east have been refused planning permission for residential development, these sites have been removed from the Council's five year housing land supply calculation. This is also to be reflected in the final 2010 SHLAA. The neighbouring land to the east of the site is the subject of a recent appeal Ref APP/X3025/A/10/2133133, on which a decision has yet to be made.

33. The planning application which is the subject of this appeal [CD1a, CD1b & CD2] was considered by the Council's Planning Committee on 6 September 2010. This was on the basis that it would be a major development and would represent a departure from the development plan. The application went to the committee with an officers' recommendation that permission be granted and that the application be referred to the Government Office for consideration as a departure [CD10]. Members resolved that the application be refused permission on the grounds of LP Saved Policy BE1 paragraph 1 and Saved Policy H2 [CD11].
34. The Council's decision notice contained three reasons for refusal, as set out below, and referred to the above saved policies together with LP Saved Policy E6.

1. *The proposal would be contrary to Saved Policy BE1 of the Mansfield District Local Plan (1998) which states:*

*Planning permission will be granted for developments which achieve a high standard of design provided they meet all of the following criteria:*

*The criteria includes (1) the scale, density, massing, height, layout and access relates well to neighbouring buildings and the local area generally;*

*The proposal would be contrary to criteria (1) of the above policy as the density of the development, at approximately 30 dwellings per hectare, would not integrate with the character of the existing area.*

2. *The proposal would be contrary to Saved Policy H2 (28/09/07) of the Mansfield District Local Plan (1998) which states:*

*Planning permission will be granted for housing developments within the urban boundary, as defined on the proposals map, provided that they would meet all of the following criteria:-*

*The criteria include (1) integrate with the existing pattern of settlement and surrounding land uses;*

*The proposal would be contrary to criteria (1) of the above policy and indicative layout as the density of the development, at approximately 30 dwellings per hectare, would not integrate with the existing pattern of settlement.*

3. *The proposal would be contrary to Saved Policy E6 (28/09/07) of the Mansfield District Local Plan (1998) which states:*

*Planning permission will be granted for the development of business park uses (use Class B1 only) at the following locations:-*

*E6(B)*

*19.1 hectares of land off Clipstone Road East (which may also include the development of a hotel)*

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*The proposed housing development would be a departure from the development plan which allocates the site specifically for employment use.*

35. The appellant subsequently submitted an appeal against this refusal which is the subject of this report. The appeal was recovered by the Secretary of State on 13 December 2010 under Section 79 of the Town and Country Planning Act 1990 [G4]. During the appeal process the Council withdrew Refusal Reasons 1 and 2 [G6].

### **The Proposal**

36. The proposal is described in the SoCG [G5]. The planning application which is the subject of this appeal is for outline permission for the development of the appeal site, which has an area of 10.4ha and is shown on plan 9704\_001 [CD4], to provide up to 313 dwellings. This equates to a density of 30 dwellings per hectare (dph). Apart from the location and design of the access junction on Clipstone Road East, as detailed on plan 9704\_020 [CD5b], all other matters are reserved for subsequent approval.
37. To enable consideration to be given to the potential form and layout of the future development, illustrative layouts were submitted in support of the application. Plans 9704\_051 and 025 Rev A for Option A; 012 for Option B; and 013 for Option C show a mix of accommodation with:
- 100 Detached Houses and Bungalows (3 to 5 bedroom)
  - 80 Semi-detached Houses/Bungalows (2 to 4 bedroom)
  - 81 Terraced Houses (2 to 4 bedroom)
  - 52 Flats (1 to 2 bedroom)

### **Other Agreed Facts**

38. Other facts agreed between the appellant and the Council are included within the SoCG. These refer to the conclusions of: the Transport Assessment [CD5c]; the Travel Plan [CD5d]; the Noise Assessment [CD5g]; the Flood Risk Assessment and Flood Risk Strategy [CD5f]; the Infrastructure Assessment [CD5e]; and the Ecological Impact Assessment [CD5h]. The main parties also agree with the advice from Natural England dated 28 June 2010 that the Sherwood Forest region is not a potential Special Protection Area (pSPA) under the EU Birds Directive and that the provisions of the 2010 Regulations<sup>1</sup> do not presently apply.

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

The material points are:

#### *Policy*

39. The RS, which is still in the first half of its 20 year period and should be afforded full weight, seeks to ensure that affordable housing provision is managed in relation to HMA target figures. Between 2005/06 and 2009/10, only 204 affordable housing units were completed in Mansfield [CD22 Tbl 5.2]. The figures for the same period in Ashfield and Newark/Sherwood are 414 and 289 respectively. This gives a total number of completions over the five year period

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<sup>1</sup> The Conservation of Habitats and Species Regulations 2010

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- of 907, which is well below the 2010 HMA target of 460 dwellings per annum (pa). In particular, Mansfield has only provided 2.2% of the target figure over this period, which is a poor outcome.
40. The Council's IPG7 requirement for 20% affordable units pre-dates the 2010 HMA. In view of the poor performance against the 2010 HMA target, 30% of the proposed units would be provided as affordable accommodation. The proposal would therefore seek to address the affordable housing priorities of the RS and the emerging LDF. Significant weight should be given to this proposed mix of housing against the current levels of provision.
  41. The LP is now an elderly document, and the weight given to it must be affected by the expiration of the plan period, changes to strategic policy and the availability of new evidence. In this case, the positive housing requirements of PPS3 are available, together with PPS4 which advises that out of date employment allocations should be rigorously reviewed. Significant new evidence is also available on employment and housing land.
  42. When the LP was adopted in 1998, it referred to the benefit to employment development in the area around the appeal site that would result from the, then planned, Crown Farm Way link road. This road has subsequently been constructed. Despite the presence of the road however, and the grant of outline planning permission for the appeal site and the adjoining land, no viable proposals for employment development on the appeal site have come forward.
  43. Although the preparation of the CS is at an early stage, some weight should be accorded to the Issues and Options Report [CD17] which suggests that the focus for employment development should be in areas other than around the appeal site. This is particularly relevant as the LP is now significantly dated. The ELR [CD23] identifies some 208ha of committed and potential sites with better market scores than those of the appeal site and some 180ha with better policy/sustainability scores. This report also notes that the appeal site scores relatively highly on development interest for other uses.
  44. Both the 2009 and 2010 AMRs [CD30 & CD22] show a significant under achievement against the average annual requirement for new housing and an accumulating deficit in the delivery of new accommodation to meet the housing needs of the district. Moreover, the predicted exhaustion of supply from permissions and allocations by 2015 in the 2010 AMR assumes that all permissions and allocations will be brought forward within that period, which has not previously been the case.

### *Employment*

45. LP Saved Policy E6 does not prohibit any non-employment use on the appeal site, and it is therefore a permissive policy. There is no policy which seeks to prohibit the development of land allocated for employment purposes to other uses, and the Council has not claimed that the proposal conflicts with any other policies of the development plan. Moreover, the Council's committee did not raise the matter of Policy E6 at all.
46. The importance of economic development is recognised in Government advice, the development plan and other material publications. However, none of these publications include policies which seek to justify the retention of land for economic development where the evidence shows it has not attracted potential

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- developers or users of employment accommodation. The proposal therefore is not a departure from the development plan.
47. The absence of development on the appeal site in the 13 years since the adoption of the LP, during which the UK has experienced one of the strongest commercial markets, is indicative of the constraints inherent in the site in relation to the aims of Policy E6. This is further emphasised by the findings of the Regional Employment Land Priorities Study [MDC10] and the ELR [CD23] which identify that the site is of poor quality and constrained.
  48. Class B1 development can only flourish on the most prime of sites. The 2010 EMR [CD19] states that there is a surplus of employment land of over 68ha on the basis of the projected demand over the RS plan period. Whilst the Council has deemed the site to be suitable for Class B1 development, it will not be capable of delivering such development in the foreseeable future. Its location is poor, and its potential availability has not, in reality, added to the effective stock of developable employment land around Mansfield. Its aspirational allocation was made in a different era and, as such, its release from employment use would not diminish the effective supply of developable employment land.
  49. The demand for all of the Class B1 uses in Mansfield is generally weak and, with the completion of Sherwood Way along the MARR, there remains a surplus of identified sites which are preferable to the appeal site. The ELR records that these are situated in superior locations which are capable of satisfying the projected demand for employment land in the district in the plan period to 2026. The dynamics of the employment land market in Mansfield also significantly favour sites to the south and west of the town centre, with those to the north and east generally being unviable without grant support. The restriction to Class B1 development of the appeal site within the employment land uses exacerbates its poor location and makes the development of the site unviable.
  50. It would also be very difficult to obtain significant bank funding for development on the appeal site due to the restriction on its uses and its poor location. This is further exacerbated by the fact that for the use most likely to be suited to the appeal site, namely offices, the current market value would be less than the cost of construction. Furthermore, the appeal site is generally surrounded by average quality older housing stock that fronts onto Clipstone Road East which leads to the former mining village of Clipstone. This is not a location for a prestige B1 business park.
  51. As a consequence of all of the above points, it is unreasonable to expect the site to remain fallow where there is a surplus of better located sites suitable for economic development. This is particularly so, as the business park development has not proceeded despite the earlier grant of an outline planning permission.

### *Residential*

52. If the Secretary of State concludes that it is not necessary for this site to be protected for employment development, there is no need to go on to consider whether there is a shortage of housing land supply in order to gain the benefit of the presumption in paragraph 71 of PPS3. If this is the case, the application should be permitted.
53. Even if this is not the case, residential development on the appeal site complies with the development plan, the RS and the LP (specifically Policy H2). The site is

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also identified for development in the LP and is within the defined urban envelope of Mansfield. This being the case, planning permission should be granted.

54. It is only if a planning or policy objection arises, that the question of whether there is a 5 year supply needs to be considered. The guidance in PPS3, the RS, the LP and the identified issues and options of the emerging CS all indicate a need for new housing which is to be provided in a sustainable form and designed to meet the needs of the community for high quality affordable and market housing. The proposal will do this.
55. In particular, the provision of 30% of the units as affordable housing would make a significant contribution in compliance with RS Policy 14 and LP Saved Policy H14. Indeed, the Council's report to committee [CD10] concluded that residential development is acceptable in principle. The provision of 94 affordable housing units is therefore a significant material consideration in favour of the proposal. The proposal would also accord with the strong presumption in favour of sustainable development which is the main thrust of the Ministerial Statement of 23 March 2011 and its expectation in terms of development and growth. In particular, the importance of fostering growth would not be prejudiced by the grant of planning permission and the proposal would fully accord with the need to maintain a responsive supply of housing land. The proposal would also deliver much needed affordable housing. Moreover, the LP employment allocation is very out of date, as evidenced by the more recent evidence submitted to the Inquiry. The proposal would therefore assist in the provision of long term economic and social benefits [ND6].

#### *Housing Requirement*

56. Whilst it is not necessary to demonstrate a shortfall in the 5 year supply, the Council has asserted that there is an adequate supply of housing land and that the site does not need to be released for residential development. The issue therefore needs to be addressed.
57. The assertion by the Council appears to be predicated on the basis of the most recent assessment of the five year land supply set out in the 2010 HMR. The agreed target for the period 2006-2026, as set out in the RS and endorsed by the Council on 2 November 2010, is 10,600 units. This originally equated to 530 units pa. For the 4.75 year period from 1 April 2006 to 31 December 2010, the net completions total is 1,146 units. This represents just over 57% of the target of 2,517 units, a shortfall of 1,071.
58. In arriving at the revised target of 589 units pa, as adopted as an interim figure by the Council on 2 November 2010, the shortfall has been spread over the remaining 16 years to 2026. This approach however fails to address the strategic and planning objective of PPS3, as set out at paragraphs 9, 10 and 65, to ensure good housing for all and a flexible supply of housing land. This requires that there should be sufficient sites within the first five years of a rolling five year programme to meet the identified requirements and reduce the shortfall in historic delivery. It has been supported on appeal [ND2].
59. Applying the PPS3 requirement means that the average annual rate needs to be adjusted by adding the shortfall to the annual average rate over a five year period. This takes the target from the original 530 to 744 units pa.

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60. The dwellings available total in the 2010 HMR is 4,306 units at 31 March 2010. The Council is of the view that the total supply figure should be 3,588 units at 31 December 2010. This figure should however be further reduced by 39 as a permission at Balmoral Drive (Sh 041) has expired. The 91 units attributed to allocated sites in the LP which do not have the benefit of planning permission and the 701 (719 SHLAA sites excluding Moorfields Farm) remaining allocation from the SHLAA sites should also be deducted. The former have been known about for the past 12 years, and have not been the subject of any applications, and the remaining SHLAA sites are not the subject of applications and have various difficulties. Neither of these categories therefore meets the achievable test of PPS3. This takes the total supply figure to 2,757 units.
61. At an annual average rate of 744 units there is only a 3.7 year supply of housing land at 31 December 2010 and, if the average rate adopted by the Council in November 2010 is applied, there is only just a 4.6 year supply.
62. As the Abbot Road site (SHLAA 067) is also designated for employment development and the application for 430 units has yet to be determined, this should also be considered for deduction from the dwellings available total. This would further reduce supply.
63. The above figures also disregard three sites on which there appears to be reasonable doubt that they are likely to come forward in the foreseeable future. These are: White Hart Street (144 units); Speeds Garage (41 units); and the former Mansfield Hospital (133 units). This is a total of 318 units. If these are deducted from the dwellings available total, it falls to 2,392 units and the housing land supply falls to 3.2 and 4.0 years respectively.
64. The Land Requirements table on page 47 of the 2010 HMR [CD21] shows that, at a density of 30dph, there is still 207.5ha of land to be found to meet the overall objective of providing 10,600 new homes by 2026. If densities fall significantly below 30dph on large sites however, such as on the appeal site, the amount of required land will increase yet further. Moreover, the appeal site represents some 5% of the total residential land requirement.
65. The housing supply figures set out in the HMR are therefore far from robust and, if the Council is to achieve the delivery of housing to the level agreed as the target in November 2010, both the supply and annual average rate need to be increased.

#### *Scale and Form*

66. The illustrative layouts and perspective sketches [CD6] demonstrate that the appeal site can be developed in accordance with the Council's guidance in respect of space about dwellings, recreational provision and parking standards. The mix of dwelling types and sizes would ensure that the proposal provides for a mixed community. The illustrative layouts provide definition to the streets and open spaces, with natural surveillance of routes and courts, while providing for good neighbour separation and relationships.
67. The form of development illustrated comprises a balance of detached houses and bungalows (32%), semi-detached houses and bungalows (25.5%), terraced town houses (25.8%) and flats (16.5%). It is anticipated that most of the houses and bungalows would have integral or attached garages, together with adequate space to the front for additional parking. The flats and some of the smaller

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- houses would have adjacent parking courts. All the houses would have gardens, and the flats would have access to communal private space.
68. In response to the wider context, the houses would be two storeys although some of the five bedroom units might have accommodation in the roof space. In the illustrative layouts, the flats are envisaged as a combination of two and three storey buildings located so as not to have any impact on existing neighbouring development or the neighbouring units on the site.
69. The illustrative layouts incorporate some 4,040m<sup>2</sup> of public open play space in the heart of the site accommodating a Local Area for Play of 240m<sup>2</sup> and a Local Area Equipped for Play of 500m<sup>2</sup>. This would comply with the Council's standards for local formal and informal open space. All of the dwellings would be within 2 to 4 minutes walk of these facilities.
70. The illustrations show that a layout and plot spacing similar to the existing development in the area can be achieved. This is in relation to the semi-detached houses to the north side of Clipstone Road East and the development along Holly Road and the adjacent roads to the north on Clipstone Road West.
71. Any viable sustainable residential development of the site will be different in scale and form to the development in Lime Grove to the west. The character of Lime Grove is however not a reflection of the wider area of Forest Town, as it represents a particular form of small holding development from the middle part of the 20th century.
72. The illustrative layouts envisage the retention and enhancement of the established, but narrow, hedgerows along the east and west boundaries of the site with additional planting to the north edge. The planting will provide a measure of screening of the site from Clipstone Road East.

#### *Access and Impact on the Highway Network*

73. The access to the site is submitted for approval as part of the outline planning application and has been the subject of pre-application agreement with the Highway Authority. The access provides centre island refuges to assist with pedestrian movement across the access and Clipstone Road East. The existing westbound bus stop will be relocated to a position some 10 metres west of its current location and will incorporate a lay-by and shelter.
74. The Transport Assessment submitted with the application [CD5c] concludes that trip generation arising from the proposal will have no adverse impact on the local highway network. A number of bus routes run along Clipstone Road East linking to Forest Town and the town centre to the west and Clipstone, Ollerton and other settlements to the east. The frequency and destinations of the services means that the transport accessibility of the site is good.
75. While the Highway Authority did not object to the proposal, it has indicated that it is seeking a financial contribution of £160,000 towards highway works based on its Planning Contribution Strategy. This is not however an adopted document. Furthermore, the various highway improvements itemised by NCC are not necessary to make the development acceptable in planning terms, except for those matters which will be delivered as part of the Section 278 works and the proposed layout of the site [CF2 App CF/2]. In the event that the contribution

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sought is justified, the Section 106 agreement provides for the payment to be made if so directed in the decision by the Secretary of State.

### *Flood Risk and Sustainable Drainage*

76. The appeal site lies within the low risk Flood Zone 1. Land beyond the southern boundary of the site has been excluded from the site as it is within the higher risk Flood Zones 2 and 3. An assessment has been undertaken, and this incorporates the following recommendations to reduce flood risk and promote a sustainable drainage strategy for the site. The recommendations comprise the use of permeable paving and soakaways as the preferred means for the disposal of surface water to reduce peak run off and the use of rainwater harvesting in the detail design of each property. This approach is consistent with the advice set out in PPS25.

### *Infrastructure*

77. An infrastructure assessment [CD5e] indicates that the utility infrastructure necessary to support the proposal is present. It also concludes that, subject to the completion of certain off-site reinforcement works, there is no reason that the development of the site for residential purposes cannot be achieved.

### *Ecology*

78. A preliminary ecological assessment [CD5h] has not revealed any statutory protected habitats or plant species or any plants on the site that would be considered nationally or locally rare or uncommon. As uncultivated arable land however, the appeal site has similar characteristics to an arable field margin habitat, which is a National Biodiversity Action Plan (UKBAP) and Nottinghamshire Local Biodiversity Action Plan (LBAP) priority habitat. Skylark, a Red List UKBAP and LBAP priority species, were observed singing over the appeal site.

79. The ecological assessment notes that the development of the site will have a negative effect at the parish or neighbourhood geographic scale. The weight to be given to this however has to be balanced by the LP allocation for the site and a recognition that any development of the site will result in change both during construction work and subsequent management of the habitat.

80. The appeal site does not contain habitats of value to breeding Nightjar and Woodlark, and consequently the implementation of the proposal would not result in the loss of breeding habitat for these species [CF1 App CF/3]. Sherwood Forest Country Park and National Nature Reserve (400,000 visitors each year), Clumber Park (750,000 visitors each year) and Sherwood Pines Forest Park are considered to be core breeding areas for Nightjar and Woodlark. The impacts of increased human activity through countryside recreation resulting from the proposal would not however be significant when taking into consideration the large number of existing visitors to these areas. Furthermore, only 4.5% of the records for Nightjar and none of the Woodlark records reported to the Rufford energy recovery facility Public Inquiry are located within 2.5km of the appeal site. Predation by cats associated with the proposal development would therefore be negligible, as would disturbance through increased traffic levels.

81. The proposal would therefore not have significant impacts upon the breeding populations of Nightjar and Woodlark within the Sherwood Forest Region.

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Moreover, it would not be likely to add significantly to the cumulative effects of other developments in the Sherwood Forest Region, given the appeal sites very low potential for affecting breeding populations of Nightjar and Woodlark.

### *Noise*

82. A Noise Assessment [CD5g] concludes that the present noise climate renders the site suitable for the proposal, but that some attenuation may be required dependant upon the proximity of the proposed dwellings to any noise sources. Such attenuation would be achieved through design detail of the relevant units to be determined prior to the submission of these details for approval.

### *Education*

83. Three secondary schools are located within the Education Authority's reasonable walking distance for children of over 8 years old. Using the authority's guidance, the proposal is likely to generate some 50 children of secondary school age at any one time. This would represent an additional 2 to 3 pupils in each year at each school, for which sufficient capacity is available.
84. It is anticipated that the proposal would generate some 9 children of infant school age each year by 2014/15. The Education Authority's Review of Pupil Projections [NCC2] shows that sufficient capacity would be available in John T Rice Infant School at that time to accommodate this number of pupils.
85. It is anticipated that the proposal would generate some 19 children of junior school age by 2014/15. Forest Town Primary School, whilst not lying within the current catchment associated with the appeal site, is the same distance from the site as the catchment school, Newlands Junior. Heatherley Primary School also lies within the Authority's reasonable walking distance for children of under 8 years old. The review [NCC2] shows that sufficient capacity would be available in these schools at that time to accommodate the number of pupils generated. In view of all of the above points, the appeal should be allowed.

## **The Case for the Council**

The material points are:

### *Development Plan*

86. Appeal decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. The Council also had that responsibility, which it exercised in favour of the development plan. The development plan therefore provides the essential framework for planning decisions [JW2 App 1]. In this respect, the decision maker should have regard to the provisions of the development plan as a whole, that is all of the provisions which are relevant to the application under consideration [JW2 App 3].
87. The appeal site adjoins the urban boundary in this part of the district. As the site is a land use allocation, it appears that the development boundary has been drawn to show that this is a planned extension to the built up area. The principle of developing this site is therefore only established in the development plan for the specific purposes for which it has been allocated. The argument that the Council was content for the site to be generally developed thus carries little weight.

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88. It has been claimed that the LP does not contain a policy which specifically states that the planning permission should not be granted for housing development on the appeal site or that it should be protected for a business park rather than residential development. This cannot be relevant to the appeal as, if it was the case, the generally framed LP Saved Policy H2 could simply override any other site specific allocation on the proposals map. The map and this aspect of the adopted LP would then be worthless. Policy H2 should therefore be given less weight than Policy E6 in this regard, and the absence of such a policy, as claimed above, does not support the appeal.
89. Every aspect of the LP does not however have to remain unchanged until the plan is replaced. Departure procedures exist to ensure that development proposals which do not accord with the LP are given due publicity and consideration before determination. The Council considers this application to be a departure from the development plan, as it proposes a new use for the site for which provision has been made elsewhere in the district after statutory public consultation.
90. The Council has approved enabling development, including such development on the similarly allocated site which lies adjacent to the appeal site. This indicates that the Council has taken a pragmatic approach in the current difficult economic circumstances to bring about the primary purpose for which the land is allocated in the development plan. On this adjacent site, an element of housing has been approved together with employment land in a package supported by a conditional planning consent and Section 106 Obligation. The application for the appeal site is however different in that it makes no provision for either of the uses which the development plan says should take place on the site. There is therefore no justification for a departure from the development plan on this basis. The Ministerial Statement of 23 March 2011 emphasises that particular weight should be attached to the need to secure economic growth and employment. To lose employment land for housing, to the extent that opportunities to provide much needed jobs in the area are lost, is not in line with the Ministerial Statement [MDC13].

#### *Employment Land*

91. The ELR [CD23] lists five sites which it considers could be released through the LDF process for land uses other than for employment. The appeal site is not included amongst these five sites. The ELR also lists five sites which are considered to be suitable for mixed use development. The appeal site is also not amongst these sites, and the ELR therefore does not support the appeal. Furthermore, the Issues and Option Report [CD17] should be given little weight.
92. The ELR also displays the distribution of the existing and potential employment sites in the district. If the report is accepted in the LDF process, then most employment growth would take place along the MARR to the south east of the town centre. That would leave the appeal site and the adjacent land as the only potential large employment sites on the eastern side of the district to complement nearby housing development such as in Clipstone. An adequate supply of employment land is therefore no reason to allow the appeal. In view of all of the above points, the appeal should not be allowed.

### *Housing Land*

93. The 2010 HMR sets out the Council's position with regards to the 5 year land supply as of 1st April 2010 [CD21 pg 45]. The 5 year requirement figure is the RS requirement of 10,600 units from 2006 to 2026 less 1,170 completions between 2006 and 2010. This is then divided by the 16 years remaining to 2026 to give the annual requirement of 589 units and multiplied by 5 to give the 5 year requirement of 2,947 units. Whilst the RS should be given limited weight due to its intended abolition, the Council adopted the annual requirement of 589 units in November 2010, and this should be given most weight. This is a bold move and reflects the positive approach that the Council has taken towards the provision of new housing.
94. The 5 year supply figure has been calculated by adding the number of permitted dwellings (3,032), those without permission on allocated sites (91) and a small proportion (1,183 out of 11,378 potential) of SHLAA dwellings (with dwellings in all groups having a reasonable prospect of 5 year delivery). This equates to 4,306 dwellings or a 7.3 year land supply.
95. These figures have been updated to 31 December 2010 as follows. The 5 year requirement figure at this date (confirmed by the Council on 2 November 2010) is the RS requirement of 10,600 units from 2006 to 2026 less 1,446 completions between 2006 and 2010. This is then divided by the 15.25 years remaining [MDC1] to 2026 to give the annual requirement of 600 units and multiplied by 5 to give the 5 year requirement of 3,000 units.
96. The 5 year supply figure at 31 December 2010 has been calculated by adding the number of permitted dwellings (579 under construction and 2,199 not yet started), those without permission on allocated sites (91) and a small proportion (719 out of 17,089 potential) of SHLAA dwellings (with dwellings in all groups having a reasonable prospect of 5 year delivery). This equates to 3,588 dwellings or a 5.98 year land supply. The housing land supply figures calculated for 31 March and 31 December 2010 therefore exceed the five year requirement set out in Government guidance.
97. In the above calculations, the Council has not included every site that has planning permission. Examples are a site at Toothill Lane with ownership difficulties, at Fisher Lane where the owner has indicated that he would be progressing with a lower density scheme (23 apartments to 12 dwellings) and at West Notts College (200 dwellings) where the college now plans an expansion. Those SHLAA sites that are included have been so treated as they have a reasonable prospect of delivering housing within five years. The exclusion of sites such as these and the inclusion of a very small proportion of the SHLAA sites demonstrates the Council's cautious approach to the supply of housing land.
98. Unfortunately, even before the economic downturn set in during 2007, the house building industry was not able or willing to keep pace with the RS, and Council adopted the requirement of 589 units/year. If housing was built at the average net completion rate that has been achieved over the last 9 years (294 units/year), the current supply would last for over 12 years. This is no different even if completion rates dating from 1991 are used, as the average completion rate over this period is 252 [DB2 App 12]. There is no evidence that completions will come close to meeting the targets set, and therefore to suggest that granting more planning permissions will increase delivery rates is

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unfounded. For example, while supply was higher in 2008/09 than it was in 2005/06, completions were considerably lower [DB2 App 12]. The annual requirement figure is therefore optimistic, and the land supply figure is again cautious.

99. The latest allowance for SHLAA sites does not include the appeal site or the land adjoining, as they have both been refused planning permission. The 719 SHLAA dwellings in the above calculations are from sites at Moorfields Farm (18 dwellings), Northfield Lane (11), Bould Street/ Chesterfield Road (61), Abbott Road (430), Sandy Lane SHLAA Site 86 (42), Southwell Road East (29), Garth Road (20), Windmill Lane (38), Sandy Lane SHLAA Site 114 (61) and Cox's Lane (9). Various SHLAA sites not previously included in the 2009 and 2010 SHLAAs have come forward, such as at CD Bramhall, Mansfield Sand (107 dwellings) and Crown Packaging (70). This is further evidence of the cautious approach the Council has taken to the supply of housing land.

### **The Case for the County Council**

The material points are:

100. In terms of education, the County Council's request for a contribution was made directly to the Inquiry having been made too late for the Council to consider prior to its refusal. The contribution would be used to provide necessary additional accommodation at the catchment infant and junior schools, which would be full prior to occupation by children from the proposed development. The County Council acknowledges that catchment areas are often reviewed when circumstances change.
101. The County Council is also seeking a highways contribution in accordance with its planning Contributions Strategy [NCC3]. The contribution would provide highway crossings for non-car transport and the surfacing of bridleways and footpaths. This work would encourage sustainable transport and would assist in the integration of the proposed development into the surrounding area.

### **Written Representations**

102. A number of representations were sent to the Council by members of the public and interested organisations objecting to, and offering support for, the proposal. Three letters were also sent to the Planning Inspectorate in response to the appeals [G3]. The letters cover similar points to those made in the Inquiry details. As the representations do not raise issues that are materially different to those already recorded, no further summary is therefore necessary.
103. Of particular note however are representations from Natural England (NE) and the Nottinghamshire Wildlife Trust (NWT). NE has submitted various comments on the loss of the ecological value of the appeal site itself and supports the mitigation measures proposed. It also concurs with the views of the main parties that the Sherwood Forest region is not a pSPA. It does however suggest that a risk based approach should be used for planning applications within the Sherwood Forest area. This would provide decision making with a degree of future proofing until there is more certainty regarding the SPA status. Such an approach could include consideration of disturbance, habitat loss or damage, predation, traffic mortality and pollution. NWT has similar comments in relation to the appeal site itself, but is of the view that the

Sherwood Area should be regarded as a pSPA and that the 2010 Regulations should apply.

### **Conditions and Section 106 Agreement**

104. A set of agreed conditions was submitted with the SoCG [CD7]. A certified copy of an executed Section 106 agreement between the appellant and the Council was submitted during the course of the Inquiry [MDC5]. The agreement would provide for a 30% element of affordable housing and would provide for financial contributions towards the maintenance of open space and highways. The highways contribution would be dependant on its necessity, and the main parties are satisfied that this element of the agreement is legally enforceable [ND3].

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The Conclusions follow on the next page.

## Conclusions

Figures in subscript refer to earlier paragraphs in the report

### *Background*

105. The proposal would provide up to 313 residential dwellings on the appeal site. The planning application which is the subject of this appeal was submitted in outline with all matters reserved apart from access. <sub>3-8 & 33-37</sub>

### *Main Considerations*

106. Having heard the evidence, read the written representations and seen the site and surroundings, I consider the main considerations to be the effect of the proposal on the availability of employment and housing land in the surrounding area. This should be considered in the context of a better balance between housing demand and supply, the creation of high quality, sustainable, mixed and inclusive communities, the development plan and wider policy advice.

### *Planning Policy and Considerations*

107. The development plan comprises the Regional Strategy<sup>2</sup> (RS) and the Saved Policies of the Local Plan<sup>3</sup> (LP). RS Policy 1 sets out core objectives for the region. Policy 7 and Northern Policy SRS3 deal with the regeneration of the Northern Sub-Area and employment land allocations along the Mansfield and Ashfield Regeneration Route (MARR) respectively. Policies 13a and 14 respectively seek to ensure that targets for market and affordable housing are met. <sub>9-12</sub>
108. I have taken the intention of the Secretary of State to revoke RSs into account in this report. The provisions of the Localism Bill which is now before Parliament reflect this intention. I have however given this matter little weight at this stage of the parliamentary process. <sub>39</sub>
109. LP Saved Policy E6(B) identifies the appeal site as being appropriate for the development of a business park and hotel. Saved Policy DPS1 supports the scale of development necessary to meet the needs of the district, and Saved Policies H2, H5 and H14 deal with market and affordable housing. <sub>13-15</sub>
110. The LP saved policies should however be read in context, as they were adopted some time ago. It is therefore likely that material considerations such as the emergence of new national and regional policy together with new evidence will attract considerable weight. In this regard, PPS3 and recent Strategic Housing Land Availability Assessments (SHLAAs) are particularly relevant. <sub>41</sub>
111. The LP also allocates the appeal site for employment purposes. Saved Policy H2 generally supports the provision of housing within the urban boundary. This does not however take precedence over the specific allocation for the appeal site or indeed Policy E6(B), as Policy H2 is not a material consideration specific to the appeal site. The proposal is therefore a departure from the LP. This is still the case, notwithstanding the fact the Council did not refer to Policy E6(B) in its committee documents. <sub>13, 15, 46, 52, 53 & 86-90</sub>

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<sup>2</sup> The East Midlands Regional Plan: March 2009

<sup>3</sup> Mansfield District Local Plan: November 1998

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112. The Council has also adopted Interim Planning Guidance on Affordable Housing<sup>4</sup> (IPG7) and on Residential Recreation Provision<sup>5</sup> (IPG3). An Employment Land Review<sup>6</sup> (ELR) and Employment Monitoring Report<sup>7</sup> (EMR) respectively recommend and monitor the provision of employment land. Two strategic development papers have also been produced by the Council. They are a Strategic Approach to Development<sup>8</sup> and a Core Strategy (CS) Issues and Options Paper<sup>9</sup>. Although I give these papers limited weight, they do suggest areas for future growth. SHLAAs for 2009 and 2010 together with LDF Annual Monitoring Reports (AMRs) have also been produced by the Council to identify provision and progress on housing. 16-29

### *Employment Land*

113. The RS and the two strategic papers prepared by the Council suggest that the growth of employment use development should take place to the south and west of Mansfield town centre along the MARR. This trend is evident on the ground in terms of development and enabling infrastructure. Moreover, there is currently an over provision of identified future employment use land in the district. A significant area of this identified land is also better than the appeal site in terms of its potential for marketing and its compatibility with policy and sustainability aims. 10, 16-18, 20, 26, 27, 29, 43 & 92
114. Over the past 13 years, no viable proposals for employment related development on the appeal site have come forward, and this has been during a period of strength in the commercial market. This could be explained by the poor location of the site in terms of its access and isolation from other business parks (being on the opposite side of Mansfield town centre to the M1) and its image (being bounded by average quality housing stock). These factors would result in lower development values which would not be likely to support high quality office development. 25, 27, 31, 42 & 47-50
115. The allocation of the site for employment use was also made a number of years ago, in a very different development market. At the time, the site lay adjacent to an enterprise zone, public subsidy was available for development and the access to the site was comparable to that of its competitor sites. These factors are not now the case and, from all of the above, it is questionable whether the LP allocation is now appropriate, particularly in view of the advice on the need to reassess land allocated for economic development in PPS4. I give all of the above evidence relating to employment land significant weight in my recommendation. 46
116. I therefore conclude that the proposal would not have a harmful effect on the provision of employment land in the surrounding area. I further conclude that the material considerations set out above would provide some justification for a departure from the Local Plan in this instance.

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<sup>4</sup> Mansfield District Council: Interim Planning Guidance Note 7: Affordable Housing: 19 February 2008

<sup>5</sup> Mansfield District Council: Interim Planning Guidance Note 3: Recreation Provision on New Residential Developments: 14 November 2006

<sup>6</sup> Nottinghamshire County Council and Partners: East Midlands Northern Sub-Region Employment Land Review: March 2008

<sup>7</sup> Mansfield District Council: Employment Monitoring Report: March 2010

<sup>8</sup> Mansfield District Council: A Strategic Approach to Development: Discussion Paper: June 2009

<sup>9</sup> Mansfield District Council: Local Development Framework: Issues and Options Paper: June 2010

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*Housing Land*

117. I will firstly consider the housing land target requirement. The Council has very recently adopted an interim annual housing target of 589 dwellings per annum (pa). This was based on, and retains, the evidence based RS target of 10,600 dwellings over the period of the plan. The 589 figure is an update from an average figure of 530 over the period, to compensate (between now and the end of the plan) for the lack of completions so far. 57, 58 & 93
118. The performance of housing completions during the plan period so far has been very poor, at some 57% of that required. This performance indicates a significant risk that the target may not be met by the end of the plan. The performance also lies outside the acceptable range of departure from the trajectory of expected performance set out in PPS3. This therefore requires specific management action, which the Council has taken in increasing the annual target figure between now and the end of the plan. 54, 57 & 93
119. Whilst the increased annual target figure would theoretically achieve the RS requirement by the end of the plan, the poor performance so far leaves this in some doubt. It is therefore important that corrective action, to redress the land balance within the urban area, is not left until towards the end of the plan period, where that action would have to be more severe than if it had been taken earlier. PPS3 recognises this point in suggesting that management action to redress the situation could be taken within a five year supply period. This, the Council has not done. The Council has suggested that over allocation does not promote development. This is however contrary to the plan led but flexible approach to allocation set out in PPS3 and PPS4. In view of all of the above points, I am concerned that the Council's action to date may not be sufficient to correct the current situation and that a further increase to the Council's annual target figure is likely to be required. I give this matter significant weight in my recommendation. 58, 59 & 93
120. I now turn to the supply of housing land. The Council has adopted a reasoned approach to this matter using contemporary figures, and I have no reason to doubt that they are sufficiently robust and provide a fair reflection of the current situation. The supply figures however would not be enough to accommodate a five year correction as suggested above. This being the case, the housing land supply is not sufficient to fulfil the overarching aims of the RS, which have also been adopted by the Council in terms of the plan period housing requirement. 60 65, 94 & 96-99
121. The supply of housing land has also worsened during 2010. This raises the prospect that, at the time of a future economic upturn, Mansfield may not be able to take advantage of an increase in demand for new housing. This worsening of supply therefore adds weight to my concern on the matter. 44 & 95
122. On affordable housing, performance relating to delivery has also been poor. The proposal would provide a significant contribution to the level of such housing in the surrounding area and would seek to address this shortcoming by providing a higher proportion of affordable housing than required by policy. The proposed proportion of affordable housing therefore adds weight to the acceptability of the proposal. 39, 40 & 55
123. I therefore conclude that the proposal would have a beneficial effect on the provision, mix and inclusive nature of housing land in the surrounding area in

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that it would improve the balance between demand and supply. I further conclude that the material considerations set out above would provide some justification for a departure from the Local Plan in this instance.

### *Other Considerations*

124. Scale, appearance, layout and landscaping are matters reserved for future consideration. I am however satisfied that the illustrative drawings provided with the planning application indicate that the appeal site would be able to accommodate the proposed development in accordance with good practice and current guidance on the creation of high quality and sustainable communities.

33 & 66-72

125. The proposed vehicular access to the site has the approval of the Highway Authority and, subject to the further necessary approvals, it would be satisfactory. A Transport Assessment has also been carried out, and this has shown that the local highway network would be able to accommodate the number of trips generated by the proposal without adverse impact. Furthermore, Clipstone Road is served by a number of bus routes to Mansfield town centre and the site has good public transport accessibility. In addition, the proposal includes the provision of a bus stop lay-by and shelter for the nearest stop on these routes to the town centre. The proposal would therefore be acceptable in terms of transportation. 38, 73 & 74

126. A flood risk assessment for the appeal site has been undertaken, and this has shown it to lie within the low risk Zone 1. Sufficient utility infrastructure, subject to some offsite reinforcement, would be available to support the proposed development. The site would also be suitable for the proposed development in relation to noise, although some attenuation measures may be required. 38, 76, 77 & 82

127. The appeal site does not contain any habitats or plant species that are statutorily protected. Moreover, it does not contain any nationally or locally rare or uncommon species. The site comprises uncultivated arable land, which would be lost. The proposal would therefore have a negative effect on ecology at a parish or neighbourhood scale. This effect however would be outweighed by the opportunity, within a reserved matters application, to improve the habitat of the site margins, together with the general benefit of the future housing on the site to the local community. 38 & 78-80

128. The Sherwood Forest region contains habitats of breeding value to the Nightjar and Woodlark, although it is not a potential Special Protection Area. Notwithstanding the absence of any such designation however, the proposal would not have any significant adverse effect on the habitats of these species which could arise from disturbance to breeding birds, habitat loss or predation such that an Environmental Statement would be required. This is due to the separation distances between the site and recorded locations for the species and the negligible increase in activity at these locations that would arise from the occupiers of the proposed development. The proposal would therefore be likely to respect any future designation of the Sherwood Forest region.

38, 80-81 & 102-103

129. The proposed development would be likely to result in additional demand for primary school places locally, although this would not occur for some years. From information provided by the Education Authority, sufficient places would

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be available to satisfy this demand. Whilst these may not be available in the specific catchment schools currently identified for the appeal site, the places would be available in schools at similar and reasonable walking distances from the site. The authority has confirmed that catchment boundaries are reviewed when circumstances change, and the fact that these schools lie outside the current catchment for the appeal site therefore carries little weight in my recommendation. The demand for school places that would arise from the proposal would therefore be likely to be able to be accommodated within the existing school facilities in the surrounding area. 83-85 & 100-101

130. The proposal would provide much needed residential accommodation, including affordable housing, in a sustainable location. The absence of employment development on this site over a lengthy period of time, together with the large body of evidence that post dates the LP, supports the view that the proposal would result in the efficient use of land identified as being suitable for development and that it would not prejudice job opportunities. Moreover, if future economic growth is to be accommodated in Mansfield in a sustainable manner, the housing shortfall needs to be addressed. The proposal would therefore accord with the Ministerial Statement of 23 March 2011. 5, 55 & 90

### *Section 106 Agreement*

131. The level of affordable housing to be provided under the agreement exceeds that required by the Council's IPG7, which in turn is supported by LP Saved Policy H14. In view of the shortfall in the provision of such housing in the surrounding area, this higher level of affordable housing would satisfy the tests of Circular 05/2005<sup>10</sup>. 104
132. The maintenance contribution would accord with the Council's IPG3. The highways contribution would provide highway crossings for non-car transport and the surfacing of bridleways and footpaths. This work would encourage sustainable transport and would assist in the integration of the proposed development into the surrounding area. The contribution would accord with the County Council's Planning Contribution Strategy<sup>11</sup>. Whilst this has not been adopted by the District Council, the proposed measures do have the support of the RS and national guidance. I have considered the maintenance and highways contributions in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. The sums secured, would directly relate fairly and reasonably to the proposal in scale and kind, and they would meet the tests set out in the regulation. 75 & 104
133. At the Inquiry, I expressed serious doubts as to the legal effect of that part of the agreement which would omit the requirement to provide the highways contribution, should it be deemed unnecessary. The main parties were however of the considered view that the removal of the requirement in this manner would be perfectly effective, and that they could see no future difficulty with the mechanism. 104
134. It is therefore necessary to consider the possible consequences of this mechanism. Should the Secretary of State agree with my recommendation that the highways contribution would be necessary, then the agreement would

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<sup>10</sup> Circular 05/2005: Planning Obligations

<sup>11</sup> Nottinghamshire County Council: Planning Contributions Strategy: March 2007

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require the contribution to be made, as my concern related to the removal of the contribution. Should the Secretary of State disagree however, the highways contribution would become an element of the agreement which would not be necessary for the proposal to proceed, and it would have no bearing on the decision. In this event, the mechanism for the omission of the requirement would be a matter between the main parties, and their combined view is that the contribution would not be payable. In relation to this appeal therefore, the agreement appears to me to be valid and to have the required legal effect.

### *Conditions*

135. A list of agreed conditions appears in the Statement of Common Ground. The list includes a condition requiring the approval of ground and floor levels. Appearance is however a reserved matter, and this condition would therefore be unnecessary at the present time. The conditions also refer to a bridleway to the east of the site. The Highway Authority's evidence however shows this to be a footpath, and I have amended the condition accordingly. I have also incorporated some minor amendments to various conditions in the interests of precision and enforceability. <sup>104</sup>

### **Summary of Conclusions**

136. In reaching my conclusions, I have taken into account the various development plan policies. Whilst the proposal would not have a harmful effect on the provision of employment land in the surrounding area, it would conflict with the aim of Local Plan Saved Policy E6(B) and the employment land allocation set out on the Proposals Plan. The proposal would however have a beneficial effect on the provision of housing land in the surrounding area, and such an effect is much needed. This benefit would therefore represent a material consideration of sufficient weight to indicate that a decision contrary to the above policy and proposals plan would be appropriate in this instance. This material consideration, when placed in the context of the employment land situation, is sufficient for me to recommend that the appeal be allowed.
137. The proposed provision of affordable housing would also provide a much needed benefit to the surrounding area, and this adds weight to my opinion on the acceptability of the proposal. I have taken into account all other matters raised, but none carry sufficient weight to alter my conclusions.
138. Should the Secretary of State agree with my recommendation, a list of conditions which would be appropriate and satisfy the tests of Circular 11/95<sup>12</sup> are attached at Appendix A.

### **Recommendation**

139. I therefore recommend that the appeal be allowed subject to the conditions at Appendix A.

*Stephen Roscoe*

INSPECTOR

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<sup>12</sup> Circular 11/95: The Use of Conditions in Planning Permissions

## **APPEARANCES**

### **For the Appellant:**

Mr C Lockhart-Mummery                      QC, Instructed by West and Partners

He called

Mr E Hine BSc MRICS                      Edward Hine & Co  
Mr C Francis                                  West & Partners

### **For the Local Planning Authority:**

Mr J Mitchell                                  Of Counsel, Instructed by Mrs A Bradley, Head of  
Legal and Member Services, Mansfield District  
Council

He called

Mr D Bellingham DipTP                      Principal Planning Officer, Mansfield District  
MRTPI    Council  
Mr J Wren BA(Hons) MCD                      JMW Planning Limited  
FRGS MRTPI

### **Interested Persons:**

Mr T Rawsterne                                  Planning Contributions Manager,  
Nottinghamshire County Council  
Mr J Ward    Chief Development Control Officer,  
Nottinghamshire County Council Highways

## **DOCUMENTS**

### **General**

- G1    Lists of persons attending the Inquiry
- G2    Letter of notification of the Inquiry
- G3    Letters from interested persons
- G4    Refusal Notice
- G5    Appeal Submission
- G6    Letter recovering the appeal dated 13 December 2010
- G7    Statement of Common Ground dated 24 February 2011
- G8    Council email to the Planning Inspectorate dated 16 February 2011  
withdrawing refusal reasons 1 and 2

### **Core Documents**

- CD1a              Application Covering Letter
- CD1b              Planning Application dated 25 June 2010
- CD2                Ownership certificate and agricultural holding certificate

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CD3	Decision Notice dated 6 September 2010
CD4	Site Plan Drawing No. 9704-001
CD5a	Submitted Drawing List
CD5b	Site Entry Design Drawing No. 9704-020
CD5c	Transport Assessment
CD5d	Travel Plan
CD5e	Infrastructure Assessment
CD5f	Flood Risk Assessment and Flood Risk Strategy
CD5g	Noise Assessment
CD5h	Ecological Impact Assessment
CD5i	Focus Data on current available employment accommodation
CD6	Illustrative Drawings: 9704-051; 025A; 026A; 027A; 012 and 013
CD7	Planning, Design and Access Statement
CD8	EIA Screening Opinion submission
CD9	EIA Screening Opinion response from the Council
CD10	Report to Committee dated 6 September 2010
CD11	Planning Committee Minutes dated 6 September 2010
CD12	Decision Notice for Outline Planning Permission for B1 Business Park dated 17 September 2001 Ref. 1997/0099/ET
CD13	Decision Notices for applications submitted pursuant to Section 73 of the 1990 Act to extend the time for submission of reserved matters for application Ref. 1997/0099/ET
CD14	Report to Executive Mayor dated 22 October 2010 in respect of RS housing targets
CD15	Committee Minutes dated 2 November 2010 in respect of RS housing targets
CD16	The East Midlands Regional Plan (March 2009)
CD17	Mansfield Core Strategy Issues and Options Report
CD18	Mansfield District Local Plan (November 1998)
CD19	Mansfield Employment Land Monitoring Report 2010
CD20i	Mansfield Strategic Housing Land Availability Assessment 2009
CD20ii	Mansfield Draft Strategic Housing Land Availability Assessment 2010
CD21	Mansfield Housing Monitoring Report 2010
CD22	Mansfield Annual Monitoring Report (December 2010)
CD23	East Midlands Northern Sub-Region Employment Land Review (March 2008)
CD24	Interim Planning Guidance Note 7 Affordable Housing
CD25	Interim Planning Guidance Note 3 - Recreation Provision on New Residential Developments
CD26	A Strategic Approach to Development - Discussion Paper (June 2009)
CD27	Council Appeal Questionnaire
CD28	Email and attachment from the Council to the appellant dated 10 January 2011 regarding highways contributions
CD29	Email to the Council from the appellant dated 10 January 2011 seeking clarification on issue of the highways contribution

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CD30 Mansfield District Council: Local Development Framework: Fifth Annual Monitoring Report: December 2009

### **Documents Submitted by the Appellant**

CF1 Proof of Evidence of Mr C Francis  
CF2 Appendices to Proof of Evidence of Mr C Francis  
CF3 Supplementary Proof of Evidence of Mr C Francis  
CF4 Appendix to Supplementary Proof of Evidence of Mr C Francis

EH1 Proof of Evidence of Mr E Hines  
EH2 Appendices to Proof of Evidence of Mr E Hines

### **Submitted During Inquiry**

ND1 Mr C Francis Plan CF1  
ND2 Appeal Decision APP/T2405/A/09/2118414  
ND3 Note on Section 106 Agreement  
ND4 Closing Submissions  
ND5 Application for Costs  
ND6 West and Partners 18 April 2011 letter to the Planning Inspectorate  
ND7 West and Partners 3 May 2011 letter to the Planning Inspectorate

### **Documents Submitted by the Council**

DB1 Proof of Evidence of Mr D Bellingham  
DB2 Appendices to Proof of Evidence of Mr D Bellingham

JW1 Proof of Evidence of Mr J Wren  
JW2 Appendices to Proof of Evidence of Mr J Wren

### **Submitted During Inquiry**

MDC1 DCLG: Growth Fund: Programme of Development Guidance 2008: Annex B – Guidance on Producing Housing Trajectories  
MDC2 Bundle Concerning 91 Housing Sites  
MDC3 Extract from PPG12: Development Plans and Regional Planning Guidance: February 1992  
MDC4 Government Office for the East Midlands: Mansfield District Local Plan Saving Letter: 21 September 2007  
MDC5 Section 106 Agreement between Mansfield District Council and Newlands Developments Limited dated 16 March 2011  
MDC6 Table of Sites Allocated Without Permission  
MDC7 Section 106 Agreement between Mansfield District Council and Mr JA Clark and Mrs A Clark  
MDC8 Draft Strategic Housing Land Availability Assessment: December 2010: Site Number 86 (DB Site 5)

MDC9	Appeal Decision APP/X3025/A/10/2122771
MDC10	East Midlands Development Agency: Regional Employment Land Priorities Study: Full Report: June 2003
MDC11	Closing Statement
MDC12	Planning Statement for Penniment Farm, Mansfield
MDC13	Mansfield District Council 19 April 2011 letter to the Planning Inspectorate
MDC14	Mansfield District Council 4 May 2011 letter to the Planning Inspectorate

### **Documents Submitted by the County Council**

NCC1	Nottinghamshire County Council letter of 10 February 2011 to the Planning Inspectorate
NCC2	Forest Town/Mansfield Primaries – Review of Pupil Projections 2011/12 to 2015/16
NCC3	Nottinghamshire County Council: Planning Contributions Strategy: March 2007
NCC4	Response to Assessment of Highway Contributions Sought by Nottinghamshire County Council

## APPENDIX A

### LIST OF RECOMMENDED PLANNING CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, but only in respect of those matters not reserved for later approval:
  - 9704\_001 Location Plan
  - 9704\_020 Site Entry Design
- 5) The development hereby permitted shall be carried out in accordance with the principles of the following approved documents:
  - Planning, Design and Access Statement dated June 2010
  - Travel Plan dated 23 June 2010
- 6) No development shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological context of the development, together with an implementation phasing plan, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved scheme and phasing plan.
- 7) No development shall take place until a foul sewage drainage scheme, together with an implementation phasing plan, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved scheme and phasing plan.
- 8) No development shall take place until details of the method of working, in the form of an environmental management plan to include the control of noise, vibration, dust emissions and the deposit of debris from construction traffic on the public highway have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until a site clearance methodology that enables progressive site stripping to facilitate the safe movement of any active animals to a wider habitat, including amphibians and reptiles, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved methodology.

- 10) No development shall take place until the applicant, or its agents or successors in title, has secured the implementation of a programme of archaeological work, including a scheme of geological survey and recording, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.
- 11) No development shall take place until details of measures to ensure access to the footpath to the east of the site together with a phasing plan for their implementation have been submitted to, and approved in writing by, the local planning authority. The approved measures shall be provided in accordance with the approved phasing plan.
- 12) Construction works, including the delivery of materials to and from the site, shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.
- 13) The construction of any dwellings on the site shall not commence until the access arrangements, as shown on drawing no. 9704\_020, have been completed in accordance with the approved details.
- 14) Any trenches dug during the construction of the development hereby permitted, which are to be left open overnight, shall be left with a sloping end or ramp to allow an animal that may fall in to escape. Any pipes over 200mm in diameter should be capped off at night to prevent animals entering.

#### REASONS FOR CONDITIONS

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| 1, 2 & 3 | To comply with the requirements of Section 92(2) of the Town and Country Planning Act 1990, as amended by S51(2) of the Planning and Compulsory Purchase Act 2004. |
| 4 & 5    | For the avoidance of doubt and in the interests of proper planning.  |
| 6        | In the interests of flood protection, water quality and nature conservation.   |
| 7        | To protect the living conditions of future residents and in the interests of flood protection.   |
| 8 & 12   | To protect the living conditions of nearby residents.  |
| 9 & 14   | In the interests of nature conservation.   |
| 10       | To protect the historic environment.   |
| 11 & 13  | In the interests of highway safety.  |