

## Appeal Decision

Inquiry held 5-8 & 12-15 June 2018

Accompanied site visit made on 15 June 2018

**by M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

**Decision date: 14 December 2018**

---

**Ref: APP/N4720/W/17/3186216**

**Land at Ridge Meadows, Linton, West Yorkshire, LS22 4HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Kebbell Developments Ltd against Leeds City Council.
  - The application Ref: 17/00029/OT is dated 30 December 2016.
  - The development proposed is described as 'outline application for 26 dwellings together with means of access'.
- 

### Decision

1. The appeal is allowed and outline planning permission granted for 26 dwellings together with means of access on land at Ridge Meadows, Northgate Lane / Tibgarth, Linton, West Yorkshire, LS22 4HS, in accordance with the terms of application Ref 17/00029/OT, dated 30 December 2016, subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. In addition to my accompanied site visit on 15 June 2018, I made unaccompanied visits to the site and its surroundings on other occasions, before, during and after the Inquiry.
3. A Statement of Common Ground and a Highways Statement of Common Ground were signed and completed shortly before the Inquiry opened<sup>1</sup>. Housing Land Supply issues were discussed as part of a 'Round Table Session' and a Housing Statement of Common Ground subsequently agreed<sup>2</sup>.
4. The application is made in outline with all matters except for access reserved for subsequent determination. The Council failed to determine the application within the prescribed period. In December 2017, the Council assessed the application and confirmed that it would have refused the scheme for five reasons<sup>3</sup>.

---

<sup>1</sup> ID35 & ID36, both signed 30 May 2018

<sup>2</sup> ID14

<sup>3</sup> Set out within the Statement of Common Ground at Paragraph 1.4

---

5. Two planning obligations, both dated 28 June 2018, were submitted after the Inquiry. I deal with these in the body of my decision<sup>4</sup>.
6. Three appeal decisions published after the Inquiry were brought to my attention<sup>5</sup>. Two of these at *Tingley* and *Thorp Arch* were recovered decisions, dismissed by the Secretary of State. A third appeal at *Pool in Wharfedale* was allowed by the Inspector. I have taken into account the Council's and appellant's submissions<sup>6</sup> on these cases in reaching my decision.
7. A revised version of the National Planning Policy Framework ('the Framework') was published on 26 July 2018. Comments were sought on any implications for this appeal. I have taken into account all the responses received<sup>7</sup>.
8. Further submissions were made by the appellant and Council in respect of the progress of the Leeds Site Allocations Plan (SAP)<sup>8</sup> which I have taken into account in reaching my decision.
9. An application for an award of costs was made by both the Council and appellant. These applications are subject of separate decisions.

### **Main Issues**

10. Having regard to the Council's putative reasons for refusal, the main issues are the acceptability of the proposal, having regard to:
  - i. the spatial strategy for the area;
  - ii. the locational accessibility of the site, in terms of shops, services and public transport;
  - iii. pedestrian safety;
  - iv. the site's status as 'safeguarded land';
  - v. whether it would be premature;
  - vi. the adequacy of green space within the scheme;
  - vii. the Linton Neighbourhood Plan; and,
  - viii. in the absence of a five year supply of deliverable housing sites, whether any adverse impacts would significantly and demonstrably outweigh the benefits of the scheme.

### **Reasons**

#### **The Site and Surroundings**

11. The site comprises just over 4 hectares of rough grassland immediately adjacent to the northern edge of the village of Linton, near Wetherby. Although it comprises a high level plateau, it is not especially prominent within the village because of the surrounding topography, existing development and trees which screen the site. In effect, it forms a 'tongue' of land extending into the existing built-up area, and is surrounded by development on three sides. There is a very sharp slope down to Tibgarth, a cul-de-sac of relatively recent detached properties. Access to the site is currently via Muddy Lane, which rises steeply up to the site. This scheme proposes a new access via Tibgarth.

---

<sup>4</sup> ID22

<sup>5</sup> APP/N4720/W/17/3169594 [ID23], APP/N4720/W/17/3168897 [ID24], APP/N4720/W/17/3187334 [ID25]

<sup>6</sup> ID26 & ID27

<sup>7</sup> ID28-31

<sup>8</sup> ID32 & ID33

## Planning Policy Context

12. The relevant legislation<sup>9</sup> requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the Leeds Core Strategy adopted in 2014, with a plan period of 2012-2028; the 'saved' policies of the Leeds Unitary Development Plan Review (UDPR), first adopted in 2001<sup>10</sup> and reviewed in 2006; and the Linton Neighbourhood Plan (LNP), made in March 2018<sup>11</sup>.
13. The Council, in its putative reasons for refusal, alleges conflict with Policy SP1 (Location of Development), Policy T2 (Accessibility Requirements and New Development), Policy H2 (New Housing Development on Non Allocated Sites) and G4 (New Green Space Provision) of the Core Strategy; and Policy N34 (Protected Areas of Search), and GP5 (Detailed Planning Considerations) of the UDPR. No policies of the LNP were cited in the putative reasons for refusal.
14. The Framework does not change the statutory status of the development plan for decision making. It sets out the Government's up-to-date planning policies and is a material consideration in planning decisions<sup>12</sup>. It makes clear at Paragraph 213 that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It also advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

## Emerging Plan

15. A new SAP is currently being prepared, but has been subject of delays. It was first submitted for examination in May 2017, and the Council subsequently advanced a revised version in March 2018. The initial hearing sessions took place in October 2017, with a second round of hearing sessions, which included housing matters, beginning in July 2018. Most recently, in October 2018, the Examining Inspectors have issued correspondence including a 'Post Hearing Note' and 'Further Response' to the Council<sup>13</sup>.
16. The Inspectors raise concerns that there is no scope in statute that allows a Council to revise and re-submit for examination a plan without withdrawing it, and set out various options to progress the Plan. They also suggest, amongst other things, deletions to certain housing and mixed use allocations in the Green Belt, and the removal of 'Broad Locations' for growth in the latter part of the Plan period. The Inspectors outline the further work required, including producing a schedule of Main Modifications for consultation.
17. I acknowledge that the Examination has been ongoing for some time now, and the Council wishes to achieve adoption as expeditiously as possible. That said, the Examination is not concluded, and the final form of the Plan is not yet decided. There are still significant unresolved objections and the Plan has yet to be found 'sound'. In these circumstances, and in accordance with Paragraph

---

<sup>9</sup> Section 38(6) of the 2004 Act

<sup>10</sup> As the Leeds Unitary Development Plan

<sup>11</sup> This followed an unsuccessful legal challenge by the appellants

<sup>12</sup> Paragraph 212

<sup>13</sup> ID32-34

48 of the Framework, I consider that only limited weight can be given to the SAP at this time.

### **Housing Land Supply and Approach to Decision Making**

18. The Core Strategy sets out the adopted strategic housing requirement<sup>14</sup>. In terms of supply, there was considerable disagreement as to whether there was a realistic prospect of certain sites being deliverable within the five year period. A schedule of disputed sites was produced setting out the parties respective cases<sup>15</sup>. In essence, the appellant sought to remove sites altogether or shift them beyond the five year period for delivery on the basis that many have a history of non-delivery, with various constraints requiring resolution before development could proceed. The Council's approach was far more optimistic. Given the contradictory evidence supplied on these sites, and my limited knowledge of them, it is difficult to reach a definitive view.
19. At the Inquiry, it was agreed the Council could not demonstrate a deliverable five year supply of housing land, as required by the Framework. According to the Council, the five year supply was around 4.38 years although the appellant claimed it was about around 2.95 years<sup>16</sup>. In post Inquiry correspondence, my attention was drawn to the conclusions of Secretary of State in both the *Tingley* and *Thorp Arch* decisions, where the Council's case was that it had a 4.38 year supply, as here. In *Thorp Arch*, the Secretary of State concluded that on the evidence before him, the supply of housing was closer to the figure of 4.38 years than the 2.74 years suggested by the appellant in that case<sup>17</sup>. In *Tingley*, the Secretary of State concluded that the supply was 'around 4 years'<sup>18</sup>.
20. Having regard to these conclusions, the Council argues that there is no basis for me to find a supply of less than 4 years. Furthermore, it draws attention to the likely lower requirement figure arising from the emerging Core Strategy Selective Review, and likely increase in housing supply following the adoption of the SAP. It also refers to various ongoing housing growth initiatives in Leeds that will boost supply. It further submits that future application of the 'Standard Methodology' will result in a markedly lower local assessed need. The appellant acknowledges the recent conclusions of the Secretary of State, but notes that the new stricter definition of 'deliverable'<sup>19</sup> in the Framework means that the supply is likely to be less.
21. Much time could be spent debating exact housing figures, and the implications arising from the factors above. But this is unlikely to provide any degree of clarity. I understand that the both the appellant's and Council's housing supply evidence in the *Tingley* case was presented by the same witnesses, in substantially the same format as in this appeal<sup>20</sup>. This being so, I see no

---

<sup>14</sup> Paragraph 73 of the Framework states that housing supply should only be assessed against local housing need where policies are more than five years old, which is not the case here.

<sup>15</sup> ID8

<sup>16</sup> ID16, Statement of Common Ground: Housing Land Supply

<sup>17</sup> ID24, Paragraph 16

<sup>18</sup> ID23, Paragraph 10

<sup>19</sup> Annex 2, Glossary

<sup>20</sup> ID26, Paragraph 17

reason to doubt the veracity of the recent finding by the Secretary of State in *Tingley* that the housing supply is around four years<sup>21</sup>.

22. In these circumstances, Paragraph 11(d) of the Framework is engaged in this appeal. Paragraph 11(d)(ii), together with Footnote 7, is clear that where a local planning authority cannot demonstrate a five year supply of housing (with the appropriate buffer), the policies which are most important for determining the application are rendered out of date. Also, that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This so called 'tilted balance' in favour of granting permission may be 'disengaged' where specific policies in the Framework indicate development should be restricted.
23. At the Inquiry, the Council had argued that policies seeking to safeguard land under Paragraph 85 of the 2012 Framework (and the analogous UDPR Policy N34) should be regarded as 'restrictive', thereby disengaging the 'tilted balance'. However, Footnote 6 to Paragraph 11(d)(ii)<sup>22</sup> of the new Framework provides an exhaustive 'closed list' of restrictive policies that exclude safeguarding. As such, the Council no longer relies on this argument and accepts that the tilted balance is engaged<sup>23</sup>. I consider this to be the correct approach and have proceeded accordingly.

### **Spatial Strategy**

24. The Council suggests that the proposal is contrary to the spatial strategy, including Policy SP1. Policy SP1 (Location of Development) of the Core Strategy sets out the spatial development strategy based on the Leeds settlement hierarchy. Its aim is to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land, in accordance with nine principles. One of the principles of the Policy is that the largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability.
25. The settlement hierarchy is set out at Table 1<sup>24</sup> and identifies the 'Main Urban Area' (Leeds City Centre and surrounding communities), 'Major Settlements', 'Smaller Settlements' and 'Villages' comprising all other settlements. Although Linton is not listed or defined, it would appear that it is most appropriately regarded as a Village within the settlement hierarchy. The Council, in resisting this appeal, highlights that supporting Paragraph 4.1.15<sup>25</sup> states that all other settlements in the rural area will continue to have limited development opportunities and that development will only be permitted if it functionally requires a rural location. This explanatory text, although not part of the policy, appears not to support the appeal proposal. On the other hand, when Policy SP1 is read in the context of Policies SP6 (The Housing Requirement and the

---

<sup>21</sup> The Inspector noted that the supply was 'around four years at best', Paragraph 13.11 [ID23]

<sup>22</sup> Formerly Footnote 9 to Paragraph 14

<sup>23</sup> ID28, Paragraph 32

<sup>24</sup> Core Strategy, Page 30

<sup>25</sup> Core Strategy, Page 30

Allocation of Housing Land) and SP7 (Distribution of Housing Land and Allocations), it is clear that the spatial policies of the Core Strategy envisage some growth within the villages. Policy SP7 expressly identifies a supply of 600 units coming forward as extensions to 'other rural' settlements, and 100 units as infill in such locations.

26. The specific wording of Policy SP1 refers to the '*majority*' of development being concentrated within and adjacent to urban areas, and '*largest amount*' of new development being located within the Main Urban Area and Major Settlements. However, it does not preclude or impose a 'blanket ban' on development coming forward elsewhere. Importantly, the Core Strategy makes no specific site allocations as it is envisaged that the emerging SAP would fulfil that purpose. As such, there are currently no allocations directing housing to specific sites or precise locations within the development plan.
27. Overall, I find no intrinsic conflict with Policy SP1. Furthermore, given the relatively modest size of the appeal site, and the number of dwellings proposed, it cannot be said to undermine the overall strategy set out in Policy SP1. Even if, on the Council's case, the scheme does not accord with Policy SP1, it is clear that its strict application is not leading to sufficient housing being provided in accordance with the Framework, which runs counter to the Government's objective of significantly boosting the supply of housing<sup>26</sup>. This diminishes the weight that can be attached to any conflict.

### **Locational Accessibility**

28. The Council's case is that the appeal site is in an unsustainable location, thereby contrary to Policies SP1, T2, and H2. Policy T2 of the Core Strategy requires that new development should be located in accessible locations that are adequately served by existing or programmed highways, by public transport and with safe and secure access for pedestrians, cyclists and people with impaired mobility. It refers to 'Accessibility Standards' found at Appendix 3<sup>27</sup>. Table 2 is the relevant section for the appeal scheme, which sets out five detailed standards, requiring housing to be located within relevant walking times to 'local services', 'employment', 'primary health / education', 'secondary education' and 'town centres/city centre'.
29. Policy H2 of the Core Strategy sets out the criteria for new housing development on non-allocated sites. It requires that the number of dwellings does not exceed the capacity of transport, educational and health infrastructure, as existing or provided as a condition of the development; and for developments of 5 or more dwellings, the location should accord with the Accessibility Standards in Table 2 of Appendix 3. Thus, this policy expressly allows for development on non-allocated land subject to certain criteria being met.
30. The first 'Accessibility Standard' requires new development to be within a 15 minute walk of 'local services' (defined as small convenience shops, grocers, post offices, newsagent etc). The second concerns accessibility to employment requiring development to be within a five minute walk of a bus stop offering a

---

<sup>26</sup> Framework, Paragraph 59

<sup>27</sup> Core Strategy, Page 151

- 15 minute frequency to a major public transport interchange<sup>28</sup>. The third requires development to be within a 20 minute walk of primary health and primary education, or a 5 minute walk to a bus stop offering a direct service at a 15 minute frequency. The fourth requires development to be within a 30 minute direct walk of secondary education, or within a 5 minute walk to a bus stop offering a 15 minute service to a major public interchange. The fifth relates to town centres / city centres and requires development to be within a 5 minute walk to a bus stop offering a direct 15 minute frequency service.
31. The parties agree that appeal proposal fails to meet the 'Accessibility Standards'. Indeed, it is clear that the village of Linton has limited facilities: there is a nursery (Cherry Tree Montessori) around 900 metres from the appeal site; a public house around 990 metres away; a village hall, tennis courts, and amenity areas all around 900 metres away<sup>29</sup>. That said, Collingham is close by and has a much wider range of facilities: there is a primary school (Lady Hastings C of E), a pharmacy, dental practice, GP surgery, a supermarket, a post office and a range of restaurants and a public house, all just over 2 km away. A secondary school (Wetherby High) is located some 3.8 km away<sup>30</sup>.
32. Although there is no railway station in Linton, the 'X99' bus service operates between Leeds and Wetherby, via Collingham at hourly intervals<sup>31</sup> throughout the day, Monday to Friday from early morning to late evening, beyond 2300 hrs<sup>32</sup>. On Saturdays and Sundays the service starts slightly later but it still operates late into the evening, beyond 2300 hrs. Journey times to Wetherby Town Centre, which has a very good range of shops, facilities and services<sup>33</sup>, are quick – around 9-11 minutes; and to Leeds City Centre around 45-53 minutes<sup>34</sup> depending on time of travel. Leeds City offers a very extensive range of shops and services.
33. The nearest bus stops to the appeal site are within the village on Main Street, adjacent to the Windmill Inn Public House. The distance is around 990 metres via Tibgarth – around 12.5 minutes walk time - or 710 metres via Muddy Lane – around 9 minutes walk time<sup>35</sup>. There was debate as to the convenience or practicality of walking on a regular basis to a bus stop, given that the Accessibility Standards desire no more than a 5 minute walk time<sup>36</sup>. I consider that these distances and walking times are not unreasonable. Additionally, the appellant has agreed to fund a new bus stop some 100 metres closer to the site, thereby improving bus service accessibility to the appeal site. Cycling from the appeal site to local shops and services is also a possibility.
34. A number of other measures have been proposed by the appellant to improve general accessibility in Linton. As part of the planning obligations, the appellant has agreed to contribute towards resurfacing works to Stammergeate Lane, as well as the provision of pedestrian signage 'fingerposts'. Further works also include a new and improved footway and kerbing along stretches of

---

<sup>28</sup> Defined as City Centres of Leeds, Bradford and Wakefield

<sup>29</sup> All these distances are via Tibgarth; if using Muddy Lane the distances reduce by 280m

<sup>30</sup> ID35, Highways Statement of Common Ground, Section 4

<sup>31</sup> Two buses between 0600 to 0700: Wetherby - Leeds

<sup>32</sup> Wetherby – Leeds operates from 0603 hrs to 2338 hrs; Leeds - Wetherby operates from 0704 hrs to 2322 hrs

<sup>33</sup> Proof of Philip Owen, Table 6.1, Page 26,

<sup>34</sup> Proof of Philip Owen, Paragraph 6.5.3

<sup>35</sup> Proof of Philip Owen, Paragraph 6.5.1; distances are from the centre of the site

<sup>36</sup> This equates to 400 metres

Linton Lane. A contribution is also provided, either for the provision of a Metrocard for each dwelling, or to be used for initiatives to increase non-private means of travel. The Council doubts the effectiveness of some of these measures in improving accessibility. However, in my view, they should not be discounted as potentially improving accessibility, and promoting sustainable travel modes.

35. My attention was drawn to the observations of previous Inspectors reporting on the original Unitary Development Plan in 1999 and its subsequent Review in 2005. At that time, it was noted that Linton was 'not a sustainable location for further development on any scale'<sup>37</sup> being a 'relatively small settlement with few facilities and not well served by public transport'<sup>38</sup>. On the other hand, it was also observed that the site was 'otherwise reasonably satisfactory in terms of its development potential' and that it 'would be a useful addition to the list of sites which should be removed from the Green Belt and safeguarded under Policy N34 for potential development in the longer term'<sup>39</sup>. It should also be emphasised that both Inspectors' Reports were written in a markedly different planning context, long before the publication of the 2012 and 2018 Frameworks, and at a time when housing needs across the District were not so pressing.
36. In my judgement, a degree of flexibility is necessary in the application of the Accessibility Standards. Indeed, the Council has demonstrated flexibility itself in recommending schemes for permission where the Standards have not been fully met<sup>40</sup>. Moreover, the Secretary of State in the 2016 *Collingham* appeal endorsed the Inspector's findings that a 'modicum of flexibility' was required in respect of the Accessibility Standards<sup>41</sup>. I acknowledge that residents of the proposal would be likely to travel further afield for shops, services and employment which may necessitate some trips by private vehicles. However, and importantly, the Framework, although seeking to promote sustainable transport, recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making<sup>42</sup>. Measures are proposed by the appellant as part of the scheme to improve accessibility and encourage sustainable transport.
37. Weighing all the above matters in the balance, and notwithstanding some conflict with Policy T2 of the Core Strategy and Accessibility Standards, I am satisfied that this proposal can be justified in this location given the need for housing in the District. By introducing new market and affordable housing, along with the associated economic benefits, the proposal would, in these respects, comply with the Framework.

### **Pedestrian Safety**

38. The Council accepts that adequate vehicular access can be obtained to the site from Tibgarth, but has raised concerns regarding the gradient of pedestrian routes into the site, which are said to unacceptably exceed the maximum recommended gradient, which itself will act as a deterrent to walking.

---

<sup>37</sup> Inspector's Report 2005, Paragraph 24.110 [CD B7]

<sup>38</sup> Inspector's Report 1999, Paragraph 917.8 [CD B6]

<sup>39</sup> Ibid

<sup>40</sup> For example at Rudgate Park, Walton; Syke Lane, Scarcroft

<sup>41</sup> DL Para 20, IR 8.4.17 APP/N4720/W/14/3001559 [CD F3]

<sup>42</sup> Paragraph 103



However, the appellant has demonstrated how the footpath into the site via Tibgarth, the primary access, could be realigned<sup>43</sup> to achieve a lesser and more acceptable gradient of 1 in 12<sup>44</sup>. Whilst the Council still has concerns<sup>45</sup> I consider that, following further dialogue, an acceptable solution is achievable that would ensure safe pedestrians access to the site via Tibgarth.

39. The Council mentions a dismissed appeal for a new dwelling off Stammergate Lane / Green Lane in support of its case on pedestrian safety<sup>46</sup>. However, the vehicular access in that case was reliant on travelling along a narrow, substandard track, and the Inspector concluded this would result in an increased risk to the safety of all road users, including pedestrians. The circumstances and access arrangements here are quite different. I do not consider that case provides a precedent for this appeal.
40. I accept that the secondary alternative access from Muddy Lane is very steep and unsuitable for those with mobility problems, the elderly, infants and those burdened with bags or pushing buggies. I was also advised that this route can be treacherous in icy conditions. That said, and importantly, it is not proposed that this would be the main access to the site, Tibgarth fulfilling that role. Overall, I do not consider the Council's concerns on these grounds sufficient for the appeal to fail, and find no conflict with Policy GP5 of the UDPR.

### **Safeguarded Land**

41. The appeal site was designated as a Protected Area of Search (PAS) in the Unitary Development Plan in 2001, having previously been allocated as Green Belt. The PAS designation was carried forward in the 2006 UDPR. In such areas Policy N34 applies which states that development will be restricted to that which is necessary for the operation of the existing uses together with such temporary uses as would not prejudice the possibility of long term development.
42. The purpose of Policy N34 was to provide a reserve of land for longer term development beyond the Plan period. The accompanying text<sup>47</sup> stated that it was not envisaged that there would be a need to use any such safeguarded land during the Review period. However that period came to an end in March 2016. Nonetheless, it has been 'saved' and the mere age of a policy does not mean it loses its statutory standing as part of the development plan.
43. I am aware that various Inspectors, as well as the Secretary of State, have reached different views on whether the policy should be considered out-of-date. The approach has not been consistent. For example, in the *Bagley* recovered appeal<sup>48</sup> from February 2018, the Inspector concluded that, given there was no five year supply of housing, and that the Policy was time expired, N34 must be considered out-of-date. The Secretary of State agreed with that Inspector's conclusion. Similarly, in the earlier 2016 *Collingham* appeal<sup>49</sup>, the Secretary of State agreed with his Inspector that Policy N34 could not be

---

<sup>43</sup> Plan Ref 18032/GA/01/1 [ID 12]

<sup>44</sup> As per Paragraph 3.2, Inclusive Mobility

<sup>45</sup> Inquiry Note: Accessibility & Related Matters (Gillian MacLeod), Paragraphs 6.14 & 6.15 [ID11]

<sup>46</sup> APP/N4720/W/17/3175113 [ID11]

<sup>47</sup> Paragraph 5.4.9, UDP Review 2006

<sup>48</sup> APP/N4720/A/13/2200640, dated 22 February 2018 [CD F4]

<sup>49</sup> APP/N4720/W/14/3001559, dated 22 December 2016 [CD F3]

considered up-to-date. Other appeal decisions have reached similar conclusions<sup>50</sup>. In contrast, and most recently at *Tingley*, the Secretary of State has taken a different view, concurring with the Inspector's conclusions that Policy N34 can be regarded as up-to-date<sup>51</sup>.

44. All these previous appeal decisions were made in the context of the 2012 Framework. The revised Framework<sup>52</sup> is clear that where the Council cannot demonstrate a five year supply of deliverable housing sites, as in this instance, policies which are 'most important for determining the application' are rendered out-of-date. Since Policy N34 was relied on in the Council's putative reasons for refusal, it self-evidently falls within that category, and must be considered out-of-date.
45. I am also mindful that the site has been safeguarded since 2001 as PAS land. The relevant guidance at that time specifically required that safeguarded land be located where future development would be an efficient use of land, well integrated with existing development, and well related to public transport and other existing and planned infrastructure, so promoting sustainable development<sup>53</sup>. It also required that it be 'genuinely capable of development when needed'<sup>54</sup>. Thus, the site has been assessed as meeting those fundamental requirements in the past. Whilst I appreciate policy changes over time, the essential characteristics of the site have not changed.
46. Development of the appeal site would conflict with Policy N34 to the extent that it effectively safeguards land for potential future development rather than at present. That said, the policy anticipates the possibility of development at some future point. There is a current need for housing land, and the release of the site for that purpose would be consistent with the policy's original objective of meeting development needs beyond 2016. In any event, it must now be considered out-of-date in terms of the updated Framework, given the absence of a five year supply of housing. Furthermore, the effect of its application is to constrain the delivery of housing contrary to the Framework's objective of significantly boosting the supply of homes<sup>55</sup>. In my judgement, this diminishes the weight that can be attached to any conflict with this policy.

### **Prematurity**

47. The Council argues that development of the appeal site would be premature, and that it would have a prejudicial, pre-determinative effect on decision taking in terms of the emerging SAP. Within this Plan, the site is identified under Policy HG3 as 'Safeguarded Land' to provide a reserve of potential sites for longer term development post 2028, in effect carrying forward its existing PAS status.
48. The Framework is clear at Paragraph 49 that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in limited circumstances. These include: first, where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant

---

<sup>50</sup> APP/N4720/W/15/3137482, dated 22 August 2016 [CD F2]

<sup>51</sup> APP/N4720/W/17/3169594, dated 12 July 2018; see analysis at Paragraphs 13.80 to 13.93

<sup>52</sup> Paragraph 11(d)

<sup>53</sup> Planning Policy Guidance No 2 (PPG2), Annex B3 [CD B14]

<sup>54</sup> PPG2, Annex B2 [CD B14]

<sup>55</sup> Framework, Paragraph 59

permission would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and second, the emerging plan is at an advanced stage but not yet formally part of the development plan for the area.

49. This proposal comprises 26 dwellings which would provide only about 0.03% of the Core Strategy requirement<sup>56</sup>. It comprises around 0.52% of the housing requirement for the Outer North East Housing Market Characteristic Area. In this context, it is a relatively modest scheme. I do not consider it substantial enough or its cumulative effect to be so significant as to undermine the plan making process. And whilst the Examination has been ongoing for some time, there is continuing uncertainty surrounding its progress and final adoption, especially in the light of recent correspondence from the Inspectors<sup>57</sup>. In these circumstances, the SAP cannot be said to be at 'an advanced stage' as envisaged by Paragraph 49 of the Framework. Overall, I do not consider the Council's arguments in respect of prematurity to be well-founded.

### **Adequacy of Green Space**

50. The Council does not deny that the scheme could meet the quantitative green space requirement, but its concerns relate to its disposition and usability. This is an outline scheme with only access being sought for approval at this stage. Other matters, including appearance, landscaping, layout and scale are all for subsequent determination. This being so, I see no reason why adequate usable green space could not be incorporated into the scheme at reserved matters stage. I do not find the Council's objections on this ground to be sufficiently robust for the appeal to fail. Indeed, the Council's own closing submissions acknowledge that this reason for refusal does not enable refusal of outline permission<sup>58</sup>.

### **Linton Neighbourhood Plan**

51. The LNP forms part of the development plan, although the Council's putative refusal grounds do not cite any conflict with it. The Council's Committee Report, although it predated the formal 'making' of the LNP in March 2018, specifically records that Policy B1 (Small Scale Development) and B2 (Access to Facilities) are not relevant or engaged 'because they relate to small scale developments of less than 10 dwellings within the built-up part of Linton and the application proposals are neither'<sup>59</sup>.
52. However, the Council now takes a contrary view arguing that the LNP provides a 'supplementary' reason for refusal, in respect of Policy B1 and also D1 (Footways and Public Rights of Way). Policy B1 states that 'developments of less than ten dwellings will be allowed within the built-up part of Linton, outside the Green Belt, subject to respecting and where possible, enhancing local character and maintaining residential amenity'. The Council now says that the 'inexorable corollary' of Policy B1 is that developments for 10 units or above outside the built up part of Linton are restricted, giving rise to non-conformity in this case.

---

<sup>56</sup> Appellant's Opening Submissions, Paragraph 36 & Mr Dunbavin's Proof, Paragraph 5.23

<sup>57</sup> ID32-ID34

<sup>58</sup> Paragraph 78

<sup>59</sup> Paragraph 7.24 [CD C1]

53. The Council's contradictory stance in respect of Policy B1 indicates the matter is not clear cut, and open to interpretation. In my judgement, Policy B1, whilst providing guidance for developments for nine units or under within the built-up area, is simply silent on other proposals. The LNP makes no allocations for housing. Indeed, as part of the LNP process, possible development sites were examined but subsequently all discounted<sup>60</sup>. Therefore, in terms of actively identifying and allocating new sites for housing and meeting housing needs, the LNP is silent and adds nothing of substance to the relevant policy base.
54. It is significant that an earlier draft version of the LNP included an express policy relating to the appeal site which sought to protect it from development<sup>61</sup>. This was subsequently deleted on the advice of the Examiner of the Plan because it related to a strategic matter already under the consideration of the Council, and was already subject of a Council policy, namely Policy N34. To be clear, there is now no policy within the 'made' LNP that expressly protects the appeal site from development.
55. The 'made' version of the LNP at Paragraph 84<sup>62</sup> does, however, give reasons why various sites, including the appeal site, are considered unsuitable for development. A further 'Projects Priority List' refers to examining 'returning all or part of The Ridge to Green Belt and agricultural use'<sup>63</sup>. This appears to create a degree of tension between the LNP and Policy N34 of the UDPR to the extent that the LNP includes text which suggests the appeal site is not suitable for development, whereas Policy N34 opens up the possibility of some form of development in the future. Importantly, however, in an unsuccessful legal challenge to the LNP, the Court made clear that the table at Paragraph 84 is 'neither a policy nor the explanation for a policy'<sup>64</sup> and 'its significance will have to be judged accordingly'. As part of the litigation, it was also noted that returning the site to the Green Belt was included in the 'projects' section of the LNP relegating that provision to 'mere aspiration'<sup>65</sup>.
56. The Council has, belatedly, also suggested that there is a conflict with Policy D1. This states that 'the improvement of footpath and bridleway access and the facilitating of new circular walks and routes will be supported'. This appears to me a positive policy, encouraging and supporting improvements, rather than one to be used as a basis for refusing permission. In any event, the appellant has now agreed to fund various works within the village, to be secured by planning obligations, thereby complying with Policy D1.
57. To sum up, there are no policies within the LNP that expressly preclude development of the appeal site. Also, as the Court has noted, any aspirations regarding the appeal site are not statements of policy, and so this diminishes the weight to be attached to any conflict with them. Overall, I do not consider that the appeal should fail because of any perceived conflict with the LNP.

---

<sup>60</sup> Paragraphs 83-85

<sup>61</sup> Policy B2: PAS Site (The Ridge)

<sup>62</sup> Page 24

<sup>63</sup> Page 44

<sup>64</sup> *Keibell Developments Ltd v Leeds City Council and Collingham with Linton* [2018] EWCA Civ 450, Paragraph 41

<sup>65</sup> *Keibell Developments Ltd v Leeds City Council and Collingham with Linton* [2016] EWHC 2664 (Admin), Paragraph 59

## Planning Obligations

58. The appellant has completed two obligations, one by agreement ('the first obligation') and one by unilateral undertaking ('the second obligation'), both dated 28 June 2018. The first obligation secures the provision of affordable housing at a rate of 35%. It also secures various financial contributions, including towards the cost of providing two additional new bus stops on Main Street (£952); a 'Metrocard Contribution' (£12,769.90) for the provision of a 'Metrocard' to each dwelling, or to be used for initiatives to increase the means of travel by means other than the private car; a contribution towards highway works (£45,375), including resurfacing works along Stammergate Lane, and the provision of two pedestrian fingerposts signs; provision of green space and a sum (to be calculated in accordance with a formula) towards its maintenance. The first obligation also includes a provision to work closely with 'Employment Leeds'<sup>66</sup> to promote employment for local people during the construction works. It also includes a Management Fee (£2,500) for monitoring the implementation of the obligations. The second obligation provides for a financial contribution towards the provision of a new footway, kerbing and improvements on stretches along Linton Lane towards the public footpath across the golf course (£170,080) together with a management fee (£750) for monitoring the implementation of the obligations.
59. Whilst the Council accepts that the provisions within the first obligation meet the relevant tests in the Framework<sup>67</sup> and the Community Infrastructure Levy Regulations<sup>68</sup>, it states that those works within the second obligation do not. In terms of the first obligation, I have no reason to doubt that the formulae and charges used by the Council to calculate the various contributions are other than soundly based. In this regard, the Council has produced a detailed Compliance Statement<sup>69</sup> which demonstrates how it meets the relevant tests in the Framework and the Community Infrastructure Levy Regulations. In terms of the second obligation, I consider that the improvement works to the footway along Linton Lane are necessary to make the development acceptable in planning terms, and that they meet the relevant tests in the Framework and Regulations.
60. To sum up, I am satisfied that the provisions of both the obligations are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework and the Community Infrastructure Levy Regulations.

## Other Matters

61. In post Inquiry correspondence, the Council places strong reliance on the dismissed appeals at *Tingley* and *Thorp Arch Estate* as setting a precedent for this appeal. However, there are very significant differences between those two schemes and the one before me. Both schemes were very large in scale: the Tingley scheme comprised some 770 dwellings with associated development, and was divorced and isolated from other existing settlements. The *Tingley*

---

<sup>66</sup> The Employment and Skills Service of the Council

<sup>67</sup> Paragraph 56

<sup>68</sup> Regulation 122 & 123

<sup>69</sup> ID19 to be read alongside ID11

Inspector noted that there was 'no appreciable sense of the site being part of, adjoining or adjacent to'<sup>70</sup> other settlements, rather being 'isolated' from them. He characterised the scheme as a 'substantial standalone estate'.

62. The scheme at Thorp Arch comprised up to 874 dwellings, with associated development including a primary school, local centre (with convenience store and retail units) and primary school. It was located on land forming part of the Thorp Arch Estate, which includes a range of employment uses and a retail park. The appeal scheme, in contrast to both these schemes, is of a far more modest scale. It would occupy a well contained site, adjacent to the existing built-up area and would represent a sustainable and logical extension to it. Additionally, the conclusions in respect of various relevant development plan policies in both those decisions were made in the context of the 2012 Framework.
63. Concerns have been raised by residents relating to the impacts during construction, especially given the substantial excavations and earthworks required to cut through the existing steep slope at the end of Tibgarth in order to achieve an acceptable gradient for the new access. However, a condition requiring the submission and approval by the Council of a Construction Management Plan would ensure that these matters are properly addressed.
64. Residents have raised concerns regarding highway safety. The technical evidence shows that the development would generate a maximum of 17 to 18 two-way vehicular movements during the busiest weekday commuter peak hours, and that at other times of the day, traffic will be less than this<sup>71</sup>. The Council is satisfied that the proposed development traffic can be safely accommodated on the local highway network<sup>72</sup>. Having regard to the Framework, I am satisfied that there would be no unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe<sup>73</sup>.
65. In terms of ecology, the site is not subject to any statutory designations. I am satisfied that appropriate mitigation measures could be undertaken, secured by condition, to ensure there is no negative effect on nature conservation interests, including badgers, or any protected species present within the site. There is also the opportunity for ecological enhancement and habitat creation through new planting.

### **Planning Balance and Overall Conclusions**

66. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The Framework states that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social, and environmental dimensions and the interrelated roles they perform.
67. Paragraph 11 of the Framework explains how the presumption in favour of sustainable development applies. Where there are no relevant development

---

<sup>70</sup> Paragraph 13.29, ID23

<sup>71</sup> Proof of Philip Owen, Paragraph 4.5

<sup>72</sup> Highways Statement of Common Ground, Paragraph 2.3.3

<sup>73</sup> Paragraph 109

plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council accepts, following the updated Framework, that this 'tilted balance' is not disengaged by safeguarding policies. The Council is unable to demonstrate a five year supply of housing, and this is sufficient, of itself, to engage Paragraph 11 of the Framework.

68. In this case, the additional housing would be a weighty benefit for the area, by introducing much needed private and affordable housing for local people. It would boost the supply of housing in accordance with the Framework, contributing up to 26 homes, of which up to 35% would be affordable. It would bring about additional housing choice and competition in the housing market. The scheme would bring about social and economic benefits. It would create investment in the locality and increase spending in shops and services in the area. It would result in jobs during the construction phase, with an obligation to work to promote employment for local people during these works.
69. Whilst the development would result in the loss of open land, the Council has not objected to the scheme in terms of any harmful effect on the character and appearance of the area, nor its effect on the landscape. No harmful effect is alleged by the Council in respect of the adjacent Linton Conservation Area, and I am satisfied that this proposal would preserve its character and appearance in accordance with the relevant legislation<sup>74</sup>. The site is physically reasonably well contained, and visually well related to the built up area of the village, and surrounded by development on three sides. No highway safety objections have been raised by the Council, and I am satisfied that pedestrian safety concerns are not sufficiently well founded for the appeal to fail. The Council accepts that its green space objection does not warrant dismissal of the appeal. I consider that the planning obligations accord with the Framework and relevant regulations, and have taken them into account in my deliberations.
70. I acknowledge that this is a location with limited public transport links and other essential shops and services. As a consequence, any residents of the new development may travel further afield for shops, services and employment, and this may necessitate some trips by private vehicles. However, and importantly, the Framework, although seeking to promote sustainable transport, recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. A realistic approach to the general travel method of residents is required. In addition, various measures are proposed to improve accessibility and encourage sustainable transport. Thus, notwithstanding some conflict with Policy T2 of the Core Strategy and Accessibility Standards, I am satisfied that this proposal can be justified in this location given the pressing need for housing within the District.
71. The Spatial Strategy through Policy SP1, although seeking to concentrate the majority of new development within and adjacent to urban areas, does not preclude development elsewhere. Indeed, the spatial policies of the Core Strategy envisage some growth within the villages. And although the purpose

---

<sup>74</sup> Planning (Listed Buildings and Conservation Areas) Act 1990

of UDPR Policy N34 is to provide a reserve of land for longer term development beyond the Plan period, it anticipates the possibility of future development at some point. There is a current need for housing land, and the release of the site for that purpose would be consistent with the policy's original objective of meeting development needs beyond 2016. I do not consider the Council's arguments in respect of prematurity to be well-founded, especially given the modest size of the proposal and the uncertainty regarding the SAP's final form and adoption. The LNP does not allocate sites for housing, and notwithstanding any aspirations within it in respect of the appeal site, no policies within the LNP expressly preclude its development.

72. Even if, on the own Council's case, a conflict with Policies SP1, T2 and H2 of the Core Strategy and Policy N34 of the UDPR arises, the Council cannot demonstrate a five year supply of housing. Accordingly, the Framework advises that these policies must be considered out of date. Although this does not mean they should be ignored, the lack of housing supply diminishes the weight that can be attached to any conflict with them. The ongoing housing shortfall attracts substantial weight in favour of granting permission for the proposals, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. I am satisfied that none of the reasons put forward for opposing the development establishes that the harm would be significant or would demonstrably outweigh the benefits. Therefore, notwithstanding any conflict with development plan policies, it follows that the appeal should succeed, subject to conditions. I deal with these conditions below.

### **Conditions**

73. I have reviewed the suggested conditions in the light of the discussion at the Inquiry and advice in the Planning Practice Guidance (PPG). Where necessary, I have reworded them for clarity and simplicity, and have also amalgamated some of the conditions to avoid duplication.
74. Commencement conditions are necessary to comply with the relevant legislation. A condition specifying the maximum number of dwellings is necessary for certainty. A condition specifying the scope of requirements in relation to reserved matters (including the design of the buildings, materials to be used, landscaping, the internal road layout / parking, and lighting) is necessary to ensure these matters are properly dealt with and to ensure a high quality scheme.
75. Conditions relating to landscape implementation and retention, tree and hedgerow protection, arrangements during site clearance /preparatory work, sustainable drainage, ecology, archaeology and contamination are required to ensure these matters are appropriately addressed. Conditions requiring a detailed plan showing the proposed access from Tibgarth into the site, and a 'before and after' survey of the condition of Tibgarth and Northgate Lane are necessary in the interests of pedestrian and highway safety. For similar reasons, a condition is necessary relating to the surfacing and drainage of parking areas, and to ensure those areas are kept available for the parking of vehicles.



76. A condition requiring electric vehicle charging points is necessary to encourage sustainable transport. A condition requiring a Construction Management Plan is necessary to minimise disturbance to local residents. A number of the conditions relate to pre-commencement activities. In each of these cases, the requirement of the condition is fundamental to make the scheme acceptable in planning terms.

*Matthew C J Nunn*

INSPECTOR

### **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 takes place and the development shall be carried out as approved, and permanently retained thereafter.
- 2) Application for the 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 not exceed 26 dwellings.
- 5) Details of appearance, landscaping, layout and scale required to be submitted and approved under Condition 1 shall include details of:
  - i. the design, form and architectural features (including windows and doors) of the buildings, including samples of materials to be used on the external surfaces; and their means of enclosure and boundary treatments;
  - ii. a landscaping scheme, including hard and soft landscaping (including planting plans, species, sizes and numbers / densities);
  - iii. the road layout and access within the site, including car parking, turning / circulation areas, and pedestrian routes;
  - iv. trees and hedgerows on the land, including those to be retained and how they will be protected during construction;
  - v. additional planting along the boundaries of the site, including specification of trees, hedges, and shrub planting, including details of species, density and size of stock;
  - vi. cycle / motorcycle parking to serve each dwelling;
  - vii. an external lighting design strategy (including lighting contour plans and technical specifications) to ensure adequate illumination of roads and paths and to avoid unnecessary light pollution in this 'dark village' landscape.
- 6) The approved landscaping works shall be carried out in accordance with a programme agreed by the local planning authority, and shall accord with British Standard BS 4428:1989 '*Code for General Landscape Operations*'; any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No site clearance, preparatory work or development shall take place until a detailed Arboricultural Method Statement for the protection of trees &

- hedgerows, including appropriate working methods, has been submitted to and approved in writing by the local planning authority. The Method Statement shall accord with British Standard BS 5837:2012 '*Trees in Relation to Design, Demolition and Construction*'. The Method Statement should include: full details of protective fencing; measures to avoid harm to root protection areas, and arrangements for monitoring and supervision visits. The Method Statement shall be carried out as approved.
- 8) Any removal or works to trees, hedgerow or scrub shall not take place between 1 March to 31 August inclusive unless a competent ecologist has undertaken a check for active birds' nests immediately before the works commence. Written confirmation that no birds will be harmed and appropriate measures are on site to protect nesting birds should be provided to the Council within 3 days of work commencing.
  - 9) No development shall commence until a drainage scheme, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall include drainage drawings, summary calculations, maximum discharge rates and volumes. The scheme shall be in general accordance with the details contained in the Flood Risk Assessment prepared by WSP Parsons Brinkerhoff (updated 23 February 2017). The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
  - 10) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for: details of how construction traffic will access the site from Tibgarth; the method of access and routing of vehicles during construction; the proposed hours and days of working; proposals to minimise disruption to the adjacent local area from ground works, construction noise and site traffic; the parking of vehicles of site personnel, operatives and visitors; loading and unloading of plant and materials; the contractors' site storage areas and compounds; measures to guard against the deposit of mud, grit or other substances on the highway, including vehicle wheel washing facilities; a strategy for the minimisation of noise, vibration and dust (including from any excavation / piling works); a scheme for recycling / disposing of waste resulting from the construction works; a method statement for the works to excavate rock to form the access road from Tibgarth; details of points of contact including the site manager / supervisor. The approved details shall be adhered to throughout the construction period.
  - 11) Details of a scheme for electrical vehicle charging points shall be submitted to and approved in writing by the local planning authority and the scheme shall be carried out as approved before the dwellings are first occupied, or in accordance with a programme agreed by the local planning authority. The approved scheme shall be permanently retained thereafter.
  - 12) No development shall commence until a fully detailed scale plan of the vehicular access from Tibgarth to the site (including details of the pedestrian footway) has been submitted to and approved in writing by

the local planning authority. The dwellings shall not be occupied until the access has been constructed in accordance with the approved details, and it shall be permanently retained thereafter.

- 13) No development shall commence until a survey of the condition of Tibgarth and Northgate Lane has been submitted to and approved in writing by the local planning authority. On the completion of the development, a further condition survey shall be undertaken of these roads and any necessary remedial works shall be completed to a standard and within a timescale to be agreed with the local planning authority.
- 14) The areas for vehicular parking shall be constructed, laid out, drained and lit in accordance with details previously submitted to and approved in writing by the local planning authority. The works shall be carried out before the dwellings are occupied, and the areas shall thereafter be kept available for the parking of vehicles.
- 15) No development shall commence until a detailed Ecological Management and Mitigation Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include details of measures to encourage biodiversity within the site, including potential locations for bird nesting (for species such as House Sparrow, Starling, Swift, Swallow and House Martin) and bat roosting opportunities, and suitable habitats for badgers; details of additional and compensatory tree and habitat planting; details of bird and bat boxes; details of measures to minimise disturbance to badgers (based on up-to-date surveys) as well as ongoing monitoring. The Ecological Management and Mitigation Plan shall be carried out as approved, in accordance with a timetable agreed by the local planning authority. The measures identified within the Plan shall be permanently retained thereafter.
- 16) No development shall take place until the appellant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the written scheme so approved.
- 17) No development shall begin until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority (in addition to any assessment provided with the planning application). This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: (i) a survey of the extent, scale and nature of contamination; (ii) the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, and archaeological sites and ancient monuments.

No development shall take place where (following the risk assessment) land affected by the contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local

planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out (and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority) before the development (or relevant phase of the development) is occupied.

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

## **APPEARANCES**

### FOR THE COUNCIL:

Juan Lopez of Counsel, Instructed by Leeds City Council

He called

Kathryn Holloway Team Leader, Major Projects Team, Plans & Policies, Leeds City Council

Gillian Macleod Transport Development Services Manager, Leeds City Council

Matthew Brook Principal Planner, Major Projects Team, Plans & Policies, Leeds City Council

Daniel Child Principal Planning Officer, Leeds City Council

### FOR THE APPELLANT:

Christopher Young of Queens Counsel, Instructed by Mr Richard Sagar

He called

Philip Owen Optima Highways & Transportation

David Parker Pioneer Housing & Development Consulting

Jonathan Dunbavin I D Planning

Iain Bath Iain Bath Planning

### INTERESTED PERSONS

Councillor Ryan Stephenson Leeds City Council

Councillor Julian Holmes Linton Parish Council

Richard Riall Local resident

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

1. Opening Statement on behalf of the Appellant
2. Opening Statement on behalf of the Council
3. Thornhill Estates Ltd v SSCLG & Leeds City Council & Farsley Residents Action Group [2015] EWHC 3169 (Admin), 4 November 2015
4. Email trail between Jonathan Dunbavin & Matthew Brook

5. Linton Neighbourhood Plan - Final Draft 2014-2019 (Original Version)
6. Housing Infrastructure Fund Document, DCLG
7. Site Context Plan showing East Leeds Extension
8. Note on deliverability on identified disputed sites
9. List of recommended conditions (original and updated list)
10. Draft Planning Obligation (unsigned)
11. Council's note on accessibility and related matters (including appeal decision APP/N4720/W/17/3175113)
12. Plan showing alternative pedestrian site access to Tibgarth (18032/GA/01/1)
13. Plans showing proposed works within Linton, including new bus stops, works to Stammergegate Lane and Linton Lane
14. Signed Statement of Common Ground: Housing Land Supply (June 2018)
15. Proposed route for site visit
16. Council's Note on affordable housing (15 June 2018)
17. Council's Note on five year supply following Housing Round Table Discussion
18. Note of David Parker in response to Council's Housing Note of 15 June 2018
19. Council CIL Compliance Statement
20. Final Submissions of Council
21. Closing Submissions of Appellant

#### **DOCUMENTS SUBMITTED POST INQUIRY**

22. Two completed obligations dated 28 June 2018
23. Appeal decision APP/N4720/W/17/3169594 (*Tingley*) dated 12 July 2018
24. Appeal decision APP/N4720/W/17/3168897 (*Thorp Arch Estate*) dated 12 July 2018
25. Appeal decision APP/N4720/W/17/3187334 (*Pool in Wharfdale*) dated 18 June 2018
26. Council's comments on these appeal decisions, dated 20 July 2018
27. Appellant's comments on these appeal decisions, dated 3 August 2018
28. Council's comments on Revised Framework dated 10 August 2018
29. Appellant's comments on Revised Framework dated 10 August 2018 including note from Jonathan Dunbavin dated 9 August 2018
30. Council's further comments on Revised Framework dated 22 August 2018
31. Appellant's further comments on Revised Framework dated 22 August 2018
32. Appellant's update on Site Allocations Plan received 8 October 2018
33. Council's reply on Site Allocations Plan received 18 October 2018
34. Further appellant response regarding Site Allocations Plan dated 22 October 2018

#### **OTHER SUBMITTED DOCUMENTS<sup>75</sup>**

35. Highways Statement of Common Ground – Final Issue - 30 May 2018
36. Final Statement of Common Ground – 30 May 2018

---

<sup>75</sup> Received immediately before Inquiry opening