INTRODUCTION

1. This inquiry has been convened to determine the appeal of the Homes and Communities Agency (“the Appellant”) against the decision of Northampton Borough Council (“the Council”) to refuse planning permission for a sustainable urban extension (“SUE”) of up to 1,000 dwellings and associated development on land to the east of Hardingstone (“the Proposed Development”).

2. The two reasons for refusal raised issues of

   i. Adverse highways impacts, which themselves will adversely affect the proper functioning of the Brackmills Industrial Estate, as well as the rest of the road network; and
   
   ii. Landscape and visual impact.

3. We say that the Council was right not to accept the recommendation of its officer and to refuse planning permission for the Proposed Development. For the reasons which we summarise in these submissions, both reasons for refusal were well founded, and remain so.
4. The remainder of these submissions deals in summary form with the following matters:
   
   i. Approach;

   ii. Highway impact;

   iii. Impact on Brackmills Industrial Estate;

   iv. Landscape and visual impact;

   v. Overall conclusions.

**APPROACH**

5. The "presumption in favour of sustainable development" is set out in paragraph 14 of the NPPF ("the Framework") and must be applied in determining development proposals (Framework, paragraph 197). So far as relevant to the present case, paragraph 14 states that for decision making the presumption means (i) approving development proposals that accord with the development plan without delay; and (ii) where relevant development policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

6. In this case, the Proposed Development does not accord with the development plan. It conflicts with it. In those circumstances, (i) above does not apply. On the contrary, following section 38 (6) of the Planning and Compulsory Purchase Act 2004, permission should be refused unless material considerations indicate otherwise. They do not.
7. Furthermore, although there is not a five year supply of housing, so that the development plan’s housing policies are out of date, application of (ii) above does not indicate that permission should be granted. This is because the adverse impacts of granting permission—the impacts referred to in the reasons for refusal—do in this case significantly and demonstrably outweigh the benefits.

**HIGHWAY IMPACT**

8. The Appellant has not adequately considered the effects of the Proposed Development upon the highway network. In particular, it has not considered the combined effects of the Proposed Development and the Northampton Growth Management Scheme (“NGMS”). Overall, the Council’s evidence shows that the effects of the Proposed Development upon the highway network are likely be severe.

9. We summarise below the shortcomings in the Appellant’s analysis.

10. *First*, there are deficiencies in the assessment of base and generated traffic. Owing to deficiencies in the methodology employed, the baseline traffic data underpinning the Transport Assessment cannot be considered reliable; neither can the modelling work subsequently undertaken in reliance upon that data.

11. *Secondly*, we turn to the analysis of highway impact. Both the Queen Eleanor and Brackmills Interchanges and the roads in their vicinity are congested at peak times and exit-blocking occurs. LinSig, the modelling package used by the Appellant, is unable to take account of the cause of exit-blocking and is thus an unreliable
12. In any event, the LinSig base models were neither properly calibrated nor validated, which is a fundamental flaw in the assessment methodology employed. In consequence of those deficiencies in the modelling work undertaken, the modelling results are unreliable and do not accurately recreate traffic conditions as observed and measured on-street; queue lengths are significantly under-predicted. Without confidence in the baseline models, it is not possible to have confidence that the effects of the development have been properly modelled.

13. Furthermore, in modelling the effects of the development, the Appellant has made assumptions about the effect of the NGMS which are not accepted. None of the NGMS measures will address the existing exit-blocking problem save ramp metering. Ramp metering itself will not resolve that issue in all locations, and it is not clear when it will be put in place. Moreover, whilst the gating strategy proposed in the NGMS might assist the flow of traffic on the A45, it is likely to exacerbate existing problems on the local road network (to which the Proposed Development would add). In those circumstances the impact of the Proposed Development and the NGMS should have been considered together. The Appellant has not done this.

14. Finally, particular aspects of the road network have not been adequately assessed;

   i. Newport Pagnell Road between the Queen Eleanor Interchange and Hermitage Way;

   ii. The A45 On-Slip/Pavilion Road junction and its effect on the performance of the adjacent Brackmills Interchange;
iii. The Barnes Meadow Interchange.

15. **Thirdly,** there are deficiencies in the mitigation measures proposed by the Appellant. In particular, as set out in the Council’s evidence, lane widths proposed are insufficient.

16. Having regard to the above matters, the Proposed Development therefore fails to accord with the development plan. It does not mitigate its effects on the highway network, such that it is contrary to policy C2 of the West Northamptonshire Joint Core Strategy (“JCS”). It also fails to satisfy the requirements of policies INF1 and INF2 of the JCS in respect of infrastructure delivery. Moreover, since the Appellant has not shown that the necessary infrastructure would (or even could) be phased alongside the delivery of the appeal scheme, the Proposed Development is not supported by policy N6, which allocates the appeal site.

17. Furthermore, consideration of the Framework indicates that planning permission should be refused on transport grounds. Paragraph 32 of the NPPF contemplates that development should be refused on transport grounds where the residual cumulative impacts are severe. The burden must, surely, lie on the applicant/appellant to demonstrate that its proposed scheme can be satisfactorily accommodated on the highway network, without severe effects. The Appellant in the present case has not discharged that burden here, and we suggest the effects will, in fact, be severe.
IMPACT ON BRACKMILLS INDUSTRIAL ESTATE

18. Having regard to the likelihood that the Proposed Development would have a severe effect upon the highway network, it is similarly likely that it would have a negative effect on the ability of the Brackmills Industrial Estate (“BIE”) to continue to provide an environment where employment uses can thrive, and contribute towards the jobs growth required in Northampton during the plan period. BIE is one of the key employment locations within the district.

19. Worsening of the existing level of traffic congestion at the access and egress points on the surrounding road network will make BIE less attractive to both existing and potential occupiers.

20. That it is matter of serious and legitimate concern to the Council. Further, in view of this likely adverse economic effect, the Proposed Development does not accord with policy S8 of the JCS, which contemplates new job growth within BIE.

LANDSCAPE AND VISUAL IMPACT

21. Whilst the appeal site is allocated as part of the South of Brackmills SUE by policy N6 of the JCS, the supporting text to that policy itself acknowledges the sensitivity of the location to development proposals. The supporting text further recognises the potential for development within the SUE to impact on the skyline when viewed from the north and the east, the need to incorporate the footpath running through the site into development proposals, the need for development within the SUE to create a
positive rural edge to the east and the need for existing and proposed urban areas to be linked to the wider countryside. The policy itself requires development proposals to be accompanied by a masterplan, which the supporting text explains must demonstrate how the land use elements respond positively to context, design issues, connectivity and sustainable planning requirements.

22. The concern expressed in the supporting text about impact of any development on the skyline is of long standing. Saved policy E7 of the Local Plan also attaches special importance to the effect of development on the skyline in this area.

23. The Council's Landscape Sensitivity and Character Assessment ("LSCA") carefully and in detail assesses the appeal site, and for that purpose identifies three Local Character Zones ("LCZs") within the appeal site, LCZ A (to the west) being of low to medium sensitivity to development of the nature proposed, LCZ B (to the east of LCZ A) being of medium to high sensitivity to development of the nature proposed, and LCZ C (the eastern part of the appeal site) being of high sensitivity to such development.

24. Having regard to the policy context, the landscape and visual impacts of the Proposed Development (as presented in the Framework Plans and illustrated in the masterplan) are unacceptable in the following principal respects.

25. First, the Proposed Development would have an unacceptable impact on the skyline as viewed from the Nene Valley (i.e. from the north).
26. Secondly, whilst the Proposed Development retains the footpath (KN6), the character of the footpath and views from it would be seriously affected, and its local value as a connection from the edge of Hardingstone into the countryside would be unacceptably compromised.

27. Thirdly, the development proposals for the eastern part of the appeal site do not respond adequately either to the characteristics and sensitivity of this part of the site or to its rural edge. The appeal scheme fails to acknowledge the strong rural character of this part of the site, its function as a green boundary to the edge of Hardingstone and Wootton and the significance of the interconnecting views which it provides. All of these important elements would be lost were the Proposed Development to come forward.

28. The Proposed Development thus fails to accord with the development plan. It is contrary to policy E7 of the Local Plan. Moreover the Appellant has not shown, through the masterplan for the appeal scheme, that the Proposed Development responds “positively” to context; nor would the appeal scheme meet the aims set out in the supporting text to policy N6 of the JCS. The Proposed Development is not, therefore, supported by policy N6. Finally, since it neither conserves nor enhances the landscape within which the appeal site is situated, the Proposed Development is also contrary to policy BN51 of the JCS.

29. The NPPF also weighs against granting planning permission, on landscape grounds. Paragraph 17 NPPF requires planning to recognise “the intrinsic character and beauty of the countryside” and to contribute to “conserving and enhancing the natural

1 Which policy, together with policy BN2 of the JCS, replaced policy E1 of the Northampton Local Plan, referred to in the second reason for refusal.
environment”. Within section 7 of the NPPF, “Requiring good design”, paragraph 58 requires planning decisions to aim to ensure that developments respond to local character and reflect the identity of local surroundings and paragraph 61 provides that planning decisions should address the integration of new development into the natural environment. Paragraph 109 NPPF requires valued landscapes to be protected and enhanced. The Proposed Development would not achieve these aims.

30. Overall, for the reasons set out in the Council’s evidence, the Proposed Development is unacceptable in landscape and visual terms. Even were it acceptable in highway terms (which it is not), planning permission should be refused because of its landscape and visual effects.

OVERALL CONCLUSION

31. To conclude, whilst the Council’s reasons for refusal do not relate to the principle of the allocation of the appeal site, the adverse effects that would result from the specific proposals put forward by the Appellant are so significant that planning permission should be refused, notwithstanding that allocation.

32. We acknowledge the benefits of the Proposed Development, including up to 1,000 houses, up to 240 of which would be “affordable”, and the creation of jobs in connection with the construction of the appeal scheme and elements of the appeal scheme such as the local centre thereafter.

33. However, we say that notwithstanding its benefits, a major housing development such as the appeal scheme should not be permitted to come forward without it having first
been clearly demonstrated that the highway impacts of the development would be acceptable. That approach is supported by both local and national planning policy. The Appellant has not satisfied that requirement.

34. Furthermore, against any economic benefits of the appeal scheme as just described must be weighed the adverse economic effect which would result from the likely impact of the Proposed Development upon BIE (consequent upon its impact on the road network).

35. As to landscape and visual impact, the proposals put forward in this appeal by the Appellant are unacceptable. That does not, of course, preclude development on the SUE being delivered by a more appropriate scheme that is acceptable in landscape and visual terms.

36. For these reasons, the Proposed Development fails to accord with the development plan, and material considerations do not indicate that planning permission should nevertheless be granted. Rather, it is plain that the adverse impacts of granting planning permission here would significantly and demonstrably outweigh the benefits of doing so.
37. In those circumstances, the appeal should be dismissed and planning permission for the proposed development refused.

TIMOTHY CORNER, QC

HEATHER SARGENT

LANDMARK CHAMBERS
180 FLEET STREET
LONDON EC4A 2HG

16th June 2015