INTRODUCTION

1. These submissions are made on behalf of Northampton Borough Council ("the Council") in support of its decision 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. Both reasons for refusal were well founded, and remain so.
4. The fact that the appeal site ("the Site") is allocated pursuant to Policy N6 of the West Northamptonshire Joint Core Strategy ("JCS") as part of the Northampton South of Brackmills SUE does not lessen the need to assess the effects of the specific proposals now put forward by the Appellant against the requirements of the development plan and national planning policy. Having regard to the effect which the appeal scheme would be likely to have upon the surrounding road network, and also to the landscape and visual effects of the appeal scheme, the Proposed Development does not accord with the development plan.

5. Furthermore, the evidence is simply not before the inquiry to enable the conclusion to be reached that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of doing so. The Council has shown that it is likely that the residual cumulative highway impacts of the Proposed Development would be severe. The Appellant's evidence does not come close to establishing that they would not be. Similarly, the Appellant has not demonstrated that it would be possible to bring forward 1,000 houses on the appeal site, within the parameters of the Framework Plans, without causing unacceptable harm in landscape and visual terms.

6. In drawing together the Council's case as to why the appeal should be dismissed and planning permission for the Proposed Development refused, we address the following matters in turn:
   i. The approach to the determination of the appeal;
   ii. Highway impact;

1 CD 28, p.157.
iii. Impact on Brackmills Industrial Estate;

iv. Landscape and visual impact;

v. Housing land supply;

vi. Overall conclusions.

THE APPROACH TO THE DETERMINATION OF THE APPEAL

7. As regards the first limb of the presumption in paragraph 14 of the NPPF ("the Framework") - as it applies to decision-taking - and the requirement that development proposals that accord with the development plan be approved without delay, the Council's evidence shows that the Proposed Development does not accord with the development plan. Although the appeal site itself is allocated pursuant to Policy N6 of the JCS as part of the Northampton South of Brackmills SUE, the development proposals put forward for the appeal site by the Appellant do not satisfy the requirements of that policy. The Proposed Development is also contrary to Policies C2, INF1 and INF2 of the JCS in consequence of its likely effect on the surrounding road network, and fails to accord with both saved Policy E7 of the Northampton Local Plan ("NLP") and Policy BN5 of the JCS as a result of its landscape and visual effect.

8. It follows that pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should be refused unless material considerations indicate otherwise. The Council's evidence shows that they do not.
9. Notably in that respect (the Framework being a material consideration in planning decisions),\(^2\) the second limb of the presumption set out in paragraph 14 of the Framework is not satisfied either.

10. First, the development plan is neither absent nor silent, nor is it the case that "relevant" policies are out-of-date. Although it is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites,\(^3\) paragraph 49 of the Framework provides only that in those circumstances "relevant" policies for the supply of housing should not be considered up-to-date. As Mr Tulley, giving evidence for the Appellant, explained in re-examination ("rx"), the JCS housing policies which are applicable here are not "relevant" policies for the purpose of paragraph 49 of the Framework, because they seek to facilitate, as opposed to restrict, housing development.\(^4\)

11. In any event, even if that is wrong and the applicable JCS housing policies should be considered to be out-of-date for the purpose of paragraph 14 of the Framework, when assessed against the policies of the Framework taken as a whole, the benefits of granting planning permission for the appeal scheme are both significantly and demonstrably outweighed by the adverse highway and landscape and visual impacts of the Proposed Development.

**HIGHWAY IMPACT**

\(^2\) CD 22 at paragraphs 13, 196 and 212.
\(^3\) CD 18 (Principal Statement of Common Ground) at paragraph 7.5.
\(^4\) Mr Stephens in his oral evidence for the Council identified the "policies for the supply of housing" within the JCS as S3, S4, S5 and the "N" series of policies, including Policy N6. Like Mr Tulley, he considered that full weight ought to be accorded to Policy N6 notwithstanding paragraph 49 of the Framework.
12. We start by considering the relevant policies.

13. Policy C2 of the JCS requires that all applications, including those for permission to develop SUEs, properly mitigate their effects on the highway network. The policy makes clear that development proposals are expected to be supported by a TA (as well as a Travel Plan). Policy INF2 is to similar effect.

14. The effect of paragraph 32 of the Framework is that the standard of acceptability is the avoidance of “severe” effects.

15. The above development plan policies would be sufficient, but within Policy N6, also, there is the requirement that “necessary infrastructure” be phased alongside the delivery of the development. As Mr Tulley agreed in cross-examination ("xx"), if the “necessary infrastructure” including highway infrastructure is not being provided at all, it cannot be said to be phased alongside the delivery of the development. Therefore Policy N6, also, carries the requirement that any necessary mitigation to ensure the development is acceptable in transport terms is provided.

16. The requirement in Policy C2 that a TA be submitted is repeated at paragraph 32 of the Framework. Mr Tulley agreed that the point of requiring a TA is for the applicant to set out what the transport effects of the development are, and how any effects will be mitigated if mitigation is necessary.
17. He agreed further that the effect of the policies is that it is for the applicant to demonstrate via its TA that, taking account of any mitigation, the development proposed can be accommodated without severe impacts.

18. The Appellant’s witnesses accepted that the fact that the Site is part of an allocation does not mean that the traffic effects of any particular application for housing on all or part of the Site are acceptable. The applicant must, pursuant to C2 and the other relevant development plan policies, demonstrate the acceptability of his proposals via his TA.

19. Although the Inspector at the Examination into the JCS confirmed the appropriateness of the extended N6 allocation, he was not dealing with the details of the transport implications of any scheme to develop the Site. He referred\(^5\) to transport matters at IR 142, saying that the understandable concerns in relation to matters such as traffic generation:

“….can all be satisfactorily addressed through appropriate technical analysis and on site measures, as well as contributions to offset impacts elsewhere. This should include a full Transport Assessment looking at all traffic movements likely to occur on the local road network in the context of the agreed NGMS for the A45 route.”

\(^5\) CD 44, p.4.
20. It is therefore clear, and accepted by the Appellant, that to support any application for housing on the allocated land it must demonstrate the acceptability in transport terms of its proposals in a full TA.

21. The JCS Inspector confirmed the Brackmills SUE allocation without having seen a TA. However, as Mr Tulley agreed, should the Secretary of State find the present proposals unacceptable, that does not necessarily mean there is no acceptable proposal for the Site’s development. It does not mean that the Site is unsuitable for development in principle, or that the purpose of the allocation has been defeated. Should the appeal be dismissed, it will then be for the developer to propose development which is acceptable in transport terms - perhaps by proposing more extensive mitigation measures.

22. We now turn to the specifics of the case made by the Council in relation to the present application.

The Issues

23. The main issues for consideration are as follows:

   i. Whether the highway mitigation measures proposed by the Appellant demonstrate that the Proposed Development would not have a residual cumulative impact on the A45 trunk road and associated junctions such that the cumulative impacts of the development would not be severe; and

   ii. Whether any adverse highway impacts of the proposed development would lead to a detrimental impact on the highway network which would affect all
users, including occupiers of the Brackmills Industrial Estate, thus acting as an impediment to the operation of the industrial estate, and its future sustainable economic growth.

24. It is the Council’s case that the Appellant has failed to demonstrate that the Proposed Development would not have severe effects. On the contrary, Mr Birch expressed the view that severe effects were likely to result.

Existing Conditions

Introduction

25. To begin with, there is no doubt that the transport network in the area is at or close to capacity. That is stated in the JCS at paragraph 11.1, page 134. A transport network at or close to capacity is, accordingly, the context in which the Appellant’s proposals should be examined.

Baseline Traffic Counts

26. It is agreed that the basis of any traffic modelling should be reliable and up to date traffic data. Without such data, a model cannot be correctly developed, calibrated or validated.
27. It is good practice to compare data collected on a single day with data obtained over a longer period. The purpose is to demonstrate that the traffic flows obtained in the counts are representative of typical conditions on the relevant stretch of highway.

28. The Appellant has provided evidence of this nature in relation to flows on Newport Pagnell Road and in relation to the exit slip roads from the A45 to the Queen Eleanor interchange. However, as Mr Birch said, no such evidence has been provided in relation to any of the other roads - either the remaining approaches to the Queen Eleanor interchange, or any of the roads at or in the vicinity of the Brackmills interchange. Mr Tricker referred to independent data obtained by HAG, which he said showed similar levels of traffic to that used by the Appellant. But that traffic related only to Newport Pagnell Road, so it does not provide justification for the baseline traffic flows assumed by the Appellant elsewhere.

29. In his evidence Mr Tricker referred to the former DfT Guidance on TAs, which states only that ATCs “may be required”. However, Appendix B to CD 139 shows that the Guidance was intended to apply to all proposals for residential development for 80 or more units. We suggest that for a proposal for 1,000 homes it is reasonable to expect ATC corroboration to be provided for the main road links affected by the development, including Mere Way and London Road, both bearing substantially more traffic than Newport Pagnell Road, and Brackmills Interchange and its surrounding

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6 Birch proof 4.26, Tricker rebuttal 1.7.1.
7 Birch rebuttal 13.
8 TN6, section 5.
9 Tricker proof 6.3.6, Tricker rebuttal 1.7.3.
10 CD 139, p.9.
11 CD 139 paragraph 4.18.
12 Item 14.
roads. There is all the more reason for the provision of such data where, as here, base traffic data for all the affected roads has not been collected on the same day.13

30. In those circumstances, the evidence of the Appellant cannot be relied on, because its evidence about base flows is itself unreliable.

**Queuing and Exit Blocking**

31. More particularly in relation to the highway network that will be most affected by the Proposed Development, it is common ground14 that exit blocking occurs. It happens at both the Queen Eleanor and Brackmills interchanges. Exit blocking occurs when there is congestion on the roads leading away from a junction that causes traffic queues to extend back to the junction and impede vehicles leaving the junction when they would otherwise be free to do so. Thus exit blocking reduces the capacity of the road network upstream of where the blockage occurs. This increases the congestion of the junction itself and on the roads leading to the junction.

32. Mr Birch’s evidence15 was that in the area affected by traffic from the Proposed Development exit blocking arises as follows.

33. At the Brackmills interchange, it occurs:

   i. On Pavilion Drive and Caswell Road during the AM Peak.16 This causes queues to form around the roundabout and reduces the capacity of the main approaches - Caswell Road and both slip roads leading from the A45.

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13 Inspector questions to Mr Tricker; Birch proof 4.25, p.16.
14 Tricker proof 5.7.23, p.37.
15 Birch proof, Appendix D.
ii. On the slip road leading to the A45 northbound during the PM peak.\(^{17}\) This also causes queues to form around the roundabout and reduces the capacity of the slip road leading from the A45 northbound.

34. Exit blocking occurs also at the Queen Eleanor interchange during the PM peak. Excess queuing on the circulatory carriageway of the roundabout blocks the exit from the interchange on to the A45 northbound entry slip, and also blocks the exits from London Road and Mere Way on to the circulatory carriageway, reducing the capacity of those approaches to the interchange.\(^{18}\) Exit blocking was also observed on the A45 northbound entry slip itself, resulting from a slow moving queue on the northbound carriageway of the A45, emanating from the Brackmills interchange.\(^{19}\)

35. The observations forming the basis of Mr Birch’s study at Appendix D to his proof were carried out on Thursday 26\(^{th}\) March and Tuesday 21\(^{st}\) April (and not an unrepresentative Friday, as Mr Tricker thought when writing his evidence).\(^{20}\)

36. It is true as Mr Birch agreed that his own studies were observations rather than quantitative surveys with queue length results tabulated. However, as he confirmed in evidence it was possible to calculate queue lengths from the observational study, to enable comparison with the LinSig results of the TA. He carried out that exercise and compared the results with the queues shown in the LinSig analysis.\(^{21}\) The comparison

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\(^{16}\) Birch Appendix D paragraphs 2.11 and 2.13.
\(^{17}\) Birch Appendix D, paragraph 2.16.
\(^{18}\) Birch Appendix D paragraphs 2.7 and 2.8.
\(^{19}\) Birch Appendix D paragraph 2.10.
\(^{20}\) Tricker rebuttal 1.2.1, p.2.
\(^{21}\) Birch proof paragraphs 4.52 and 4.53.
shows that the queues actually observed were far longer than those modelled by LinSig.

37. In his evidence in chief (“xc”) Mr Birch said that he had been back to the Site during the PM peak on Monday 15th June and the AM peak on Tuesday 16th June. He had observed similar traffic conditions to those in his observational study at Appendix D. For example, he said, he had observed long queues on Mere Way on both days, and queuing from Pavilion Drive extending up the slip road and affecting the operation of the Brackmills interchange during the morning peak on Tuesday 16th June, from 8.10 to 8.40 am.

38. Mr Birch said that he considered the conditions he had observed were typical.

39. Mr Tricker stated in his rebuttal that he did not dispute that the traffic conditions Mr Birch had observed were there “on a particular day and time”, but he suggested that exit blocking was less of a problem than Mr Birch had suggested.

40. Mr Tricker’s own evidence comprised video evidence (not seen by the Council and not before the inquiry) which informed the original TA, and studies on particular days in June 2015 at TN4 and TN6.

41. Mr Tricker’s evidence in general shows queuing that is less serious than that observed by Mr Birch. However, significantly, even the queues found in his surveys were

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22 Tricker rebuttal 1.2.1 p.2.
longer than those modelled by LinSig. Mr Tricker accepted in xx that the LinSig base model predicted queues of around 52m on the Mere Way approach and 75m on the London Road approach. He further accepted that his own queue survey results showed that observed queue lengths were often more than 130m on Mere Way in the PM peak, and often 120m or thereabouts on London Road in the PM peak.

42. Overall, the position can be summarised thus. It is agreed that exit blocking does occur at both the Brackmills and Queen Eleanor interchanges. Its extent varies. However, as Mr Tricker agreed, we cannot plan simply for the most benign conditions. If, as is the case, exit blocking occurs, it is necessary to take it into account in the modelling. The only reason not to do so would be if it can be assumed that the exit blocking will be removed in future. The Appellant has assumed that exit blocking will be removed, by ramp metering, but it is not justified in doing so.

Modelling: Failure to Take Account of Exit Blocking

43. As we have already stated, it is common ground that exit blocking occurs in the relevant parts of the road network. However, it was left completely out of account in the modelling work carried out by the Appellant. Further, the modelling done by the Appellant - LinSig alone - is not appropriate for use where there is exit blocking.

44. We say that the exit blocking that occurs should have been taken into account, and that the appropriate course was to carry out microsimulation - for example by using

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23 Compare TN6 queue surveys for Mere Way and London Road in pm peak with LinSig results referred to at Birch proof 4.52.
24 Birch proof paragraph 4.52.
25 Appendix 1 to TN6, 17 June 2015.
VISSIM, which the Highways Agency (now Highways England) used to model the effect of NGMS measures - in addition to LinSig analysis.

45. There are various causes of exit blocking in this area, such as congestion on the A45 mainline and restricted car park entries on Pavilion Drive. LinSig can take account of the effects of exit blocking to some extent, but, as TfL guidance confirms, not its causes.

46. Even in relation to the modelling the effects of exit blocking, LinSig can only model the effects crudely, by reducing the green time available through the use of the feature “bonus greens”. This is a crude measure because LinSig assumes the same amount of green time is wasted in every cycle of the signals, whereas in reality the amount wasted varies with each cycle, dependent on the severity of the exit blocking at that point in time.

47. TfL guidance suggests that where endemic exit blocking exists, microsimulation should be used, so that the causes and effects of the exit blocking can be fully considered. Microsimulation software such as VISSIM can model the causes of exit blocking, because this type of software models the behaviour of individual vehicles in real time, and therefore the software models the effect of exit blocking in a more realistic way than LinSig.

26 CD 142, paragraph 3.6.9.
27 CD 142 3.6.9.
48. Mr Tricker said\textsuperscript{28} that there was no good reason for TfL guidance to apply outside London, in “smaller settlements”. However, he gave no good reasons why conditions in smaller settlements than London would be different in such a way as to make it inappropriate to use microsimulation. Further, as Mr Birch pointed out, national guidance on the design and operation of signalised roundabouts refers to TfL’s guidance as a useful source of advice.\textsuperscript{29} Finally, the national guidance itself suggests use of microsimulation where LinSig cannot adequately represent conditions on the relevant sections of road.\textsuperscript{30}

49. In the present case, the LinSig modelling, which could not in any event take proper account of the exit blocking now occurring, takes no account of the exit blocking at all. This means that the modelled queues do not match those observed. This can be seen from the comparisons between modelled and actually observed queues referred to by Mr Birch in his main proof of evidence.\textsuperscript{31} Further, as we have already said, Mr Birch pointed out in his xc that the modelled queues do not replicate the queues as surveyed by Mr Tricker.

50. Overall, we suggest that the Appellant’s modelling cannot possibly provide an accurate representation of the effects of the Proposed Development, because the Appellant has not taken account of the exit blocking that occurs on the relevant road network.

\textsuperscript{28} Tricker rebuttal 1.11.14.
\textsuperscript{29} CD 141 paragraph 5.5.2.
\textsuperscript{30} CD 141 paragraph 5.1.6.
\textsuperscript{31} Birch proof paragraphs 4.52 and 4.53.
51. The reason the Appellant gives for not having taken account of the current exit blocking is that it assumes that all exit blocking will be removed by the operation of the NGMS. That is not the case. On the contrary, as we shall explain, the NGMS will make the operation of the road network worse, not better.

**Saturation Flows**

52. As accepted by Mr Tricker in xx, it is normal practice to ensure that models reflect reality by measuring saturation flows and the degree of saturation. As Mr Tricker agreed, the ideal method is to actually measure saturation flows on site, rather than estimating or predicting them.\(^{32}\) This is supported by the TfL Traffic Modelling Guidelines\(^{33}\) which, as Mr Tricker accepted, both emphasise the importance of measuring saturation flows accurately and explain how to do so.

53. The Appellant has not undertaken any actual observation of saturation flows. Rather, the Appellant prepared its model using a “typical” saturation flow of 1800 pcu/hr/lane, and upon finding that the preliminary base year results reported over-capacity (suggesting that the “typical” saturation flow was too low), uplifted the saturation flow to 2100 pcu/hr/lane so as to arrive at “capacity” (in its view, around 90% of saturation).\(^{34}\) However, Mr Tricker accepted in xx that the degree of saturation could go over 90%.

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\(^{32}\) Tricker xx and TN1 paragraph 7.3.

\(^{33}\) CD 142, Part B Modelling Guidance, paragraph 2.4.7 p.70.

\(^{34}\) TN1 7.2 and Tricker xx.
54. Mr Tricker acknowledged in xx that the method of assessing saturation flows remained unchanged throughout the further sensitivity testing undertaken by the Appellant.

55. It follows that the Appellant’s modelling has not been corroborated by any actual observation of saturation flows, to ensure that it reflects reality. Rather, saturation flow values have been manipulated so as to reflect the Appellant’s own estimate of the degree of saturation.

**Sensitivity Testing**

56. The Appellant has undertaken further sensitivity testing for the express purpose of simulating the levels of queuing observed by Mr Birch.\(^{35}\) However, those levels have not in fact been replicated, as is plain from a comparison of the entries for “Modelled Queues” in Table 4 within Mr Tricker’s rebuttal\(^ {36}\) with paragraphs 4.52 and 4.53 of Mr Birch’s proof of evidence. Whilst in rx Mr Tricker referred to three instances\(^ {37}\) of the length of the modelled queue in his further sensitivity testing exceeding the length of the queue observed by Mr Birch, there is no logic in Mr Tricker’s choice of queue lengths and the objective of the further sensitivity testing – to simulate the levels of queuing observed by Mr Birch – has not been achieved.

57. Moreover, the further sensitivity testing makes no allowance for exit blocking, nor – as we have explained - has the Appellant taken the opportunity in the further sensitivity testing to remedy the shortcomings of its approach to saturation flows.

\(^{35}\) Tricker rebuttal paragraph 1.12.10.  
\(^{36}\) Tricker rebuttal p.20.  
\(^{37}\) Mere Way AM peak, A45 southbound off-slip AM peak and A45 northbound off-slip PM peak.
NGMS

58. The purpose of the NGMS is expressed in the Process Delivery Note\textsuperscript{38} extensively quoted by Mr Tricker in his main proof of evidence at pages 16-17:\textsuperscript{39}

“The NGMS comprises projects that will improve the management of traffic entering or leaving the A45 in order to ensure the safe and efficient operation of the A45 and M1.”

59. As Mr Tricker said:

“The primary purpose of the NGMS is to manage the congestion situation on the A45 and the slip lanes and associated junctions. This will be done by managing queuing on the roundabouts through MOVA control/further signalisation and by regulating access onto the A45 by ramp metering. This ‘gating’ strategy is designed to ensure that junctions do not lock up and queuing is managed into less sensitive locations.”\textsuperscript{40}

60. The point is to keep clear the A45 and the roundabouts that give access to or egress from it.

61. The Appellant has not modelled the effect of the NGMS together with its own scheme. Rather, it has been assumed that the NGMS would manage exit blocking issues and would otherwise have a neutral effect on the local road network. Hence Mr

\textsuperscript{38} CD 78.
\textsuperscript{39} Tricker proof p.17, second paragraph.
\textsuperscript{40} Tricker proof 5.7.26, p.38.
Tricker’s statement\textsuperscript{41} in his rebuttal that it is assumed in his LinSig modelling that exit blocking would be managed by the NGMS, and that “by making no allowance for exit blocking, the Appellant has partly modelled the positive effects of NGMS”.

62. We say there is no justification for the Appellant either assuming that any exit blocking will be remedied by the NGMS, or for assuming that the effects of the NGMS will be otherwise neutral.

63. So far as exit blocking is concerned, the Appellant has assumed that the ramp metering component of the NGMS will remedy any - and all - existing occurrences.

64. Ramp metering is a traffic management technique that regulates the flow of vehicles joining the mainline of a dual carriageway or motorway during peak periods through the use of traffic signals at the downstream end of the entry slip road. The purpose is to improve traffic flows on the main carriageway. It can be particularly effective when the entry slip roads are fed by signalised junctions that cause large platoons of merging traffic to overload the merge, as is the case here. The ramp metering signals break up the large platoons and help to prevent breakdown in flow on the mainline at the merge.

65. The only location relevant to this inquiry in which ramp metering is (or was) proposed is at the Queen Eleanor interchange, at the bottom of the northbound slip road on to the A45. The introduction of ramp metering in this location would help with exit blocking on the northbound entry slip road to the A45. It would not assist

\textsuperscript{41} Tricker rebuttal 1.11.8, p.16.
with the exit blocking caused by queuing on the circulatory carriageway of the roundabout.⁴²

66. Ramp metering is not proposed at the Brackmills interchange. You will recall that there is an editing error in Mr Birch’s proof at paragraph 4.95, where it is said that ramp metering would also be beneficial in dealing with exit blocking occurring on the A45 slip road leading away from the Brackmills interchange. Since ramp metering is not proposed at the Brackmills interchange, it would not resolve this instance of exit blocking. Nor would it address the exit blocking that occurs on the Pavilion Drive exit and affects the performance of Brackmills Interchange during the AM peak.

67. In any event, we know from the latest Joint Position Statement⁴³ of Highways England and the County Council that it is not proposed to install ramp metering, at least at present. Ramp metering was not among the measures originally intended to be brought forward in summer 2015, and there can be no certainty that it will ever be brought forward. Indeed, it is not even clear that funding is available.

68. In summary, the assumption by the Appellant that ramp metering as part of the NGMS will remedy any issues of exit blocking is not justified. To begin with, even if it is introduced, it will not deal with all the exit blocking that now occurs. Secondly, it is not currently intended to bring forward ramp metering, and it is far from clear that it will ever be introduced.

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⁴² Birch xc.
⁴³ CD 82.
69. We turn to the overall effects of those elements of the gating strategy proposed in the NGMS which will be introduced - that is, MOVA and further signalisation. As Mr Tricker said, the strategy is designed to ensure that junctions do not lock up and that queuing is managed into less sensitive locations.

70. It is inevitable that if queuing is managed into less sensitive locations, more queuing will result at those locations. As Mr Birch explained, that means all the local road approaches to the A45 at the Queen Eleanor and Brackmills interchanges that are or will be signalled.

71. Only if capacity were to be increased on those approaches and the circulatory carriageway of the interchanges would adverse effects be avoided. In fact, the capacity on the approaches will not be increased. Mr Tricker said that the “section 278 works will provide enhanced junction capacity through additional lanes, and longer flares (increased lane storage)”. As Mr Birch pointed out, it is not right that enhanced capacity will be provided. More capacity will not be provided - i.e. capacity for vehicles to move through the junction - because the signalled entries to the junction will be restricted by MOVA, in order to keep the roundabouts clear.

72. This is exactly the point the Inspector in the Preston decision was making at IR 37, where he said:

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44 Tricker proof 5.7.26.
45 Tricker rebuttal 1.15.8.
46 Birch rebuttal 31.
47 CD a13.
“…the minor junction improvements envisaged are to improve approach capacity. This is all very well, but if the exit from the signals along the A6 southbound is ‘gated’ during the peak hours all the improvements in the approach widths and signal timings will do nothing to relieve the situation and the additional traffic will merely add to the approach queues.”

73. Mr Tricker responded to Mr Birch’s criticisms by pointing out, with reference to Annex 1 to the NGMS,⁴⁸ that Highways England has carried out VISSIM modelling of the NGMS. That is not a sufficient answer. It is not clear if any modelling has been done of the effects on the local road network, or if it has, that it predicts that the NGMS will remedy all exit blocking if ramp metering is introduced, or that the effect of the NGMS will be otherwise neutral.

74. Additionally, the Appellant made much of the fact that the County Council as Highway Authority has signed up to the NGMS. It was suggested that unless the County Council had fundamentally misunderstood the effects of the NGMS, it would hardly have agreed to the scheme if it was to have negative effects on the local road network, the responsibility of the County Council.

75. We say that argument is false. It is, of course, possible that the County Council has simply failed to appreciate the effects of the NGMS on the local road network. However, if it did appreciate that there would be negative effects, it would not necessarily be unreasonable for it to agree the NGMS. Plainly, the NGMS has benefits for the free flow of traffic on the A45. That is an important benefit. To gain

⁴⁸ CD 76.
such benefits it would be responsible for the County Council to agree to the scheme, while understanding the negative effects on the local road network. The proper expectation of the County Council in those circumstances would be that applicants for planning permission for development in the area would take account of any negative effects in their TAs, and propose mitigation works accordingly. That is supported by the observation of the JCS Inspector at IR 142 that the requisite TA should look "at all traffic movements likely to occur on the local road network in the context of the agreed NGMS for the A45 route". 49

76. Mr Tricker said that MOVA and further signalisation were intended to operate as a gating strategy only at the Brackmills interchange, not at Queen Eleanor Interchange. In respect of the Brackmills interchange he accepted that queues would be relocated from the circulatory carriageway to the Caswell Road approach. In his view this was acceptable because there was no “cross-traffic” at the Brackmills interchange, which effectively served solely as access to / egress from the A45.

77. There is nothing to indicate that MOVA and further signalisation are not also intended to operate as a gating strategy at the Queen Eleanor interchange. To the contrary, Annex 1 to the NGMS MoU proposes “access management” in respect of both the Brackmills and the Queen Eleanor interchanges. 50

78. Furthermore, there is no evidence before the inquiry to support the contention that it is acceptable to relocate queues at Brackmills interchange from the circulatory carriageway to the Caswell Road approach. It is not known whether relocating the

49 Emphasis added.
50 CD 76 Annex 1 pp. 1-2.
queues in this way would increase or reduce delays experienced as a result of traffic congestion, or indeed whether those delays would remain the same. The Appellant has not modelled the effect of the NGMS upon the local road network in this respect – i.e. the effect of the relocation of queues – either with or without the Proposed Development. This inquiry has no understanding at all of what the position would be at (say) the junction of Caswell Road and the Brackmills interchange pursuant to the NGMS, with the gating strategy in place, even without the Proposed Development (still less with). It is not known, for example, whether relocating queuing traffic to the Caswell Road approach would cause traffic to queue back to (and beyond) the Caswell Road / Rhosili Road roundabout.

Pavilion Drive/A45 Junction

79. It is necessary to deal specifically with the Pavilion Drive/A45 junction. Mr Tricker said in his main proof 51 that the Site traffic would not use Pavilion Drive, so that there was no need to model the Pavilion Drive/A45 junction for the purposes of the Proposed Development. In fact, as Mr Birch pointed out in his rebuttal, the TA traffic assignment shows that 80 vehicles from the Proposed Development will use this junction in the AM peak, and 49 in the PM peak. In those circumstances it is plain, having regard to the threshold of 30 vph set out in the former guidance for Transport Assessment 52 that the junction should have been modelled.

51 Tricker proof 5.3.17, p.29.
52 CD 139.
80. In any case, Mr Birch\(^\text{53}\) has identified queuing back on Pavilion Drive that affects the performance of Brackmills Interchange in the AM peak. As the Pavilion Drive junction has not been modelled, that interaction has not been taken into account in assessing the performance of Brackmills Interchange.

81. Finally, the junction is to be signalised as part of the MOVA element of the NGMS. We say that will increase queuing back to the Brackmills interchange and cause queuing on the Pavilion Drive approach to the A45 southbound on slip. Any such effect has not been modelled. It has simply been assumed that there will be no effect.

82. Mr Tricker accepted\(^\text{54}\) that the proximity of Pavilion Drive to Brackmills Interchange was such that queuing on Pavilion Drive would interact with the interchange. However, he said that any problem would be solved by (a) changes to how traffic entered and exited the industrial estate, especially in relation to access to and from the car park and (b) signalisation of the junction.

83. As to signalisation of the junction, we have already referred to Mr Birch’s evidence that the new signals will increase and not remove queues. Furthermore the NGMS MoU\(^\text{55}\) states that the new signals will "act as access management to the A45 southbound". Modelling should have been carried out to check on those effects.

84. In relation to the suggestion that the queuing on Pavilion Drive could be resolved by changes to parking arrangements, it is plain that it is not within the Appellant’s power to require such changes. It cannot, therefore, be assumed in reaching a decision on

\(^{53}\) Birch rebuttal 19.
\(^{54}\) Tricker proof 5.7.29, p.38; Tricker rebuttal 1.18.4, p.27.
\(^{55}\) CD 76, Annex 1 (p.2).
this appeal that any changes will be made which would have the effect of reducing the present queuing. In answer to questions from the Inspector, Mr Tricker agreed that he was not aware of any proposals to change the car park arrangements.

85. Overall, the Pavilion Drive/A45 junction should have been modelled. Further, it cannot be assumed that the present queuing into the industrial estate will be removed by changes to operational practices within the estate.

Newport Pagnell Road

86. It is also necessary to give specific consideration to Newport Pagnell Road - in particular, the western link between Queen Eleanor Interchange and Hermitage Way.

87. We contend\(^56\) that during the morning peak the westbound flow will exceed the link capacity of this part of Newport Pagnell Road, and during the evening peak the eastbound flow will exceed the capacity. No mitigation measures are proposed to increase the capacity of this section of Newport Pagnell Road either by the Appellant or as part of the NGMS.

88. It is agreed between the Council and the Appellant that this section of Newport Pagnell Road should be classified as UAP2. Mr Tricker’s evidence was that the width of the relevant section of the road was between 8 and 9m, giving a capacity of 1550 vph according to the relevant guidance.\(^57\)

\(^{56}\) Birch proof 4.61-4.64.

\(^{57}\) Table 2, CD 144.
89. Mr Birch measures the width of the road as between 6 and 7.5m, and around 6.5 m on average.\textsuperscript{58} That would give a link capacity of 1260 vph.\textsuperscript{59} On the basis that as stated the DMRB guidance\textsuperscript{60} capacity may in reality may be between 10% more or less than the figure stated in table 2, that produces a capacity range of between 1134 and 1386 vph. Peak predicted flows of 1575 west bound and 1490 east bound would exceed even the highest figure in the range.

90. Mr Pease suggested\textsuperscript{61} that the road was 7.23 m wide. That width was accepted by Mr Tricker in his evidence. A width of 7.23m would indicate a capacity of 1470 in accordance with table 2 of CD 144. If the actual capacity were the 1470 vph indicated in table 2, let alone a lower figure, then, again, the peak flows on Newport Pagnell Road with the Proposed Development in place would exceed the road’s capacity. Only if the actual capacity exceeded the table 2 figure could the road accommodate the traffic.

91. Mr Tricker argued that his trip generation was “robust”,\textsuperscript{62} because use of TEMPro meant there was an element of double counting and because he had assumed that all traffic generated by the Proposed Development would leave the Site, as opposed to travelling to destinations within it. However, as Mr Birch pointed out during his xx, the Appellant had also assumed average trip rates, which meant that trip rates could in fact be higher. The reality is that trip generation figures are always an estimate. The Appellant has provided its best estimate in its TA, and did not seek to resile from that estimate. The peak flow figures calculated on the basis of that estimate should

\textsuperscript{58} Birch letter to Tricker, 17 June 2015 and attached plan.
\textsuperscript{59} Based on 6.75m.
\textsuperscript{60} CD 144, p.2/1, paragraph 2.2.
\textsuperscript{61} Pease submission for HAG, diagram 4A.
\textsuperscript{62} Tricker rebuttal 1.14.6, p.23.
continue to be used in order to ascertain the effect of the development on the road network, including Newport Pagnell Road.

**London Road bus priority scheme**

92. Mr Tricker confirmed in xx that the London Road bus priority scheme between the town centre and the Queen Eleanor interchange had not been included within the junction modelling work. The effect of this scheme - which could be a reduction in capacity for vehicles other than buses - should have been assessed.

**Highway Improvement Works**

93. The concerns raised by Mr Birch in respect of lane widths and the swept path drawings provided by the Appellant were not disputed by Mr Tricker. Rather, Mr Tricker relied on paragraph 7.24 of TD 16/07, which specifies a minimum lane width of 3m, and said that a minimum lane width of 3m was currently observed on the southern overbridge at Queen Eleanor Interchange. Mr Tricker had not, however, specifically measured that overbridge.

94. As Mr Tricker accepted in xx, the 3m figure is a minimum requirement, given in respect of lane widths at the give way line where vehicles are likely to be either stopped or slowing, as opposed to lane widths on the circulatory carriageway where radii are likely to be tighter. Mr Tricker agreed that the applicability of the 3m figure might depend on the presence of HGVs and that since the figure was a minimum

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63 Birch proof paragraphs 4.78, 4.80 to 4.83.
requirement, it would not necessarily be an acceptable measurement in all circumstances.

95. We say that the proposed lane widths are inappropriately narrow given the significant presence of articulated vehicles and other types of large vehicles. Mr Tricker accepted in xx that there were issues with the swept path testing undertaken which would need addressing at “detailed design stage”, but maintained that there was scope to create wider lanes at that stage. However, Mr Tricker was unable to point to any evidence that it would be possible to accommodate wider lanes within the highway boundary. There is no evidence to that effect before the inquiry.

Overall Summary

96. We summarise the Council’s case on transport as follows:

i. It is common ground that the transport network in the area is at or close to capacity and that whilst its extent varies, exit blocking occurs at both the Queen Eleanor and Brackmills interchanges.

ii. The Appellant’s baseline traffic data is unreliable. As to the adequacy of the Appellant’s modelling methodology, LinSig analysis alone is inadequate here and microsimulation should have been undertaken. Moreover the Appellant’s base model does not reflect the queues reported by either Mr Birch or the Appellant’s own witness Mr Tricker. Contrary to normal practice, the Appellant's modelling has not been corroborated by any actual observation of saturation flows to ensure that it reflects reality - rather, saturation flow values

65 Tricker rebuttal 1.16.6 and xx.
have been manipulated so as to reflect the Appellant's own estimation of the degree of saturation.

iii. The Appellant should have taken exit blocking into account. It did not do so because it erroneously assumed that ramp metering (through the NGMS) would address all relevant instances of exit blocking. It is not proposed to install ramp metering at present and even if it does come forward, it will only assist in resolving one instance of exit blocking.

iv. The Appellant’s assumption that the other elements of the NGMS would have a neutral effect on the local road network is not supported by evidence and is wrong. The gating strategy / access management strategy (MOVA and further signalisation) will worsen the operation of the local road network. The Appellant should have modelled the effects of the Proposed Development against that reality.

v. The Appellant accepts that its proposed mitigation measures will need amending at the detailed design stage, but there is no evidence that it will be possible to accommodate the requisite changes within the highway boundary.

vi. The Appellant places too much reliance both on the N6 allocation and upon the County Council’s acceptance (as Highway Authority) of the NGMS. It is for the Appellant to show that the Proposed Development is acceptable in highway terms. The evidence is simply not before the inquiry to enable the conclusion to be reached that the Proposed Development will not have severe residual cumulative impacts in this regard. Rather, the Council has shown that it is likely to have such an effect. The appeal scheme is thus contrary to Policies C2, INF1, INF2 and N6 of the JCS and paragraph 32 of the Framework.
IMPACT ON BRACKMILLS INDUSTRIAL ESTATE

97. 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 consequent negative effect on the ability of Brackmills Industrial Estate ("BIE") to continue to provide an environment where employment uses can thrive, and contribute towards the jobs growth required in the borough during the plan period.

98. It is common ground that BIE is currently a successful business area: Mr Stephens explained that the low vacancy rates were one indication of this. 66 It is however plain that congestion is already an issue, as evidenced by the letters from Action Express 67 and Travis Perkins. 68 Both companies were described by Mr Tulley in xx as "important occupiers".

99. The concern is also evident from the November 2013 BIE Business Survey, 69 which shows "road network and access" as the joint top "key challenge" for businesses on BIE. Other "key challenges" include availability of staff, staff recruitment and staff retention. Mr Tulley agreed in xx that all of these could be caused in part by the difficulties of getting to work.

100. Brackmills Industrial Estate Business Improvement District ("BID") in its letter of 29 July 2015 also refers to the "ever growing" problem of congestion and explains

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66 Stephens xc.
67 Appendix 1d to Stephens proof (p.19).
68 Appendix 1e to Stephens proof (p.20).
69 Appendix 1b to Stephens proof (p.15).
why it is especially of concern to the logistics sector. This accords with the observations of Mr Drake at paragraph 3.9 of his letter.\(^{70}\)

101. As Mr Stephens said in xx, there is therefore an added importance here to ensuring that the appeal scheme effectively mitigates its impact upon the highway network. Whilst the provision made in the JCS requiring mitigation of highway effects provides reassurance to existing and potential occupiers of BIE units,\(^{71}\) any worsening of the existing level of traffic congestion at the access and egress points on the surrounding road network - resulting from a failure to satisfy the requirements of the relevant JCS policies as regards mitigation - will make BIE less attractive to both existing and potential occupiers.\(^{72}\)

102. As regards potential occupiers, Mr Tulley accepted in xx that notwithstanding that site N2 (as identified in his rebuttal) was under offer and site N10 was held by Coca Cola, it was nevertheless important and in the public interest that nothing should occur to thwart the development of either site.

103. BIE is identified within Policy S8 of the JCS as one of the locations which will provide the majority of new job growth during the plan period. Mr Tulley accepted in xx that the fact that other locations were similarly identified did not detract from the importance of ensuring that the continued healthy operation and growth of BIE was protected.

\(^{70}\) Appendix 1a to Stephens proof (p.6).

\(^{71}\) Stephens xx.

\(^{72}\) See the letters from Mr Drake (Stephens proof Appendix 1a), Action Express (Stephens proof Appendix 1d) and Travis Perkins (Stephens proof Appendix 1e).
104. It follows from the likelihood that the Proposed Development would have a negative effect on BIE that the Proposed Development does not accord with Policy S8, which contemplates new job growth within BIE.

105. However, we would emphasise that the JCS does not present one with a "binary choice" to be made between jobs or housing. It was common ground between Mr Stephens and Mr Tulley that the JCS contemplates both jobs and housing coming forward, simply requiring the highway effects of the latter to be properly mitigated.

LANDSCAPE AND VISUAL IMPACT

106. The need for particular care to be taken in formulating proposals for the appeal site is well established, being identified by several of the studies which have assessed the landscape character and sensitivity of (inter alia) the appeal site independently of the application for planning permission which has given rise to this appeal.

107. First, the Northampton Current Landscape Character Assessment, Strategy and Guidelines ("the LCA")\(^{73}\) identifies that in view of the proximity of urban areas to the landscape character area in which the appeal site lies,\(^ {74}\) it is "particularly important" that where development is considered, "the subtle variations in the landform are responded to and incorporated in a creative and positive way".\(^ {75}\)

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\(^{73}\) Appendix 8 to CD 134.

\(^{74}\) Landscape character area 12a, Limestone Valley Slopes (Wollaston to Irchester).

\(^{75}\) "Landscape Strategy", p.62.
108. Similarly, the Northampton Landscape Sensitivity and Green Infrastructure Study ("NLSGIS")\(^{76}\) identifies the appeal site as falling partly within an area of high sensitivity landscape\(^{77}\) in which development is inappropriate,\(^{78}\) and partly within an area of high-medium sensitivity, where medium or large scale development would appear incongruous.\(^{79}\) The NLSGIS recognises that for a specific development proposal, more detailed site-specific appraisals would be required to reach a definitive position on actual sensitivity to change.\(^{80}\)

109. The sustainability appraisal undertaken in respect of the JCS identifies the Northampton South of Brackmills SUE as being within an area of high to medium sensitivity such that development could have a significant negative effect on landscape character, the exact impacts depending on factors relating to the specific design and layout of the new development.\(^{81}\)

110. These concerns are maintained in the adopted JCS. Thus, the supporting text to the JCS policies on the built and natural environment expressly recognises\(^{82}\) that whilst the development of areas highlighted as having high landscape sensitivity in the NLSGIS is not precluded, "additional care and appropriate mitigation" will be required when planning for development.

\(^{76}\) CD 94.
\(^{77}\) Paragraph 8.5.15, p.47.
\(^{78}\) Paragraph 8.5.4, p.46.
\(^{79}\) Paragraph 8.5.17, p.47.
\(^{80}\) Paragraph 8.5.2, p.45.
\(^{81}\) Appendix 11 to the Addendum to the SA Final Report (December 2013), p.91.
\(^{82}\) Paragraph 10.7.
111. As regards the provision made in the JCS in respect of the appeal site itself, whilst it is allocated by Policy N6, the sensitivity of the location to development proposals is expressly acknowledged in the supporting text to that policy.83

112. 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,84 the need to incorporate the footpath running through the site into development proposals,85 the need for development within the SUE to create a positive rural edge to the east86 and the need for existing and proposed urban areas to be linked to the wider countryside.87

113. The policy itself requires development proposals to be accompanied by a masterplan, which the supporting text (paragraph 12.49) explains must demonstrate how the land use elements respond positively to context, design issues, connectivity and sustainable planning requirements. Mr Brashaw accepted in xx that this requirement was not solely concerned with the effect of development proposals on the skyline. It was common ground between Mr Stephens and Mr Tulley that if the masterplan failed to satisfy the requirements of paragraph 12.49, both the masterplan and the related development proposal would fail to comply with the JCS.

114. Mr Brashaw agreed in xx that careful and detailed examination of the Site was required in order to ascertain what an appropriate form of development for it would be, and that that would involve examination of the various parts of the Site and their characteristics.

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83 Paragraph 12.47 and the reference to the NLSGIS.
84 Paragraph 12.46.
85 Paragraph 12.48.
86 Paragraph 12.46.
87 Paragraph 12.46.
115. The requisite careful and detailed examination of the characteristics of the various parts of the appeal site has been undertaken by Ms Howe in her Landscape Sensitivity and Character Assessment ("LSCA"). On fair examination, this document considers both value and sensitivity. Furthermore, Ms Howe's approach is supported by GLVIA3, which provides that even where there are useful and relevant existing Landscape Character Assessments ("LCAs") it is still likely that it will be necessary to carry out specific and more detailed surveys of the site itself. Mr Brashaw accepted in xx that GLVIA3 requires "justification" only where there is a departure from the findings of an existing, established LCA, which is not the position here.

116. In contrast to the careful and detailed examination of the characteristics of the various parts of the appeal site undertaken by Ms Howe in her LSCA, the Appellant relies on existing landscape character studies to form the basis of its assessment of the effects of the Proposed Development on landscape character. However, Mr Brashaw in xc emphasised the various respects in which he considered the Site to be atypical of the Limestone Valley Slopes Landscape Character Type ("LCT"). We say that since the Appellant's own case is that the appeal site is uncharacteristic of the relevant LCT, in keeping with GLVIA3 a specific, more detailed survey of the Site itself - as undertaken by Ms Howe - was plainly called for.

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88 Appendix 1 to Howe proof.
89 Paragraph 5.16.
90 Paragraph 5.13.
91 Ms Howe's LSCA takes into account the LCA and does not depart from its findings.
92 E.g. CD 134 (LVIA) p.43 ff. and Appendix 8; Appendix 13 figure 8.
93 See too CD 134 (LVIA) p.43 ff.
117. Mr Brashaw agreed in xx that it was not appropriate to start with the assumption that it was acceptable to develop all of the appeal site, and that in order to ascertain which parts of the Site ought to be developed and which parts ought not to be, a detailed examination of the characteristics of the Site was required. However, his evidence was that he had not started "by saying constrain this area, constrain that area" and he accepted that he had not dealt with the characteristics of the Site in anything like the detail undertaken by Ms Howe in her LSCA.

118. We say that the degree of attention which has been paid to the characteristics of the various parts of the appeal site by the Appellant is inadequate and that, as a result of that lack of attention, in landscape and visual terms the appeal scheme is objectionable as regards:
   i. Its effect upon the skyline when viewed from the Nene Valley to the north;
   ii. Its effect upon PRoW KN6; and
   iii. The proposed treatment of the eastern part of the appeal site.

The skyline as viewed from the north

119. It is apparent from Policy E7 of the Northampton Local Plan ("NLP") that the need to attach special importance to the effect of development upon the skyline between Great Houghton and Hardingstone (as seen from the Nene Valley to the north) is a longstanding concern, as Mr Brashaw accepted in xx. The NLP Proposals Map\textsuperscript{94} shows the area to which Policy E7 refers as including most of the appeal site.

\textsuperscript{94} CD 24.
120. As Mr Stephens said, there is nothing inconsistent between Policy E7 and the Framework. Paragraph 215 of the Framework therefore requires full weight to be given to the policy. The Framework does not contemplate that mere age itself will affect weight. Moreover nothing in the Council's Committee Report of 6 May 2014\(^{95}\) indicates that Policy E7 should be accorded less than full weight.

121. Furthermore as Mr Stephens observed, a deliberate decision was made (and endorsed by the JCS Inspector) not to replace Policy E7 with a JCS policy. It cannot therefore be correct that the weight of Policy E7 is affected by the replacement of Policy E1 of the NLP with Policy BN5 of the JCS.

122. Mr Brashaw agreed in xx that as regards the credence to be given to Policy E7, whilst the planting and growth of Brackmills Wood since the adoption of the NLP might help screen development on the skyline, it did not detract from the importance of maintaining a skyline visibly free from development.

123. The skyline concern has been carried through to the JCS (paragraph 12.46 of the supporting text to Policy N6), having been expressly mentioned by the JCS Inspector at IR 141.\(^{96}\) Mr Brashaw accepted in xx that it was plainly a consideration to which the Secretary of State should give importance in assessing any development proposal for the appeal site.

\(^{95}\) CD a6 and its Appendix A.
\(^{96}\) CD 44.
124. As to the practical position, Mr Brashaw agreed that it remains the case, as stated in paragraph 2.21 of the supporting text to Policy E7, that the skyline from Hardingstone to Great Houghton "appears remarkably free from development".

125. The (erroneous) conclusion reached in the Appellant’s original LVIA was that the Proposed Development was "unlikely to be visible" from the Nene Valley to the north.\footnote{CD 6, Chapter 8, paragraph 5.5. p.33.} Mr Brashaw accepted in xx that at the time of the design and submission of the application for planning permission, Viewpoint 10 (the Washlands) was not considered. He further accepted that Viewpoint 10 represented the part of the Nene Valley from which the Proposed Development would be most visible on the skyline. He also agreed that the officer's report to committee had been drafted in ignorance of the visibility of the Proposed Development from Viewpoint 10.

126. We say that the Appellant has therefore plainly failed to attach special importance to the effect of the Proposed Development upon the protected skyline, contrary to Policy E7 of the NLP. The masterplan - even if as contended by the Appellant that word refers to the Design and Access Statement ("DAS")\footnote{CD 5.} and Framework Plans\footnote{CD 2.} as well as the Illustrative Masterplan ("IMP")\footnote{CD 4.} - also fails to satisfy the requirements of paragraph 12.46 of the supporting text to Policy N6, in that the potential for the Proposed Development to impact on the skyline when viewed from the north has not been properly taken into account, still less addressed within the masterplan (which was produced in ignorance of the position from Viewpoint 10). In this respect the Proposed Development fails to comply with Policy N6.
127. Ms Howe's evidence\textsuperscript{101} was that from Viewpoint 10 at Year 15 the Proposed Development would be noticeable and that rooftops and the tops of the second storey of buildings on the northern edge of the appeal site would be visible. Although Ms Howe accepted that in visual terms the effect would not be significant, it does not follow that the effect would also be insignificant in landscape character terms. To the contrary, given the protection accorded to the skyline in the development plan, we say that the effect \textit{would} be significant in landscape character terms.\textsuperscript{102} That is supported by the LCA, which references the desirability of seeking to limit the effects of urban influences upon the Nene Valley.\textsuperscript{103} Mr Brashaw in xx agreed that controlling skyline development was an obvious way of achieving this.

128. The Appellant relies upon the possibility of it planting within the "gaps" in Brackmills Wood, the relevant parts of the latter being in the Appellant's ownership. However, such planting would not effectively screen the Proposed Development as viewed from the north for many years. Mr Brashaw's evidence as to the speed of tree growth was that the existing trees in Brackmills Wood would require a further 15 to 50 years (depending on the species) to achieve 25-30m of height, in addition to the 15 years which have passed since the planting of the wood, allowing the existing heights of 8-10m to be achieved.

\textbf{The footpath}

\textsuperscript{101} Howe xc.
\textsuperscript{102} Howe proof paragraph 4.22.
\textsuperscript{103} Appendix 8 to the updated LVIA (CD 134), p.94.
129. It is common ground that in landscape and visual terms the Proposed Development would have adverse effects of a high magnitude and major significance\textsuperscript{104} on PRoW KN6 ("the Footpath").

130. Mr Brashaw describes the Footpath as a receptor of high-medium sensitivity\textsuperscript{105} and agreed in xx that it makes an important contribution to the amenity afforded by the appeal site and that its amenity value is increased by the fact that it connects via Hardingstone into existing walking corridors from the town centre and Delapre Abbey. Mr Brashaw further agreed that the experience of walking along the Footpath becomes more open and rural in nature the further east one progresses.

131. We say that having regard to the above, the consideration given to the treatment of the Footpath by the Appellant is inadequate. Insufficient regard has been had to the value of the present open and transitional character of the Footpath and the desirability of preserving the same so far as possible. Furthermore, the design proposals do not respond adequately to the significant adverse visual effects which the Proposed Development would have upon the Footpath.\textsuperscript{106}

132. The Appellant’s case\textsuperscript{107} is that it has met the requirement stated in Policy N6 of the JCS that development proposals must be accompanied by a masterplan by submitting the DAS,\textsuperscript{108} the Framework Plans\textsuperscript{109} and the IMP.\textsuperscript{110} In respect of the Footpath, however, those documents do not demonstrate that the Proposed Development “positively respond[s]” to context and design issues. The requirement to this effect in

\textsuperscript{104} Updated LVIA (CD 134) at p.78; Howe proof at paragraphs 4.25 and 4.28.
\textsuperscript{105} Updated LVIA (CD 134) at p.78.
\textsuperscript{106} Howe proof paragraph 4.28.
\textsuperscript{107} INQ 18 (Appellant’s Note “Defining the Masterplan” dated 23 June 2015).
\textsuperscript{108} CD 5.
\textsuperscript{109} CD 2.
\textsuperscript{110} CD 4.
paragraph 12.49 of the supporting text to Policy N6 is not, therefore, satisfied, such
that in this regard the appeal scheme is contrary to Policy N6.

133. Mr Brashaw said that, if necessary, it would be possible at the detailed design stage
to increase the width of the green corridor through which the Footpath is proposed to
run (and similarly to increase the width of the green buffer along the northern edge of
the Site). He accepted in xx that the result of doing so would be to reduce the land
available for development. He has subsequently sought to argue that there would be
scope at reserved matters stage to extend or widen green corridors “with development
remaining within the outer development envelope defined by the Framework Plans
and compliant overall with the terms of Policy N6”.¹¹¹ Notwithstanding that assertion,
there is no evidence before the inquiry which shows how 1,000 houses could be
brought forward on the appeal site were the green corridor through which the
Footpath is proposed to run and/or the green buffer along the northern edge of the Site
widened so as satisfactorily to relate to the Footpath.

The eastern part of the appeal site

134. Ms Howe is correct to identify the eastern part of the appeal site as a distinct Local
Character Zone, LCZ C. This LCZ is more sensitive to development of the nature of
the appeal scheme than the remainder of the appeal site, due to its strongly rural
character and its visual and physical connection with the countryside to the south and
east.¹¹² Ms Howe’s evidence was that its capacity for development is confined to the

¹¹¹ INQ 26 (Appellant’s Note on width of green corridors dated 24 June 2015).
¹¹² Howe proof paragraphs 3.37 and 6.4.
southern edge of the LCZ along The Green\textsuperscript{113} and that development would also need to be set back from the eastern edge of the LCZ.\textsuperscript{114}

135. Mr Brashaw accepted in xx that the Appellant had not given detailed consideration to the particular characteristics of the eastern part of the appeal site. As Ms Howe observes,\textsuperscript{115} a list of “[k]ey aspects of the design that were particularly informed by the landscape assessment” is set out in the updated LVIA produced on behalf of the Appellant:\textsuperscript{116} the treatment of the eastern part of the Site does not feature on that list.

136. The position, therefore, is that in designing the appeal scheme the Appellant has entirely overlooked the distinctive character of LCZ C. In particular, it has never questioned the acceptability of bringing forward development across the entirety of the LCZ. When that point was put to Mr Brashaw in xx he referred to the fact that the land to the east of the Site (referred to as “the Additional Land” by Ms Howe in her rebuttal\textsuperscript{117}) is also allocated for residential development. However, the appeal scheme was designed prior to the extension of the Northampton South of Brackmills SUE allocation to the east so as to encompass the Additional Land.\textsuperscript{118}

137. The consequence of the Appellant’s failure to have regard to the distinctive character of LCZ C is that the Proposed Development is of an unacceptable scale and density.\textsuperscript{119} This is evident from the IMP, which is the only evidence before the inquiry of how 1,000 houses might be accommodated on the appeal site (cf. the less detailed “blocks” of development shown in the Framework Plans):

\textsuperscript{113} Howe proof paragraph 6.5.
\textsuperscript{114} Howe proof paragraph 6.5.
\textsuperscript{115} Howe proof paragraph 3.58.
\textsuperscript{116} CD 134 at 5.3.
\textsuperscript{117} Paragraph 2.1.
\textsuperscript{118} Brashaw proof paragraph 6.7.1.
\textsuperscript{119} Howe proof paragraph 3.61.
First, the IMP shows housing distributed across the entirety of the LCZ. Ms Howe’s description of the buffer shown along the eastern edge of the appeal site in the IMP as “minimal”\textsuperscript{120} is accurate.

Secondly, the variation in density between the different “character areas”\textsuperscript{121} of the appeal site for which Mr Brashaw contended in evidence is not readily apparent from the IMP, which shows LCZ C at least as densely developed as the remainder of the Site (if not more so). This approach to density across the appeal site fails to acknowledge that the Site increases in sensitivity from west to east.\textsuperscript{122}

Furthermore, the lack of consideration given to LCZ C renders the appeal scheme objectionable in terms of visual impact, as explained by Ms Howe at paragraphs 4.23 and 4.24 of her proof.

It is no answer to the above criticisms to refer to the fact that the Additional Land is allocated for residential development. It cannot be assumed that residential development will be brought forward on the Additional Land, nor – as Mr Brashaw accepted in xx - can any assumptions be made as regards the particular form which development of the remainder of the N6 allocation might take (extent of development across the Additional Land, density etc.).

As explained by Ms Howe in her evidence,\textsuperscript{123} the Appellant’s failure to inform its proposals by an adequate appreciation of the characteristics of the appeal site – and particularly of the distinctive character of LCZ C – has resulted in a proposed scheme

\textsuperscript{120} Howe proof paragraph 3.42, footnote 14.
\textsuperscript{121} Permeable leafy edge, permeable grid and village core: p.72 of the DAS (CD 5).
\textsuperscript{122} Howe proof paragraph 3.48.
\textsuperscript{123} Howe proof paragraphs 7.5 and 7.7.
which inadequately acknowledges the strong rural character of the eastern parcel of the site and the importance of preserving the same. The appeal scheme amounts to an over-development of the Site and is simply inappropriate in its context. In this respect the Proposed Development is again contrary to Policy N6 of the JCS, since the DAS, the Framework Plans and the IMP do not demonstrate that the appeal scheme “positively respond[s]” to context and design issues.

Landscape and visual impact: conclusions

143. The Proposed Development fails to accord with the development plan. For the reasons we have given, it is contrary to Policy E7 of the NLP and Policy N6 of the JCS. Furthermore, since it neither conserves nor enhances the landscape within which the appeal site is situated, the Proposed Development is also contrary to Policy BN5\(^ {124}\) of the JCS. As Mr Stephens explained, properly interpreted Policy BN5 is relevant to landscape generally and not simply landscape associated with heritage: as he observed, if that interpretation is not correct there is no other policy in the JCS which deals generally with landscape independently of heritage.

144. The Framework also weighs against granting planning permission, on landscape grounds. Paragraph 17 requires planning to recognise “the intrinsic character and beauty of the countryside” and to contribute to “conserving and enhancing the natural environment”. Within section 7 of the Framework, “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

\(^{124}\) Which policy, together with policy BN2 of the JCS, replaced policy E1 of the NLP, referred to in the second reason for refusal.
provides that planning decisions should address the integration of new development into the natural environment. Paragraph 109 of the Framework requires valued landscapes to be protected and enhanced. The Proposed Development would not achieve these aims.

145. It is no answer to the Council’s landscape and visual case to assert that the effects identified are “the inevitable effects of development in accordance with Policy N6” of the JCS.125 Ms Howe correctly observes that “[t]he level of change in character and the significance of effects could plainly be significantly reduced through a more appropriate design proposal”.126

146. It follows that it is similarly no answer to the Council’s landscape and visual case to rely on the fact that the N6 allocation was approved by the JCS Inspector. As Mr Brashaw further agreed in xx, the Inspector could approve the allocation safe in the knowledge that the JCS required127 “additional care and appropriate mitigation” in respect of areas (such as part of the appeal site) highlighted as having high landscape sensitivity in the NLSGIS. The JCS Inspector would also have appreciated that any development proposal would, pursuant to Policy N6, have to be accompanied by a masterplan demonstrating that the proposals “positively respond[ed]” to (inter alia) context and design issues.

147. Moreover, Mr Tulley explained in xx that the IMP was not formally submitted to the JCS Inspector. Neither did the JCS Inspector have before him Ms Howe’s detailed assessment of the characteristics of the different parts of the appeal site, or her conclusions as to the inappropriateness of the appeal scheme in landscape and visual

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125 Updated LVIA (CD 134) at 7.5.
126 Howe proof paragraph 7.6.
127 Paragraph 10.7.
terms in the light of that assessment. That the landscape and visual objections to the Proposed Development which have subsequently been identified were not raised by the JCS Inspector does not, therefore, lessen the force of those criticisms.

148. The same is true of the officer’s report to committee, which was also produced without the benefit of the detailed work undertaken by Ms Howe. We have explained the particular significance in this respect of the absence of Viewpoint 10.

149. We emphasise that the Council’s concern in respect of the landscape and visual impact of the Proposed Development is not an objection to the number of houses proposed for the appeal scheme. Ms Howe confirmed in rx that she saw no reason why 1,000 houses should not be provided on the Site if that could be done within the parts of the appeal site which she considered to have capacity for development (identified in section 6 of her proof), and in a way which was otherwise acceptable in landscape and visual terms.

150. The Appellant suggested, by reference to a sketch plan produced by Mr Brashaw (“the Sketch Plan”),\(^{128}\) that were the principles set out in section 6 of Ms Howe’s proof followed, it would not be possible to bring forward sufficient houses on the Site to satisfy the requirements of Policy N6. However, development in accordance with section 6 of Ms Howe’s proof would not necessarily be restricted to the precise areas shown on the Sketch Plan, which as Ms Howe said is plainly simply a sketch starting point.

\(^{128}\) INQ 9.
151. The Proposed Development achieves an average density of 35 dwellings per hectare ("dph"), \(^{129}\) which is the minimum average density which Policy H1 of the JCS states that development within the SUEs will be expected to achieve. Mr Brashaw agreed in xx that - assuming the developable area shown on the Sketch Plan to be around 23 ha - if density were to be increased to 42 dph, the parts of the appeal site identified by Ms Howe as having capacity for development could accommodate 958 houses. His view was that a density of 42 dph was unlikely to be considered acceptable by the Council.

152. However, as Mr Brashaw accepted, neither Policy H1 nor Policy N6 of the JCS specifies a maximum density and there are no detailed studies before the inquiry which demonstrate the practicality or otherwise of developing the Site at a density of 42 dph. Mr Brashaw also retracted his suggestion that the minutes\(^{130}\) of the 22 November 2011 Stakeholder Meeting recorded the view of the Council’s planning officers as being that a density of 42 dph would be inappropriate.

153. The Sketch Plan does not, therefore, establish that the requisite number of houses could not be brought forward within the parts of the appeal site which Ms Howe has identified as having capacity for development.

154. Finally in respect of landscape and visual effects, in the opening statement made on behalf of the Appellant it was suggested\(^{131}\) that “[a]ny criticisms in respect of layout, distribution of densities, distribution of building heights, planting, buffering, and screening etc. [could] all be addressed at the reserved matters stage”. We say that, crucially, the evidence is not before the inquiry to show that these issues could all be

\(^{129}\) Brashaw xx.

\(^{130}\) CD 123 paragraph 5.1.

\(^{131}\) INQ 1 at paragraph 29.
addressed at the reserved matters stage within the parameters set by the Framework Plans. It is common ground that those parameters must be observed.

155. As Mr Brashaw accepted in xx, the only plan before the inquiry which shows (whether in an illustrative fashion or otherwise) how 1,000 houses could be accommodated on the appeal site in accordance with the Framework Plans is the IMP. We have explained that the Proposed Development as shown in the IMP would have unacceptable landscape and visual effects.

156. The position, therefore, is that the Appellant has not shown that 1,000 houses can be accommodated on the appeal site, within the parameters of the Framework Plans, in a manner that is acceptable in landscape and visual terms. Mr Brashaw agreed in xx that it would be wrong for the Secretary of State to grant outline planning permission for the appeal scheme unless he had seen at least one way in which that could be achieved. That evidence is not before the Inquiry.

157. It follows that even were the Proposed Development acceptable in highway terms (which it is not), planning permission should be refused because of its landscape and visual effects.
158. As we have already noted, it is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites.\textsuperscript{132} The Appellant and the Council disagree as to whether there has been a record of persistent under delivery of housing such that the “buffer” required pursuant to paragraph 49 of the Framework should be increased from 5% to 20%.

159. We say that there has not been a record of persistent under delivery.

160. Mr Stephens in xc agreed with Mr Tulley that periods of recession should not be ignored in undertaking the assessment. His view was that it was appropriate to take into account the existence of the recession, to look at delivery over a longer period and to give less weight to under delivery occurring during the recession, bearing in mind the impact of the recession on housing delivery.

161. That approach is supported by the Secretary of State’s 18 November 2014 decision in the \textit{Sketchley House} appeal.\textsuperscript{133} The Secretary of State agreed (paragraph 11 of the decision letter) with the Inspector’s assessment at paragraphs 11.11 to 11.13 of his report (“IR”) that it would be inaccurate to denote the failure to deliver housing as “persistent”, notwithstanding that the delivery of dwellings had matched (or exceeded) the annual average requirements just once in the 7 or 8 years since the adoption of the Core Strategy.

162. The Inspector observed that there was no requirement (of any kind) that the delivery of dwellings should always match the annual average provision, that such an expectation would be unrealistic, that the provision of housing came in “lumps” and

\textsuperscript{132} CD 18 (Principal Statement of Common Ground) at paragraph 7.5.
\textsuperscript{133} CD 149.
followed “cycles” and that variations about the annual average requirement should be expected, periods of plenty followed by periods of “famine”.

163. As to the appeal decisions upon which the Appellant relies:  

i. The decision in _Stanton Under Bardon_ is an Inspector’s decision of 31 March 2014 and thus pre-dates the _Sketchley House_ decision. Mr Tulley agreed in xx that the _Sketchley House_ Inspector referred to and considered the _Stanton Under Bardon_ decision;

ii. In the _Ashby Road_ decision of 4 December 2014 the local planning authority had conceded the 20% buffer; moreover it appears that the _Ashby Road_ Inspector did not have the _Sketchley House_ decision before him;

iii. The _Groby_ decision (11 March 2015) is the most recent appeal decision addressed in Mr Tulley’s rebuttal. He agreed in xx that the _Groby_ Inspector had the _Sketchley House_ decision before him. This decision supports the view of Mr Stephens, as is plain from paragraph 15 of the decision, which in concluding that a 5% additional buffer is appropriate, notes that there has been a deficit in 6 of the 8 years since the commencement of the plan period, but then continues:

“…There is some merit in taking a longer view than the period which is mainly encompassed by the recent recession in the housing market. The [PPG] notes that the assessment of the local delivery record is likely to be

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134 Tulley rebuttal section 3.
135 Appendix E to Tulley rebuttal.
136 Appendix E to Tulley rebuttal.
137 Appendix E to Tulley rebuttal.
138 See paragraph 14 of the _Groby_ decision.
more robust if a longer term is taken, which reflects the peaks and troughs of the housing market cycle…”

164. The final appeal decision of relevance is the Inspector’s 12 June 2015 decision in the appeal against Daventry DC’s refusal of planning permission in respect of New Street, Weedon Bec.139 This decision also plainly supports the approach contended for by Mr Stephens, the Weedon Bec Inspector explicitly giving less weight to under delivery during the economic recession at IR paragraph 35.

165. The evidence of Mr Stephens140 was that housing requirements were exceeded between 2001 and 2006, not achieved between 2006 and 2011, and then exceeded again between 2011 and 2014. Following the Sketchley House / Weedon Bec approach and looking at delivery over a longer period, giving less weight to under delivery during the recession, the evidence shows that there has not been a record of persistent under delivery. A 5% buffer is therefore appropriate.

166. Finally as to housing land supply, as Mr Stephens explained in xx, in the event that fewer than 1,000 houses come forward on the appeal site the Part II plans will provide a vehicle to address that under delivery.

OVERALL CONCLUSION

139 INQ 4.
140 Proof paragraphs 5.15 to 5.20 and xc.
167. The Appellant's approach to this inquiry has emphasised the history of the appeal site and has relied particularly heavily upon the fact that it forms part of the N6 allocation. This is especially evident from paragraph 38 of the opening statement made on behalf of the Appellant,\textsuperscript{141} which asserts that at the "core" of this appeal is a question about the value of the development plan process.

168. We say that is false, and mischaracterises the key concern of this inquiry entirely. Notwithstanding the position of the appeal site in relation to the development plan, the key question for this inquiry remains: has it been shown that the benefits of the specific proposals now advanced for the appeal site would not be significantly and demonstrably outweighed by the adverse impacts, such that planning permission should be granted?

169. The evidence is simply not before the inquiry to enable an affirmative response to be given to that question.

170. We acknowledge that the benefits of the appeal scheme are as follows:

i. Up to 1,000 houses, up to 240 of which would be "affordable". Mr Stephens recognised that this contribution would be a significant benefit and that the absence of a five year housing land supply was a material consideration. As to the appropriate "buffer", he considered that the evidence did not amount to a record of persistent under delivery. We say that his view was correct, for the reasons he gave, and that a 5% buffer is therefore appropriate.

\textsuperscript{141} INQ 1.
ii. 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. Mr Tulley agreed in xx that the employment gains from the appeal scheme were described in the Environmental Statement ("ES")\textsuperscript{142} as "minor beneficial" and that nothing of principle had changed since. He also clarified that the figure of 209 FTE jobs given at paragraph 6.18 of his proof comprised 130 construction jobs\textsuperscript{143} and then 79 local jobs from the operational phase of the Proposed Development.\textsuperscript{144}

171. As to the further benefits contended for by Mr Tulley:

i. Mr Tulley agreed in xx that, applying the PPG, the New Homes Bonus was a consequential benefit but was not a material consideration;

ii. He accepted that the conclusion reached in the ES as regards schools was that there would be "no net change", and that the position had not changed;

iii. As to community facilities, services and open space, Mr Tulley agreed that the balance given in the ES was "minor beneficial" and that again, the position had not changed;

iv. Mr Tulley accepted that the ES, in assessing the social benefits for which he contended, took into account the adverse effects associated with additional pressure created by the appeal scheme, and presented a balanced picture. He further accepted that his proof of evidence did not take account of such adverse effects;

\textsuperscript{142} CD 6.
\textsuperscript{143} Tulley proof paragraph 6.22.
\textsuperscript{144} Tulley proof paragraph 6.30.
v. Mr Tulley agreed that the loss of open countryside had to be taken into account against both the community and the environmental benefits contended for in his proof, and that the ES had not undertaken that balancing exercise;

vi. On this point, the evidence of Mr Stephens was that the additional links to Brackmills Country Park proposed were primarily there to serve the appeal scheme and to make the development acceptable in planning terms, as part of the package of measures proposed to satisfy the open space requirements of the JCS. However, he considered that any consequential benefit to existing residents in the vicinity would have to be balanced against the loss of open land pursuant to the appeal scheme.

172. 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.

173. 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 highway network).

174. As to landscape and visual impact, the specific proposals presently advanced by the Appellant are unacceptable. That does not, of course, preclude development being

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In response to questions from the Inspector.
brought forward on the appeal site pursuant to a more appropriate scheme that is acceptable in landscape and visual terms.

175. We emphasise that this is not an objection in principle to the N6 allocation. The Council is plainly alive to the consequences for its housing land supply position of its refusal to grant planning permission for development of the appeal site. The fact remains that the evidence shows that the adverse impacts of granting planning permission for the specific proposals presented by the Appellant would significantly and demonstrably outweigh the benefits of doing so.

176. The position, therefore, is that the Proposed Development fails to accord with the development plan, and material considerations do not indicate that planning permission should nevertheless be granted. In those circumstances, the appeal should be dismissed and planning permission for the proposed development refused.

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