

# **LAND TO THE SOUTH OF RINGWOOD ROAD, ALDERHOLT**

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## **CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT**

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### **Introduction**

1. This is an appeal against the Dorset Council’s refusal to grant outline planning permission for major strategic development in Alderholt. If granted, the proposal will provide c. 1,700 new homes, 629 of which will be affordable, in an area of material housing land supply shortfall and chronic affordable housing need. The proposal will also bring care provision, much-needed employment space, a new local centre with retail, community and health facilities, and significant open space and biodiversity enhancements. It will transform Alderholt from a large but poorly served village, to a settlement which will grow as a place to live, work and recreate.
2. Although the Council has sought to give the opposite impression, this is a well-considered and carefully developed scheme which has emerged over many years. Mr Jacobs’ involvement stretches over eight years; Mr Rand’s over six years. There has been careful and meaningful engagement with the local community<sup>1</sup> and with key stakeholders. Expansion at Alderholt – informed by the Appellant’s land promotion efforts – has been supported in two emerging plans, and assessed by both the Council and its predecessor authority to be a sustainable growth option with no material constraints. All of this work informed the ES scoping work, which was considered by the Council and agreed before submission. It seems that the Council forgot about these many years of work when turning against this application on the basis that separate paid pre-application advice had not been obtained.

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<sup>1</sup> CDA.048

3. Decisions about this level of growth will normally come through the plan process – not least because it is rare to find the commitment that the Appellant has shown and the significant investment in the scheme to date without plan support. However, as explained below, this is an authority where the plan process has failed. Dorset Council was formed in April 2019 when it halted work on the emerging East Dorset Local Plan Review, before progressing its own plan which it then abandoned in March this year. Development needs in Dorset now need to be addressed without an up-to-date plan.
4. Notwithstanding the significant undersupply of housing and the lack of any plan-led solution to this shortage, the Council have resisted this appeal on the basis of a series of unsustainable and resolvable technicalities that have not withstood scrutiny. Points on the Council’s approach to this application and appeal will be reserved for costs submissions, and are not the focus of these submissions. But for the purposes of determining the substance of the appeal, it is important to take stock on where we are now.
5. There were nine reasons for refusal, the majority of a technical nature which could and should have been resolved through requesting further information<sup>2</sup> or simply allowing the Appellant to provide it – which it pleaded to be allowed to do. RFR9 was withdrawn on the basis of evidence provided before the determination, but after the Committee Report was written. Three of the eight maintained reasons for refusal were withdrawn by the Council during the Inquiry but before the Appellant had started to give its evidence:
  - 5.1. Ecology: Mr Lang’s evidence advised that the Council’s concern about nutrient mitigation from a Habitats Regulations perspective could be dealt with by way of an appropriately-worded condition preventing occupation until credits have been obtained. Following this evidence, the Council agreed to deal with this issue through including a condition to that effect.
  - 5.2. Education: the Council has now conceded that the St James’ First School can be expanded on its existing site, such that this reason for refusal falls away. Further, the Council has now agreed to the Appellant’s original proposal to create a mechanism to

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<sup>2</sup> As the Council is required to do by the EIA regulations if it considers that it cannot reach a conclusion on the likely significant effects of the proposal: regulation 25(1) Town and Country Planning (Environmental Impact Assessment) Regulations 2017

alternatively provide for a Primary School site at the Local Education Authority's election. If this option is deployed, it will mean that more children can be educated without leaving Alderholt, and that those children will be able to feed through the two-tier system into the 'local' secondary school in Fordingbridge rather than commuting to Cranborne and Wimborne for Middle and Upper education, delivering further benefits for children in the area. In both school options, nursery provision will be included.

5.3. Viability / affordable housing: after Mr Verdi's evidence, the Council accepted the Appellant's offer made two weeks before the start of the Inquiry for 37% affordable housing provision, equating to 629 homes. This is reflected in the s.106 provision.

6. Since those issues are resolved in planning terms, the Appellant does not propose to address the procedural history that explains their resolution in these closing submissions.

7. The outstanding issues can be summarised as follows:

7.1. The acceptability of the location in sustainability terms: RFR2 alleges conflict with the settlement hierarchy, suggests that it has not been demonstrated that the proposal would limit the need to travel and offer a genuine choice of transport modes. Whilst the development plan did not anticipate this level of growth at Alderholt, it is agreed to be out of date and the role of Alderholt as a place to meet the needs of its residents and neighbouring communities would be substantially enhanced by the proposals. Doubts as to the long-term viability of the facilities and bus service have not been made out in evidence. The need to be travel would be limited through the provision of shops, services and education opportunities, with journeys in Alderholt possible by foot and cycle, and a new regular bus service secured by planning condition would provide a genuine choice for a large proportion of trips beyond the settlement.

7.2. Traffic and highways: it is agreed that the question is whether there would be an unacceptable impact on highway safety, or the residual cumulative impacts would be severe. In truth, the Council's case (supported by the R6 parties) here is without substance. (1) The Council's traffic expert maintains that there is a risk to the operational capacity and safety of the link road network in the event that the

Appellant's road-widening proposal for Hampshire roads could not be achieved or achieved entirely. This is a surprising position for the Council to take, given that Dorset had previously modelled up to 1,750 dwellings through Paramics and identified no concerns. But in any event, Mr Fitter was (in the Inspector's words) "*reluctant*" to identify any particular areas of concern in the network, and unable to pinpoint the 'break point' at which acknowledged existing localised constraints would tip from acceptable to unacceptable. (2) In respect of the Council's second issue, concerning capacity at the junction at Fordinbridge, Mr Fitter accepted that "*as a traffic engineer, [he] cannot say there cannot be a solution*".

7.3. National Landscapes: The Council's National Landscapes expert, Mr O'Kelly, accepted that his sole outstanding concern with the development's impact on the tranquillity of Cranborne Chase AONB was the impact of more cars being visible to recreational users, and that this was not a "*showstopper*" justifying refusal. The only mitigation measure he advanced was to "*simply not build the development*". The 'more cars' generated by this proposal, based on agreed transport evidence, equates to the difference between seeing an average of one car every 27s instead of one car every 40s. As Mr Bushby, the Appellant's expert, explained to this inquiry, the impact of this change on the relative tranquillity is negligible to slight at most. All other concerns have been addressed through s.106 or condition.

7.4. Retail: The Council's retail reason for refusal was that the application was not accompanied by a sequential test or retail impact assessment. The Retail expert for the Council is now satisfied that the sequential test and impact test requirement has been complied with, and that there will be no 'significant adverse impact' as a result of the new development. The only residual issue for relating to the reason for refusal related to the terms of planning conditions. That should have been the end of the matter, but the Council has sought to pursue a new concern relating to the impact of the proposed local centre location on the existing Co-op, which has not been previously raised and is without foundation (to the extent that it is a planning matter that can be considered at all).

7.5. Local Centre location: The masterplanning reason for refusal was originally framed as a concern that the proposed local centre does not optimise and sustain an appropriate

mix of development. The Council has consistently failed to articulate why the Appellant's proposed local centre location is unacceptable. This issue which crystallised in the Council's evidence is that Ms Fay, who has no Urban Design qualifications, prefers her alternative location for a local centre to that carefully considered and designed by the highly experienced Mr Worsfold. This preference, even if justified (which it is not), misses the point of the relevant test in the NPPF.

8. It is only the first of these points which truly goes to the principle of development. For the reasons set out below, none of these matters comes close to justifying the refusal of planning permission when the tilted balance is applied.

### **Principle of development**

9. The principle of development should be the starting point of this appeal. National policy encourages local authorities to plan to meet their housing needs through a plan-led approach that identifies and allocates sites for development. However, notwithstanding a significant housing land supply shortage and a growing housing need, Dorset and its predecessors have not done this.

### **Housing need / HLS**

10. The chronic housing shortage in Dorset provides the backdrop to this application. While there are some differences between the parties in calculating the five year HLS, the short point is that the parties agree that the 'tilted balance' is engaged. As such, this application should be approved unless it generates "*adverse effects*" that "*significantly and demonstrably outweigh the benefits of granting permission*".
11. The difference between the parties on HLS can be shortly summarised, since it was explored in the roundtable session. There is a dispute in respect of a limited number of sites which are said to contribute to the supply. Further, the Appellant questions the application of a cap in the unusual circumstances where the authority's identified need in the plan

related, albeit in respect of the wider area covered by the EDCLP, is higher than the uncapped SM figure. The purpose of the cap is to ensure that the SMHN approach does not result in a figure disproportionately higher than the existing plan need, rather than seeking to justify a figure which is lower than it. In the roundtable session, the Inspector asked the parties to identify a HLS based on certain deductions to the supply, but assuming against the Appellant on the cap point. The figure set out in the subsequent note<sup>3</sup> is 3.66 years.

12. The short remaining point about the cap is this: the capped figure is not the actual housing need. The actual housing need is the uncapped SM figure, and thus the figure derived through applying the cap in fact represents only part of the housing need.
13. Looking beyond the five year supply, it is immediately apparent that sources of supply beyond the five year period are dwindling. Dorset has only identified c. 1,500 dwellings in the HLS Report (CDF.031) beyond the planned period and the Appellant takes issue with the deliverability of a number of those schemes. This failure to plan essentially renders East Dorset wholly reliant on windfall development for the foreseeable future. There is no prospect of further plan-led growth until after the adoption of a new Dorset Local Plan, which has not yet been prepared and will not be adopted before May 2027. Thus, realistically, delivery of homes through plan allocations will not be achieved before 2030 at the earliest, well beyond the existing sources of supply being exhausted. This amounts to a housing crisis in the area.
14. In addition, the analysis provided by Tetlow King<sup>4</sup> demonstrates that there is an ongoing net need for 1,717 affordable homes per annum (over the period 2021/22 to 2037/37), in Dorset. This is only marginally less than the SMHN for the whole of the area. The need is vast and the supply is limited. On any analysis, there is compelling case to grant permission for homes to address the significant undersupply of affordable housing.
15. The contribution of this development to these housing needs would be significant. With the delivery of 173 homes anticipated in 2027 and 403 in 2028, the development will contribute to Dorset's 5-year Housing Land Supply. Further, Mr Mound's evidence was that it is anticipated that the first phases of development will be contracted for affordable housing,

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<sup>3</sup> CDK.013

<sup>4</sup> Jacobs Proof CDG.009, App B

which will ensure that much-needed affordable housing will become available at an early date. The delivery of 629 affordable homes will be a game-changer for housing supply in Dorset. Just as importantly, Alderholt will continue to meet housing needs beyond the five year period, including in the period between the adoption of any future local plan and the delivery of housing through it, and help sustain supply in the longer term. These are obvious, weighty benefits to the scheme.

### Policy context

16. The East Dorset settlement boundaries were drawn up in the 2002 East Dorset Local Plan. The Christchurch and East Dorset Local Plan was drafted in 2014, and was prepared on the assumption that a second part of the plan would follow to allocate sites to meet housing needs. Part 2 of the plan never materialised. However, as Mr Jacobs explained in his evidence, as part of the CEDLP review and the concept of strategic growth at Alderholt became the single strategic development option within East Dorset District Council's Regulation 18 draft plan, published in July 2018 (CDD.021). The accompanying sustainability appraisal identified no impediments and scored the proposals positively for sustainable transport, services and facilities, climate change, economy/employment, and housing<sup>5</sup>.
  
17. The review of the CEDLP ceased when East Dorset District Council became part of the new Dorset Unitary Council in April 2019, in favour of the production of a Dorset-wide plan. Again, the plan contemplated growth at Alderholt, either in a limited way on part of the application site<sup>6</sup> or across the whole application site together with development to the north of Station Road and around Bonfire Hill. Each of the locations of growth was identified as providing "the opportunity to improve access to services and facilities in Alderholt"<sup>7</sup>. The sustainability appraisal conclusions are striking. Negative effects were identified for biodiversity with mitigation measures identified (the same measures adopted by these proposals); negative effects were also identified for climate change but with mitigation measures identified that are incorporated in these proposals; and negative effects

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<sup>5</sup> See CDD.021, Table 6.4 p 75, Column Policy 5.28

<sup>6</sup> CDD.017, Fig 8.62, p 144, area 01\_ALDE

<sup>7</sup> CDD.017, Fig 8.61, p 143

in respect of historic environment were identified but only in respect of land parcels outside of the appeal site. The larger development proposal scored positively for community, housing and economy.

18. Pausing here, this work reflects and informs the long-term engagement between the Appellant and the Council and its predecessors in the promotion of the site through the plan process. It also evidences that at no point before the decision under appeal has the Council suggested that Alderholt is not a sustainable location for significant housing growth. Indeed both the Council and its predecessor authorities have expressly taken it forward as a plan option.
19. Notably, given the heavy constraints in the Dorset area, that emerging Regulation 18 plan sought to accommodate around a third of the housing need in the area on Green Belt sites. There are two points that flow from this. First, it is a recognition that given the housing need and the level of constraints, the high threshold of “exceptional circumstances” was met for releasing land from Green Belt. Second, the prospects of those sites coming forward *before* a new plan is place are low, given the in principle objection to Green Belt development.
20. Dorset Council’s progress of the new plan slowed and the Appellant understood that there was no immediate prospect of an allocation at Alderholt. Accordingly it turned to preparing the application. It was proved right: in March 2024, the Council abandoned the plan altogether in favour of adopting a ‘new style’ plan in 2027. It is in this context, and after nearly four years of timetable slippage on the emerging Dorset Local Plan, that this planning application was submitted.
21. This context is relevant.
22. First, it drives home the reality that there are very few sites in the East Dorset area where significant development of this scale can take place. Extensive work by the Council’s predecessor culminated in this Alderholt site being identified for strategic development, an option which was taken forward by the Council in the Regulation 18 Dorset Local Plan.
23. Second, it reminds again that any future Dorset Local Plan is still at least three years off, and will come at the earliest 13 years after the CEDLP and 25 years after the EDLP with



no intervening review. While work has stalled, the housing need in Dorset continues to grow considerably with little-to-no prospect of being met. It is unfortunate that the Council has not developed a strategy for much-needed development within the plan process. But it is the stark reality that plan-led growth is too far away to meet housing needs. Delaying the delivery of housing also delays the delivery of the economic benefits of housebuilding.

24. Third, and importantly, Ms Fay notably accepted in XX that the settlement hierarchy set out in Policy KS2 is the only policy conflict she relies upon to resist the development location. She also accepted, eventually, that the policy is out of date. She was right to make that concession given that the policy was adopted 10 years ago, the CEDLP is no longer meeting the needs of the area, and in truth has little bearing on the context that currently faces Dorset. The concession – and the reasons for it – were studiously ignored in the Council’s closing submissions.

25. The Appellant realistically accepted prior to the inquiry that the proposed development is in conflict with this policy: the outline planning application is for a scale of development in Alderholt far beyond that envisaged by drafters in 2014. But time has moved on, the housing land supply situation is dire, there is a desperate need for homes and affordable homes, and there is no plan to deal with this shortage. The “*full*” and decisive weight that Ms Fay places on this policy, notwithstanding the fact that the policy is (as Ms Fay eventually accepted) out of date in terms of NPPF, para 11(d), is obviously unsustainable.

26. Further to this, Policy KS2 does not have the effect of restricting development at Alderholt that Ms Fay contends. Ms Fay in her evidence clarified that the sole conflict she relied upon between the development and Policy KS2, and with regards to spatial strategy more generally, is in relation to the scale of the development. When considering the interpretation of Policy KS2 and the weight that should be attached to it, it is important to look at what it actually defines Alderholt’s role to be. The Policy names Alderholt as a “Rural Service Centre”, which have the designated role as “*main providers for the rural areas where residential development will be allowed of a scale that reinforces their role as providers of community, leisure and retail facilities to support the village and adjacent communities*”. The policy provides that “*the location, scale and distribution of development should conform with the settlement hierarchy*” and this hierarchy should “*help to inform service providers about the provision of infrastructure, services and facilities*”. KS2 supports

housing growth which supports the function of the rural service centre. As Mr Jacobs explained, KS2 identifies a particular role for rural service centres which is distinct from the settlement hierarchy for the urban areas – a point borne out by considering policy LN7 which identifies the rural service centres as locations for the delivery of new services<sup>8</sup>.

27. Stepping back, it has been broadly common ground during this inquiry that Alderholt is not currently “*sustainable*”, meaning that existing residents need to leave Alderholt to access the majority of facilities and services – usually by private car. Without getting sidetracked by the question of whether Alderholt is currently “*underperforming*” in its role as a Rural Service Centre, it has also been broadly common ground that a certain level of residential development would realistically be required in order to generate the provision of additional facilities and services in Alderholt, which would enhance its performance of that role. Policy KS2, drafted in its 2014 context, understandably does not anticipate or provide for these realities that Dorset faces a decade later. But notwithstanding this, the proposed development is consistent with promoting Alderholt in its role as a “Rural Service Centre” through a scale of development that will actually bring the enhancements that the policy envisages Alderholt providing. To the extent that there is an acknowledged conflict between the size of the proposal and the out-of-date Policy KS2, it should be understood and assessed in the context of the policy’s wider objectives.

28. In the absence of an up-to-date guide for the location of the development, it is necessary to consider whether locating this scale of development here accords with the NPPF. A range of paragraphs makes clear how this question should be approached:

28.1. Paragraph 74 explains that the “supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes)”. This is precisely what these proposals involve: a significant extension to an existing village which is well located and designed, and where a range of infrastructure and facilities will be delivered together with a genuine choice of transport modes.

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<sup>8</sup> Contrary to para 11 of Council’s Closing, which suggests that growth of employment and services is not supported.

- 28.2. Paragraph 83 notes that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the *vitality* of rural communities, identifying opportunities for villages to grow and thrive, especially where this will support local services. This again is the case here: an undersubscribed school, a closed GP surgery, and a virtually non-existent bus service will, for examples, be reinvigorated or rebuilt, relocated an expanded, and hugely boosted respectively.
- 28.3. Paragraph 89 addresses rural employment opportunities, noting the potential public transport constraints but nonetheless recognising the needs for employment in these areas.
- 28.4. Paragraph 97 seeks positive planning to provide for the social, recreational and cultural facilities and services the community needs. This is precisely what will be delivered here. Significant new facilities – in a local centre of c. 4,000 sq m (more than 10 times the existing retail provision in Alderholt) – including social infrastructure such as a community hall, pub/restaurant uses, a town square, and extensive new recreational facilities.
- 28.5. In Section 9, paragraph 109 seeks to “actively manage patterns of growth in support” of the objectives in paragraph 108. It continues that “significant development should be focused on locations which *are or can be made* sustainable, through limiting the need to travel and offering genuine choice of transport modes”. These twin objectives are clearly met by these proposals. The need to travel will be limited – for example, 21% of employment trips will be “internal”<sup>9</sup>, and most shopping trips will be met through the local centre. Even when people drive within the village, the effect of the development is to limit the need to travel. There will be a genuine choice of transport modes to access all education trips, most if not all shopping needs, all daytime indoor leisure trips, and upwards of 40% of work destinations. Most of this choice is through the new bus service, although the services at Fordingbridge will be accessible through a newly promoted cycle and pedestrian link – not a choice for everyone, but for many. A supermarket shop will not be met in the village (unsurprisingly), but will be possible by bus at Ringwood. Whilst the Council identifies a series of trips that would not be possible by public transport – such as an

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<sup>9</sup> An agreed assumption in the TIR, not directly challenged in the evidence. See further below on TIR.

evening trip to Salisbury or Bournemouth – this reductive approach finds no support in national policy<sup>10</sup>.

28.6. Importantly, paragraph 109 continues that “opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”. On this point, it is worth recalling for one moment the current position of this part of Dorset (a point wholly ignored by the Council in its evidence and submissions). The CEDLP notes that at that time just 1.1% of work journeys in East Dorset were by public transport – including all those locations suggested by the Council to be *more sustainable*. Against this, 21% of work trips will be capable of being walked or cycled, and of those 79% which leave Alderholt, upwards of 40% will be capable of being made by public transport or cycle. With the scheme in place, Alderholt will perform relatively far better than the rest of the former East Dorset area. Further, Alderholt will itself be transformed from a village with little to no employment opportunities, very limited retail provision, and no meaningful public transport offer, to a place with hundreds of jobs, an increase in retail and services offer by an order of magnitude, and a comprehensive bus service secured by condition.

28.7. Paragraph 114 says that when considering applications, it should be ensured that “appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location”. All highways witnesses agreed that all appropriate opportunities had been taken up, given the type of development and location.

29. Thus when assessed against the policies in NPPF – as must be done, given the agreement that KS2 is out of date – the proposals are fully compliant. Alderholt *can be made sustainable* having regard to the characteristics of the area; the significant boost to facilities and employment in the village will be coupled with a genuine choice of modes for external trips. Together these steps will reduce the need to travel for existing and new residents and give a genuine choice of transport modes for many of those trips which do leave Alderholt. In other words, with the development proposals and the measures to be secured,

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<sup>10</sup> In suggesting that services only run until 1900 (Closing, 19), the Council seems to have misunderstood the timetable (CDA.098, p 117). The last Ringwood – Alderholt service leaves at 1910, but the last Alderholt – Ringwood service is at 2030, and the last Fordingbridge – Alderholt service is at 1935.

## Emerging Neighbourhood Plan

30. The draft Neighbourhood Plan was published shortly before the commencement of this inquiry, the publicity period expired on 25 June 2024 and the Plan has now been submitted for examination. It is common ground that the draft plan has, accordingly, now reached an ‘advanced stage’ by reference to the test in NPPF paras 49b and 50. This does not, however, entail that a prematurity ground for refusal arises. It does not. As Mr Jacobs explained, the Neighbourhood Plan process can continue notwithstanding the outcome of this application: the draft Plan makes no reference to the appeal scheme, and the land within the appeal scheme is not part of the plan.<sup>11</sup> To the extent that there is any conflict at all with the emerging Plan, that conflict is minimal and should attract limited weight.
31. In her evidence, Ms Witherden, who has been involved in drafting the Neighbourhood Plan, set out the policies that she considers the development to conflict with. These boiled down under XX to the Parish Council’s key concern about a conflict with Policy 7, which identifies that “*sufficient land is allocated in the Neighbourhood Plan, which together with the extant planning consents and potential for further sensitive infill within the village envelope, should meet the identified housing target over the plan period.*” Ms Witherden confirmed in her evidence that the relevant housing target referred to here is taken from the Dorset need figure, calculated for Alderholt pro rata. When questioned, Ms Witherden confirmed that the objection was not a direct one, but was footed on the basis that the development would essentially fulfil the housing target for Alderholt such that the allocation in the Neighbourhood Plan is not required. To the extent that a conflict may be found here at all, the oversupply of housing in Alderholt in the context of chronic district-wide shortage does not present a cogent counterbalance to the housing supply benefits of application.
32. Ms Witherden only attributed the potential conflict with Policy 8 ‘limited weight’ (CDG.026, §14, p.5), which concerns the reinforcement of a ‘village high street’ centred

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<sup>11</sup> See: Paras 17-19 of The Planning System General Principles. See also: *Larkfleet Ltd v SSCLG* [2012] All ER (D) 207 (Dec), in which Kenneth Parker J stated that “*prematurity as correctly understood and applied, is simply one relevant circumstance among others, and the weight to be given to it will depend crucially on the individual circumstances of each case.*”

on Station Road. The potential effect of that policy was, however, canvassed extensively by the Alderholt Parish Council in questions to Mr Jacobs. In short, Ms Witherden is right to attribute this ‘limited weight’ to this policy, to the extent there is a conflict at all. The only impact of the proposed development on the enhancement of Station Road is indirect, and would arise out of the diversion of residents towards a different local centre with additional facilities and services available, and that is intended to offer the sense of village centre that Policy 8 seeks to reinforce. Further, as Mr Jacobs explained, the Neighbourhood Plan’s vision of converting residential properties into commercial shops along the Station Road is realistically implausible and blinkered to the commercial realities at play.

33. It is also notable that none of the policies of the Neighbourhood Plan identify any particular constraint in respect of the appeal site. It does not impinge on key views or local greenspace, and it does not conflict with any land use allocation. Whilst it is true to say that the level of growth is significantly greater than that promoted in the Neighbourhood Plan, that is an inevitability since the Neighbourhood Plan promotes only incremental growth, without the benefit of an up-to-date local plan to identify how the needs of the planning authority’s area as a whole might be met at Alderholt. The Neighbourhood Plan effectively ignores the future planned growth of Alderholt – despite it being brought forward in the emerging policy context set out above. The short point is that whilst the Neighbourhood Plan does not contemplate this level of growth, nor does this level of growth prevent the plan fulfilling its function of providing for planning within the existing settlement boundary and identifying those parts of the wider Neighbourhood Plan area which merit particular protection.

#### Planning merits of the Application

34. The upshot of this is that, in the absence of an up-to-date plan, the principle of development falls to be considered on the application’s own merits. The application, judged on its own terms, presents a compelling planning case.
35. When considering the application on a Dorset-wide level, we have already seen that the proposals will provide 1,700 new homes in Dorset, 629 of which will be affordable. This

presents a substantial, weighty planning benefit in itself. However, remarkably in a region featuring extensive areas of National Landscape, National Forest and Heritage Coast, the proposal will also deliver those homes in keeping with the character and appearance of the area, and without any direct impact on Dorset's protected sites

36. At a local level, the proposed development will deliver considerable benefits to the existing population of Alderholt. As noted above, it was accepted by Ms Fay that Alderholt is not, at present, 'sustainable': it does not have the facilities and services to meet the majority of residents' needs, and residents are required to use private transportation for the vast majority of journeys for employment, retail and leisure purposes. By way of illustration, the existing First School's pupil roll sits at around 50% and the school and its pupils would greatly benefit from an increased intake. It was also agreed by Ms Fay that a certain level of residential development would be needed in order to generate the facilities and services to serve the existing community.

37. It became clear through Ms Fay's evidence that she had not, however, given thought to the actual level of development that would in real terms be required to improve Alderholt's function. She had only considered the extremes of much larger development and no significant development at all. The Appellant's position is clear: while it is not the Appellant's job to convert Alderholt from an 'unsustainable' to a 'sustainable' development – whatever that might mean – the proposed development will nevertheless facilitate the provision of employment space and additional facilities, services and public transport in Alderholt. Realistically, these improvements will not otherwise come without development on this scale and at this location. Placing a development of this size in this location is good planning, from the perspective of Alderholt as it stands. Further, as Mr Jacobs pointed out, this application does nothing to prejudice the continued expansion of adjacent sites, should the Council seek to revert to the 'Option 2' that originally formed the backbone of strategic development thinking under the predecessor Council.

38. This application also represents good planning for the future residents of Alderholt Meadows. It is a significant benefit to this development that employment opportunities, convenience shopping and other facilities including healthcare facilities can be accessed from anywhere in the development by a short walk. While it is a reality that cars are likely to remain a feature of rural life in Alderholt, it is a beneficial element of this application

that pleasant walking routes will link the new development to the existing village and St James' First School, that nearby settlements (in particular Fordingbridge) will be regularly accessible by public transport and Fordingbridge can be accessed via an improved cycle route. There will also be significant open space and recreational provision.

39. It is also important to not forget the series of benefits to this application that have not been the subject of evidence in this appeal. A 26-line table summarising these various economic, environmental and social benefits can be found at p.50 of Mr Jacob's proof of evidence (CDG.009), but it is worth highlighting that among these are substantial biodiversity enhancements, a new care home, the delivery of significant new open space, and provision of sustainable energy solutions in the form of a s.106-secured microgrid, which will not only work towards net zero objectives but will also result in cheaper energy being passed on to residents.
40. It is against this persuasive planning case that the various technical and design objections relied upon by the Council need to be judged.

### **Highways impacts**

41. The starting point here is that whilst RFR7 alleges "an unacceptable methodology and the inclusion of insufficient information to correctly identify the highways impacts arising from the proposal and how these could be mitigated", the scope of the transport assessment was agreed with Dorset Council before the application was submitted during a formal pre-application process. Indeed, Dorset Council was commissioned to run its microsimulation model to address the level of growth proposed, which helped inform the scope of the TA. The agreement between the parties also included, importantly, the assumptions made in the Trip Internalisation Report. This document was intended to explore how Alderholt would function with the benefit of improved services and facilities, and with new employment opportunities. The agreed assumptions in the TIR – which Mr Fitter belatedly attacked as heroic – are thus borne of careful engagement and thought with the highways authority. Aside from Mr Fitter's assertion in his oral evidence, there is no evidence before the inquiry to contradict the TIR's assumptions.



42. A consistent line of attack at the Inquiry from the Council was that the sensitivity testing carried out by the Appellant amounted to a concession that the assumptions in the TIR could no longer stand. This is obviously wrong, as Mr Rand explained. The sensitivity testing – initially requested by National Highways – was to ensure that the affected junctions would continue to operate satisfactorily *if* external trip numbers were materially higher. That is what sensitivity testing is: it contemplates the “what ifs”, without agreeing that the base assessment is wrong.
43. Since it was belatedly requested by Hampshire County Council, further sensitivity testing was also carried out in respect of junctions in Fordingbridge. Although Mr Fitter’s evidence suggests that this was inadequate, he accepted in XX other factors that make the assessment robust: specifically, the assumption that all of the housing is market housing, rather than including affordable housing and the care home which have lower trip rates<sup>12</sup>. Again, the Council ignored this concession in their closing submissions. In truth, there is nothing in this point.
44. Accordingly, the Inspector can record that the trip rates used for assessing highways impacts are robust, without going behind the agreed assumptions in the TIR.
45. What, then, are the impacts in question? In terms of junctions, in light of the agreement with National Highways, the only residual issue is the Provost Street junction in Fordingbridge. As Mr Rand explains, the capacity of this junction will be exceeded by 2033 without the development, with material delays. A solution is therefore required whether or not this development comes forward. The Appellant proposes, and would fund, two alternatives:
- 45.1. Option 1 would be a focused widening at the existing junction which would improve capacity by allowing an extended two lanes of traffic. The Council accepts this is deliverable and raises no safety concerns. The only issue between the parties is whether the calculated RFC is acceptable, being 0.84. As Mr Rand explains, an RFC of less than 1 indicates that capacity is not exceeded, but an allowance is normally made for planning purposes to seek to achieve an RFC of less than 0.85. But when compared against the future baseline, the development + mitigation RFC shows a

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<sup>12</sup> Rand Rebuttal CDG.044, 1.33-1.36

significant improvement (RFC 0.84 vs future baseline of 0.99), and any delay is reduced (86 seconds vs 152 seconds in future baseline)<sup>13</sup>. These impacts cannot in any world be described as “severe” since they would be an improvement on the future baseline.

45.2. Option 2 is a more comprehensive scheme, introducing a new one way system in Fordingbridge with the additional benefit of avoiding delay at the narrow bridges. HCC identifies various concerns about the proposal, but as Mr Fitter accepted in XX, none of them are insurmountable. The RSA also identified certain safety issues which would need to be addressed in detailed design, but they are all capable of being addressed (Rand EiC).

46. In short, there is no dispute that Option 1 is deliverable and safe. It would indisputably mean that there were no severe effects at Fordingbridge. Option 2 may be superior: whether it comes forward will be a matter for HCC, but it is not necessary for it to come forward to make the development acceptable.

47. The further issue raised by Mr Fitter relates to road widening. It is important to remember the context of this point:

47.1. It is agreed that the existing network operates safely notwithstanding localised pinch points and that development traffic is unlikely to significantly worsen highway safety<sup>14</sup>;

47.2. It is agreed that no assessment of link capacity is required;

47.3. It is agreed that widening works would have to themselves be delivered safely, and that the assessment of those aspects of safety need not be made now<sup>15</sup>;

47.4. It is agreed that widening to allow a large vehicle to pass a car is sufficient;

47.5. It is agreed (despite A4A’s dispute) that such an assessment can be based on Manual for Streets and vehicle tracking;

47.6. It is agreed that there is no issue if some pinch points remain.

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<sup>13</sup> CDG.044, 1.27

<sup>14</sup> CDG.033, 4.14

<sup>15</sup> CDG.033, 4.16

48. The Topic Paper records expert agreement that *“The proposed widening is minor in any one location and is within the public highway. The widening would not significantly change the existing layout, such that the impact of the widening on highway safety is likely to be negligible.”*<sup>16</sup>
49. The dispute such that it exists is that Mr Fitter is not satisfied that all of the areas of widening can be delivered. Yet despite being pressed, he was unable to identify to the inquiry any location where that concern materialised – frankly, it does not appear that he has considered them. The Appellant’s assessment has included a Lidar survey of the road and a comparison with the defined highways boundary. Localised constraints have been carefully identified. Given that the absence of widening would not create an unacceptable impact on highway safety (since the roads operate safely now) and would not create any “severe” effect on capacity, it is difficult to see where this point goes. Widening – which has been shown to be deliverable – will improve the operation of the network from the current position.
50. In terms of non-motorised users, concerns are raised about the standard to which the proposed new cycle and footway to form a link to Fordingbridge will be delivered. As Mr Rand explained, the road section of the link can generally be delivered to 3m width, including relevant safety margins. In one location this would reduce the carriageway width by 0.4m, but still leaving sufficient carriageway for a car and large vehicle to pass (the width agreed as being appropriate on the local network). The alternative, as he explained, would be a localised narrowing of the shared path. Whilst these points were heavily focused upon by the Council, it is agreed that the scheme would encourage the use of sustainable modes and provide a further alternative to private car journeys, particular for commuting.<sup>17</sup> In the circumstances, it seems inconceivable that the delivery of this link will be frustrated by the highway authorities, for example by not supporting the proposed reduction in speed limit or not supporting the improvement of the off-road elements of the route.
51. The Council has also challenged whether pedestrian movements have been prioritised, particularly focusing on the northern part of Ringwood Road. Mr Rand did not “redesign” the proposals here. Rather, he explained that he saw no impediment to delivering a footway

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<sup>16</sup> CDG.033, 4.16

<sup>17</sup> CDG.033, 4.22

even if a “no dig” solution was required to avoid harm to existing vegetation, but also pointing out that much of the route could also be delivered within the appeal site. Again, it is clear that the delivery of a footway on Ringwood Road is not an impediment to the delivery of the scheme.

52. None of these points comes close to meeting the NPPF’s threshold for refusal. In summary, the impacts on the highways network are shown to be acceptable.

### **National Landscapes**

53. With regards to National Landscapes, the Council rejected the application on the basis that the recreation pressure and traffic generated by the new development would impact tranquillity in the Cranborne Chase AONB. The Cranborne Chase Partnership’s own concern to mitigate the localised impacts from recreational usage has been addressed through securing a contribution to mitigation.

54. The basis for the Council’s refusal has narrowed during the course of the inquiry, with Mr O’Kelly accepting in his evidence that he did not support the Council’s concern about the recreational impact of the development on the AONB. He was right to do so: as the Inspector noted from the National Landscapes website, National Landscapes encourage recreational usage and the AONB is actively promoted by the AONB Partnership as a place of recreation for Dorset residents in its Management Plan. Mr O’Kelly also accepted in XX that he was not concerned with the noise impact of additional traffic, after being questioned on the findings set out in the Appellant’s noise assessment (at CDA.085), which have never been disputed.

55. The only remaining National Landscapes issue outstanding between the Appellant and the Council concerns the visual impact of cars on roads within the Cranborne Chase AONB. Standing back, it is a notably remarkable feature of this application that the visual impact of more cars on the road is the only point between us. The 2014 Core Strategy explains that, in respect to East Dorset, 45% of the region is National Landscape, 45% is Green Belt, 9.7% is nature conservation and around 10% is national or international nature designation,

and we know that Dorset as a whole is heavily constrained with environmental and landscape constraints. Zooming out, the National Landscapes website states that 66% of people in England live within half an hour's journey time of a National Landscape. The opportunity to secure significant residential development in Dorset that has no direct impact on these protected sites is a huge point in favour of granting this application. This is particularly so given that some increase in traffic is an unavoidable aspect of any residential development within Dorset and is not a negative particular to this application.

56. In any event, this objection is not sustained by the detail. The agreed transport flow for the relevant road in the Cranborne Chase AONB project an Average Annual Weekday Traffic increase of 785 cars on the road as a result of the development in 2033, reflecting an increase of 47%. This translates in real terms to the difference between seeing one car on average every 40s and one car every 27s, while noting the peaks and dips in both figures varying (but varying correspondingly) during the course of the day. Although Mr O'Kelly refused to accept it, the impact of this variation upon a reasonable perception of tranquillity on the roads is clearly – as Mr Bushby explained – “*negligible*”.<sup>18</sup>

57. Viewing this issue through the lens of Policy HE3, the Appellant's submissions is that there is no conflict with the applicable first three limbs of the policy. The fourth limb, which relates only to development that sit within the AONB boundary, does not apply.

57.1. With regards to the first limb of the policy, the “*negligible*” or “*minor*” uplift in visible traffic is not so significant as to conflict with the policy to “*protect and seek to enhance the landscape*”. On the contrary, as Mr Jacobs pointed out, the opportunity to locate a significant site in a location that has only negligible impact on the National Landscapes implicitly contributes to achieving this policy objective, when recalling Dorset's pressing need to grapple with the dire housing shortage. Alternatively, if the policy is interpreted in such a way that a conflict is found by virtue of the visual traffic impact, this conflict is too minor to be given weight. If such an interpretation were to be adopted, however, it is hard to envisage how any planning application for development on the scale that Dorset needs could be policy-compliant. The reading is

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<sup>18</sup> The specific attack on Mr Bushby's assessment, repeated at paragraph 56b of the Council's closing, related to the sensitivity attributed to receptors in Cranborne. But both in XX and submissions Ms Murphy KC misread the receptor being described: it was not just “visitors” to Cranborne but also “residents” of that settlement, going about their day-to-day lives rather than lingering their to appreciate what can be experienced of the tranquillity of the AONB in the village centre: see CDA.083, p 89, heading to para 8.493.

also inconsistent with the NPPF which seeks to *minimise* impacts from development outside of AONBs, recognising such diffuse impacts may be unavoidable.

57.2. The proposal has demonstrably considered the five factors set out, and in particular has assessed the point relating to ‘tranquillity’. The tranquillity impact of the proposals was initially analysed in the Environmental Statement submitted with the application (CDA.013 – para 8.222), and the Appellant provided a tranquillity assessment (CDG.017, Appendix A) when it became clear that this was an issue of concern to the Council.

57.3. With regards to the third limb, the proposals align with the objective of the Management Plan to promote recreational activity in the AONB. The Appellant has engaged with the Cranborne Chase Partnership and have agreed to mitigation contributions to the Partnership’s satisfaction.

58. Mr O’Kelly, in his evidence, was not able to point to anything additional by way of mitigation, save to “*not build the houses*”. Ms Fay also agreed with the Appellant in XX that any impact on tranquillity cannot be further mitigated. The NPPF provides clear guidance on how to approach this issue:

59. The Council accepts in its closing that the impact on the AONB could not itself warrant the refusal of permission. The short point, which Ms Fay came close to conceding when acknowledging that this issue was only relevance to the exercise of the wider planning balance, is that this should never have been a reason for refusal at all. Given that it is relied upon by the Council and maintained as a reason for refusal, the evidence unequivocally demonstrates that it cannot be sustained.

## **Retail**

60. It is surprising that the Council has maintained an objection to this appeal on the basis of retail, given that the reason for refusal was based solely on the fact that the application had not been accompanied by a sequential test or retail assessment. The Appellant subsequently provided a Retail Impact and Sequential Test Assessment (“**RISTA**”) and the Council’s

expert accepted that there would not be a ‘significant adverse impact’ on any relevant centre as a result of the proposed development. This is, as Mr McCallum advised the inquiry, a complete answer to the reason for refusal.

61. The Council’s concern has morphed into a challenge that the new development, which will provide *significantly* improved retail and service facilities to existing and future residents, ‘might’ lead to the closure of the existing Co-op convenience store and as such will conflict with Policy PC5. This argument is, with respect, hard to follow and goes nowhere.
62. First, there is no good reason for the Council to raise this as a new basis for refusal at this stage of the appeal. As Mr McCallum explained, if there were concerns about the Co-op closing, they could and should have been raised at the Committee Stage. Reliance upon the submission of the RISTA is no answer to this point. The reason that formed the basis for refusal has been met.
63. Second, none of the experts who gave evidence in this appeal have advised that the Co-op will actually close if a new convenience store is opened in the new local centre. Mr McCallum’s view is that it might but probably won’t close. Ms Reeves’ is that there is a “*risk*” that it will. On any analysis, we are dealing here with a hypothetical that may well not arise. And there is good reason to believe that it never will, based on the fact that the local community will more than double, there will be different convenience store catchment areas, Co-op will have overheads and leases to consider commercially, and the projections show continuing residual turnover increasing from £1.49m for the Co-op until the impact of the development becomes positive between 2035 and 2040 (see RISTA table 13c, CDA.077, p.26). It is also worth recalling that the trade draw assumption in the RISTA is that the new convenience store trades at full capacity from “day one”, in other words that it takes all the trade that it can from the Co-op.
64. In evidence, the Council advanced the case that the existing Co-op is less likely to close if the new local centre is located closer to the current Co-op (but still 400m away, which surprised Ms Reeves when her attention was drawn to the distance). There are a number of sound masterplanning reasons why the Appellant’s proposed local centre location is sound, which have been addressed. But even on the Co-op closure issue, this is a surprising position for the Council to take. On any analysis, the new development will result in a

growing population and greater demand for convenience facilities. It is hard to see how locating the new, additional convenience store *closer* to the existing Co-op, with a tightly overlapping competitive catchment area, as opposed to further away and with a more distinct catchment area, might increase the prospects of the current store. The idea that co-location might generate ‘linked trips’ to buy one item at one convenience store and another at the Co-op is, as Mr McCallum explained, implausible.

65. Third, it has been common ground throughout this appeal that planning policy is not and should not be an anti-competitive exercise. Given this, it would be surprising if the possibility of the Co-op closing was able to stand in the way of the provision of new and improved services being provided elsewhere.

66. Fourth, the anti-competitiveness of planning policy is reflected in the second limb of Policy PC5, which permits development that might result in the loss of existing services if there will be no “*substantial decline in the range and quality of services*”. Much has been said during the course of this inquiry about what the second limb of Policy PC5 might mean, but to the Appellant it is very simple: the second limb simply does not apply to this application. The Policy concerns applications that will ‘directly effect’ existing retail premises, leisure and other local facilities, and this application does not ‘directly effect’ the existing Co-op. Even if this is wrong, there would be no “*substantial decline*” even if the existing Co-op closed. If the existing Co-op closed, it would be because a comparable – if not superior – convenience offering could be accessed locally elsewhere.

67. Otherwise, the only issue between the Council and the Appellant with regards to retail relates to the terms of the conditions on the size and use of the designated retail space. Both parties agree that there is some need to control the form of development, the amount of floorspace and the number of units (Retail Topic Paper, 3.5 and 3.16). However, the Council through conditions are looking to secure tighter restrictions on usage and divided square meterage than are reasonable or desirable. As Mr McCallum explained in his evidence, a degree of flexibility is key to the success of a local centre. The market must be permitted to perform, and changes need to be accommodate to meet demand without onerous or off-putting restriction. Giving effect to this principle is, primarily, what Class E is intended to facilitate. The Appellant’s proposed conditions strike the right balance



between ensuring that the impact of the local centre is controlled, while giving the new Alderholt Meadows local centre the opportunity to thrive.

### **Local Centre location**

68. The test in the NPPF at para 139 sets out that, from a masterplanning perspective, development should only be refused where it is “*not well designed*”. Mr Worsfold has illustrated, principally through the Design and Access Statement, the Design Code and his proof of evidence, that the proposed development has been designed through a step-by-step process, building from the constraints and opportunities presented by the land and the site, by reference to urban design theory and relevant guidance (CDA.049, p.43, 47). In this context it is worth recalling Mr Worsfold’s very substantial masterplanning experience, including not just the conceptualisation of new places, but also their successful delivery on the ground.

69. Mr Worsfold explained in his evidence that the local centre has been positioned by reference to a series of layered factors, including the intensity of use, its occupation, vehicular use and the location of denser forms of residential development, where “*every design decision is connected*”. Careful consideration was given the walkability of routes and the attractiveness of the routes on offer, both within the new Alderholt Meadows and between the new and existing settlements, with the local centre located such that routes could be accessed through the existing recreation ground which provides an attractive route for walkers and cyclists. Whilst the Council has become hung up on journey times<sup>19</sup>, it has not engaged to any degree with the quality and attractiveness of those routes, the ability to make multiple linked journeys by foot or cycle, and the role of detailed design in promoting those routes.<sup>20</sup>

70. The Council took issue with the location of the Appellant’s local centre, which until the exchange of evidence was only put in the most generalised of terms. However, it has consistently failed to explain what it thinks is wrong the Appellant’s proposed local centre

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<sup>19</sup> The proposed Local Centre being within a 15 minute walk of 87% of existing and future residents (CDG.036, 2.18) and within a 17 minute walk of 99% of existing and future residents)

<sup>20</sup> In this respect the Design Code enunciates a clear hierarchy of streets which would prioritise pedestrian and cycle movements.

location, let alone explain how it is “*not well designed*” for the purposes of the test in the NPPF. So far as the evidence shows, the issue boils down to Ms Fay (who it is fair to say has no real experience or qualifications in Urban Design) preferring her alternative location for a local centre, which has slightly faster walking route access, to that carefully considered and holistically designed by Mr Worsfold. Ms Fay’s analysis is wholly academic and mathematical, focusing on only one factor (walking time). Even if Ms Fay is right and her local centre is better-located than Mr Worsfold’s, this does not mean that the Appellant’s alternative falls short of being ‘good design’. But it is demonstrably not a better location. It would sit adjacent to existing, loose-knit and low density development, limiting the scope to co-locate more intensive land uses (sheltered housing, flats etc.). It sits on the same road and thus has no better “passing trade”. Walks from the village would be through existing suburban street form, rather than through public open space and well-planned new streets designed for people first and cars second. Ms Fay’s local centre would not be a lunchtime walk for those working in the new employment location, and would not be readily accessible for care home residents or staff.

71. The Appellant goes further on masterplanning and says that the attractiveness and workability of the urban design is not just good design, but a significant point in favour of granting this application. Whilst the masterplan is flexible, it assists in defining the parameters of a logical and coherent series of places which will represent very high quality urban design. The Design Code will ensure that the designer’s aspirations – not otherwise challenged by any party to the Inquiry – find their way into the detailed design. The possibility of accommodating a school within the masterplan in the future does not in any way undermine the coherence of what is before the Inquiry, contrary to the Council’s opportunistic suggestion that the delivery of an improved educational offer would be a point against, rather than in favour, of scheme.

## **Conclusion**

72. Permission should be granted for this application, which will make significant inroads into providing much-needed housing in Dorset in the face of no plan-led developing and provide significant social, economic and environmental benefits to present and future residents.

73. There is limited conflict with the development plan because the scale of development goes beyond that anticipated in Policy KS2. There is no conflict with KS11. The conflict with HE3 is limited to at most “slight” impacts on AONB tranquillity from increased vehicle movements; the development otherwise protects the landscape character and indeed delivers housing here as opposed to in those wide parts of the area where landscapes are more sensitive.

74. However, determinatively, the most important policies for the determination of the application are out of date. This applies in particular to KS2. The weight to be given to that conflict should therefore be substantially reduced.

75. When the tilted balance is applied, the answer for this development only goes one way. The benefits are together very significant. A substantial number of market and affordable homes. Employment land, local facilities, and a new bus service. An environmentally sustainable form of development. A design code to secure very high quality landscape-led design, and a beautiful place for people to live and thrive. The successful mitigation of all environmental impacts with exception of slight and inevitable impacts of traffic in the AONB. Wider highways impacts that do not come close to meeting the NPPF threshold for refusal, and indeed which with mitigation deliver betterment. There is very little left to weigh against this, and nothing which comes close to “significantly and demonstrably” outweighing the benefits.

76. For all those reasons, this appeal should be allowed.

Richard Turney KC

Natasha Jackson

Landmark Chambers

19 July 2024