
CLOSING SUBMISSIONS
On behalf of Dorset Council
19 July 2024

Introduction

1. These closing submissions on behalf of the local planning authority Dorset Council (“the Council”) should be read together with the Council’s Opening Submissions dated 25 June 2024,¹ which are relied upon in full, save where matters have moved on. This most obviously relates to the Appellant’s changed position in relation to affordable housing and education provision, and on habitats, where agreement has also now been reached.

2. The issues arising in the appeal are addressed in the following order:
 - a. Spatial planning (KS2, NPPF/74 & 109);
 - b. Highways/transportation (pedestrians & cyclists; capacity & safety);
 - c. Harm to the Cranborne Chase and West Wiltshire Downs National Landscape/Area of Outstanding Natural Beauty;
 - d. Housing land supply;
 - e. Affordable housing/viability;
 - f. Education;
 - g. Local centre (location & retail);

¹ CD K5.

- h. Habitats;
 - i. Conclusion on compliance with the plan as a whole;
 - j. Other material considerations; and
 - k. Overall conclusion.
3. Before turning to the detail of those matters, three overarching submissions require to be made at the outset.
4. First, the Council's contention in opening, that the appeal scheme is the wrong size, in the wrong place, has been wholly borne out by the evidence. The scale of residential development proposed is not limited enough to accord with policy KS2, i.e. at a scale which supports the existing rural service centre of Alderholt. But it is not large enough to achieve the grand ambition of the now withdrawn regulation 18 Draft Dorset Local Plan, which envisaged a new self-contained town offering a wide range of amenities, services and facilities, such that it would transform the settlement's role and function. This is considered further below.
5. Secondly, the approach the Appellant has taken to the promotion of this strategic scale scheme, in the absence of an allocation and without undertaking proper pre-application consultation, has put enormous pressure on the appeal process. Most of the Council's witnesses have had to prepare for the inquiry on the basis of new information, evidence and technical data provided during the course of the appeal period which was not before the original case officer. It is the very opposite of the approach advocated in the NPPF, which extolls the benefit of early engagement by applicants, including with statutory and non-statutory consultees.²
6. Finally, the first and second submissions here should be understood to be linked. The Appellant has evidently wanted to understand whether there is real development potential at Alderholt in a context of what was perceived to be waning enthusiasm for inclusion of a growth option in the plan process. The

² NPPF/39, 40.

Appellant seems to have sought to press the pace of the application, while limiting investment in addressing scheme details, to such an extent that a significant number of basic issues remain outstanding; and others were addressed very late in the day. An example is the decision not to resolve the Ringwood Road access properly. That has left the scheme without a demonstrably acceptable pedestrian route along that road into Alderholt. While it is technically open to an applicant to reserve one of two necessary accesses,³ it is very obviously unsatisfactory for a strategic scale scheme to leave its relationship with the village unresolved in this way.

Spatial planning/KS2, NPPF/74 & 109

7. The Local Plan Core Strategy (“the Core Strategy”)⁴ covers an administrative area including Christchurch and East Dorset. Christchurch is, of the two “smaller, more urban” and East Dorset “has more of the characteristics of a ‘rural’ authority”.⁵ The Key Strategy “sets out broad locations where residential and commercial development, services and facilities will be located across Christchurch and East Dorset over the plan period to 2028”.⁶ It notes that, “future development will need to be located primarily in accessible areas which reduce the need to travel...”.⁷ Hence Key Strategy policy 2 (KS2), which provides the local expression of that important national policy theme,⁸ in that it “focuses the

³ As will be appreciated, an outline application is not an unconstrained opportunity for the principle of development to be considered (bearing in mind the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 595 of 2015)). Moreover, where (as here), the proposal is of a scale to constitute EIA development, certain parameters must be fixed to ensure that any environmental impacts do not exceed those assessed at the outline stage. And of course, beyond those minimum requirements, it is open to an applicant to resolve as much of the detail as they opt to.

⁴ CD D1 Christchurch and East Dorset Local Plan Core Strategy 2014 – 2028 (front cover & see para. 1.2 re period).

⁵ CD D1 p.2 (PDF p.10) paras.2.4-2.5 & quotes from para. 2.11.

⁶ CD D1 p.4 (PDF p.26) para. 4.1.

⁷ CD D1 p.4 (PDF p.26) para. 4.4.

⁸ E.g. NPPF/74, 109.

distribution of development” across the area, having regard to which settlements “provide the best access to services, facilities and employment”.⁹

8. Bearing in mind what the Core Strategy says, Mr Rand¹⁰ had no difficulty accepting in cross examination that the KS2 settlement hierarchy is predicated on the same factors which make a settlement sustainable in transport planning terms. He conceded, expressly, that in transport sustainability terms, Alderholt is not well located. He accepted that it is “not sustainable”; and that “well located” is “what sustainable means in transport planning terms”.¹¹ He agreed that “all other things being equal, to reduce the need to travel, you would locate significant development at better performing settlements”, adding that was the case for a development “with no improvements”. The impact of the development is considered further below, but even on the Appellant’s own figures, the with-development scenario involves a very high degree of car dependency; and access to services and facilities involves often quite long journeys, to different locations for different things. Mr Jacobs¹² too accepted in cross examination that national transport sustainability policy objectives were a “key aspect” of KS2, and when he sought to explain what the other key aspects were, indicated that in his view there were a “whole range of factors” determining the sustainability of a location and where you might place a settlement within a hierarchy, but then referred to only one such factor, essentially repeating what paragraph 4.6 of the Core Strategy itself says, that the settlements providing the best access to services and employment will provide the focus for development, subject to constraints.¹³ That he struggled to identify other factors is not particularly surprising: the settlement hierarchy in KS2 is not complicated. It simply shows the policy outturn of an exercise comparing the Core Strategy area settlements to identify their proper role and function bearing in mind the services and facilities they contain, so as to establish which provides “best access” to those services and facilities.

⁹ CD D1 p.25 (PDF p.27) para. 4.6.

¹⁰ Appellant transport/highways witness.

¹¹ Council’s cross examination of Mr Rand 11.7.2024 just before lunch.

¹² Appellant’s planning witness.

¹³ Council’s cross examination of Mr Jacobs 16.7.2024 after lunch.

Distributing development in accordance with the hierarchy would do just as intended, i.e. it would reduce the need to travel. Contrary to the suggestion in Mr Jacobs' written evidence¹⁴, the "hierarchy" in KS2 is exactly that, the tier order reflecting differently performing settlement types. It takes a permissive approach to development at higher order settlements (e.g. Christchurch, Verwood, Corfe Mullen), with dwindling permissiveness working down the tiers, to rural service centres where in express terms the policy supports residential development only, at a scale that reinforces their role.

9. The Council's Committee Report for the Eastern Area Planning Committee on 5th July 2023¹⁵ considered the proposal against policy KS2 and found that the "location, scale and distribution of the proposed development is wholly out of alignment with the settlement hierarchy. The significant expansion proposed would more than double the existing population of Alderholt and would be at a significantly greater scale than that needed to reinforce its role as a rural service centre".¹⁶ Members resolved to refuse on that ground, in accordance with the recommendation, leading to a reason for refusal which noted that, "the proposed development would represent significant development contrary to the settlement hierarchy, which is intended to direct development to the most sustainable locations".¹⁷ This was said to be contrary to policy KS2 of the Core Strategy, and what are now paragraphs NPPF/74 and 109; and that allegation is obviously well founded.

10. In light of a clear local and national policy conflict, the Appellant's evidence advances four contentions which, on proper analysis, are not mutually compatible:

- a. First, that the development proposed would reinforce the role of Alderholt as a Rural Service Centre¹⁸;

¹⁴ Mr Jacobs POE p.20 (PDF p.23) para.8.10.

¹⁵ CD A70

¹⁶ CD A70 p.60 (PDF p.60) para. 16.8.

¹⁷ CD A76 RFR 2

¹⁸ E.g. Mr Jacobs POE p.20 (PDF p.23) paras. 8.12-13, p.22 (PDF p.25) para. 8.19.

- b. Secondly, that the development would give Alderholt a range of services and facilities commensurate with its new scale post-development (more than doubling the population of Alderholt, from 2,900 people¹⁹ to about 7,000²⁰ people)²¹;
- c. Thirdly, that the development proposes a “much enhanced settlement” in accordance with what was the emerging Dorset Local Plan²²; and
- d. Finally, that the proposals would make Alderholt to some extent more sustainable.

Development the purpose of which is to support Alderholt’s role as a Rural Service Centre

11. Following a helpful indication before the inquiry, which provided a considered preliminary conclusion on this matter²³ it was agreed in the Statement of Common Ground that “the scale of the proposal is considerably in excess of that envisaged by the policy for a settlement of this type within the settlement hierarchy, and in this respect the proposal is contrary to Policy KS2”.²⁴ That seems by Mr Jacobs to have been understood to relate to the residential development proposed, and since KS2 encourages *residential* development, but only at a scale that reinforces their existing role, that concession is obviously right. Similarly, the employment development proposed is not responding to anything in KS2, and nor is the provision of a Local Centre²⁵ since KS2 is not itself anticipating non-

¹⁹ CD C8 p.2 para. 2.1

²⁰ Mr Mound POE Appendix 1 (updated infrastructure delivery plan document) new development population 4,066 by 2038 + 2,900 existing population 2021 census.

²¹ E.g. Mr Jacobs POE p.2 (PDF p.5) para. iix.

²² E.g. CD K4 Appellant Opening Submissions p.1 para. 4.

²³ Per email from the PINS Case officer Ms Skinner on 18.6.2024 “That the scheme is unlikely to be in accordance with Policy KS2 of the Christchurch and East Dorset Local Plan 2014 on a normal reading of the plan, in that it is of a scale considerably in excess of that envisaged by the policy for a settlement of this type within the settlement hierarchy.”

²⁴ CD C8 p.7 (PDF p.7) para. 8.5.

²⁵ CD D1 Glossary p.249 (PDF p. 251). Defined as “a small group of shops and perhaps limited service outlets of a local nature (for example in a suburban housing estate) serving a small catchment. Sometimes also referred to as a local neighbourhood centre.

residential development within the rural service centres.²⁶ By contrast, in the higher order centres, at differing scales depending on the settlement type, residential development plus retail, employment, community and leisure development is expected.

12. Thus the concession was right, the scale of the proposal is well beyond anything anticipated for Alderholt in KS2. Further, there is conflict with KS2 because the proposal includes a range of other uses in a location not identified as the proper focus for that sort of development.

Facilities to address a more than doubling in size

13. Inherent in the argument that new facilities are needed in order to address the effect of the development in terms of its scale, is that those facilities are primarily required in order to meet the needs arising from the new population. This is particularly apparent where the new facilities consist of providing additional new floorspace where existing good quality facilities exist in Alderholt already. Good examples are the new community space (compared to the existing village hall), recreation facilities (compared to the existing excellent recreation ground, tennis courts, sports/social club plus changing room facilities), a pub and a convenience shop, where similar facilities already exist in Alderholt.²⁷ School provision is intended to meet needs arising from the development, the form of that provision is considered further below. Class E floorspace is secured in the local centre, but not its form and therefore it is not clear whether there will be comparison retail

²⁶ Per Ms Fay in cross examination (Inquiry Day 4 28.7.2024 after morning break): she maintained her view that KS2 identifies locations which are already performing the role of rural service centres, and “reinforce” means “give strength to and support existing facilities” and that reinforcement related to residential development rather than other forms of development. She did not accept that the policy required the provision of additional facilities “to make Alderholt sustainable and that KS2 seeks that reinforcement”. It was put to her that “development should come forward at a scale which provides new community, leisure and facilities, otherwise it remains unsustainable”. She disagreed, saying that she did not think that KS2 anticipates [Alderholt] becoming a sustainable settlement, it is “not what KS2 does”.

²⁷ There is agreement as to the range of facilities in Alderholt, see CD Topic Paper on Local Centre and Retail CD G36 at p.4 para.2.2 & re the café at the Reading Room, see CD G24 (Parish Council POE) at p.14 para. 43.

space, or the sort of commercial uses Mr McCallum²⁸ had in mind (with a predominance of restaurant/food related uses). The two elements of the development which offer something new and different are the employment floorspace and the proposed GP surgery which would replace the currently closed branch surgery in Alderholt.

14. Alderholt post development would remain a village with a limited range of services and facilities, in comparison to other Dorset settlements of a similar size (e.g. Wareham and West Moors). Alderholt would have a first/primary school plus a limited range of facilities and some employment opportunities. Wareham (population 6,000), now familiar to the participants at the inquiry, has a good range of services and a secondary school. West Moors (population 7,400) is district centre with over 40 shops, first and middle school provision, and some employment opportunities.²⁹ St Leonards and St Ives is not a particularly good comparator because it is physically and functionally connected to the much larger settlement of Ringwood in Hampshire (population about 12,880³⁰).

A “much enhanced settlement” in accordance with what was the emerging Dorset Local Plan

15. There is common ground between the parties that the appeal proposals do not seek (and would not achieve) a change for Alderholt which would “transform the settlement’s role and function”³¹ (which was what the regulation 18 plan considered). This was established in cross examination of Mr Jacobs.³² In terms, he said that the appeal proposals are “consistent with [Alderholt’s] role as a rural service centre” and that “the level of facilities it would provide post development would accord with its role as a rural service centre”. He suggested that what Mr Rand had meant by his use of the word “transform” was that the appeal proposals

²⁸ Appellant’s retail expert.

²⁹ CD D16 (volume 2) pp.1-2 in particular figure 7.1.

³⁰ CD C8 p.2 para. 2.1.

³¹ CD D16 (vol 2) p.107 para. 18.2.3

³² Cross examination of Mr Jacobs on behalf of the Council, AM 16.7.2024.

would “transform Alderholt to enable it to perform its role as a rural service centre and currently we don’t think that is the case”.

16. This was an important concession, because the implication of the Appellant’s Opening Submissions was that the appeal proposals would deliver the “much-enhanced settlement” considered in the regulation 18 Draft Dorset Local Plan.³³ They would not. The vision for “Option 2”, “significant expansion” at Alderholt, was for a “self-contained ‘town’” (punctuation as original), with a “new town centre”, and “new schooling across all tiers” amongst other things.³⁴ The self-containment objective underlies much of what is said in the chapter (see e.g. 18.2.1, 18.2.2, 18.2.5 as mentioned, 18.3.3, 18.4.6, 18.4.12). A new contention in cross examination (not heralded by anything in written evidence) was Mr Jacobs’ rather faint suggestion that the appeal proposals might represent a first phase of a new town, but there is no evidence of any sort that there is some other additional development in prospect, nor how it might relate to the appeal proposals if there were, and rather than reassuring, was a further indicator of a fairly ad hoc approach to really important issues.

17. There is nothing in the comparison made by Mr Jacobs in cross examination with either a Garden Town or Garden Village either. He noted that the appeal proposal exceeded the 1,200 dwelling number for the latter, the implication seemed to be that there was some relevance for the appeal proposal. But the Design and Access Statement³⁵ did not make any claims in that regard, nor did the Appellant’s masterplanning evidence.³⁶ Alderholt is not identified as such in any Departmental prospectus. The connection to Alderholt is not the sort of connection to a settlement with a large range of services and facilities which might be expected for a sustainable extension-type approach (similar to other proposals in regulation 18 Local Plan, see DEV2³⁷). In terms of what was included

³³ CD K4 Appellant Opening Submissions p.1 para. 4.

³⁴ CD D16 (vol 2) p.107 (PDF p.107) para. 18.2.5.

³⁵ CD A49.

³⁶ Mr Worsfeld’s POE, see e.g. p.34 (PDF p.34) chapter 14.

³⁷ CD D15 (vol 1) p.31 (PDF p.41) at III and VI.

in the regulation 18 plan, Mr Jacobs seemed to take the view that there may have been unrealistic expectations about the level of self-containment achievable in the then emerging policy. There could be something in this, and if so it may serve to explain the distinct cooling off that Mr Jacobs had discerned in terms of the possibility of significant expansion at Alderholt.³⁸ But whether or not that is right, support for a significant expansion at Alderholt was qualified: it was supported on the basis that it would provide a self-contained town with a wide range of services and facilities, and that is simply not what is proposed.

That the proposals would make Alderholt to some extent “more sustainable”

18. The issue then ends where the Appellant’s transport evidence began, which is that the most that the appeal proposal attempts to achieve is to make Alderholt to some extent more sustainable. This is apparent from what is said in Mr Rand’s POE at p.9 (PDF p.11) paras. 2.39 and 2.42: the implication of his evidence is that it will satisfy national policy to provide some additional services and facilities and to ensure “that opportunities have been taken up to promote sustainable travel that are appropriate in the local context”. This takes the location of development as a given and then, essentially, makes the best of it, albeit well short of altering its role and function. What the appeal proposal promises in that regard is, primarily, a bus service, together with a sub-standard shared cycleway/footway to Fordingbridge plus a range of other largely unresolved pedestrian/cycle links. Whether priority has been given to pedestrians and cyclists is considered further below.

19. The bus commitment can be understood by agreed condition 38. Prior to the occupation of the 250th dwelling, a bus service would be operational between Cranborne Middle School and Ringwood (and reverse) via Alderholt and Fordingbridge. At peak times that would be half-hourly, off-peak hourly, Saturday every two hours and no service on Sundays. The service would not run before 0600

³⁸ See e.g. CD A72 para. 2(f).

or after 1900. The condition requires that the service level is provided for a minimum of seven years.

20. It is better to have a bus service than not to have a bus service at Alderholt (or only a part-time service), but whether the development overall is a good thing in transport sustainability terms requires consideration of the fact that a significant number of new households would live somewhere which is very car dependent now, and would be very car dependent in future. Without a car, living at the development has the potential to be quite isolating. To access a reasonably full range of facilities, various different settlements must be accessed, and some would not be served by the bus (and those that are on the bus route could not be reached e.g. on Sundays or in the evening):

a. Main supermarket

- i. By car, at Verwood, the nearest large food shop, a Morrisons, is 5.5 miles away (not to be served by bus).
- ii. There are other supermarkets further away. The Local Centre and Retail Topic Paper agrees that there is a wider range of shopping available about 7 miles away in Ringwood including Sainsbury's and Waitrose food stores. Higher order shopping is available in Salisbury (about 15 miles from Alderholt), Bournemouth (about 16 miles away) and Southampton (about 25 miles away).³⁹

b. Catchment schools. Note that there are no places in Burgate school in Fordingbridge as matters stand⁴⁰ and no clear evidence as to what changes, if any, may take place in the future.

- i. Middle School, Cranborne (car or school transport), 4.5 miles away.
- ii. Upper School, Wimborne (car or school transport), 15 miles away.

c. Health (other than GP surgery). There is no secured proposal for a dentist or pharmacy within the appeal proposals, although there is floorspace available for those purposes if demand exists in a with-development

³⁹ CD G36 p.10 para. 3.20.

⁴⁰ CD A79 Education Impact Assessment p.10 para. 3.7.2.

scenario. As matters stand, those facilities are in Fordingbridge and could be accessed by the every 30 minute service (peak), or hourly (non-peak) service Monday to Friday, but there is one bus only every two hours on Saturdays and there are no buses in the evenings, or on Sundays at all. The nearest full service hospital is 13 miles away.

- d. **Recreation.** Beyond the sport/recreational provision within the development, the nearest leisure centre is in Verwood (no bus), or for swimming, in Ringwood (limited bus service, particularly at the weekend when there is most time for leisure activities).

21. There could be no suggestion that Alderholt post-development would be anything approaching self-contained. This can be seen from the Appellant's own transport assessment. That work, although acknowledging "flexibility" nonetheless assumes the delivery of services and facilities as part of the development which are not, as a matter of fact, secured.⁴¹ Further, they assume that per Mr Fitter's description, the "heroic" internalisation rates which National Highways and Hampshire did not accept as a basis for assessment. For example:

- a. It was assumed that 75% of all existing Alderholt retail/personal business trips would remain within Alderholt (para. 10.11 p.189 of CDA19).
- b. 50% of leisure trips (10.13 p.190 of CDA19) would newly be retained within Alderholt on the strength of the new tennis court/cycle routes.

22. Even on the basis of those assumptions, which were applied to both new and existing development, the net impact would be 510 vehicular trips every day just in the morning peak and 884 trips every day just in the evening peak.⁴²

23. These net vehicular trips added to the network as the result of the development, indicate that the settlement would not be self-contained. Further, the assumed deduction of existing and new trips is based on the provision of facilities about

⁴¹ CD A19 PDF p.164 para. 3.2.

⁴² CDA19 p.193 section 11.

which there is some delivery risk, and the work incorporates assumptions which two of the three statutory consultees were so concerned about that they did not want the transport assessment work based upon them.

24. In terms of mode share, incorporating all the assumptions already discussed here, the Transport Assessment proceeds on the basis that for internal trips (i.e. those internal to Alderholt rather than internal to the development⁴³) because “all facilities would be within a fifteen-minute walk”⁴⁴ there will be no car drivers at all, unless linked to an external trip. As was demonstrated in the cross examination of Mr Worsfold, it is not correct to assume that all facilities would be within a fifteen minute walk. 13% of the built area of Alderholt would be outside that fifteen minute walking distance benchmark the Transport Assessment set itself.⁴⁵ For external journeys, the majority are acknowledged to be by car, although a “significant proportion of trips will be via bus, as a result of the new connection to Burgate School” (Fordingbridge).⁴⁶ Although Mr Fitter was not convinced by the internalisation assumptions, he nonetheless used the mode share provided in the Transport Assessment, in order to allow some comparison with other decided cases. Even on the basis of the Appellant’s figures, the appeal scheme performs far worse.⁴⁷ It seems to be thought by the Appellant’s team that proposals for development at a village in Dorset should be evaluated completely differently to those near a village in Kent,⁴⁸ but the concern about comparability is overstated: the comparative exercise is a useful one in order to have some sort of benchmark in mind.

⁴³ CD A19 p.46 (PDF p.48) para. 6.10.

⁴⁴ CD A19 p.47 (PDF p.49) para. 6.12.

⁴⁵ Cross examination of Mr Worsfold 10.7.2024 (before lunch), see Ms Fay’s POE p.65 para. 8.27. Note that in the re-examination of Mr Worsfold, a mile benchmark was suggested to him, but this simply was not the basis on which the transport work had proceeded, and in any event “around 80% of trips” (CD F48 p.18 (PDF p.20) last paragraph) would not result in the 100% internalisation assumption for existing and proposed development at Alderholt.

⁴⁶ CD A19 p.47 (PDF p.49) para. 6.11.

⁴⁷ Mr Fitter POE (PDF p.51) para. 6.1.59.

⁴⁸ See Mr Fitter’s POE (PDF pp.50-51) para. 6.1.55 re Broke Hill “the site is located adjacent to an existing village with an existing convenience store, pub and primary school and is somewhat remote from the nearest major settlement of Orpington...”.

25. In terms of external development trips, the Transport Assessment Addendum shows that 82% of external journeys generated by the proposed development would be as a car driver or passenger and that would increase to 94% in the PM peak.⁴⁹ As Mr Fitter pointed out in his rebuttal evidence,⁵⁰ and Mr Rand accepted in cross examination, if the total journeys remain the same but the vehicle trip rates increase and internalisation decreases, the number of external journeys would increase and the proportion of those journeys undertaken by car would also increase.

26. While there is no requirement in national or local policy for all trips to be possible via sustainable modes, it is a requirement of policy that significant development should be located in such a way as to offer good access to a range of services and facilities, and to offer a genuine choice of transport modes. Here, the development is not well located. That would lead to a high degree of car dependence, bearing in mind the extent of (and length of) vehicle trips to access day to day services and facilities. There will be some greater tolerance and expectation of car use in rural areas in comparison to urban areas of the country,⁵¹ but there still comes a point at which it is recognised that a development is simply, in the round, unsustainable in transport terms. That is the case here.

Highways/transportation (pedestrians/cyclists/safety/capacity)

27. It is national policy that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe (NPPF/115). Within that context, applications for development should “give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas” (NPPF/116(a)).

⁴⁹ Mr Fitter RPOE PDF p.11 para. 2.10.3.

⁵⁰ Ibid.

⁵¹ NPPF/109 makes this clear.

28. The Transport Topic Paper⁵² identifies an array of issues which, even post what amounts to an entirely new scheme Transport Assessment⁵³, remain unresolved⁵⁴ and as such, the scheme is in conflict with national policy.⁵⁵ Those issues relate to the following:

- a. Prioritisation of pedestrian and cycle movements⁵⁶ –
 - i. Proposed pedestrian/cycle link between Alderholt and Fordingbridge (para. 5.3) –
 1. Shared route along the B3078;⁵⁷
 2. Ashford Road;⁵⁸ and
 3. Public Right of Way E34/6.⁵⁹
 - ii. Proposed pedestrian footway along Ringwood Road (para. 5.4, 5.5).⁶⁰
 - iii. Proposed cycle scheme on Station Road and Ringwood Road (para. 5.6).⁶¹
- b. Safety & capacity (vehicular) -
 - i. Fordingbridge; and
 - ii. Road widening.

Prioritisation of pedestrian & cycle movements

Proposed pedestrian/cycle link between Alderholt and Fordingbridge

Shared cycle route along the B3078

29. Offering a good quality cycle/pedestrian transport option between Alderholt and Fordingbridge is important, bearing in mind that the alternative is a short drive and

⁵² CD G33.

⁵³ CD A98, Transport Assessment Addendum (May 2024).

⁵⁴ CD G33 pp.10-11 section 5.

⁵⁵ Mr Rand accepted in cross examination on behalf of the Council (AM 11.7.2024) that it was for the Appellant to provide sufficient evidence in this regard, per NPPF/117. He accepted that the transport evidence must be scheme-specific, i.e. relating to this outline planning application; and that something more generic, undertaken in a different context, could not be a substitute.

⁵⁶ For orientation within the wider area, see the two pages of location plans submitted for Mr Fitter's evidence in chief "RF location plans" & then e.g. "plan 1 location 1" etc.

⁵⁷ CD K2 RF location plans, plan 2 location F3.

⁵⁸ CD K2 RF location plans, plan 2 location F4.

⁵⁹ CD K2 RF location plans, plan 1 location 2.

⁶⁰ CD K2 RF location plans, plan 1 – Ringwood Road is marked as 5.

⁶¹ CD K2 RF location plans, plan 1 – Station Road is marked as 4 and Ringwood Road as 5.

that cycle link is relied upon by the Appellant for the assumptions it makes about external cycle trips (and mode share in turn⁶²). As the Inspector has seen during the course of the inquiry and on the site visit, Fordingbridge will attract trips from Alderholt. The B3078 road from Alderholt and Fordingbridge is quite narrow, winding and slightly hilly, with dense vegetation near the carriageway. The original proposal was to improve public right of way footpaths 090/2/1 and 090/3/1 to achieve a route to Fordingbridge via Lomer Lane and Ashford Road.⁶³ This seems to have been reconsidered post submission of the appeal; and details for the proposed shared footway/cycleway along the B3078 were first issued in December 2023, after the appeal had been brought.⁶⁴ The Road Safety Audit work has only just been undertaken.⁶⁵ The CD K19 Road Safety Audit (Fordingbridge Cycle) finds the same problem that Mr Fitter had warned about in his written evidence.⁶⁶ This can be seen at p.20, where the problem is identified at para. 3.2.1. The issue is that the Appellant cannot both deliver the shared use footway/cycleway to the appropriate standard and retain a carriageway of sufficient width. The auditor was concerned that the proposals would lead to a carriageway width of “between 5.5m and 5.96m. The B3078 also has bends along its route. Swept paths for heavy vehicles show no clearance and this is for vehicle widths of 2.55m which is unlikely to include wing mirrors. This could lead to sideswipe collisions, or sudden braking and rear end shunts.”

30. Mr Rand accepted in cross examination that the road safety audit raises issues which are consistent with those Mr Fitter had warned about, see e.g. Mr Fitter’s POE para. 7.2.10-11; and his RPOE para.2.6.5. As to the alternate route, his RPOE para. 2.6.2 refers. To the extent points not raised (on the public right of way in particular), that is a reflection of the auditor not being provided with a design to

⁶² See CD A19 p.46 (PDF p.48) table 5.

⁶³ CD A21 PDF p.24 para. 4.14.

⁶⁴ CD A98 Appendix G, see Mr Fitter’s POE PDF p.71 para. 9.1.19-21 which addresses the various changes/new proposals in information submitted post the appeal.

⁶⁵ Mr Rand agreed the chronology in cross examination on behalf of the Council: RSA undertaken 19th June (week or so before inquiry). The Designer’s Response is dated 2.7.2024 and the overseeing organisation response is 9.7.2024.

⁶⁶ See Mr Fitter’s RPOE p.7 para. 2.6.5.

consider. These matters were not newly raised in evidence either, but had been brought to the Appellant's attention beforehand, see the Hampshire consultation response dated 23rd May 2024, appended to Mr Fitter's POE at App B PDF p.293 points 1-9, specifically re the concern about width, (3) refers. It will be apparent that at the time Mr Rand wrote his evidence, this issue had been raised squarely. Nonetheless, he said that the scheme was subject to road safety audit, but he had "no reason to doubt that a safe scheme can be delivered".⁶⁷ What he did not add, but perhaps ought to have done, is that a scheme may be capable of being delivered, but it would not be one which meets applicable standards.

31. Mr Rand's response to the auditor's concerns (CD K19 p.20) amount to little more than disagreement with the auditor (straight v. bends, sufficiency of width, existing use by HGVs), but it is also said that "opportunities to reduce the extent of narrowing can be explored and considered at later RSA stages".

32. There are a couple of points on this. The first is simply to note that the Appellant is proceeding on the assumption that the speed limit can be reduced (and a speed survey suggests it can), but that is the subject of a separate process and is not guaranteed. Secondly, assuming a 40mph limit, on the basis that ultimately the Appellant will not continue to simply argue with the road safety auditor, what can be delivered would not meet the applicable standard published by the Department for Transport on Cycle Infrastructure Design (LTN 1/20⁶⁸). The underlying objective of LTN 1/20 is "inclusive cycling", "so that people of all ages and abilities are considered". The ambition is "to make cycling and walking the natural choices for short journeys or as part of a longer journey...".⁶⁹ It is guidance which should be applied "to all changes associated with highway improvements... new or improved cycle facilities, including those on other rights of way such as bridleways and routes within public open spaces".⁷⁰

⁶⁷ Mr Rand's POE p.7 (PDF p.9) para. 2.30.

⁶⁸ CD F19.

⁶⁹ CD F19 PDF p.7 Introduction.

⁷⁰ CD F19 PDF p.8 1.3 Application.

33. Table 5.2⁷¹ includes “desirable minimum widths” (here 3m and an absolute minimum width “at constraints” 2m. It was Mr Fitter’s view that most highway authorities would consider constraints to be e.g. at a lamppost, rather than relating to a longer section of cycleway where it is not possible to get adequate width. What the standard seeks to achieve is a shared cycle/pedestrian route which is of sufficient quality that it will succeed in encouraging cycling and walking. As Mr Rand accepted in cross examination, it is necessary to provide exemplary infrastructure to encourage people to walk and cycle, and in this instance, it appears that is not deliverable.

Ashford Road

34. Hampshire County Council has maintained concerns about this part of the proposed route to Fordingbridge,⁷² beyond the shared footway/cycleway. The Appellant relies upon using Ashford Road as a mixed traffic cycle route. It has a narrow carriageway and poor forward visibility on bends. The road is not lit and there is limited room for vehicles to pass. As such, particularly for children and inexperienced/less confident cyclists, this is likely to be offputting. This was not assessed in any detail in the walking/cycling/horseriding review⁷³ which simply said that “as Lomer Lane and Ashford Road are lightly trafficked, they are suitable for cyclists”.⁷⁴

Public Right of Way E34/6

35. Public right of way E34/6 between Hillbury Road and the B3078. Improvements to this route were suggested so that it could be used as an alternative to the B3078 route, this was explained in correspondence between Mr Rand and Mr Fitter’s firm.⁷⁵ It was said that based on site measurements of the western part of the public right of way, it was thought possible to achieve a 2 to 2.5 metre surface

⁷¹ CD F19 p.43 Table 5-2.

⁷² Mr Fitter POE Appendix RF-B (Hampshire County Council comments on the TAA) PDF p.296 at (9).

⁷³ See Mr Fitter’s POE PDF p.63 para. 7.2.7.

⁷⁴ CD A21 PDF p.24 para. 4.14.

⁷⁵ Mr Fitter’s POE PDF p.306 (top para).

width.⁷⁶ This was acknowledged to be below the LTN 1/20 recommended minimum width of 3m.⁷⁷ At that stage (and in the same email), the Appellant suggested another alternative, the improvement of a different public right of way, E34/4, a path through woods.⁷⁸ Even at that point, which was a little over a week before proofs of evidence were due to be submitted, arrangements for pedestrians and cyclist routes were not settled.

Proposed pedestrian footway along Ringwood Road

36. The proposals are described in a number of places within the application documents, as a “2m footway extension... along the northern side of Ringwood Road, up to the point where the footway from Broomfield Drive connects onto Ringwood Road”.⁷⁹ It is shown on drawing 132.0001.007 rev A.⁸⁰ Mr Fitter’s evidence noted that there are significant lengths of existing boundary hedging and mature trees in that location, he took photographs of what he was referring to, see his figures 4.4 and 4.5.⁸¹ It was his view that a 2m footway could not be delivered without removing the hedges and potentially affecting the trees.⁸² He maintained the point in rebuttal evidence, having considered the “no dig” possibility raised by Mr Rand.⁸³ When Mr Rand was asked to look at the proposal for that pedestrian route in cross examination, in light of the obvious problem in terms of road width and vegetation, he began to redesign it, proposing a shift further south into the site, although it was not clear what the implications of that would be, or indeed whether that alternative might be deliverable.⁸⁴ As such, there is an obvious problem, but no obvious solution. The Council, via Mr Fitter, acknowledged that if planning permission were to be granted, it would be necessary to impose a condition to secure “safe and suitable access” including for pedestrians at the

⁷⁶ Mr Fitter’s POE PDF pp.305 (bottom of page) - 306 – (email 17.5.2024).

⁷⁷ Mr Fitter’s POE PDF pp.305 (email of 17.5.2024) 3rd para. re Table 6-3.

⁷⁸ Mr Fitter’s POE PDF p.307.

⁷⁹ See for example CDA21 (PDF p.6) p.4 para. 1.10.

⁸⁰ CD A19 (original TA) (PDF p.154) appendix J.

⁸¹ Mr Fitter’s POE PDF pp.21-22.

⁸² Mr Fitter’s POE PDF p.21 para. 4.3.10.

⁸³ Mr Fitter’s RPOE PDF p.7 para. 2.6.4.

⁸⁴ Mr Rand cross examination on behalf of the Council, AM on 11.7.2024.

Ringwood Road side of the development,⁸⁵ but that is quite different to saying that the specific proposal intended to show a good quality pedestrian route is capable of being delivered; or indeed that there has been proper prioritisation of pedestrians as part of the scheme proposals.

Proposed cycle scheme on Station Road and Ringwood Road

37. At the time Mr Fitter wrote his proof of evidence, Dorset Council as highways authority had indicated that the scheme would be acceptable subject to the details being agreed and secured.⁸⁶ Mr Fitter reviewed the proposals and was concerned that bearing in mind that Station Road is “one of the more heavily trafficked roads in Alderholt” (para. 4.3.18) and noting the limited road width (para. 4.3.19), that it “was evident that cars and HGVs would be required to enter the cycle lanes to pass any and all vehicles coming in the opposite direction” (para. 4.3.19). He doubted the deliverability of the scheme.

38. Post the submission of evidence, road safety audit work has been undertaken, and it supports Mr Fitter’s concerns.⁸⁷ The auditor recommended that “alternative provisions for cyclists should be investigated and installed”.⁸⁸ The designer’s response is that “an alternative scheme can be provided at detailed design stage. A lighter touch approach could be taken, for example, removal of the centre line combined with cycle markings to encourage cyclists”.⁸⁹ Now that the details have been considered, it transpires that what can be delivered is not a cycle scheme as such (and Mr Fitter was right to have indicated that was likely).

⁸⁵ Per the Topic Paper at p.6 para. 4.2 (and per cross examination on behalf of the Appellant).

⁸⁶ Mr Fitter POE PDF p.23 para. 4.3.16.

⁸⁷ CD K19, see p.4 para. 1.1 4th bullet point; p.13 section 6.

⁸⁸ CD K19 p.13 para. 6.1.1 “recommendation”.

⁸⁹ CD K19 p.28 response to 6.1.1.

Safety & capacity (vehicular)

Fordingbridge

39. A vehicle trip rate has been agreed for the purpose of producing a robust assessment of impact on the network, which can be seen in the Transport Assessment Addendum.⁹⁰ Although described as a sensitivity test, it is the basis on which a scheme of mitigation has been agreed by the Appellant with National Highways (see the Highways Topic Paper⁹¹ at p.7 para. 4.10). That gives:

- a. AM peak total 1,122; and
- b. PM peak total 1,071.

40. There are two proposed schemes for delivering additional capacity at Fordingbridge, without which the Appellant's Environmental Statement indicates there will be a "major adverse" effect.⁹² Mr Rand accepted in cross examination that a major adverse effect here is the equivalent of a severe cumulative effect in NPPF terms.⁹³

41. Option 1 is the proposed widening of the junction of Provost Street and Shaftesbury Street/High Street in Fordingbridge. The Topic Paper⁹⁴ refers at p.7 para. 4.11. Mr Rand agreed in cross examination that what that meant was that the Appellant's transport assessment work had shown that as operating within capacity post mitigation⁹⁵ (rather than that there was no issue arising, as identified in para. 5.1 and 5.7 of that document).

42. The dispute between the parties comes down to whether, having agreed trip rates for the purpose of robust assessment for one junction, it should be acceptable to deduct trips for the purpose of assessing another. The Appellant says that it can and should do so, and points to other assumptions within the agreed trip rate which it now claims are unjustified (despite having agreed to undertake

⁹⁰ CD A98 p.7 (PDF p.9) table 2.

⁹¹ CD G33.

⁹² CD A83 p.29 para. 7.47 and, in particular, para. 7.56.

⁹³ Mr Rand cross examination on behalf of the Council, AM 11.7.2024.

⁹⁴ CD G33.

⁹⁵ Mr Rand cross examination on behalf of the Council, AM 11.7.2024.

assessment with those trips included). Mr Fitter says those deductions are not robust. The deductions are agreed to be 19 in the AM peak and 24 in the PM peak.⁹⁶ Mr Rand has not modelled the junction without those deductions⁹⁷ and on the basis of them, it operates at a 0.84 ratio of flow to capacity (and at or above 0.85 the modelled junction may operate unsatisfactorily⁹⁸). In the circumstances, it is perhaps not surprising that there is a second, alternative option: option 2, the one-way system.

43. The proposed one-way system is not deliverable as matters stand. It too faces the difficulty of an auditor's response which points to a range of problems with no obviously deliverable solution.⁹⁹

Road widening

44. The Inspector has travelled the verdant routes identified for road widening works.¹⁰⁰ The road widening proposals were relied upon in the original Transport Assessment¹⁰¹ (10. Highway Impact, Links). In that section, para. 10.1 explains, "the proposed development will result in increased vehicle numbers on links between Alderholt and the surrounding areas... they have been assessed to ensure that they are able to support passing vehicles, with mitigation measures and improvements identified as necessary."¹⁰² At para. 10.2, assurance is given that the character and features of the road have been taken into account; and that swept path analysis has been undertaken to determine whether mitigation is "required".¹⁰³

⁹⁶ Mr Fitter cross examination on behalf of the Appellant, PM 25.6.2024.

⁹⁷ Mr Rand cross examination on behalf of the Council, AM 11.7.2024.

⁹⁸ Topic Paper CD G33 p.7 para. 4.7.

⁹⁹ CD K18 p.14-16.

¹⁰⁰ CD A98 Appendix AA PDF p.603.

¹⁰¹ CDA19.

¹⁰² CD A19 p.63 (PDF p.65) para. 10.1.

¹⁰³ CD A19 p.63 (PDF p.65) para. 10.2.

45. As Mr Rand accepted in cross examination, in general, the widening is proposed so as to provide mitigation, because providing additional vehicles along links & without the widening, will mean that more vehicles will be unable to pass.
46. Topic Paper para. 4.16 indicates that carrying out of the widening would have a negligible safety impact, but Mr Rand accepted in cross examination that that referred to the proposed road widening works¹⁰⁴ (rather than any failure to deliver them). Mr Fitter's concern, which he defended robustly in cross examination, is that he is very doubtful about the Appellant's ability to deliver the road widening works; and in the absence of that road widening, there would be both safety and capacity implications.¹⁰⁵
47. It does not appear that detailed work has been done in terms of deliverability of the widening. This was a point made in Mr Fitter's written evidence with particular reference to vegetation, third party features, forward visibility and access visibility.¹⁰⁶ Mr Rand's position on this was to rely on part of an email from Hampshire County Council which said that they thought it was unlikely that the development and associated traffic will significantly worsen the existing highway safety of the surrounding network¹⁰⁷ but when the email is read in full, it is apparent that the County Council were seeking a proper assessment of the effect of the proposals. That has not happened, and experience suggests that a safety

¹⁰⁴ Mr Rand cross examination on behalf of the Council, AM 11.7.2024.

¹⁰⁵ Mr Fitter cross examination on behalf of the Appellant, PM on 25.6.2024. He said "the reason widening has been proposed by the Appellant is that there is a need for two vehicles to be able to pass. That need is brought about by a significant increase in vehicle movements on those roads where widening is proposed. Widening is not only proposed for safety reasons but to allow two vehicles to pass." He was challenged to identify a single location, but said "it is not the fact that I do not want to identify one. The point I am trying to make is the fact that the concerns raised by the highway authority are numerous and relate to the package of highway improvement measures as a whole. If none of that road widening can be delivered it is not a case of saying point "X" will be a problem. This is link capacity and the point relates to those roads as a whole. If those roads can't be widened... it is not a matter of widening one or the other... it is the road itself..." He then queried "how many points of congestion do you need along that road before it is unacceptable." In terms of safety, when asked directly about this in cross examination, he said "if the widening is not delivered (and the purpose of that is to ensure two vehicles can pass safely). If it cannot be delivered it stands there are areas where cars cannot pass. The concern with that is safety."

¹⁰⁶ Mr Fitter RPOE PDF p.6 section 2.5.

¹⁰⁷ Mr Rand RPOE PDF p.10 (appendix A) email of 24.4.2024.

auditor’s view of what constitutes an adequate amount of road width for vehicles to pass one another may differ from that of Mr Rand.¹⁰⁸

48. As Mr Rand acknowledged in cross examination, different levels of investment in a scheme will result in a different level of resolution of the issues arising.¹⁰⁹ The level of investment here reflects a desire to settle the principle of development only, in circumstances in which that is in real doubt, bearing in mind the scale of the scheme, and in the absence of an allocation. Hence the very many issues left more or less unresolved in the context of highways/transportation. That has meant that the Appellant is, for example, unable to demonstrate that priority has been given first to pedestrian and cycle movements; and that necessary mitigation is deliverable or will be effective.

49. For those reasons, the Council’s reasons for refusal on highways/transport matters (reasons 2 and 7) were well founded and have not been overcome.

Harm to the Cranborne Chase and West Wiltshire Downs National Landscape/Area of Outstanding Natural Beauty

50. The evidence of Mr O’Kelly¹¹⁰ explained that as part of a national review, it was recommended that Areas of Outstanding National Beauty should be re-named “National Landscapes” and that his recommendation was accepted by the previous Government.¹¹¹ Nevertheless, as matters stand, the statutory designation remains as was. During the course of the inquiry, the parties allowed themselves to refer to the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty as “the AONB” and that acronym is used here.

¹⁰⁸ An example being the road safety audit for the cycle link scheme where there is a difference of opinion on this very subject, see CD K19 p.20 in which Mr Rand disagrees with the auditor’s conclusions about adequate passing width.

¹⁰⁹ Mr Rand cross examination on behalf of the Council, 11.7.2024.

¹¹⁰ Council’s landscape witness.

¹¹¹ Mr O’Kelly’s POE at PDF p.4.

51. It is the Council’s evidence that the tranquillity of the AONB would be harmed by increased vehicular trips through the AONB, from the development of the appeal site. The harm arises through the visual effect of those vehicles, plus the noise caused by them.¹¹² As to the latter point, the Appellant produced a noise report which used the Design Manual for Roads and Bridges measures for traffic noise.¹¹³ Mr O’Kelly was quite happy to accept that technical information in cross examination,¹¹⁴ and did not suggest there was any “significant change in noise levels in the AONB”. But that did not mean his concern, based on the application of relevant guidance¹¹⁵ to his experience of tranquillity within specific areas of the AONB was any less valid.

52. The Council’s reason for refusal alleged that there were impacts arising “the extent of which [had] not been adequately identified and mitigated in the application”.¹¹⁶ Mr Bushby¹¹⁷ confirmed in cross examination¹¹⁸ that he did not provide advice on appeal application at DAS stage or before that. The additional environmental impact assessment work (“the Environmental Statement Addendum”) had involved his firm newly being involved in the case, specifically to deal with AONB tranquillity.¹¹⁹ Mr Bushby agreed that as at the date of the RFR, the question of whether the development would give rise to a loss of tranquillity in the AONB had not been addressed by assessment work in the application; and as such, the reason for refusal was factually correct.¹²⁰

¹¹² Mr O’Kelly POE at PDF p.48 para. 6.27.

¹¹³ CD A85.

¹¹⁴ Cross examination of Mr O’Kelly on behalf of the Appellant PM, 25.6.2024.

¹¹⁵ IEMA Guidance, see Mr O’Kelly’s POE p.11 para. 4.5 “the perception of tranquillity, which is characteristic of some landscapes, may be affected by increased vehicle numbers, movement and noise... In order to undertake an assessment, the competent landscape expert will not need detailed traffic data, but will require a clear description, readily understood by the non-expert reader, of what changes to the traffic would include...”.

¹¹⁶ CD A76 Decision Notice, reason for refusal 8.

¹¹⁷ Appellant’s landscape witness.

¹¹⁸ Cross examination of Mr Bushby on behalf of the Council PM, 12.7.2024.

¹¹⁹ CDA83 p.8 para. 1.15.

¹²⁰ Cross examination of Mr Bushby on behalf of the Council PM, 12.7.2024.

53. There was considerable common ground on the relevant policies and in relation to the relevant aspects of the management plan:¹²¹

- a. National policy. It was agreed that the effect of NPPF/182 is that decision makers should have regard to the conservation and enhancement of the AONB and give great weight to relevant harmful effects.
- b. The local expression of that national policy is HE3.¹²²
- c. HE3 makes reference to the need to take into account tranquillity, in particular intrusion from e.g. noise and motion. And that it is necessary to demonstrate that account has been taken of the relevant Management Plan.
- d. It is agreed that the relevant management plan is the Cranborne Chase Partnership Plan and that:¹²³
 - i. Tranquillity is part of the natural beauty of the AONB as defined by the Management Plan – para. 1.8 & see para. 2.1.
 - ii. Indeed, its tranquillity is seen as part of its “outstanding landscape” (PDF p.34 – para. 8.1 1st bullet point).
 - iii. The threats to the AONB are identified at PDF p.37 para. 8.7, and include cars. Such threats can “erode the tranquillity that means so much to all of us”.
 - iv. The tranquillity assessment work undertaken locally is referred to at PDF p.74 (the “Truthing Study”¹²⁴).

54. Mr Bushby agreed that the updated Environmental Statement had selected receptors in order to identify those experiencing a higher tranquillity rating, having regard to the conclusions of the Truthing Study.¹²⁵ An overlay of receptors and the Truthing Study work can be seen at CD A84.

¹²¹ Cross examination of Mr Bushby on behalf of the Council PM, 12.7.2024.

¹²² CD D1 p.162-163.

¹²³ CD D5.

¹²⁴ Draft at CD F2 and final version at CD F3 (only the draft includes some diagram work).

¹²⁵ Cross examination of Mr Bushby on behalf of the Council PM, 12.7.2024.

55. On the basis that it assumed no appreciable noise impact from additional vehicles, relying a DMRB assessment (but not considering the matter on a more subjective, experiential basis as Mr O’Kelly had done), the Environmental Statement Addendum nonetheless identified an adverse effect, albeit slight.¹²⁶ The parties disagree about the level of harm arising, but do agree that the impact is negative, adverse or harmful.

56. In terms of the detail of what is in dispute/agreed:

- a. The locations for assessments and the vehicular traffic figures are agreed:
 - i. See Mr O’Kelly’s POE at p.36 Table 3 – traffic increase; and
 - ii. See Mr O’Kelly’s POE at p.37 figure 13 – locations.

- b. As far as receptors are concerned, the Environmental Statement is not wholly consistent. Receptors are selected on the basis of being “high value”,¹²⁷ which means that e.g. they are “currently experiencing a higher tranquillity rating” and “currently experiencing key characteristics of the AONB landscape which are associated with tranquillity” etc. But when it comes to their sensitivity, where there are both residents at and visitors to a place, the sensitivity rating seems to reflect the least sensitive. So for Cranborne, a “medium sensitivity” rating is given.¹²⁸ This is obviously wrong as far as visitors to Cranborne are concerned, who will likely be visiting in order to appreciate what is special and important about the AONB and very aware of their surroundings.

57. The underestimation of the likely sensitivity of receptors is a general theme in the Environmental Statement Addendum. But even with that, and even without recognising any material noise disturbance effect from, for example, nearly a

¹²⁶ CD A83 p.92 does identify an adverse effect – 8.545.

¹²⁷ CD A83 p.87 (PDF p.88).

¹²⁸ CD A83 p.88 (PDF p.89) para. 8.500.

quarter more cars going through the peaceful village of Cranborne at a famous location (TR1(b), opposite the Fleur de Lys¹²⁹), it nonetheless acknowledged some level of harm. Mr O’Kelly evidently thought the harm more significant.¹³⁰ Mr Bushby accepted that reaching a conclusion about the level of harm arising involves an evaluative judgement, best conducted on site. On the basis of his own evidence, he accepted that there was contravention of local plan policy HE3 and NPPF/182, because the harm arising here failed to conserve or enhance the natural beauty of the AONB.¹³¹ Mr Jacobs seemed to think that was not a “significant” breach of policy,¹³² but that ignores the national policy imprecation to give great weight to conservation of this nationally important landscape.

Housing land supply

5 year housing land supply & potential contribution

58. In evidence the Council contended that it has a 3.857 year housing land supply,¹³³ the Appellant said there was of the order of a 3 year housing land supply.¹³⁴ The differences relate to (i) the cap, (ii) New Road Parley, (iii) Howe Road and (iv) the treatment of certain windfall sites. The item which makes the biggest difference is (i) the cap. Following the helpful indication at the roundtable and request for re-calculation, the parties are agreed that if the Council is correct on (i) the cap but wrong on (ii)-(iv), the supply is 3.66 years, for the period 1 April 2023 to 31 March 2028¹³⁵ (or, a shortfall of c. 613.8).¹³⁶ For the purposes of testing the importance of the issue, it is that figure on which these closing submissions will focus.

¹²⁹ POE P.36 TR1(b) would see a 24.4% increase in traffic.

¹³⁰ Per Mr O’Kelly’s POE at p.43 para. 6.27.

¹³¹ Cross examination of Mr Bushby on behalf of the Council PM, 12.7.2024.

¹³² Evidence in chief of Mr Jacobs AM, 16.7.2024.

¹³³ CD G38 Ms Lynch Rebuttal POE p.6 (PDF p.6) para. 2.15.

¹³⁴ CD K12 Tor & Co Addendum p.4 (PDF p.5) para. 1.20.

¹³⁵ CD G2 Ms Lynch POE p.3 (PDF p.3) para. 2.4

¹³⁶ Council’s cross examination of Mr Jacobs, 16.07.2024 after the lunch break.

59. Against that shortfall of c. 614 during the relevant period, on the Appellant's best case this proposal would deliver 168 dwellings by the end of 2028.¹³⁷ That contribution is far from resolving the shortfall, and 1,700 units is not required to do that.

60. In any event, that 168 must be treated with a degree of circumspection, as:

- a. it is for the entirety of 2027 and 2028 rather than the end of the 5YHLS period;
- b. it has failed to take account of (a) the need to get planning permission for the extraction of a possible 100,000 tonnes of minerals;¹³⁸ (b) the need to obtain planning permission for a Battery Energy Storage System,¹³⁹ key to the renewable energy environmental benefits proposed by the scheme;¹⁴⁰ and (c) the new provision of a 2ha school site. On the last of these, a point was made in re-examination of Mr Mound that, in effect, the school or school site needs to be provided by the 400th dwelling, which he estimates as being between 2029 and 2030. While that is true (a) a site will need to be identified, (b) the masterplan will need to be re-worked, (c) this permission will need to be subject to a new s. 73 application and (d) outline planning permission for the new school itself will then need to be applied for. The Appellant cannot occupy the 100th dwelling¹⁴¹ - currently scheduled for 2028 – until that is done.
- c. Mr Mound considers the most significant risk factor to be the discharge of pre-commencement conditions.¹⁴² The Appellant therefore professes to want “early and significant engagement” with the Council, in direct contrast to the approach it has pursued in this appeal.
- d. the Appellant is not able to agree the Council's preferred early submission Condition 2.¹⁴³ And

¹³⁷ CD G13 Mr Mound POE Appendix 1 (PDF p.16).

¹³⁸ Council's cross examination of Mr Mound, 12.07.2024 after lunch. The 100,000t figure and likely need for a further planning permission is found in CD A67 Planning Statement, p.48 (PDF p.50) paras. 5.62-5.66.

¹³⁹ Council's cross examination of Mr Jacobs, 16.07.2024 after the lunch break.

¹⁴⁰ CD A78 Planning Energy Strategy Statement p.16,18 (PDF p.16,18).

¹⁴¹ S. 106, Schedule 11, Part 2 para. 12.

¹⁴² Mr Mound's response to Inspector's questions, 12.07.2024 shortly before finishing for the day.

¹⁴³ CD K11 (PDF p.1).

- e. Mr Mound indicated that his proposed 200 dwellings per annum¹⁴⁴ depends on the quality of what will be delivered and the placemaking function of the development.¹⁴⁵ It will necessarily be affected by what is actually delivered, including for example whether the local centre will deliver the range of facilities offered.

61. So, to summarise: a 3.66 year housing land supply, to which the development will add a further 0.36 within the five year period, on the Appellant's very best case.

Beyond the five year period

62. Looking beyond five years, where the vast majority of the appeal scheme's housing would be delivered, there is not *at this point* a significant identified supply of sites from 2028 onwards.¹⁴⁶ That is unsurprising, given the plan itself is coming to an end in 2028. However, the Local Development Scheme¹⁴⁷ indicates a new plan will be adopted in May 2027. The Draft Dorset Local Plan¹⁴⁸ – though now abandoned – identified both a local housing need for Dorset and an ability to meet that figure.¹⁴⁹ The work on the Draft Dorset Local Plan will inform the new style Dorset Council Local Plan.¹⁵⁰

63. There are two further observations to note:

- a. First, the Draft Dorset Local Plan identified and set out ways to meet its need without relying on the option for significant growth at Alderholt.¹⁵¹ Significant

¹⁴⁴ CD G13 Mr Mound POE p.3 (PDF p.6), para. 3.6.

¹⁴⁵ Council's cross examination of Mr Mound, 12.07.2024 after lunch.

¹⁴⁶ There is some dispute about the remaining 369 homes identified in the 2014 Core Strategy but not yet built – see CD K13 p.1 (PDF p.1).

¹⁴⁷ CD D22 p.5 (PDF p.6).

¹⁴⁸ CD D16.

¹⁴⁹ CD D16 p.19 (PDF p.29), paras. 2.2.6-2.2.7.

¹⁵⁰ CD D22 p.5 (PDF p.6).

¹⁵¹ CD D16 p.31 (PDF p.41) policy DEV 2, p.46 (PDF p.56) Fig 2.6 and para. 2.7.12.

growth at Alderholt was consulted upon, subject to important provisos (see above),¹⁵² but that option was not integral to meeting the identified need.

- b. Second, a point was made in cross examination of Ms Fay¹⁵³ that some of the sites in the now abandoned plan included Green Belt release sites. That is true, and if those are taken forward will be subject to their own policy assessment. It has been the case for many years that “exceptional circumstances” will justify Green Belt release through the plan process. The Council has identified potential Green Belt releases as sustainable options. It does not follow that the existence of that option necessarily means that expansion of Alderholt would be preferable.

Affordable housing/viability

64. One of the examples given in national policy in relation to the importance of pre-application resolution of issues, is in relation to the need to deliver affordable housing (NPPF/41).

65. The Core Strategy requirement in policy LN3 is for the provision of “up to 50% of the residential units as affordable housing... Any planning application which on financial viability grounds proposes a lower level of affordable housing than is required by the Policy Percentage Requirements must be accompanied by clear and robust evidence that will be subject to verification.”¹⁵⁴ Thus the policy expressly contemplates the need for justification for an affordable housing offer of less than 50%. The Council’s Affordable Housing SPD provides more detail on this.¹⁵⁵

66. In this case, the document submitted with the planning application was a statement confirming that the provision of 35% affordable housing was viable, as

¹⁵² CD D16 p.30 (PDF p.40), para. 2.6.6.

¹⁵³ 28.06.2024 shortly after lunch.

¹⁵⁴ CD D1 pp.170-171 (PDF pp.172-173)

¹⁵⁵ CDD6 Affordable housing SPD, see e.g. paras. 1.7, 4.9, 7.5, 7.9-11.

if the policy requirement was 35%, which it is not.¹⁵⁶ It did not attempt to justify a sub-50% offer. A further report was produced in May 2023.¹⁵⁷ It supported the same 35% offer, and again that was said that was “viable”. In fact it was so viable that a £3.5m surplus was identified, against a benchmark land value of £30,100,000 (now agreed to be closer to £28m).¹⁵⁸ A range of inputs at that stage were not settled, and the work was provided well into the statutory determination period. It was not considered within the officer report.

67. Prompted by a list of questions from Council’s valuer, which essentially asked for justification of the inputs relied upon by the Appellant,¹⁵⁹ a very significant amount of new information was submitted during the course of the appeal process. The 35% offer was a constant, but the justification for that level of affordable housing changed considerably. The Council sought independent verification of a number of inputs.

68. Ultimately, a new offer was made, committing to 37% affordable housing, plus a two-stage review within the section 106 planning obligation. Agreement was reached between the parties that this represents the maximum reasonable amount of affordable housing the scheme can provide, and on that basis the offer complies with policy LN3. The process by which the parties got to that point is unedifying, but the detail of that does not need to be further ventilated here.

Education

69. As set out in the Council’s Opening Submissions, matters relating to the Upper and Middle school are agreed.¹⁶⁰ The issue is and has always been first school provision. When designing the project, it is telling that Mr Worsfold was not asked by the

¹⁵⁶ CD A44 Viability Statement (February 2023), see e.g. PDF p.3 para. 1.1 and PDF p.5 section 4 “the viability assessment concludes that the completed development will viably support a provision of 35% affordable housing”.

¹⁵⁷ CD A56.

¹⁵⁸ CD A56 residual appraisal PDF p.24.

¹⁵⁹ Mr Verdi’s POE Appendix 2 (PDF p.95).

¹⁶⁰ CD G34 Education Topic Paper (PDF p.6) para. 3.2.12.

Appellant to accommodate a school on site.¹⁶¹ However, ever since the Council as Local Education Authority was consulted on the educational proposals for this scheme, it has indicated that a 2ha site should be provided within the red line boundary.¹⁶² No such offer was made in the first Education Impact Assessment of May 2023;¹⁶³ in the Appellant's Statement of Case¹⁶⁴; in the Education Mitigation Strategy of May 2024¹⁶⁵; in Mr Powell's proof¹⁶⁶; or in Mr Powell's rebuttal¹⁶⁷; or the Appellant's opening.¹⁶⁸ Instead the Appellant offered a review mechanism in case some site, somewhere, became available at some point,¹⁶⁹ and criticised the Council for not demonstrating that funding was available for an offer the Appellant had not made.¹⁷⁰ The Appellant approached Mr Denham in the afternoon of 26 June, minutes before he was due to give evidence, to make the offer that is now captured in the s. 106. That is, in broad, terms, that the Council can require the Appellant to identify, obtain planning permission for and then transfer a 2ha site for the location of a primary school within the red line boundary of the current development.

Local Centre

Placement

70. NPPF/135a, d, e and f provide strong guidance on what is required from design. In particular NPPF/135e provides that policies and decisions should optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, and support local facilities and transport networks. NPPF/139

¹⁶¹ Council's cross examination of Mr Worsfold 10.07.2024 after the lunch break.

¹⁶² Council's cross examination of Mr Jacobs, 16.07.2024 after the lunch break. See too CD B20 (Education response of 22 May 2023) p.1 (PDF p.1); CD C2 Council's Statement of Case p.24 (PDF p.24) para. 14.1; CD G7 Mr Denham POE p.12 (PDF p.12) para. 3.28.

¹⁶³ CD A79 p.16 (PDF p.16) para. 4.4.6-4.4.7; p.17 (PDF p.17) para. 5.1.4.

¹⁶⁴ CD C3 p.12-13 (PDF p.14-15) paras. 2.25-2.29.

¹⁶⁵ CD A92 p.9-10 (PDF p.9-10) paras. 4.2.14-4.2.18.

¹⁶⁶ CD G12 p. 18 (PDF p.18) paras. 4.3.1-4.3.7.

¹⁶⁷ CD G43 p.4 (PDF p.4) paras 2.4.1-2.4.6.

¹⁶⁸ CD K4 p. 4 (PDF p.4) para. 9f.

¹⁶⁹ E.g. CD G12 p. 18 (PDF p.18) paras. 4.3.1-4.3.7.

¹⁷⁰ Ibid.

provides that development which is not well designed should be refused. As Mr Worsfold accepted in cross examination, one of the purposes of the design vision set out in p.9 of the DAS¹⁷¹ is to benefit new and existing residents. The fixed¹⁷² location put to you now by the Appellant, which it considers its best shot,¹⁷³ fails to live up to both the requirements of the NPPF and the expectations set for itself in the design vision.

71. As a starting point, it was put forward as a “heart” to the development.¹⁷⁴ It is clearly not, being buried in the southern portion of the site. Even Mr Worsfold has now downgraded it from “heart” to “hub”¹⁷⁵ (albeit through suggesting the Council had misunderstood the reference to a “heart” in the DAS). The location, it was suggested, was the product of “great and many complex decisions.”¹⁷⁶ In the light of the changes to education, this complex masterplan is going to have to be revisited. So, it is sufficiently complex and fixed that the local centre cannot be moved to better accommodate existing residents of Alderholt, but apparently not so complex that a 2ha school site cannot be found at the 11th hour.

72. That hub is not optimally located for the 15-minute benchmark put forward in the DAS as part of the Appellant’s “commitment”¹⁷⁷, relied on by other members of the Appellant’s team,¹⁷⁸ and which formed part of the consultation materials¹⁷⁹. It is worth noting that:

- a. TCPA Guidance¹⁸⁰ reports research from Melbourne showing a 10 minute/800m walk each way is about the maximum people are willing to walk

¹⁷¹ CD A49 p.9 (PDF p.9) “We believe that Alderholt presents an outstanding opportunity to provide homes, jobs and facilities for existing and new residents.”

¹⁷² In particular CD A11.

¹⁷³ Council’s cross examination of Mr Worsfold, 10.07.2024 before the lunch break

¹⁷⁴ CD A49 p.9 (PDF p.9) “This vision is centred on the creation of a village square that will create a ‘heart’ to Alderholt Meadows where people can meet, pass time, and access services, all within a 15-minute walk of their homes.”

¹⁷⁵ CD G16 Mr Worsfold POE p.12 (PDF p.12) para. 4.3.

¹⁷⁶ Council’s cross examination of Mr Worsfold, 10.07.2024 after the lunch break.

¹⁷⁷ CD A49 p.9 (PDF p.9).

¹⁷⁸ See e.g: CD A98 Transport Assessment Addendum, Walking Cycling and Horse-riding Assessment and Review p. 23 (PDF p.110) para. 4.2; CD A67 Planning Statement p. 34 (PDF p.36) para. 5.9.

¹⁷⁹ CD A48 Statement of Community Involvement Appendix A (PDF p.34).

¹⁸⁰ CD F48 TCPA Guidance, 20 Minute Neighbourhoods p. 7 (PDF p.9) top red box.

to meet their daily needs. That tallies with the 10 minute / 800m distance described by the CIHT (2000) as “acceptable”¹⁸¹ and the suggestion by the CIHT (2015) that walking neighbourhoods are “traditionally characterised as having a range of facilities within 10 minutes’ walking distance (around 800m).”¹⁸²

- b. The Appellant’s commitment in its DAS was slightly looser – 15 minutes from most of the homes in Alderholt. 15 minutes is the preferred maximum set out in CIHT guidance (2000).¹⁸³
- c. After the Council queried that accessibility¹⁸⁴ Mr Worsfold has refocused on trip lengths of 20 minutes,¹⁸⁵ or roughly 1 mile.¹⁸⁶ This is beyond the CIHT’s preferred maximum, beyond the commitment made by the Appellant and the basis on which this was designed, and does not tally with the Appellant’s own Trip Internalisation Report. Much like the “heart” example, the Appellant has lost sight of what it actually promised.

73. But in any event turning to how that benchmark has been applied, Mr Worsfold initially opted for as the crow flies distances, referring to the assessment of the actual routes people would actually walk as a “point of pedantry”.¹⁸⁷ Obviously, the Council acknowledges that in places the DAS refers to being within a 15 minute walk of most properties rather than all, but the point remains that that benchmark is what was the Appellant itself set. When measured against that benchmark, and the shorter 10 minute / 800m distance, the alternative location, put forward by the Council,

¹⁸¹ CD F50 CIHT Journeys on Foot (2000) p. 49 (PDF p.52) table 3.2. Notwithstanding Mr Worsfold’s suggestion during evidence in chief this had been superseded, it has been agreed as relevant guidance in CD G36 Local Centre and Retail Topic Paper p.3 (PDF p.3) para. 1.1 and is referred to without being distinguished, abandoned or superseded in CD F15 CIHT Planning for Walking (2015) p. 14, 26 and 39 (PDF p. 8, 14, 39) see all references to 2000a.

¹⁸² CD F15 CIHT Planning for Walking (2015) p.30 (PDF p.16) section 6.4. See too p.29 (PDF p.15) noting “Most people will only walk if their destination is less than a mile away. Land use patterns most conducive to walking are thus mixed in use and resemble patchworks of “walkable neighbourhoods” with a typical catchment of around 800 m or 10 minutes’ walk”.

¹⁸³ CD F50 CIHT Journeys on Foot (2000) p.49 (PDF p.52) table 3.2.

¹⁸⁴ CD A75 Committee Report PDF p.77 (PDF p.77) para. 16.134 and following.

¹⁸⁵ CD G16 Mr Worsfold POE p.38 (PDF p.38).

¹⁸⁶ As explained in Worsfold during re-examination, 10.07.2024 before the mid afternoon break.

¹⁸⁷ Council’s cross examination of Mr Worsfold, 10.07.2024 before the lunch break.

performs better.¹⁸⁸ It is agreed that all things being equal, the shorter the route the more likely a person is to walk it.¹⁸⁹ And it is not the new residents who suffer this difference in treatment, but the existing ones.

74. So what is said in favour of the Appellant's proposed location?

- a. First, it was said that if the local centre could not be unplugged and moved because it is indivisible from all the other design decisions.¹⁹⁰ But, as Mr Worsfold accepted in cross examination¹⁹¹ (i) the current location is not the densest area on the density parameter plan¹⁹²; (ii) the specific densities *within* the four areas on the density plan are global densities and there will be variation within them; and (iii) the masterplan is illustrative. The location of key elements, such as the care home, is not fixed.¹⁹³ There is also going to have to be serious reconsideration of that in any event given the need to accommodate a new 2ha school site and its associated activity. The point, therefore, goes nowhere.
- b. Second, that relocating the local centre would bring its effects with it: the vehicular use, the flats, the intensity, for example. Mr Worsfold suggested in evidence in chief¹⁹⁴ that the increased activity would be inappropriate at the Council's proposed alternative location. This was a point squarely put to Ms Fay in cross examination, with which she fundamentally, and rightly, disagreed.¹⁹⁵
- c. It was suggested to Ms Fay during cross examination¹⁹⁶ that in masterplanning terms it would be better to have two convenience stores further apart than

¹⁸⁸ CD G36 Local Centre and Retail Topic Paper p.5-6 (PDF p.5-6) paras. 2.18-2.19. Again, agreed with Worsfold during the Council's cross examination, 10.07.2024 before the lunch break.

¹⁸⁹ Agreed with Worsfold during the Council's cross examination, 10.07.2024 before the lunch break.

¹⁹⁰ CD G16 Mr Worsfold POE p.10 (PDF p.10) para. 2.13 8th bullet point.

¹⁹¹ Council's cross examination of Mr Worsfold 10.07.2024 shortly after the lunch break.

¹⁹² CD A10.

¹⁹³ See e.g. the Land Use Parameter Plan CD A11.

¹⁹⁴ 10.07.2024 first session of the morning.

¹⁹⁵ The Appellant's cross examination of Ms Fay cross examination 28.06.2024 first session of the morning.

¹⁹⁶ 28.06.2024, first session of the morning.

together. A similar point was made in the re-examination of Mr Worsfold.¹⁹⁷ Ms Fay accepted if that was the only factor that would be true. However, it is of course not the only factor in this case as (i) the Co-op may well close, leaving services less accessible for some residents (particularly the existing ones); (ii) there may be some benefit from linked trips between the alternative local centre and the Co-op,¹⁹⁸ and (iii) other proposed facilities are to be contained within the local centre.

- d. So the Appellant relies, heavily, on the purported quality and attractiveness of the routes.¹⁹⁹ However, again, this fails on close analysis. As Ms Fay outlined²⁰⁰ there are concerns about, for example, the quality of some of these routes (lit or unlit, whether they'd be of appropriate width). More fundamentally, as Ms Fay outlined while being cross examined, the routes to the Council's alternative local centre are more legible and direct.
- e. Mr Worsfold accepted that car parking was a factor, but not a key factor, in selecting the location of the local centre,²⁰¹ and in relation to passing trade the high point of his evidence was that the passing trade context between the proposed local centre and the Council's alternative was "much the same".²⁰²
- f. It was also suggested by Mr Worsfold that Ms Fay's had misunderstood the Kropf methodology in failing to recognise the diversion of Ringwood road.²⁰³ She hasn't – her diagrams look at pedestrian connectivity as she explained in cross examination²⁰⁴ and in her proof of evidence.²⁰⁵

¹⁹⁷ 10.07.2024 shortly before the mid-afternoon break.

¹⁹⁸ As set out by Ms Reeves during cross examination (27.06.2024 morning) and accepted by Mr McCullum during the Council's cross examination (12.07.2024 morning).

¹⁹⁹ See e.g. CD F16 Mr Worsfold POE App 26 (PDF p.108).

²⁰⁰ Appellant's cross examination of Ms Fay, 28.06.2024 shortly before the morning break.

²⁰¹ Council's cross examination of Mr Worsfold, 10.07.2024 shortly before the lunch break.

²⁰² Council's cross examination of Mr Worsfold, 10.07.2024 shortly before the lunch break.

²⁰³ Mr Worsfold's evidence in chief, 10.07.2024 first session of the morning.

²⁰⁴ 28.06.2024 first session of the morning.

²⁰⁵ CD G1 Ms Fay POE p. 59 (PDF p.59) Appendix B para. 8.11.

75. So when all those points are gathered together, fundamentally it is apparent that the location of the proposed local centre has not been optimised. It fails the relevant design tests, and fails the design challenge that the Appellant committed to. It is not optimised and should be refused. Furthermore, there are alternatives, of which the Council's proposed centre is an example.²⁰⁶

Local Centre Provision

76. There should be no dispute that it was for the Appellant to provide a RISTA and that without one RfR5 was justified.²⁰⁷ The issue now is what to do with the information belatedly provided.

77. There are two versions of condition 14²⁰⁸ in issue, each providing some level of restriction on the local centre which the Appellant is required by the s. 106 to bring forward. Broadly, the Council's condition requires the local centre to contain at least 1 Convenience Goods retail unit, something Mr McCullum accepted in cross examination²⁰⁹ was essential for the village centre to function. As to the remainder, the Council's condition requires comparison goods/retail service businesses to be contained within a minimum of 7 units, as assessed. The Appellant's would allow 3x400m units and 1x58m unit.

78. It is of course right that that Class E was instituted to allow flexibility. However, the Council submits first that restriction of movement within Class E is nevertheless appropriate here, and that the Council's condition is to be preferred. This position follows from a consideration of the two purposes served by Condition 14 in this case.

79. The first purpose relates to the retail issues: retail impact test and sequential test.

²⁰⁶ Confirmed by Ms Fay during cross examination 28.06.2024 first session of the morning.

²⁰⁷ PPG Town Centres and Retail, paras. 11 (Reference ID: 2b-011-20190722) and 17 (Reference ID: 2b-017-20190722).

²⁰⁸ CD K11 Draft Conditions (PDF p.10-11).

²⁰⁹ Mr McCullum cross examination by the Parish Council, 12.07.2024 morning.

- a. There is no dispute the sequential test is passed provided the scale and permitted uses are appropriate to a local centre.²¹⁰ Mr McCullum's assessment of whether what is proposed is an appropriate size is based solely on the turnover of the local centre, which in turn is based on the specific parameters he assessed²¹¹ and which are more closely reflected in the Council's condition. Ms Reeves has undertaken a comparative exercise, and in part on that basis has proposed the condition that she did.²¹²
- b. On impact, the concern is avoiding harm to other retail centres – here Verwood and Fordingbridge. Class E contains uses appropriate to a town centre,²¹³ which this location is not. There *could* therefore, be a conflict with the protective provisions in NPPF/94 and KS7²¹⁴ regarding avoiding that harm. A condition making at least some provision for restriction within Class E is therefore appropriate, and – notwithstanding Mr McCullum's suggestion otherwise during evidence in chief - is something that features in varying degrees in the Council's draft Condition 14, the Appellant's draft Condition 14, and the original condition mooted by Mr McCullum in the RISTA²¹⁵. As to what that Condition should look like, the condition put forward by Ms Reeves should be supported, as it ties in closer to what has been tested in the Retail Impact Assessment and that is of particular importance here, where there is no quantitative analysis of what the actual impact on Verwood town centre is,²¹⁶ and therefore how it might be affected by permitting beyond what has been assessed.

80. The second purpose of the condition is controlling mix. As Mr McCullum accepted in cross examination one of the purposes of condition 14 is to ensure there is a suitable

²¹⁰ CD G36 Retail Topic Paper p.12 (PDF p.12) para. 4.21.

²¹¹ As accepted during the Council's cross examination, 12.07.2024 morning.

²¹² CD G8 Ms Reeves POE p. 12-13 (PDF p.14-15) paras. 4.30 and following.

²¹³ PPG on "When is permission required" para. 009a (reference ID 13-009a-20200918).

²¹⁴ CD D1 p. 33 (PDF p.35).

²¹⁵ CD A77 Retail Impact and Sequential Test Assessment p.2 (PDF p.5) para. 2.4.

²¹⁶ Mr McCullum accepted during the Council's cross examination (12.07.2024, morning) his figures are for Verwood as a whole, with only a qualitative analysis of the actual Town Centre. See too CD A77 Retail Impact and Sequential Test Assessment p.24 (PDF p.27) para. 5.50.

mix serving the village centre. Having a suitable and appropriate mix is part of the design “promise” put forward by the Appellant in its DAS.²¹⁷ However, at this stage, there is a degree of anxiety about whether that is deliverable²¹⁸. Instead, the Appellant provides the promise of that mixed and diverse village centre, but asks you to condition much greater flexibility so that the market dictates what the town centre provides: whether that is the mix promised in the DAS, whether that is four takeaways, whether or not that includes a pharmacy.²¹⁹

81. So, to ensure the sequential test is satisfied, ensure the retail impacts are acceptable, and ensure that the diverse village centre promised by the Appellant is delivered, the Council’s condition should be preferred.

82. Turning to the impact on the co-op and how that sounds in policy terms, this was a matter first raised by Mr McCullum in the RISTA,²²⁰ which is when the information to assess that impact was first provided. There is no dispute that the Co-op *may* close²²¹, the issues are (i) how likely that is and (ii) the practical impact of it.

83. On the likelihood, as Ms Reeves sets out, there is a real risk the co-op could close or relocate. This is a Southern Co-op suffering a significant reduction in turnover for a period of up to 10 years.²²² This could be longer given (i) the sensitivity testing that was done²²³ and (ii) the risk of delays leading to a longer imbalance between residential and retail uses.²²⁴ It is not clear how this translates into a loss of profit for the Co-op, given the Co-op will have *some* ongoing fixed costs, and an accepted unknown as to whether the co-op will require any substantial investment²²⁵. Overall, therefore, it is not clear what losses the Co-op will make nor, even when turnover becomes positive

²¹⁷ CD A49 p.53 (PDF p.53).

²¹⁸ Council’s cross examination of Mr McCullum, 12.07.2024 morning. See too Council’s cross examination of Mr Mound 12.07.2024 after lunch.

²¹⁹ Council’s cross examination of Mr Mound 12.07.2024 after lunch.

²²⁰ CD A77 p.6 (PDF p.9) para. 3.17.

²²¹ Mr McCullum evidence in chief 12.07.2024 before morning break.

²²² CD A77 Retail Impact and Sequential Test Assessment p.26 (PDF p. 29) table 13c.

²²³ CD A77 Retail Impact and Sequential Test Assessment p. 27 (PDF p.30) table 14 High Forecast.

²²⁴ Action 4 Alderholt’s cross examination of Mr McCullum, 12.07.2024 before the lunch break.

²²⁵ As Mr McCullum accepted during the Council’s cross examination, 12.07.2024 morning session.

again, how long it will take to recoup those losses. There is therefore a real risk of closure.

84. If it does, there would be a breach of KS11. Access to those key facilities and services provided by the Co-op will have been reduced for existing residents of Alderholt. To the extent this leads to any residents getting in their car, it is also failing to promote alternative modes of travel.

85. The Council's evidence had suggested that the closure of the Co-Op ran counter to the objectives of PC5. There is no dispute that planning policy is not concerned with competition. Both retail witnesses seem to have understood PC5 to have indirect effect, and perhaps it can be read that way.²²⁶ The background text outlines what the policy is addressed to (avoiding the loss of non-profitable facilities);²²⁷ the operative part of the second paragraph refers to "the loss of" existing retail premises, leisure and other facilities (rather than applications which propose the loss of such facilities, as in the opening paragraph). This is not an anti-competition policy, but one which aims to ensure villages continue to be well served by facilities they are vulnerable to losing. Even if, however, the witnesses were wrong to assume it operates in that way (and these submissions proceed as if they were), whether the existing residents of Alderholt would continue to be as well served by the facilities in their town remains a material planning consideration.

Habitats

86. On the merits, each of the habitats/ecological issues between the Appellant and the Council is now resolved subject to the imposition of a SANG Management Plan²²⁸ and / or appropriate conditions.²²⁹ This follows the receipt of revised advice from Natural

²²⁶ CD G8 Ms Reeves POE p. 17-18 (PDF p.19-20) paras. 7.6-7.6; CD A77 Retail Impact and Sequential Test Assessment p.6 (PDF p.9) para. 3.17, CD G14 Mr McCullum POE p. 24 (PDF p.24) para. 5.18 and CD G36 Retail Topic Paper p. 13 (PDF p.13) para. 4.27.

²²⁷ CD D1 Christchurch and East Dorset Local Plan (2014) p. 184 (PDF p.186) para. 16.16.

²²⁸ Currently Schedule 8 in the s. 106 Agreement.

²²⁹ See e.g. Mr Lang's evidence in chief 26.06.2024 after the afternoon break, and the updated Ecology Topic Paper.

England²³⁰ removing its objection²³¹, to which the Council of course has had to give great weight.²³²

87. The remaining dispute on Condition 35 is whether the condition should be pre-commencement (as the Council²³³ and Natural England²³⁴ contend) or pre-occupation (as the Appellant contends).²³⁵ Pre-commencement conditions provide more certainty and transparency in this large, multi-phased, multi-developer site. With a pre-commencement condition, if a house has been built the condition has been discharged, and third parties – such as purchasers – can rely upon that. That is not so for the Appellant’s condition, which prohibits occupation until credits have been secured and proof provided to the LPA. Those acting for buyers may not be clear on which credits have been attributed to which house or phase, whether such credits have been purchased at all. We urge you, therefore, to prefer the Council’s condition.

Conclusion on compliance with the plan as a whole

88. The Council considers that there is conflict with the following policies:

- a. KS2 (settlement hierarchy);²³⁶
- b. KS11 (transport & development);²³⁷ and
- c. HE3 (AONB).²³⁸

89. Two out of three policies (KS2 and KS11) are within the strategic objectives part of the development plan and go to points of principle of central importance within that plan. They are consistent with national transport policy. Conflict with KS2 and KS11 is sufficient to put the scheme in conflict with the plan as a whole.

²³⁰ CD K15

²³¹ CD B21

²³² **R (Wyatt) v Fareham BC** [2022] EWCA Civ 983, [9(4)].

²³³ Appellant’s cross examination of Ms Fay 28.06.2024 shortly after lunch.

²³⁴ CDK.015 p. 1, 4 (PDF p.1, 4)

²³⁵ CDK.011 (PDF p.16) Condition 35.

²³⁶ CD D1 pp.24-25 (PDF pp.27-28).

²³⁷ CD D1 pp.40-41 (PDF pp.42-43).

²³⁸ CD D1 pp.162-163 (PDF pp.164-165).

90. Bearing in mind the stricture in NPPF/182 in relation to particular importance (“great weight”) being given to the objectives of conservation and enhancement, and in turn to harm to the AONB, conflict with HE3 is significant. Mr O’Kelly stopped short of identifying the harm to the AONB as itself providing a clear reason for refusing planning permission.²³⁹ That is reflected upon in the “material considerations” section below, but nonetheless, this accepted conflict with policy militates in favour of a conclusion that there is conflict with the plan as a whole.

91. Note that it had been contended that the potential closure of the Co-Op would, indirectly, harm local amenity contrary to PC5. However, while there remains concern about the practical effect of the proposals for the residents of Alderholt, it is recognised that it does not necessarily advance that point to strain the interpretation of PC5.

Other material considerations

92. The NPPF is a material consideration in planning decisions (NPPF/2). It provides the equivalent of a deeming provision: that where, as here, there is a five-year housing land supply shortfall, the policies which are most important for determining the application are out-of-date.²⁴⁰ The impact of that conclusion is not that the “weight” to attribute to every relevant policy is downgraded. It is simply that a specific Government policy applies: that planning permission should be granted unless either “the application of policies in this Framework... [provide] a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.”²⁴¹ As the Inspector will know, the latter is referred to as the “tilted balance” for convenience and that shorthand is employed here.

²³⁹ Cross examination of Mr O’Kelly on behalf of the Appellant, PM 25.6.2024.

²⁴⁰ NPPF/11(d) and footnote 8.

²⁴¹ NPPF/11(d).

93. Following agreement in relation to habitats (see above), it is accepted that the tilted balance applies. But since the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, even on the application of the tilted balance, the appeal should be dismissed.²⁴²
94. The emerging neighbourhood plan should be taken into account in reaching a decision on this case, bearing in mind the stage it has reached.²⁴³
95. The benefits of the appeal scheme were identified thematically, and at some length, in Mr Jacobs' written evidence.²⁴⁴ Some aspects of it cannot be relied upon in that they are predicated upon earlier conclusions which are not sound (e.g. re the development enhancing the role of Alderholt as a rural service provider, in accordance with KS2²⁴⁵ and "enhanced walking and cycling routes, in particular to Fordingbridge"). Some aspects have been overtaken by events (e.g. the detail of the bus provision, the level of affordable housing). There are claimed benefits where further consents are required if they are ever to be realised (e.g. minerals, battery storage). As such, some care would need to be taken with the tables before reliance could be placed on them. Ms Fay's evidence (section 23) took a simpler approach, and may provide a better guide. Like the evidence of Mr Jacobs, Ms Fay has sought to explain the relative importance of each aspect of the proposals in terms of the "weight" to attribute. That is one way to articulate the process of reaching the multi-faceted planning judgement at issue here, but the Council would acknowledge that it is not the only way to do so.

²⁴² Note that this was Ms Fay's conclusion in written evidence in any event, see her POE p.43 paras. 25.1-2.

²⁴³ CD G37.

²⁴⁴ Mr Jacobs POE pp.50-54 PDF pp.53-57.

²⁴⁵ Mr Jacobs POE p.52 PDF p.54.

Overall conclusion

96. This is a case where there would be real harm caused by directing significant scale development to somewhere which is not well located in transport sustainability terms. That alone significantly and demonstrably outweighs the benefits of the scheme, including the provision of housing (together with affordable housing). In addition, the scheme really has not put pedestrians and cyclists first: the arrangements are unresolved and unsatisfactory. Late changes to the longer term proposals for education put into perspective the Appellant's intransigence when a better location for the local centre was suggested to them. The masterplan is sub-optimal in that it identifies a location distant from existing Alderholt residents for the local centre, and even in the context of the scheme itself, the centre is rather peripherally located. Harm to the AONB would arise and albeit not itself warranting the refusal of permission, that nonetheless counts against granting planning permission.

97. For all these reasons, it is respectfully submitted that the appeal should be dismissed.

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19 July 2024

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