



# **Report to the Secretary of State for Communities and Local Government**

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

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Date 22 January 2007

**Crawley Borough Council**

**Appeal by George Wimpey UK Limited and**

**Beazer Homes (Reigate) Limited**

**regarding**

**Residential and Other Development on Land at**

**North East Sector, Crawley**

Inquiry opened on 3 October 2006

File Ref - APP/Q3820/A/05/1190042

**File Ref: APP/Q3820/A/05/1190042****Land at North East Sector, Crawley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by George Wimpey UK Limited and Beazer Homes (Reigate) Limited against Crawley Borough Council.
- The application Ref CR/98/0039/OUT is dated 19 January 1998.
- The development proposed is approximately 1,900 dwellings, 5,000 sq metres of Use Class B1, B2 and B8 employment floorspace, 2,500 sq metres of net retail floorspace, a local centre/community centre (including a community hall), a new primary school, recreational open space, landscaping, the relocation of the 132kv OH power line adjacent to the M23 motorway, infrastructure and means of access on land at North East Crawley.
- The inquiry sat for 16 days between 3 October 2006 and 14 November 2006.

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**Summary of Recommendation: That the appeal be dismissed and planning permission for the development proposed refused**

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## 1. INTRODUCTION AND PROCEDURAL MATTERS

1.1 The inquiry opened on 3 October 2006 and sat for 16 days before closing on 14 November 2006. On 7 November I visited the site and the surrounding area, accompanied by representatives of the Appellant and the Council. I made further accompanied visits to other sites in Crawley referred to in the evidence on 23 October and 10 November. I also made several unaccompanied visits during the course of the inquiry to sites and areas in and about Crawley.

1.2 The application was submitted to the Council in January 1998 (CD45). In March 1999 the Secretary of State directed the Council not to grant permission on the planning application without special authorisation, in exercise of his powers under Article 14 of the Town and Country Planning (General Development Procedure) Order 1995 (CD67). That direction remains in force.

1.3 The application submitted was in outline (CD45). It was described as being for:

*“up to 2,200 dwellings, 5,000m<sup>2</sup> of Use Class B1, B2 and B8 employment floorspace, 2,500 m<sup>2</sup> of retail floorspace, a community hall, first and middle school, park and ride, a fire station, recreational open space, landscaping, the relocation of the 132kv OH power line adjacent to the M23, infrastructure and means of access”.*

It was accompanied by a single plan (Plan A1), a supporting statement and appendices, including a masterplan.

1.4 Following the submission of the appeal, a revised “red line” application plan (Plan B1) was submitted on 19 June 2006, together with a request to amend the description of the development sought to:

*“approximately 1,900 dwellings, 5,000 sq metres of Use Class B1, B2 and B8 employment floorspace, 2,500 sq metres of net retail floorspace, a local centre/community centre (including a community hall), a new primary school, recreational open space, landscaping, the relocation of the 132kv OH power line adjacent to the M23 motorway, infrastructure and means of access”.*

A revised masterplan was also provided (Plan B2).

1.5 Later in June an Environmental Statement (ES) was submitted (CD57). It was advertised (INQ4) and invitations to a public exhibition were sent to local residents and other interested parties, accompanied by a leaflet including details of the application and a copy of the masterplan (GWB2/4). The exhibition was held at the Wakehams Green Community Centre on Friday 30 June and Saturday 1 July, following which the exhibition boards were displayed in the Town Hall foyer for a further two weeks.

1.6 A Design Statement was submitted in August (CD58).

- 1.7 On the opening day of the inquiry a further revised masterplan was provided (Plan C1) showing minor amendments to the layout of the employment area and the landscaping area to the east of the fishing lake. It also showed indicative routes of proposed cycle/footpath links through the woodland to the west of Balcombe Road. At the opening of the inquiry I announced the revisions and asked if everyone was content that the inquiry should proceed (and the Secretary of State should reach her decision) on the basis of the revised plans. No one objected.
- 1.8 As I have noted above, an ES (CD57) was supplied. Further environmental information was supplied with the proofs of evidence and during the course of the inquiry. In reaching my conclusions and recommendations, I have taken this environmental information into consideration.
- 1.9 PPS3: Housing was published on 29 November, after the inquiry closed. At the same time PPG3: Housing (2000) and various updates thereto, including Keith Hill's 2003 parliamentary statement on planning for housing were cancelled. PPS25: Development and Flood Risk was published in December 2006, also after the inquiry closed. At the time of the inquiry, the drafts of both PPSs were available and were considered in the evidence. To my mind, the differences between the drafts and the final versions are not significant insofar as they concern the matters at issue in the inquiry. I therefore take the view that, should the Secretary of State consider that either or both PPSs are material considerations to the decision, there should be no reason to seek comments on them from the parties and thereby delay the decision.
- 1.10 Chapter 2 of this report contains a description of the site and the surrounding area. This is followed by chapters briefly describing the proposals; setting out those matters which are common ground between the Council and the Appellants; and summarising the relevant planning policies. The following chapters set out the gist of the cases made by each of the inquiry participants, case by case. The main points made by those who submitted written representations are also recorded. The final chapters contain my conclusions and recommendations.
- 1.11 A list of those appearing at the inquiry is contained in Appendix A. Documents and plans submitted to the inquiry are listed in Appendices B and C. Appendix D contains a list of abbreviations used in this report.

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## 2. THE SITE AND SURROUNDINGS

Inspector's Note. An aerial photograph of the appeal site can be found in the ES, Volume 2, Annex LAN, together with a series of photographs showing views across the site and its surroundings. Larger copies of the same photographs are included in GWB3/2, Appendix B.

- 2.1 The area of the appeal site is approximately 119 hectares. It is bounded by the M23 motorway to the east and the London to Brighton railway line to the west. The B2036 Balcombe Road runs north to south through the site. On the west side of Balcombe Road, the A2011 Crawley Avenue bounds the site to the south and parts of Radford Road and Steers Lane bound the site to the north. On the east side of Balcombe Road the northern and southern boundaries of the appeal site follow field boundaries. The Crawley Crematorium sits in woodland to the west of Balcombe Road and extends some 450m into the body of the appeal site (Plans B1 and C1).
- 2.2 Land within the site is for the most part agricultural land (mainly rough pasture), with large blocks of woodland to the west of Balcombe Road on either side of the Crematorium. A fishing lake (Ballast Hole Lake) sits in the south west corner of the site. Residential properties within the site comprise Toovies Farm, which lies approximately midway between Balcombe Road and the M23, and a few dwellings in Blackcorner Wood. There are further residential properties nearby but outside the site fronting Steers Lane and Radford Road and to the east of Balcombe Road, just to the south of Blackcorner Wood. A restaurant/public house and florists shop lie on the eastern side of Balcombe Road, just to the north of the Crematorium.
- 2.3 The Gatwick Stream follows a north-south course through the western part of the site. Associated with this stream is a significant floodplain, which is some 150m to 250m wide within the appeal site (ES, Volume 3, Part 1, Drg CS/000916/Figure 1).
- 2.4 Land uses immediately around the appeal site include the small settlement of Tinsley Green to the north, agricultural land beyond the motorway to the east and existing residential areas beyond Crawley Avenue to the south (Pound Hill). To the west of the railway line the land is mainly in industrial use.
- 2.5 The topography of the appeal site and the surrounding area is broadly flat. The ground level is around 75m AOD in the eastern part of the site and falls very gently to the west, with levels at around 65m AOD close to the Gatwick Stream.
- 2.6 Whilst there are several woodlands within the site, the only Tree Preservation Order (TPO) on the site is that covering Blackcorner Wood, made in 1981 (copy with Questionnaire). Outside the site there are a number of TPOs covering trees along Balcombe Road. The western portion of the Crematorium site is also covered by a recent TPO. Outside the woodlands there are numerous trees within the site, particularly in the hedgerows and along the line of the Gatwick Stream. These include mature oaks.
- 2.7 A footpath designated as a public right of way extends from Radford Road near to the public house at Tinsley Bridge in the north west part of the site, towards Steers Lane

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- and the B2036 in the east (GWB3/2, Appendix A, Drg CSA/667/002). A second footpath on the eastern part of the site passes to the south of Toovies Farm before crossing the M23 on an accommodation bridge (ibid). A pedestrian subway passes beneath Crawley Avenue, close to the Gatwick Stream, and links the site to Grattons Park and Pound Hill.
- 2.8 A 132kv overhead powerline, supported on lattice pylons, runs parallel to Crawley Avenue in the southern part of the site, before turning northwards in the eastern part of the site to run roughly parallel to the M23. At the extreme north east corner of the site it crosses the M23 and continues northwards on the eastern side of the motorway.
- 2.9 The appeal site and surrounding area are not designated at the local, county or national levels for landscape quality and due to the enclosed nature of the landscape most views of, from and within the appeal site are relatively short (GWB2/3, Appendix A, Drg CSA/667/015). The nearest point of the High Weald Area of Outstanding Natural Beauty is around 2.5km to the south east of the site, and not intervisible with it.
- 2.10 The main transport routes within the area comprise the M23 motorway, which follows the eastern site boundary, and the A2011 Crawley Avenue. An all moves junction between these routes (M23, Junction 10) sits a short distance to the south east of the site. To the east of this junction, the A264 leads to Copthorne, Felbridge and East Grinstead. The A2011, Crawley Avenue links the motorway to the centre of Crawley and is dual carriageway as it passes the site. The B2036 Balcombe Road, which passes through the site, runs from Horley in the north to Balcombe and Cuckfield in the south. To the south of Crawley Avenue it passes through the neighbourhoods of Pound Hill, Worth and Maidenbower, where there are north facing slip roads to the M23 (Junction 10A). At Crawley Avenue, west facing slip roads allow access from Balcombe Road towards Crawley and from Crawley to Balcombe Road. However, there are no slip roads facing east and it is currently not possible to access the M23, Junction 10 from Balcombe Road.
- 2.11 The nearest station on the London-Brighton railway line is at Three Bridges, which is approximately 2.5km south of centre of the site. Crawley town centre lies to the south west of the site, at a distance of about 3.5km from the proposed neighbourhood centre. The operational boundary of Gatwick Airport lies just under 1km from the north western corner of the site. The Manor Royal Industrial Estate and the other associated areas which together make up the town's main employment centre, lie immediately to the west of the site across the railway. Access to these employment areas from the site is via Radford Road, which crosses the railway just to the north of the site, or via Crawley Avenue to the south.
- 2.12 The nearest primary school to the site is next to the Pound Hill (Grattons Park) neighbourhood centre. It is around 500m south of Crawley Avenue and some 1.5km from the centre of the site. The Hazelwick Secondary School lies to the south of Crawley Avenue on the western side of the railway.
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### 3. THE PROPOSALS

Inspector's note. A fuller description of the proposals can be found in Mr Garber's proof of evidence (GWB2/1, Section 3) and the Design Statement (CD58). The Statement of Common Ground on Transportation Matters (CD134) includes details of the proposed highway, footpath and cycleway improvements.

3.1 The proposed development is shown on the illustrative masterplan (Plan C1). It comprises in summary:

- approximately 1,900 new dwellings on a net site area of approximately 47ha (average density approx 41 dwellings per hectare);
- 5,000m<sup>2</sup> of use class B1, B2 and B8 employment floor space;
- 2,500m<sup>2</sup> of net retail floor space;
- a local centre/community centre (including medical facility and a library);
- a new primary school;
- recreational open space;
- structural landscaping;
- the relocation of the 132kv overhead power line adjacent to the M23; and
- infrastructure.

3.2 The main neighbourhood centre would be in the western part of the site, to the east of the parkland alongside the Gatwick Stream. It would contain shops, a health centre, a public library, a youth centre and play centre together with central civic amenity space, car parking and ancillary development (GWB2/6). A new primary school would be provided alongside the neighbourhood centre. A smaller community centre, including a community hall would also be provided to the east of Balcombe Road, alongside the playing fields.

3.3 The area to either side of the Gatwick Stream would be landscaped for use as parkland and would contain a neighbourhood equipped area of play. Smaller equipped and non-equipped play areas would be provided in the housing areas to either side of Balcombe Road. Two areas of playing fields would be provided with changing facilities; one in the eastern part of the site adjacent to the community centre and one in the south west corner of the site to the south of Ballast Hole Lake, which would be retained as a recreational fishing lake. Further sports pitches would also be provided within the school site.

3.4 The main employment area within the site would be located alongside the railway in the western part of the site. A smaller area would be located within Blackcorner Wood.

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- 3.5 A network of footpaths and cycleways would be provided within the site to connect the housing areas to the neighbourhood centre and community centre and to link into off-site routes to Pound Hill, Three Bridges, Manor Royal and Crawley town centre. Toucan crossings would be provided on Balcombe Road. Cycleways within the site would include a route alongside the Gatwick Stream in the western part of the site, which would form part of the Sustrans National Cycle Network.
- 3.6 Vehicular access to the eastern section of the development would be via two new signal controlled junctions on Balcombe Road. The western side of the development would be served via a new access from Steers Lane, and an access onto a new link road in the south that is proposed to connect Balcombe Road to a new all turning movements traffic signal controlled junction on Crawley Avenue.
- 3.7 Off site, the existing west pointing slip roads that connect Crawley Avenue with Balcombe Road would be closed. The existing priority junctions between Steers Lane and Balcombe Road, between Radford Road and Balcombe Road, and between Steers Lane and Radford Road would be improved and signals installed. Street lighting would also be installed along Balcombe Road.
- 3.8 Further from the site, highway improvements would be carried out to increase the capacity of the nearby motorway junction (M23, Junction 10) including widening the approach slip roads and parts of the circulatory carriageway. Signals would also be installed at the Hazelwick Roundabout at the intersection of Crawley Avenue, Gatwick Road and Hazelwick Road. Other off-site highway works which it is agreed would be carried out to offset the impact of the development would include improvements to the Gatwick Road/Radford Road/James Watt Way roundabout and replacement of the Balcombe Road/Antlands Lane roundabout with a signalised junction. The Radford Road railway bridge would be reconfigured to accommodate a widened footway/cycleway, with signal controlled shuttle working for motorised traffic.
- 3.9 It is common ground that all the proposed highway improvements can be accommodated on land within the control of the consortium, or the relevant highway authority.<sup>1</sup>
- 3.10 The footpaths and cycleways on the site would be linked to an expanded off-site network to provide continuous links to existing off-site routes and local facilities. The main routes would comprise (GWB7/2, Appendix L):
- A link along Radford Road to the existing route along Gatwick Road, leading to the employment areas and Gatwick Airport.

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<sup>1</sup> Inspector's note. The term "consortium" is used here to signify the principal landowners controlling the site – i.e. Beazer Homes, Laing Homes, English Partnerships and Crawley Borough Council (CBC00/5). It should not be taken to imply that there is a formal consortium agreement in existence between the parties; indeed my understanding is that currently there is no such agreement.

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- Links under Crawley Avenue (via the existing subway and Grattons Park) and along Balcombe Road to Pound Hill, the Hazelwick School and the adjoining superstore, and Three Bridges Station.
  - A new link along the northern verge of Crawley Avenue to Tinsley Lane and the existing footbridge over Crawley Avenue (including toucan crossings at the Hazelwick roundabout and a link along the eastern side of Hazelwick Avenue to the superstore and secondary school).
- 3.11 The existing footpath through the eastern part of the site would be maintained on its present alignment.
- 3.12 A new bus service would be provided linking the site to Three Bridges Railway Station, Crawley town centre, the Manor Royal employment area, and Gatwick Airport North and South Terminals. Within the development, the bus would follow a circular route with bus stops located to limit the walking distance from the housing to the nearest stop to a maximum of 400m. Each bus stop would be equipped with a high quality shelter, with seats and real time passenger information.
- 3.13 Initially during the first phase of the development buses would be timetabled to run at 30 minute intervals during the day. Thereafter the interval would be shortened to one every 20 minutes. The first bus in the morning would be timetabled to leave the development at around 04.30 in order to allow workers at Gatwick to arrive in time for the early shift. The last bus would be at approximately 23.00.
- 3.14 It is anticipated that the development would take a total of around eight years to complete. It is anticipated that around 100 dwellings would be delivered in the year ending 31 March 2009, with 200 the following year (to March 2010) and thereafter 300 per annum up to 2015. The final 100 houses would be developed in the year to March 2015.
- 3.15 Construction would be in four phases (GWB2/3, Drawings). The first phase would be in the northern part of the site and would contain around 280 dwellings. It would include the parkland adjoining the Gatwick Stream, the main community centre and the primary school (but see paragraphs 3.20 and 3.21 below). Access would be from Steers Lane.
- 3.16 Phase 2 would contain around 520 dwellings. Most would be located on the southern half of the site, to the east of Balcombe Road, with a smaller number on the western side of the site between the Phase 1 housing and the new link road between Crawley Avenue and Balcombe Road. The playing fields and pavilion on the eastern part of the site would be included in the Phase 2 works. In order to mitigate the effects of noise generated by traffic on the M23 motorway, the dwellings on the eastern part of the site within Phase 2 would be protected by a 2m to 3m high bund and 2m high acoustic fence in a landscape corridor alongside the motorway. This corridor would be a minimum of 25 metres wide (CD58, para 5.17).
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- 3.17 Phase 3 would contain some 700 dwellings and would complete the development to the west of Balcombe Road. It would include the playing fields in the south west corner of the site and the employment (Use Class B1, B2 and B8) buildings alongside the railway.
- 3.18 Phase 4 would comprise some 400 dwellings and would complete the development. As with Phase 2, a landscape buffer with bunding and an acoustic fence would be provided to mitigate motorway noise.
- 3.19 40% of the total number of dwellings within each phase would be affordable housing, of which no less than 70% would be social rented accommodation (GWB0/17, Condition 59).
- 3.20 A series of agreed conditions specify “trigger points” by which time key elements of the on-site infrastructure would have to be completed. These include (GWB0/17):

<b>Trigger (dwellings)</b>	<b>Requirement</b>	<b>Cond.</b>
200	Playing fields within the school site	22
280	Neighbourhood equipped area of play	23
500	Central parkland and associated open space	10
500	Playing fields and part of (Phase 2) community centre	26
800	Remainder of (Phase 2) community centre	27
1000	Local centre, including shops (first 1,250m <sup>2</sup> ), health centre, library and youth centre and play centre	25
1250	Playing fields (in Phase 4)	24
1500	Remaining shops (up to 2,500m <sup>2</sup> total)	25

- 3.21 The agreed conditions do not specify a trigger point for the completion of the primary school or for the landscape management and biodiversity management works. However, the conditions governing these matters (GWB0/17, Conditions 11, 13 and 29) each contain clauses requiring programmes to be submitted for approval alongside the further details of the works proposed. Condition 19 requires any contamination found on the former abattoir site to be treated before development commences.
- 3.22 Condition 60 requires that no more than 75% of the open market dwellings within any one phase shall be constructed until all social rented housing within that phase has been completed and handed over to the Registered Social Landlord (RSL) or other approved affordable housing provider. Similarly, the condition requires that no more than 80% of the open market housing in any phase may be occupied until such time as all affordable housing (i.e. social rented housing and intermediate affordable housing) within that phase has been completed.

- 3.23 Similar trigger points to those applied to the on-site infrastructure would apply to the provision of the off-site highway, footway and cycleway improvements required to serve the development. In summary, these require the highway improvements along the Radford Road/Steers Lane corridor to be completed prior to occupation of more than 50 dwellings and improvements to the Balcombe Road corridors and Crawley Avenue corridors (including M23 Junction 10) to be completed prior to occupation of 300 dwellings (GWB0/17, Conditions 43 to 45). Conditions 50 to 54 similarly specify the latest times by which the various improvements to off-site footways and cycleways are required to be delivered.

## 4. COMMON GROUND

Inspector's Note. Statements of Common Ground covering housing land supply (CD72 and CD72A), noise matters (CD83), air quality (CD116) and planning matters (CD133) were agreed between the Council and the Appellants. A further Statement of Common Ground on Transportation Matters (CD134) was agreed by the representatives of the Highways Agency, West Sussex County Council, and the Appellants. Below I set down the gist of those matters included in the statements that are not covered elsewhere in this report.

### **Housing Land Supply**

- 4.1 The requirement for housing in the Borough set by the adopted Structure Plan is 300 dwellings/year. Thus the requirement for the period 2001 to 2012 is for 3,300 dwellings. To 2018, the requirement is for 5,100 dwellings.<sup>1</sup>
- 4.2 Completions in the period April 2001 to March 2006 are agreed as 556 dwellings. Thus the residual requirement to 2012 is for 2,744 dwellings. To 2018 it is 4,544 dwellings.
- 4.3 As to supply, it is agreed that large sites with outstanding planning permissions will deliver 916 dwellings in the period to 2012.<sup>2</sup> Small sites with outstanding planning permissions will deliver a further 32 dwellings.
- 4.4 In the 3 year period 2003/2006 it is agreed that 253 dwellings (net) were completed on large non-allocated sites (i.e. windfall sites).

### **Noise Matters**

- 4.5 It is agreed that the appeal site is currently exposed to noise from traffic on the M23 and the A2011 Crawley Avenue, and to noise from rail traffic on the London-Brighton main line. It is in the vicinity of Gatwick Airport. There is a limited incidence of industrial noise from the industrial estate to the west.

### **Road Traffic Noise**

- 4.6 With respect to road traffic noise, it is agreed that, with suitable noise barriers and appropriate building design, satisfactory living conditions for new occupiers would be achieved. On this basis it is common ground that there is no objection to the proposal so far as road traffic noise is concerned.

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<sup>1</sup> Inspector's Note. Strictly, the Structure Plan requirement is for 4,495 dwellings to 2016 (CD43, policy NE1) delivered at an annual average rate of 300 dwellings per annum. 2018 is the end date for the LDF submission Core Strategy. 5,100 is obtained by extrapolating the annual average Structure Plan requirement to 2016 for a further 2 years at 300 dwellings/year.

<sup>2</sup> In this context, large sites are defined as sites with permission for six or more dwellings.

***Rail Traffic Noise and Industrial Noise***

- 4.7 With respect to rail traffic noise, it is agreed that, with suitable noise barriers and appropriate building design, satisfactory living conditions for new occupiers would be achieved.
- 4.8 Where industrial noise contributes to rail traffic noise to create a mixed noise source, as defined in PPG24, it is agreed that restricting noise sensitive uses to Category B noise exposure is in accordance with PPG24 and policy GD17 of the adopted Local Plan. It is further agreed that with suitable noise barriers and building design, satisfactory living conditions for new occupiers would be achieved.
- 4.9 On this basis it is common ground that there is no objection to the proposal so far as noise from rail traffic or noise from rail traffic mixed with noise from industrial sources is concerned.

***Aircraft Noise (Single Runway at Gatwick Airport)***

- 4.10 It is agreed that the operation of a single runway at Gatwick Airport (as at present) does not give rise to any noise constraint on development of the appeal site, irrespective of the number of aircraft movements using that runway.
- 4.11 Overall it is agreed that, on the basis of single runway operations at Gatwick, paragraph 13.26 of the adopted Local Plan accurately reflects the noise situation on the site. This states:

*13.26 “The North East Sector is affected by air traffic noise, road traffic noise from the M23 and A2011, rail noise from the London to Brighton line and noise from industrial plant to the west of the railway. Policy GD17 indicates that the latest advice regarding planning and noise will be applied to all new development. Current information indicates that the noise levels affecting most of the Sector are not such as to prevent development. However, noise will be an important consideration in the preparation of development proposals. Noise mitigation and amelioration measures could be required for noise sensitive development in a significant portion of the Sector. In some locations noise bunds etc could be necessary to make sites developable. Even with such measures, some areas may only be suitable for uses which are not noise sensitive.”*

***Aircraft Noise (with a Second Runway at Gatwick Airport)***

- 4.12 It is agreed that aircraft noise will increase on the appeal site if a second runway is operated at Gatwick Airport.
- 4.13 It is agreed that the best available information on future aircraft noise is that prepared by the Government’s scientists ERCD, and included in the Gatwick Airport Interim Master Plan (CD128, Drg 9; also CBC01/4). Gatwick Airport Ltd have confirmed that these contours show “a reasonable representation of the air noise attributable to the
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*mixed mode use of the existing Gatwick runway and a runway 1,035 metres to its south” (GAL Rule 6 Statement).*

- 4.14 It is agreed that Crawley Borough Council had regard to these contours when it resolved to grant planning permission for 176 dwellings on land at Langley Lane, Ifield (Apple Tree Farm).

### **Air Quality**

- 4.15 Existing sources of air pollution that might affect the appeal site include processes on the railway goods yard, which lies to the west of the site; the Crawley sewage treatment works, which lies to the north west; the crematorium, the M23 motorway and Gatwick Airport.
- 4.16 It is agreed that air quality monitoring data for the area has been appropriately summarised in the ES. Reviews and assessments of air quality carried out by the Council have not identified any exceedances, or likely exceedances, of any statutory air quality objectives. Accordingly, the Council has not declared any Air Quality Management Areas.
- 4.17 It is further agreed that appropriate modelling of all relevant potential sources of air pollution has been carried out. Three of the existing sources, namely the crematorium, the M23 motorway and the Airport, do not give rise to any air quality concerns for future residential use of the appeal site. Of the remaining sources, the processes within the railway goods yard are predicted to give rise to PM<sub>10</sub> concentrations above the statutory objectives within an area of the appeal site to the east of the railway where it runs alongside the goods yard. On worst case assumptions, the area is predicted to extend about 80m into the appeal site.
- 4.18 Modelling of odours from Crawley Sewage treatment works also shows that parts of the northern fringe of the allocation site may experience odours that are above the indicative criterion set out in draft guidance published by the Environment Agency. However, the modelled odours would be below the indicative criterion at the nearest residential properties within the application site.
- 4.19 It is agreed that a buffer zone of 100m between the eastern boundary of the rail line and the nearest residential property should be provided to protect residents from PM<sub>10</sub> emissions from the goods yard. A 40m buffer zone alongside the M23 motorway should be provided to ensure concentrations of pollutants from that source remain below objectives. During the construction phase, standard mitigation measures for the control of dust on large construction sites should be applied to reduce the risk of dust soiling affecting residential properties close to the works.<sup>1</sup>

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<sup>1</sup> Inspector’s Note. These requirements are reflected in the agreed conditions (GWB0/17, Conditions 9 and 61).

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## Transportation Matters

- 4.20 Two traffic models (a spreadsheet model and a Saturn model) were used to assess the traffic impact of the proposal on the local road network. Both assumed full development of the North East Sector with 2,700 dwellings. The assessment year was taken as 2018. Both models assumed that all traffic from the North East Sector to off-site destinations would be additional traffic on the network. Also, neither took account of the opportunities that would arise for existing employees in Crawley who live outside the town, or elsewhere in the town in over-crowded accommodation, to relocate to houses in the development. Accordingly, the models may overestimate the local traffic impact of the development.
- 4.21 Base traffic flows were calculated using traffic counts for the morning and evening peak periods taken at the principal junctions within the study area in March 2006. A local growth factor of 0.8% per annum was agreed and applied to obtain the design year base traffic flows. Distribution of traffic to and from the site was assessed based on the census data for 2001 for the adjoining Pound Hill ward. In the spreadsheet model, personal judgement was used to assign the development traffic to the network. In the Saturn model, the assignment methodology followed an iterative process that takes account of journey times, road capacities and junction delays to optimise network use. The future years Saturn model included the improvements and changes to the network proposed to be brought forward as part of the development proposals. The model was run for the weekday morning and evening peak hours, with and without the North East Sector. Copies of the output were submitted to and approved by West Sussex County Council and the Highways Agency.
- 4.22 Following the modelling, a series of road network improvements to mitigate the impact of the development were drawn up, subjected to Stage 1 Road Safety Audits and modified where necessary, before formal submission to West Sussex County Council and the Highways Agency (where appropriate) for assessment. The proposals were agreed as forming a suitable basis for planning purposes and, if planning permission is granted for the development, for appropriate highway works agreements.
- 4.23 The agreed highway improvement works are outlined in paragraphs 3.6 to 3.9 above. They would be secured by a series of agreed conditions (GWB0/17, Conditions 41 to 45). Further details and drawings of the improvements can be found in the Statement of Common Ground (CD134, Section 8).
- 4.24 Details of the proposed bus service to serve the development, agreed with West Sussex County Council but not with Crawley Borough Council – see paragraphs 7.178 and 10.4 below – are outlined in paragraphs 3.12 and 3.13 above. The service would be secured by condition (GWB0/17, Condition 55). Further details can be found in Public Transport Working Paper No 1c (CD135).
- 4.25 Details of the agreed off-site footway and cycleway improvements are outlined in paragraph 3.10 above. Again, they would be secured by agreed conditions (GWB0/17, Conditions 50 to 54). Further details of the new and improved routes proposed can be found in the Statement of Common Ground (CD134, Section 7).
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- 4.26 Details of the agreed programme for implementation of the public transport service and off-site improvement works to the footway, cycleway and highway networks are set out in the Statement of Common Ground (CD134, Section 9) and reflected in the agreed conditions.

## 5. PLANNING POLICY

Inspector's Note. The Statement of Common Ground on Planning Matters (CD133) lists those policies in the development plan and other planning guidance which the Appellant and Council agree are relevant to the appeal.

### **The Development Plan**

- 5.1 The development plan for the area includes the Regional Spatial Strategy for the South East (RPG9), the West Sussex Structure Plan 2001-2016 (CD43) and the Crawley Borough Local Plan 2000 (CD44).

### *The Regional Spatial Strategy for the South East (RPG9)*

- 5.2 Policies in the RSS relevant to the appeal proposal are agreed to be Q1 to Q3, Q5, E1, E5 and H2 to H5 (CD133).
- 5.3 Policies Q1 to Q3 seek to concentrate new development and redevelopment within the Region's urban areas and to raise the quality of life in those areas through significant improvements to the urban environment, making them more attractive places in which to live, work, shop, spend leisure time and invest. Development should be carefully located and designed to make better use of land and create viable catchments for services and infrastructure. New development, particularly housing, should make more efficient use of land. Policy Q5 states that the network of larger town centres should be the focus for major retail, leisure and office developments, to support an urban renaissance, promote social inclusion and encourage more sustainable patterns of movement.
- 5.4 Policy E1 gives priority to protecting areas designated at international or national level either for their intrinsic nature conservation value, their landscape quality or their cultural importance. Policy E5 aims to increase woodland habitats in the Region, whilst protecting the biodiversity and character of existing woodlands and other areas of established or potential nature conservation value.
- 5.5 Policies H2 to H5 require provision to be made for 2,890 net additional dwellings each year in West Sussex. A range of dwelling types and sizes should be provided, including alternative forms of tenure, in order to meet the needs of all sectors of the community and to plan for balanced communities. Affordable housing should be provided to meet locally assessed need. The adequacy of the proposed levels of housing provision and its distribution should be reviewed by regular monitoring of key indicators. In the context of improving the quality of urban living, full use should be made of opportunities for increasing housing development within urban areas. Local authorities should adopt a sequential approach to the allocation of land for housing and seek to achieve at least 60% of all new housing on previously developed sites and through the conversion of existing buildings.

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***The West Sussex Structure Plan 2001-2016***

- 5.6 The West Sussex Structure Plan 2001-2016 (CD43) was adopted in October 2004. It is agreed that policies LOC1, NE1 to NE4, NE7, NE10 to NE15, NE17, NE19, CH1, CH3, ERA1, ERA2, ERA5, DEV1 to DEV4 and DEV6 are the policies most relevant to the appeal proposal (CD133).
- 5.7 Policy LOC1 in the plan states that the priority in West Sussex is to locate new development within towns and villages through the use of previously developed land. Accordingly, development within built-up area boundaries, including infilling, redevelopment and conversion, should be permitted provided that the impact on the environment, resources and assets of the County is acceptable. Development requirements that cannot be met within towns and villages should be provided for mainly in the form of large-scale mixed-use development at the sites and locations listed in the policy. Five sites are listed, including Crawley (North East Sector). A footnote to this allocation notes, however, that *“development at this location may be delayed or prevented, in whole or in part, due to the need to safeguard land for a possible second runway at Gatwick Airport”*. Paragraph 84 in the text following the policy explains, amongst other matters, that the safeguarding *“will relate directly to the land needed for the runway and the enlarged airport but also indirectly to land affected by height restrictions and aircraft noise”*.
- 5.8 Policy NE1 requires provision to be made for 4,495 dwellings in Crawley during the period 2001 to 2016, delivered at an annual average rate of 300 dwellings per annum. 35% of these should be on previously developed land. Policy NE2 sets down a presumption in favour of permitting residential development where the sizes, types and tenure of the new dwellings are suited to the needs of local households. Local plans are to include policies to secure the appropriate mix of dwellings and should maintain and increase the supply of dwellings by, amongst other matters, allocating land and permitting new residential development to meet the requirements of policy NE1, in accordance with policies LOC1 and NE4. Policy NE3 requires larger residential developments to include a proportion of dwellings to meet the proven needs of people who are not able to compete in the general housing market.
- 5.9 Policy NE4 addresses the management of the release of housing land. The requirement is to manage the release of housing land in order to deliver the levels of housing development set down in policy NE1 over the plan period and to give priority to the reuse of previously developed land within built-up areas. The adequacy of housing land supply is to be assessed through monitoring. Once started, land at strategic locations should continue to be released in accordance with the agreed phasing programme. Where there are surpluses or minor shortfalls, these should be addressed within each district, which may result in the need to bring forward an allocation identified for development in a later phase of the plan. In exceptional circumstances, any major shortfall arising in one district should be addressed within the relevant sub-area of the County through joint assessment with the district planning authorities.
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- 5.10 Policy NE7 is specific to the north east part of West Sussex. Crawley/Gatwick is identified as an important “*focus for growth*” and the policy supports development which will support economic growth in the area, provided that infrastructure improvements are achieved and any adverse impact on the environment is minimised. Policy NE10 addresses retail provision, noting that local shops should be permitted where they meet the identified needs of local communities. Policies NE11 and NE12 similarly support the provision of new or improved community facilities and services and leisure facilities where their scale and location is appropriate to the identified need.
- 5.11 Policies NE13 to NE15 require development proposals to promote walking, cycling and passenger transport. Existing infrastructure which meets the needs of pedestrians, cyclists and those with mobility impairments should be protected. Where possible, proposals should improve road and personal safety for the travelling public, reduce traffic growth, pollution and congestion and promote access to facilities and services for all. Local plans should include policies to enable passenger transport to increase its share of total travel and provide a genuine choice of means of travel. Policy NE17 states that new or improved roads and other highway infrastructure should be permitted provided that they will improve road safety, reduce congestion, benefit the local economy and result in an overall improvement to the environment.
- 5.12 Policy NE19 addresses Gatwick Airport. It states, amongst other matters, that new residential or other noise sensitive development should not be permitted in areas most severely affected by noise. Local plans are required to include policies to “*restrict residential and other noise sensitive uses within the noisiest forecast 66  $L_{eq}$  contour around Gatwick Airport and ensure that adequate sound insulation is provided for new residential development between the noisiest forecast 60 and 66  $L_{eq}$  contours*”.
- 5.13 Policies CH1 and CH3 require development to maintain and, where possible, enhance the character, distinctiveness and sense of place of the County’s settlements and, again where possible, to reinforce the distinctiveness and sense of place of the main natural character areas of the County. The strategic settlement pattern of the County will be maintained. Development within the defined gaps between settlements, including that between Crawley and Gatwick Airport/Horley, should not be permitted if it would undermine their fundamental purpose and integrity.
- 5.14 Policies ERA1, ERA2 and ERA5 require development to make the best use of land. Features and sites of nature conservation interest should be protected, conserved and, where possible, enhanced, particularly where they are of national or international importance. Where development would result in the loss of an important nature conservation resource, a new resource should be provided which is of at least equivalent value, where possible. Where appropriate, the restoration, creation and management of habitats should be secured through development proposals. Air, soil and water resources (including rivers and other watercourses) should be protected and, where possible, enhanced.
- 5.15 The Plan’s development policies seek to ensure that development is of a high quality that has regard to the local context and integrates with adjoining land uses (DEV1).
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Mixed use development should be permitted provided that it makes the best use of land, promotes vitality and diversity within towns and villages, meets the needs of local people, and reduces the need to travel (DEV2). New or improved infrastructure required to meet the needs created by new development should be provided at the appropriate stage (DEV3). The travel needs that development generates should be met. Wherever possible, development should be located close to existing passenger transport, walking and cycling networks or major public transport interchanges (DEV4).

- 5.16 Policy DEV6 states that development at the strategic locations identified in policy LOC1 should be permitted provided that it accords with policy DEV1, meets the needs of the communities for homes, jobs, facilities and services, and any impact on the character, environment, and important resources and assets of the County is acceptable.

***The Crawley Borough Local Plan 2000***

- 5.17 The Crawley Borough Local Plan was adopted in April 2000. It is agreed that the policies most relevant to the consideration of the appeal proposals are STRAT1 to STRAT3, E2, E3, GD1 to GD25, GD34, H2, H3A, H6 to H8, H20, H22, GAT1 to GAT3, RL19, RL25 and NES1 to NES12 (CD133).
- 5.18 Strategic policies STRAT1 and STRAT2 in the Local Plan note that, in all its decisions, the Council will attach great weight to protecting and improving the natural and built environment and the quality of life of those who live and work in the Borough. It will provide for sufficient development to meet the social and economic needs of the Borough's existing and future inhabitants and to meet the needs of the local economy. In considering the location of new development, policy STRAT3 states that the Borough will seek to minimise the need for consumption of resources and energy usage by, amongst other matters, making use of unused or underused land within the built-up area and reducing the need to travel, particularly by private car.
- 5.19 Policy E2 notes that provision is made for the development of 340,000m<sup>2</sup> of employment floorspace in the Borough between 1990 and 2006. Policy E3A records that the allocation includes a site for a mix of B1, B2 and B8 uses as part of the new neighbourhood in the North East Sector.
- 5.20 The general development and design policies GD1 to GD25 seek generally to ensure that the layout and design of development is appropriate to its location, safeguards natural features and provides a satisfactory environment for those who occupy, use or visit it. It should have regard to planning guidance approved and published by the local planning authority and relate sympathetically to its surroundings (GD1 and GD2). It should provide for safe access and not unduly restrict the development potential of adjoining land or the proper planning or phasing of development over a wider area (GD3 and GD4). It should incorporate appropriate landscaping and allow for natural growth to maturity of trees and vegetation which are planted or retained (GD5 and GD6). It should be laid out to provide environments which deter crime,

vandalism and anti-social behaviour (GD7). Public and communal areas should be lit in a way that avoids causing light nuisance or pollution (GD9).

5.21 Development should be designed to create visually interesting, attractive and distinctive environments and developers are encouraged to commission works of art to be integral with the development (GD11 and GD12). Proposals which respect the principles of sustainability are encouraged (GD13 to GD15). In areas subject to environmental pollution, measures will be required to reduce or eliminate the effect of the pollution on the development (GD16).

5.22 As to noise, policy GD17 notes that the Council will have regard to the latest published and finalised guidance regarding development and noise, the latest agreed predictions of aircraft noise, and the latest agreed calculations of noise from other sources. It will require by condition an adequate or commensurate level of protection from noise where residential or other similarly noise sensitive development falls within NEC B or NEC C zones as defined in PPG24, Annex 1. Residential or other noise sensitive development will not normally be permitted within a NEC D zone. On noise from aircraft, the policy further states:

*“Notwithstanding that it may be possible to install noise insulation measures for individual buildings, major noise sensitive development will not be permitted in areas subject to aircraft noise exceeding 60dB(A) unless there are exceptionally compelling reasons.”*

5.23 Policy GD18 notes that the Council will take into account the effect of high voltage electricity lines upon the amenity of development proposals. Proposals that would lead to a significant increase in the levels of pollution or hazards will not be permitted and, where contaminants are present on a site, they must be treated or removed before the development commences (GD19 and GD20). Policy GD22 provides for the Council to require details of the environmental implications of a development if it is deemed appropriate or necessary to enable the proposal to be fully and properly considered. Policies GD23 and GD24 set down a presumption against new development in areas at risk of flooding and development which would have a detrimental impact on the supply of surface or ground water. Policy GD25 requires adequate arrangements to be put in place to deal with surface water run off. Policy GD34 requires measures to be put in place to minimise or avoid the impact of construction work on neighbouring areas and disruption to the use or business of neighbouring properties.

5.24 Policy H2 sets out the housing requirements for the Borough for the period to 2006 contained in the (now superseded) 1993 Structure Plan. Policy H3A makes provision for a new residential neighbourhood in the North East Sector in accordance with policies NES1 to NES12. The policy notes however that:

*“Planning permission for housing development in the North East Sector will not be granted within three years of the adoption of the Plan unless, first, the Secretary of State has published the new national airports policy and secondly the development is compatible with the combined effects of that policy and*

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*Planning Policy Guidance Note 24 'Planning and Noise' or any guidance note replacing it."*

- 5.25 Policy H6 states that the Council will seek to secure a mix of dwelling types and sizes in new housing developments. These should include a substantial proportion of small dwellings where appropriate to the character of the site and the surrounding areas (H7). Subsidised and low cost market housing will be sought on appropriate new sites allocated in the Local Plan. The proportion on individual sites will be a matter for negotiation with the developers.
- 5.26 Policies GAT1 to GAT3 deal with development associated with the operational requirements of Gatwick as a single runway, two terminal, airport.
- 5.27 Policy RL19 requires new housing development on sites larger than 0.4ha to make provision for youth and adult playspace, teenage "kickabout" areas and children's playspace in accordance with NPFA standards. Playspace for younger users should be easily accessible by foot from those areas of housing likely to give rise to its use. Policy RL25 seeks to maintain the bridleway network and encourages new routes between the built-up area and the countryside.
- 5.28 Policies NES1 to NES12 deal specifically with development of the North East Sector. A comprehensive and co-ordinated approach is required to the provision of a new neighbourhood together with all associated facilities and infrastructure. The approach should be sustainable and provide for the development of between 2,200 and 2,700 new homes. Sites should be included suitable for the development of 5,000m<sup>2</sup> of Use Class B1, B2 and B8 employment floorspace and a neighbourhood centre with 1,250 to 2,500m<sup>2</sup> of retail floorspace. The development should also make provision for a site for a first and middle school, public playing fields, children's playspace and a play centre, a community centre, a healthcare facility, and sites for premises for youth, local and religious groups. There should be opportunities to establish nursery schools, day nurseries or pre-school playgroups, a dental practice, pharmacy and local post office. A site for a fire station and a park and ride site with capacity for 400 cars should be provided in a location convenient to Crawley Avenue.
- 5.29 The development should have regard to an approved Structural Landscaping Strategy for the Sector. Proposals for meeting the transportation requirements of the development should give priority to the establishment of efficient and effective public transport services for movement within the Sector and between it and the main destinations in the Crawley area. The feasibility and viability of providing a new railway station should be investigated. A comprehensive network of pedestrian and cycle routes should be provided. As well as providing for access to the development, a range of off-site road and junction improvements will be required to meet the demands of vehicular traffic generated by the development.

### **Emerging Plans**

- 5.30 Emerging planning policy documents include the draft South East Plan, published in March 2006 (CD65) and the Crawley LDF submission Core Strategy (CD62).

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***The Draft South East Plan***

- 5.31 The draft South East Plan was published in March 2006. It is agreed that the policies most relevant to the consideration of the appeal proposals are H1 to H6 and GAT1 to GAT3 (CD133).
- 5.32 Housing policy H1 in the Plan requires Crawley Borough Council to make provision for an annual average of 350 new homes in the Borough between 2006 and 2026 and a total of 7,000 new homes in the period. These requirements are repeated in policy GAT2. Policy H2 requires local authorities to prepare and keep under review Housing Delivery Action Plans. The accompanying text notes that these plans are required to set out the overall strategy to ensure the allocation in policy H1 is met, having regard to the outcome of urban potential studies and housing need and market assessments. Amongst other matters, they are required to identify potential and existing barriers to new housing delivery and set out the actions needed to overcome them.
- 5.33 Policy H3 deals with the location of housing. Mixed use development is encouraged and within the region as a whole at least 60% of additional housing should be provided on previously developed land. Housing should be in sustainable locations that are, or can be, well served by a choice of transport modes, with higher densities in and near locations well served by public transport. The necessary infrastructure, services and community provision should be in place or planned.
- 5.34 Policies H4, H5 and H6 seek to make good use of the available land, with an overall target density of 40 dwellings/ha over the plan period. An appropriate mix of housing types, sizes and tenures should be provided to meet the identified needs, and policies should deliver a substantial increase in the amount of affordable housing in the region.
- 5.35 Policies for the Gatwick Area sub-region seek to maintain the sub-regional character, distinctiveness and sense of place. The existing settlement pattern should be respected and coalescence prevented. The construction, layout, scale, appearance and landscaping of new development should all be of a high quality (GAT1).
- 5.36 Within the sub-region, the majority of future development should be in the form of major developments at or adjoining Crawley and the other main towns within the main north/south and east/west corridors (GAT2). New homes and employment should be developed in tandem with the infrastructure and services needed to support them. A target of 40% affordable housing should be aimed for (GAT3).

***The Crawley Borough Local Development Framework, Submission Core Strategy***

- 5.37 The Crawley LDF submission Core Strategy was submitted to the Secretary of State in May 2006. It is agreed that the policies most relevant to the consideration of the appeal proposals are H1 to H6, T1, T3, E1, G1, G2, W1, W2, NES1, NES2, and TC1 (CD133).
- 5.38 The housing policies in the submission Core Strategy make provision for the development of 5,100 dwellings in the Borough in the plan period 2001 to 2018 (H1).
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Of this, the text notes that outstanding local plan allocations and sites with planning permission for 100 dwellings or more are expected to deliver approximately 450 new dwellings over the plan period (para 2.11). The sites identified in policy H2(b) are recorded as expected to deliver a further 2,040 dwellings (para 2.12). Paragraph 2.13 notes that “*a windfall site requirement of 140 dwellings per annum has been identified between 2005 and 2018*”. It continues to note that the “*prudent approach of the Council to its housing supply figures should enable this requirement to be met, for example through Three Bridges Corridor policies*”.

- 5.39 Policy H3 requires proposals for residential development to accord with the sequential approach of developing brownfield sites before greenfield sites, to be served by existing or new infrastructure and have good access to different modes of transport and a good public transport service. Loss of commercial sites to residential development will not be acceptable, particularly in the main employment areas, unless the conditions set by policy E3 are met. Policy H4 seeks to maximise the efficient use of land. Policy H5 requires 40% affordable housing on sites of 15 dwellings or more. Policy H6 requires a mix of dwelling types and sizes appropriate to the site, but encourages the provision of one and two bedroom dwellings, particularly in the most sustainable locations.
- 5.40 Transport policies T1 and T3 seek to ensure that development meets its access needs and contributes to the improvement of sustainable modes of transport. Parking should take account of the Council’s agreed maximum parking standards.
- 5.41 The Gatwick Airport policies support the development of facilities which contribute to the safe and efficient operation of the airport as a single runway, two terminal airport (G1). Land is also safeguarded for the construction of an additional runway, should it be required, and for the associated airport facilities (G2).
- 5.42 To the West of Crawley, a high quality mixed use neighbourhood with up to 2,500 dwellings is proposed, for which the Council will prepare a Joint Area Action Plan with Horsham District Council (W1). The development should incorporate appropriate transport infrastructure, potentially including a relief road between the A264 east of Faygate and the A23 between Manor Royal and Lowfield Heath (W2).
- 5.43 Policy NES1 confirms that the North East Sector is retained as a new neighbourhood phased to accommodate up to 2,700 dwellings and other uses in the longer term “*subject to the Government’s decision regarding the requirement for a wide-spaced parallel second runway at Gatwick*”. Policy NES2 sets down the infrastructure and similar requirements for the Sector.
- 5.44 Policy TC1 identifies the Town Centre North site for major mixed-use retail led development, to include residential, leisure, community and other uses.

## 6. THE CASE FOR THE APPELLANTS

### Introduction and Preliminary Matters

- 6.1 The Appellants' case has been organised having regard to the Inspector's list of issues, including the agreed amendment to include reference to housing need at both the borough and the sub-regional levels (INQ3). Two other matters arose, however, which it is appropriate to address as preliminary matters.

### *Timing of the Appeal*

- 6.2 In their closing submissions, the Council sought to make a point on the timing of the appeal (CBC00/1, para 1 et seq). This should be given no weight. The timing stemmed from the publication of the Airports White Paper. A judicial review followed (CD98). The judgement was delivered in January 2005 and the appeal was lodged in September. The date for the inquiry was set. Whilst the Council argued that the appeal should be delayed to 2007, their arguments were rejected by the Planning Inspectorate. There is no reason to re-open the matter.

### *Environmental Impact Assessment*

- 6.3 At one stage the Council appeared set to make a point regarding the adequacy of the Environmental Statement (ES) (CBC03/5, Recommendation and Report, Section 5). The point related to the need to assess the impact of a wide-spaced second runway and an expanded Gatwick Airport on the North East Sector. However, in the light of Mr Cox's<sup>1</sup> answers in cross-examination, it is now common ground that there is sufficient environmental information before the Secretary of State to decide whether planning permission should be granted. He agreed that there was before the inquiry (through the evidence of himself and Mr Charles<sup>1</sup>) a complete analysis of the noise implications of a possible second runway. He added that he had "*no complaint*" about the adequacy or sufficiency of the environmental information relating to acoustic matters before the inquiry.
- 6.4 If there had been any complaint or concern as to the adequacy of the ES, this could and should have been resolved by a formal request for further information, pursuant to the provisions of Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.<sup>2</sup> No such request was received by the Appellants.
- 6.5 The Appellants respectfully request that the Secretary of State takes into account the entirety of the environmental information before the inquiry, including the ES, before

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<sup>1</sup> Mr Cox is the Council's noise witness; Mr Charles is the noise witness for the Appellants.

<sup>2</sup> Regulation 21 of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.

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granting planning permission, pursuant to the requirement of Regulation 3(2) of the 1999 Regulations.<sup>1</sup>

### **Noise and Alleged Prejudice to Gatwick Airport**

- 6.6 The sole issue between the parties in respect of noise matters relates to the possibility (see paragraph 6.72 et seq below) of a second runway at Gatwick and, in particular, whether the operation of such a runway would result in unsatisfactory living conditions for residents of the North East Sector and accordingly prejudice the possibility of that runway coming forward.
- 6.7 At the inquiry Mr Cox agreed that no noise issues arise in respect of the development with Gatwick's existing runway configuration. Nor does any issue arise in respect of noise from road traffic or the railway or from industrial sources having regard to the design solutions put forward on behalf of the Appellants (CD83, paras 4.1, 5.1, 5.2, and 6.1).
- 6.8 As to the matter in dispute, there is a significant divergence in views between those of the Council's noise witness and those of the Airport. Mr Cox contends that unsatisfactory living conditions would be created. Gatwick Airport Ltd (GAL), through Mr Lockwood, accepts that the North East Sector and a second runway might co-exist, if the second runway were to be built first (GAL/1, para 47(2)). In cross-examination he confirmed his view that planning permission for a second runway should not be refused if the residential development comprised in the appeal proposals existed.
- 6.9 The Appellants' position is simple. Satisfactory living conditions, acceptable in terms of PPG24 and the operative development plan policy, Structure Plan policy NE19, can and would be achieved in the North East Sector, with or without a second runway. Accordingly, development of the appeal scheme is not capable of prejudicing a wide-spaced second runway. It is common ground that all housing on the site would fall within PPG24's Noise Exposure Categories A and B. In such circumstances, refusal of an application on noise grounds would have startling and highly restrictive implications for sustainable residential development within the UK's urban areas.

### ***The Development Plan***

- 6.10 The proposal accords with the operative development plan policy, Structure Plan policy, NE19 (CD43). This was confirmed in cross-examination by both Mr Cox and the Council's planning witness, Mr Fairham. The policy provides that district planning authorities are to:

*“include policies in local plans to ... restrict residential and other noise-sensitive uses within the noisiest forecast 66 Leq contour around Gatwick*

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<sup>1</sup> Regulation 4(2) of the 1988 Regulations.

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*Airport and ensure that adequate sound insulation is provided for new residential development between the noisiest forecast 60 and 66 Leq contours”.*

- 6.11 Notwithstanding that the Council objected to other aspects of policy NE19, they did not object to this strand of the policy during preparation of the Structure Plan (GWB0/10).
- 6.12 Mr Cox conceded during cross-examination that the policy “*clearly envisages that residential development will be acceptable in the 60 – 66 contour*”, and he initially accepted (a position with which Mr Fairham subsequently agreed in cross-examination) that the appeal scheme was in accordance with policy NE19.
- 6.13 Unfortunately, Mr Cox thereafter sought to resile from this concession. In support of his attempted retreat on this, he advanced a series of contentions. Firstly, he sought to qualify policy NE19 by reference to paragraph 277 of the explanatory text, and in particular the sentence “*Around Gatwick, intensification within existing built-up areas will be allowed only with proper sound insulation*” which he sought to argue implied a different approach outside the existing built-up area. Quite apart from the fact that explanatory material does not form part of the development plan (GWB0/15), the point is without merit as the relevant Local Plan Proposals Map (CD44) shows that the North East Sector is within the built-up area boundary.
- 6.14 Secondly, he sought to argue that the “*noisiest forecast contour*” referred to in NE19 should be taken as the “range mode” contour or some other contour greater in extent than the “average mode” contours produced by ERCD. In the Appellants’ submission, it is plain that the contours on which NE19 is based are the appropriate average mode contours. Otherwise, the policy would be wholly out of step and inconsistent with PPG24 (see paras 6.17-6.20 below). This cannot have been intended.

*“Range Mode” or “Average Mode” Contours*

- 6.15 As to the range mode argument, this was advanced by Mr Cox for the first time in his oral evidence in chief. It was not addressed in his two written proofs of evidence (CBC01/1 and CBC01/2), or the report on Apple Tree Farm (CD115). It was wholly inconsistent with the fundamental basis of the agreement between him and Mr Charles set out in the Statement of Common Ground on Noise (CD83).
- 6.16 Mr Charles’s supplementary proof of evidence (GWB5/5, Section 3) deals with the point. The main points made by Mr Charles and emphasised by him during his oral evidence (yet left unchallenged in cross-examination) were as follows.
- 6.17 Firstly, “range mode” contours have no technical validation with regard to community impact, unlike the “average mode” contours, which have been subject to detailed scientific research and, on that basis, incorporated into Government policy by PPG24. The 57dB L<sub>Aeq</sub> figure is a fundamental part of the structure of the Noise Exposure Categories (NECs) set down in PPG24 for aircraft noise (PPG24, Annex 2, para 4). It is the dividing line between Category A and Category B. It is an average mode contour, and relates to the onset of annoyance “*established by noise measurements*”

*and social surveys*". This is the key point. The social surveys which informed the NECs in PPG24 are all based on average modes. It is plain that the NEC figures for aircraft noise are all intended to be average mode contours. To use one method of measurement and then seek to apply the results to long-established Government criteria which have been based upon a totally different method of measurement is nonsense.

- 6.18 The same point can be made by reference to paragraph 9 of the Annex, which notes that 66dB  $L_{Aeq,16h}$  – the boundary between NECs B and C “*was the daytime criterion for noise insulation schemes at Heathrow, Gatwick and Stansted*”. These contours were all average mode contours. Again, therefore, it is clear that the entire structure of PPG24 so far as it relates to aircraft noise would be completely undermined if range mode contours entered the equation.
- 6.19 The matter is put beyond any possible doubt by footnote 2 to the table in Annex 1 of PPG24 which provides: “*Aircraft noise: daytime values accord with the contour values adopted by the Department for Transport ...*”. Mr Charles, Mr Lockwood and Mr Cox all confirmed that the Department for Transport only produces average mode contours.
- 6.20 Secondly, range mode contours have no pedigree in terms of planning policy or decisions on planning matters generally. Specifically:
1. Range mode contours, as set out above, enjoy no support from PPG24, but to the contrary would undermine the whole structure of PPG24 so far as it gives advice on residential development affected by aircraft noise.
  2. Range mode contours are not used in the Department for Transport’s annual monitoring of noise impact at Gatwick (CD111). This was confirmed in cross-examination by Mr Lockwood, who agreed that neither the Airport nor the Department for Transport had or used range mode contours for Gatwick. In addition, range mode contours were not used by the Government when placing controls on permissions for airport expansion at Heathrow or Stansted, and were not used by the Secretary of State in considering noise impact at either Coventry or Doncaster Finningley (GWB5/5, para 3.4).
  3. Range mode contours derive no support from either the Structure Plan or the Local Plan. In relation to the Structure Plan, the County Council advised that no range mode contours were available for Gatwick, so by inference the average mode contours would be used when assessing compliance with policy NE19 (GWB5/5, para 7.3). Appendix 1 to the Local Plan notes that (a) particular contours (which are average mode contours) should be used for development control purposes for the time being, and that (b) the “*local planning authorities in the area consider that in the future, predicted ranged mode contours should be used for they represent better the Structure Plan requirement to control development according to the noisiest foreseeable situation. It is likely to be these*

*contours that the Borough Council will seek to agree to use*". It was confirmed by both Mr Fairham and Mr Lockwood, however, that to date there has been no agreement to use range mode contours in respect of Gatwick.

4. Range mode contours are not used by UK airports in deciding eligibility for sound proofing of dwellings or at Gatwick for their Community Buildings Noise Insulation Scheme (CD123). Indeed, Mr Fairham confirmed in cross-examination that he was unaware of any airport in the country which had or used range mode contours.
5. The Council itself does not use range mode contours, as exemplified by the Apple Tree Farm decision. Mr Cox, despite seeking to apply them to the present appeal during his oral evidence, did not produce or provide any range mode contours.

6.21 Thirdly, the credibility of the range mode argument can be assessed by the very late stage at which the point was raised (see paragraph 6.15 above). Mr Cox's written analysis is exclusively on the basis of average mode contours, which he explains at paragraph 8.6 of his first proof (CBC01/1).

6.22 Equally inconsistent with the Council's position at the inquiry as to range mode was Mr Cox's acknowledgement, both in cross-examination and in the Statement of Common Ground on Noise (CD83), as to the location of the material contours for purposes of the appeal. In paragraph 7.2 of the SoCG, it was agreed that:

*"the best available information on future aircraft noise is that prepared by the Government's scientists ERCD, and copied onto the Gatwick Airport Outline Master Plan document as Drawing 9.<sup>1</sup> It is noted that BAA Gatwick, in their Rule 6(6) Statement of Case, confirmed that the Drawing is a 'reasonable representation of the air noise attributable to the mixed mode use of the existing Gatwick runway and a runway 1,035 metres to its south'."*

6.23 Consistent with this, Mr Cox agreed in cross-examination that drawing F2 of the appendices to Mr Charles's proof of evidence (GWB5/2) - which reproduces the contours shown on Drawing 9 of the Gatwick Outline Master Plan - was an "accurate" representation of the relevant contours, that *"the decision [on the appeal] can be made based on the plan at F2 of Mr Charles's appendices"* and that *"if using the NECs, [the proposed residential development] would fall within Category B"*. It is impossible to reconcile these answers, and the approach which underlines them, with a contention that range mode shows the relevant contours.

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<sup>1</sup> Inspector's note. At the time the Statement of Common Ground was prepared, the Gatwick Airport Outline Maser Plan document was a draft for consultation (CD66). Subsequently, the Interim Master Plan was published (CD128). However, the drawing referred to is the same in both documents.

6.24 Other parts of the Statement of Common Ground on Noise (CD83) are also inconsistent with Mr Cox's case on range mode. Specifically:

1. Paragraph 2 provides that: "*The appeal proposal limits land use for noise sensitive development to land which meets the requirements of PPG24 Category B, for all noise sources*". Although Mr Cox claimed in cross-examination that this sentence might be "*open to misinterpretation*" in that he had not intended to concede that PPG24's NECs were relevant to the appeal, at no time did he suggest that he had signed the SoCG in error, having failed to recognise that this statement would only be accurate if average mode were taken. An identical point applies to Mr Cox's "concern" as to possible misinterpretation of paragraph 7.3 of the SoCG.
2. Paragraph 8.3 states: "*It is agreed that the appeal proposal limits noise-sensitive development to Category B land only and proposes a commensurate level of protection from noise*". Mr Cox's failure to quibble in cross-examination with this agreement again exposes the misconceived nature of his advocacy of the range mode.

6.25 In these circumstances, it is clear that for the purposes of Structure Plan Policy NE19, the question of the "*noisiest forecast contour*" relates to "*the degree to which the contour takes into account the worst runway location (separation between runways), the accuracy of the traffic forecasts, and the accuracy of the predictions of the noise characteristics of future aircraft*" (GWB5/5, para 7.8). This was not challenged in cross-examination. On this basis, the contours shown on drawing F2 of the appendices to Mr Charles's proof of evidence (GWB5/2) represent the "*noisiest forecast contour*" given that they do make worst-case assumptions in relation to runway separation and traffic forecasts, and that they do not factor in improvements in aircraft design beyond those already known about (GWB5/5, paras 7.8-7.9). There is no evidence to support the Council's contention in closing (CBC00/12, para 60) that evaluating the noise from the second runway is an imprecise science and that a precautionary approach is therefore warranted.

6.26 This understanding of the phrase "noisiest forecast contour" accords entirely with the approach of Gatwick Airport. Paragraph 9.74 of the Gatwick Interim Master Plan (CD128) confirms that the ERCD contours, which are reflected on Mr Charles's plan F2, constitute a forecast which:

*"... can probably be regarded as an approximate worst case in terms of the aggregate land area contained within any particular contour. We see no need to update the CAA's work, since we would not make materially different assumptions about the number and types of aircraft potentially using a pair of runways in 2030, and it is right at this juncture to assume mixed mode operations"*.

6.27 Thus, range mode contours are irrelevant in considering Structure Plan policy NE19 and inconsistent with the proper application of PPG24. For all the above reasons, individually and cumulatively, the Appellants urge the Secretary of State to ignore as

- irrelevant the suggested application of range mode contours, or indeed any other contours other than the long-accepted average mode contours, in the determination of the appeal.
- 6.28 The only requirement of policy NE19 in such circumstances is for “*adequate sound insulation*”, which would (as agreed by Mr Cox in cross-examination) be provided in accordance with the agreed conditions.<sup>1</sup> In these circumstances, it is clear that there is full compliance with policy NE19.
- 6.29 As to Local Plan policy GD17, the fundamental and key point is that this policy has no relevance for the purposes of the determination of the appeal because it is in conflict with Structure Plan policy NE19, by imposing an additional hurdle in respect of development between the 60 and 66dB(A) contours. This was illustrated by the concessions of both Mr Cox and Mr Fairham in cross-examination that the appeal scheme complied with policy NE19, but not policy GD17. In these circumstances, it is the later Structure Plan policy, NE19, which takes precedence: see s38(5) of the Planning and Compulsory Purchase Act 2004. Policy GD17 of the Local Plan is therefore, to the extent of conflict with policy NE19, entirely irrelevant as a consideration and, as a matter of law, must be ignored for the purposes of the s38(6) exercise. This matter was not challenged by the Council in closing.
- 6.30 Furthermore, policy GD17 should not somehow be permitted to come in as a “material consideration” given that statute has expressly required that it be ignored for the purposes of the determination of the appeal having regard to the appropriate development plan policies. The point is that, if policy GD17 is overridden by reason of policy NE19, then it certainly cannot be considered to be of such weight as to override the Structure Plan policy which statute requires should be the basis upon which the determination is made. In addition, it is to be noted that Local Plan policy H3A requires the North East Sector to be assessed pursuant to PPG24, but makes no reference to policy GD17.
- 6.31 However, if a different view is taken as to the relevance of policy GD17, contrary to these submissions, the Appellants submit as follows. The development falls within Noise Exposure Category B for aircraft noise, and it is agreed that commensurate sound insulation would be secured by condition. If it is necessary to show “*exceptionally compelling reasons*” (as to which see paragraph 6.32 below), then this is amply achieved in light of the material benefits of the scheme, both quantitative and qualitative, in providing much needed housing (both affordable and market). Accordingly, the appeal scheme accords with policy GD17.
- 6.32 As to the test set out in the last sentence of policy GD17, this is inconsistent with PPG24 (where 60dB(A) is identified only as a “*desirable*” upper limit, and beyond which there is no suggestion that “*compelling*” reasons are necessary to justify development). This additional requirement is not (as Mr Cox agreed in cross-examination) explained or justified, either in the body of the policy or in the

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<sup>1</sup> Inspector’s note. See Appendix E, Conditions 30 to 33

explanatory text. The restrictiveness of this aspect of the policy is apparent when it is appreciated that the mean façade noise level in the UK in urban residential locations is 60.6dB  $L_{Aeq,16h}$  (GWB5/1, para 4.32).

- 6.33 In the Appellants' submission therefore, the determination of the appeal should be in accordance with Structure Plan Policy NE19.

### ***Other Material Considerations***

#### *Accordance with PPG24*

- 6.34 In paragraph 8.3 of the Statement of Common Ground on Noise (CD83), it was agreed that *“the appeal proposal limits noise-sensitive development to Category B land only and proposes a commensurate level of protection from noise”*. On this basis it can be concluded that the appeal scheme is in full accordance with PPG24. This is because paragraph 1 of Annex 1 to PPG24 advises that, in a Category B case:

*“Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise.”*

- 6.35 Thus, so long as appropriate conditions are imposed, there is no basis in PPG24 terms for refusing planning permission for the development proposed. There has been no suggestion by the Council that the agreed noise conditions cannot be complied with.
- 6.36 Paragraph 8 of Annex 3 to PPG24 notes that *“60  $L_{eq}$  dB(A) should be regarded as a desirable upper limit for major new noise sensitive development”*, but it is agreed by all witnesses that this is no impediment to the grant of permission for the appeal scheme. This is for two reasons.
- 6.37 Firstly, paragraph 8 does not seek to impose an absolute limit of 60dB  $L_{Aeq}$ , as was accepted in cross-examination by Mr Cox, Mr Fairham and Mr Lockwood. Taking PPG24 as a whole, and assuming for the sake of this argument that the 60dB(A) figure is applicable to residential development, the position is that while 60dB(A) may be a desirable ambition, development up to the 66dB(A) contour is acceptable and permissible. The phrase in question in paragraph 8 of Annex 3 is aspirational in nature, and no more.
- 6.38 Secondly, it is far from clear that the relevant phrase in paragraph 8 of Annex 3 applies to residential development. It is only residential development to which the Noise Exposure Categories apply at all. The first part of the first sentence in paragraph 8 of Annex 3 is simply a reference back to the Noise Exposure Categories, the appropriate tool for the assessment of a proposal for residential development. The second part of that sentence is properly to be read as drawing a distinction between residential development (to which the Noise Exposure Categories apply) and other major noise-sensitive development. In support of the foregoing, it is to be noted that the approach of other local authorities, whose areas contain substantial airports, is either (a) that the 60dB(A) contour is not considered relevant to development control

decisions at all, or alternatively (b) that it is related to non-residential development (GWB5/2, Appendix C). This shows that the widely accepted interpretation of paragraph 8 of Annex 3 is that the 60dB(A) reference does not apply to applications for residential development. The Council's submissions in closing that the NECs relate only to housing which is not major development (CBC00/12, paras 49 and 50) is not accepted – if this had been intended PPG24 would surely have made the distinction clear. Equally, the reference to Circular 10/73 (ibid) has no relevance, since the circular did not contain NECs.

*Appropriateness of Using PPG24's Noise Exposure Categories*

6.39 The argument that it is not appropriate to consider the appeal by reference to PPG24's Noise Exposure Categories appeared for the first time in Mr Cox's rebuttal. It should be comprehensively rejected, in accordance with the Secretary of State's approach to recent comparable cases, and a commonsense reading of PPG24.

6.40 As to the first point, the Secretary of State has previously accepted that reference to Noise Exposure Categories is appropriate in a case such as this. In the recent (April 2006) decision letter regarding an interim passenger facility at Coventry Airport, the Secretaries of State concluded that "*the thresholds in PPG24 are of considerable assistance in considering the noise issues, and offer a reasonable way forward in assessing the impact of the IPF development*": (GWB5/3, Appendices, SoS letter, para 49). In so concluding, the Secretaries of State agreed with the Inspector who reasoned (GWB5/4, para 10.14.3):

*"I accept that the PPG24 noise guidance in Annex 1 nominally relates to the development of new housing in an existing noise environment, rather than to existing housing being affected by changes in the noise environment as is the case in the context of these appeals. Nevertheless, I consider that the thresholds set out in PPG24 are of considerable assistance, and offer a reasonable way forward in assessing the impact of the IPF development."*

6.41 When confronted with this analysis during cross-examination, Mr Cox accepted that he had not been aware of the Coventry decision letter when he had written either of his proofs of evidence and that it had "*come as a surprise*" when he became aware of it upon reading Mr Charles's rebuttal proof. Although it is self-evident that the reasoning in the Coventry decision applies equally to the present factual scenario - and Mr Cox failed to give any sensible explanation as to why he argued that a distinction should be made between them – he nonetheless maintained his contention that PPG24 should be ignored throughout his evidence. That approach was irrational.

6.42 Equally, Mr Cox adopted the same approach when confronted by the decision of the First Secretary of State at Doncaster Finningley (now Robin Hood Airport). In paragraph 32 of the Secretary of State's decision letter (GWB0/2), the "*Inspector's approach to and conclusions on noise issues considered in paragraphs 13.162 to 13.202*" were endorsed. Paragraph 13.175 of the Inspector's report (ibid) specifically applied (in assessing an application to introduce additional aviation activity) PPG24's

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Noise Exposure Categories, which he described as “*standard*” guidance “*for assessing airborne aircraft noise*”.

- 6.43 Second, the approach adopted by the Secretary of State is obviously correct when the paragraph in PPG24 on which the Council’s argument depends (paragraph 4 of Annex 1) is properly understood. The paragraph in question provides:

*“The NEC procedure is only applicable where consideration is being given to introducing residential development into an area with an existing noise source, rather than the reverse situation where new noise sources are to be introduced into an existing residential area. This is because the planning system can be used to impose conditions to protect incoming residential development from an existing noise source but, in general, developers are under no statutory obligation to offer noise protection measures to existing dwellings which will be affected by a proposed new noise source. Moreover, there would be no obligation on individuals with an interest in each dwelling affected to take up such an offer, and therefore no guarantee that all necessary noise protection measures would be put in place.”*

- 6.44 Two points fall to be made, contrary to Mr Cox’s assertions. First, the “*necessary noise protection measures*” can, and would, be provided as part of the appeal proposals. On this basis, the concern in paragraph 4 of Annex 1 falls away, and it becomes apparent that there is no logical basis not to assess the appeal scheme on the basis of Noise Exposure Categories. Second, the paragraph is only potentially relevant where a “*new noise source*” is proposed to be introduced. That is not the position here. Gatwick Airport is already in existence.

- 6.45 Furthermore, paragraph 9 of Annex 3 to PPG24 advises that:

*“Where land is, or is likely to become, subject to significant levels of aircraft noise, local planning authorities should determine approximately which areas are likely to fall within the different noise exposure categories.”*

This advice supports, as Mr Cox conceded in cross-examination, assessment of the appeal scheme by reference to PPG24’s Noise Exposure Categories.

- 6.46 Finally, the manner in which Mr Cox raised the point lacks integrity. This argument, which (if right) is clearly a fundamental part of the assessment of the appeal proposals in noise terms, was not mentioned anywhere in his original proof of evidence (CBC01/1). This is so even though his original proof of evidence quoted extensively from PPG24 (see paras 3.3 to 3.6, 4.2 and 4.4) and then sought to draw conclusions as to compliance with PPG24 (see paras 9.3, 9.4, 9.16 and 9.20). Rather, the argument appears for the first time in his supplemental proof (CBC01/2, para 2.3). When confronted with this difficulty, Mr Cox’s response was that “*I just assumed everyone knew it*”. This flip explanation was extraordinary, disingenuous and goes directly to the question of the weight which may be attached to his evidence overall. It is further contradicted by the terms in which his original proof of evidence was written and by the terms of his consultation response on the Apple Tree Farm application (CBC01/1,

Appendix 2) which makes no suggestion that Noise Exposure Categories should be ignored, and indeed relies on the fact that the “*whole site will fall into Category C*” as the basis of his objection. Mr Fairham agreed in cross-examination that to ignore NECs in this case would be to adopt a wholly inconsistent approach.

#### *WHO Guidelines*

6.47 Mr Cox’s proof referred to the WHO guidelines (CBC/01, para 7.1), and during his oral evidence he sought to argue that the development should be judged by reference to its compliance or otherwise with these guidelines.

6.48 However, when he prepared his written evidence, Mr Cox was not aware of the decision of the Secretaries of State in the Coventry Airport case, who “*agree[d] with the Inspector that the assessment in this case should be based on the guidelines set out in PPG24 in preference to WHO guidelines*” (GWB5/3, Appendices, SoS letter, para 49). There the Inspector reasoned that “*current UK national policy is as set out in PPG24. For that reason I base my assessment on the guidelines set out in PPG24, in preference to WHO guidelines*” (GWB5/4, para 10.14.4). The decision on this point at Coventry is consistent with the Secretary of State’s earlier conclusion to the same effect in a decision letter relating to development at Doncaster Finningley Airport (GWB0/2, decision letter, para 32 and IR, para 13.166).

6.49 As to the status of the WHO guidelines, Mr Charles states (GWB5/1, para 4.13):

*“The [WHO] guidelines are not design standards. The Department for Transport considered the WHO guidelines whilst consulting on night flying restrictions. They advised [Night Flying Restrictions Consultation Paper, July 2004] that the guideline values are very low, and that it would be very difficult, if not impossible, to achieve them in the short to medium term without draconian measures – but no such measures were proposed by the WHO.”*

6.50 Notwithstanding the Coventry decision letter, Mr Cox steadfastly and stubbornly refused to move in the teeth of overwhelming authority (from previous decisions of the Secretary of State) to the contrary. Indeed, during re-examination, he made two additional points on the WHO guidelines, (a) that they are embraced by paragraph 3.14 of the Air Transport White Paper, and (b) that the Government has committed to taking the guidelines into account over the longer term such that, as time goes by, “*the more relevant WHO guidelines become*”. Neither of these arguments is sustainable. In particular:

1. Paragraph 3.14 of the White Paper does not embrace or require future application of the WHO guidelines. All it does is refer to the fact that  $L_{Aeq}$  “*is the method of averaging recommended in the Government’s planning guidance on noise and in guidelines issued by, for example, the World Health Organisation*”. In any event, the Secretaries’ of State decision in respect of Coventry Airport post-dated the White Paper by more than two years and represents the Government’s latest advice on this point.

2. It is current policy (as set out in PPG24 and the development plan) which has to be applied in the assessment of the appeal proposals. Speculating about what (if any) changes to policy may or may not be introduced in years to come is irrelevant.

*Should the Appeal Proposals be Treated as if Falling Within NEC C?*

- 6.51 Where a site falls within Noise Exposure Category C for PPG24 purposes, the advice in paragraph 1 of Annex 1 is that:

*“Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.”*

- 6.52 Mr Cox agreed in cross-examination that his approach to the appeal scheme was effectively the approach which falls to be applied in a Category C case. He explained that in his view *“if there are quieter sites, planning permission should not be granted”*.
- 6.53 The fallacy of this approach undermines the credibility of his evidence. As agreed in the Statement of Common Ground on Noise, noise-sensitive development would be limited to Category B (CD83, para 8.3). There is no rational reason for Mr Cox to advocate that the advice from an inapplicable Category should be used.
- 6.54 Indeed, at the end of his evidence, Mr Cox went even further on this point. In response to the Inspector’s question as to whether he personally would oppose the appeal proposals even on the assumption that housing need were established, his response was: *“I would always be professionally opposed, on health and safety grounds, to putting people in this situation even if there are extremely compelling circumstances”*. This answer exposed his true stance, namely one of fundamental opposition irrespective of the fact that the noise environment would be within parameters regarded as acceptable by PPG24 and Structure Plan policy NE19 (and, if relevant, Local Plan policy GD17). In these circumstances, Mr Cox’s evidence should be given no weight whatever. It is effectively based on “Cox’s law” - that residential development beyond the 60dB(A) contour is unacceptable, whatever the development plan and Central Government policy says.

*BS4142*

- 6.55 In his evidence Mr Cox sought to invoke support from BS4142 (CBC01/1, para 8.8). Such reliance is misconceived. In the Coventry decision letter the Secretaries of State *“agree[d] with the Inspector that the situation in respect of the IPF development is not one where BS4142 should apply”* (GWB5/3, Appendices, SoS letter, para 50). The Inspector’s reasoning, which applies equally to the appeal proposal, was as follows: (GWB5/4, para 10.14.6):

*“PPG24 mentions (at Annex 3, para 19) that the use of ... BS4142, may be appropriate in some circumstances. I am aware that PPG24 advises that LPAs should not rely solely on  $L_{Aeq}$  where there are less than 30 aircraft movements per day. However, I do not accept that the situation in respect of the IPF development is one where BS4142 should apply. I say that because the PPG24 guidance relating to BS4142 is given in the context of noise from industrial development; there is no mention in PPG24 of the use of BS4142 in the context of noise from aircraft; and in any event there are far more than 30 aircraft movements per day at [Coventry].”*

- 6.56 BS4142 is a “method for rating industrial noise affecting mixed residential and industrial areas”. It provides a means for assessing whether industrial noise is “likely to give rise to complaints from persons living in the vicinity”. It is specifically directed to industrial noise, not aircraft noise. “Quantitative assessment of the level of general community annoyance” is stated to be “beyond the scope of this standard”. Government advice, following research, is that aircraft noise should be assessed using the dB  $L_{Aeq}$  method (Air Transport White Paper, para 3.14).

#### *Noise Insulation*

- 6.57 The Statement of Common Ground on Noise records that “the appeal proposal limits noise-sensitive development to Category B land only and proposes a commensurate level of protection from noise” (CD83, para 8.3). At the inquiry there was no dispute that, with appropriate design, acceptable internal noise levels could be achieved (with adequate ventilation). Indeed Mr Cox accepted that “houses can easily be acoustically sealed against external noise to ensure that the internal noise environment meets the requisite standard” (CBC01/1, para 9.6).
- 6.58 The agreed conditions would ensure that internal daytime levels would be no more than 35dB  $L_{Aeq,16h}$  which is the mid-point between “Good” and “Reasonable” in BS8233 (GWB5/1, Table 13), and less than 30dB  $L_{Aeq,8h}$  at night.
- 6.59 The foregoing approach is evident in the Council’s grant of permission for 176 units at Apple Tree Farm. The report to committee advises that a material factor favouring the application was “the possibility of substantial noise insulation [having] been built into the applicant’s plans for the site” (GWB5/3 – Section on “Airport Policy”). Mr Fairham confirmed during cross-examination that this approach was equally applicable to the North East Sector, notwithstanding its greater size.
- 6.60 Further, this approach is entirely consistent with that found acceptable in the Ecclesfield decision where the Inspector concluded: “Double glazing with mechanical ventilation is a recognised method of minimising noise disturbance to future residents and I do not consider that it would lead to poor living conditions for future occupiers” (GWB0/3, para 30).
- 6.61 The Council suggest that the insulation which would be provided may easily be compromised by the householder with or without their knowledge (CBC01/2, para 2.5). However, the Appellants have promoted a condition which would remove

“permitted development” rights that might allow for compromise of the noise insulation of the dwellings (GWB0/17, Condition 62). To the extent that Mr Cox’s comment was (as he confirmed in cross-examination that it was) intended to suggest that a homeowner might remove perfectly good, well-insulated windows and replace them with something of inferior quality, it is unrealistic and can be readily dismissed.

- 6.62 Equally any suggestion that the Airport might be required to replace the sound insulation provided by the Appellants, if a second runway were developed, can be discounted. Such a requirement could only be imposed on Gatwick by way of a planning condition at the time of a grant of planning permission for a second runway. But it would be manifestly unreasonable (and thus unlawful) to require the Airport to replace the perfectly good insulation put in by the Appellants.
- 6.63 Mr Cox is also wrong to suggest that sound insulation is a “last resort” according to Government policy (CBC01/1, para 9.18). Paragraph 3.15 of the White Paper, on which his contention purportedly rests, provides no support for such an assertion. Further, such a restrictive approach is wholly inconsistent with the structure of PPG24, and in particular the manner in which Category B cases are treated.

#### *The Proposed Primary School*

- 6.64 Mr Cox’s opinion that there is “*not a suitable location for the school within this site*” (CBC01/1 para 9.9) should be rejected. Specifically:
1. There is no dispute that acceptable internal noise levels within the School as required by Building Bulletin 93 can be achieved through appropriate design. Mr Cox accepted this expressly. Indeed, this is consistent with the terms of Building Bulletin 93 itself, which provides (CD121, p21) that: “... *it is possible to meet the specified indoor ambient noise levels on sites where external noise levels are as high as 70dB L<sub>Aeq,30min</sub> but this will require considerable building envelope sound insulation, screening or barriers*”. Provision of the requisite internal levels would be secured by the agreed condition (GWB0/17, Condition 32).
  2. Other parts of Building Bulletin 93 suggest aspirational (not mandatory) levels for certain external areas. As shown on the plan (GWB2/6), orientation of the school building (with the external teaching area to the south of the building), a mono-pitch roof, and provision of a canopy, would be likely to enable the Appellants to achieve an outdoor teaching area at or below 50dB L<sub>Aeq,30min</sub>. Noise levels on the playing fields would be broadly comparable to noise levels at various other (recently constructed) schools in Crawley (GWB5/3. para 2.24).
  3. The location of the school site within the North East Sector has not at any time during the inquiry been questioned by the education provider, the County Council. Further, the location of the school has been determined based on the advice of the Appellants’ noise consultants, and having regard to other considerations. These include avoidance of other noise

sources such as the M23, the railway line and Crawley Avenue, and proximity with the neighbourhood centre and the recreational open space areas adjacent to the Gatwick Stream.

- 6.65 As to the suggestion that aircraft noise at the school would impact on pupils' reading and concentration levels, no weight should be placed on this evidence or indeed the Lancet article which Mr Cox claimed supported it. This is because the evidence shows that more than half the schools included in the Lancet study have single glazing only (CD95, p1943), whereas the school at the North East Sector would be sound insulated to the standards set down in Building Bulletin 93. Also, with regard to reading comprehension, Figure 1 of the study (ibid, p1945) plots the reading Z score against aircraft noise bands. Whilst this indicates a downward trend, it is to be noted that no further deterioration occurred once the aircraft noise was greater than 55 dB(A). Indeed, the results appear to show that higher levels of aircraft noise result in reading comprehension improvements. Significantly too, the Lancet article concludes that further research is needed (ibid, p1948). It has not led to any change (actual or proposed) in Government policy or requirements, whether in terms of PPG24 or Building Bulletin 93 (GWB5/3, para 2.31).

*The High Court Proceedings (CD98)*

- 6.66 Some weight appears to be placed by the Council in respect of certain of the Appellants' representations during the consultation process leading to the White Paper (CD98, para 7). On analysis, however, this is a non-point. First, the Appellants' representations in question were in respect of earlier and broader noise contours (forming part of the SERAS 2 consultation) which gave noise readings about 3dB higher over the Appeal Site (GWB5/3, para 2.7). These noise predictions have been overtaken by the latest forecast, as set out on Mr Charles's plan F2. Second, and in any event, the Appellants had not received advice on noise and acoustic matters from Mr Charles or his firm at that time (GWB5/3, para 2.5).
- 6.67 The High Court Judgment makes it plain that the appropriate way of challenging the Article 14 direction is through the inquiry process. This is the course that the Appellants have adopted.

*Population Numbers Close to Airports Where Development is Supported in the Air Transport White Paper*

- 6.68 A material consideration in the assessment of the extent to which the development of the Appeal site would prejudice the bringing forward of a second runway at Gatwick, is the extent to which the noise arising from such a second runway would affect additional residents.
- 6.69 GWB5/5, Attachment A provides estimates of the future population near certain UK airports with and without development which is supported in the White Paper. On proper analysis, this table provides material assistance to put in context the alleged impact of developing the North East Sector on the option of a second runway at Gatwick. Notably:

1. Above the 63dB  $L_{Aeq,16h}$  contour, the population increase at Gatwick would be 2,000 together with the 1,520 from the Appeal Site (GWB5/5, Table 2). This can be contrasted with an increase of 11,000 as a consequence of development supported at Heathrow and 8,500 at Birmingham.
  2. Equally, above the 60dB  $L_{Aeq,16h}$  contour, the population increase at Gatwick with the North East Sector is 8,800 (6,000 plus 2,800 from the Appeal Site). The equivalent increase at Heathrow, as a consequence of development supported in the White Paper, is nearly four times this figure, at 32,000.
  3. Above the 57dB  $L_{Aeq,16h}$  contour, the population increase at Gatwick would be 15,000 together with 4,190 from the North East Sector. This is substantially less than the comparable increase envisaged at Heathrow (54,000) and Birmingham (30,000 or so).
- 6.70 In the Appellants' submission, it is clear that, by reference to other airports which have considerably greater assumed increases in population affected by increases in capacity, as assumed by the White Paper, the relatively modest population which would be affected by noise from the second runway at Gatwick could not on any reasonable basis be considered to be such as to prevent the second runway from coming forward.

*Alleged Prejudice to a Second Wide-Spaced Runway at Gatwick*

- 6.71 For all these reasons, it is plain that development of the North East Sector would not prejudice the option of a second wide-spaced runway at Gatwick. In particular: (a) the development would be limited to Noise Exposure Category B (assuming the second runway), and adequate sound insulation would be provided; and (b) it would accordingly be unnecessary for Gatwick Airport to offer or provide any further sound insulation to the residents of the North East Sector.
- 6.72 There is a further factor – indeed an important material consideration which needs to be included in the balance of considerations in determining whether the Appeal proposals would prejudice the bringing forward of a second runway at Gatwick. This factor is that – at its highest – a second runway at Gatwick by 2030 can only be considered a possibility. It cannot be said that, on a balance of probabilities it is likely to come forward.
- 6.73 In this respect it is clear that Mr Cox, Mr Fairham and the Council approached their consideration from the fundamentally wrong perspective. They have assumed that a second runway at Gatwick is “*reasonably foreseeable*” (CBC01/1, para 9.18). That is manifestly wrong, and such balancing exercise as the Council has conducted of the planning merits of the appeal scheme is tainted accordingly. The Council’s approach to the North East Sector is moreover inconsistent with its approach to Apple Tree Farm. At Apple Tree Farm, the July 2005 report to committee (GWB5/3) advised that “*the timescale involved in the possible future expansion of Gatwick*” was a material consideration, and that “*local authorities are required to take account of the reasonably foreseeable future, a future which in this case lies well outside the scope of*

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*the present structure plan and the regional plan for the south east*". Mr Fairham agreed in cross-examination that this was a conclusion which was not dependent on the scale of development proposed at Apple Tree Farm.

6.74 It is clear from the Air Transport White Paper that two new runways are required in the South East over the next three decades (para 11.11). This was confirmed by Mr Lockwood in cross-examination. Further, the Government's preferred approach, as agreed by Mr Lockwood, is to bring forward a new runway at Stansted and a third runway at Heathrow.

6.75 Whilst there is in principle acceptance of the suitability of Gatwick as a location for a second runway, the White Paper states that the Government "*have concluded that the case for a runway at Gatwick is not as strong as for the options at Stansted and (subject to meeting the critical conditions) Heathrow*" (para 11.71). As to those critical conditions, the White Paper says (para 11.80):

*"As explained above, we cannot be certain at this stage when, or whether, the conditions attached to development of a third runway at Heathrow might be met, particularly in relation to air quality. We are also mindful of the uncertainties surrounding longer-term demand forecasts described in Chapter 2. The Government believes that it is sensible for the time being to retain and provide for a suitable alternative option, should this prove necessary. Taking all relevant factors into account, including the strong economic case for additional capacity at Gatwick, we therefore propose to keep open the option for a wide-spaced runway at Gatwick after 2019"* (emphasis added).

6.76 It is clear as to precisely what the preferred option of the Government is. It is also clear that if both of those two new runways are provided in the preferred locations, there would be no policy basis for the provision of an additional runway at Gatwick.

6.77 For the second runway at Gatwick to come forward, the Government's preferred approach would have to fail. On a balance of probability, that cannot be assumed. Nor is such reasonably foreseeable (insofar as there is a relevant distinction). Given that both Stansted and Heathrow are both within the White Paper as the preferred options, it is clear that it is reasonably foreseeable that they will come forward. By contrast, a second runway at Gatwick may only be described at its highest as a possibility. The possibility remains "*should this prove necessary*".

6.78 The fact that a second runway at Gatwick can only be considered a possibility, as described by the White Paper, is clearly a material consideration in the assessment of the weight of any putative harm to the bringing forward of the second runway. The matter can be looked at in the following way. If (which the Appellants strongly deny) there would be material harm or prejudice to the bringing forward of the second runway, then clearly the weight which should be attached to that harm should increase as the prospect of the second runway coming forward increases. Whereas if the prospects of the second runway coming forward were, in truth, not great, then relatively little weight could or should be attached to such harm.

- 6.79 In the Appellants' submission, there would be no harm or prejudice to the bringing forward of the second runway given their approach in this case. But even if there was, any such harm must be balanced against the fact that a second runway at Gatwick can only be considered to be a possibility, and could only realistically be considered as a likelihood if the Government's preferred option did not come forward.

### **Housing Need**

#### ***The Site's Identification Within the Development Plan***

- 6.80 The appeal site is allocated within Policy H3A of the adopted Local Plan (CD44) for residential development, specifically as a new neighbourhood. Whilst it is recognised that this plan was prepared prior to PPG3, it is important to recognise that the appeal site is still identified as a key component of the Council's housing strategy and to this end it is included within the emerging Core Strategy. Indeed, such inclusion within the Local Development Framework (LDF) is a requirement of policy NE7 of the Structure Plan (CD43) which expressly recognises Crawley/Gatwick as a "*focus for growth*" to support economic growth in the north east of the County and requires local plans to allocate sites for development in accordance with the locational strategy in policy LOC1.
- 6.81 It is evident from the minutes of the Council's Executive meeting on 12 July 2006 (CD104, Resolution 2) that the North East Sector land, which includes and extends beyond the appeal site, is seen as crucial to the fulfilment of the emerging South East Plan's requirement for the Borough.
- 6.82 The 2005 West Sussex Structure Plan, at Policy LOC1, singles out the appeal site as an identified site within part of the locational strategy. That strategy first seeks to direct new development within towns and villages to the use of previously developed land (PDL). However, as shown below, there is insufficient PDL in order to meet strategic housing requirements, whether one has regard to the period to 2012 or 2018.
- 6.83 Further, there is a clear requirement to ensure delivery of the Borough requirement on an annual basis having regard to the provisions of policies NE1(a) and NE4(a) and (b). For Crawley, the requirement is 300 per annum. Having regard to the provisions of NE4(b), it is clear that the Structure Plan requirement is to spread the provision evenly on an annual basis over the plan period.
- 6.84 Against that development plan background, and having regard to the shortfall in the provision of housing land in the Borough and/or the sub-region, there is clear development plan support for development of the appeal site.

#### ***Overview of Housing Requirement***

- 6.85 The Council starts from a position of having an existing deficit of 944 dwellings over the period 2001-2006, representing 63% of the requirement in that period. That deficit is agreed (CD72). This itself represents approximately half the total development

comprised within the appeal scheme. It was candidly described by Mr Dennington<sup>1</sup> as a “*significant*” shortfall and he agreed with the Secretary of State’s description of the matter, as set out in the Russell Way decision, as “*serious*”. The Inspector also described this shortfall as “*significant*” (INQ6, para 2).

- 6.86 To this shortfall, in the period to 2012, must be added a requirement for a further 300 dwellings by 2012, which is the bare minimum figure required by the emerging South East Plan.<sup>2</sup> Mr Dennington confirmed in cross-examination that the submission Core Strategy did not set out to identify sites for the increased requirement in the draft RSS. Both Mr Dennington and Mr Fairham agreed in cross-examination that the appeal should be determined on the basis of the published South East Plan requirement. Whilst the figure may increase still further, the extra 50 units per annum over and above the existing Structure Plan requirement has been accepted in terms by the Council in its response to SEERA. The terms of the Council’s acceptance should be noted. Namely (CD104, Resolution 2):

*“the proposal for 7,000 new homes for the Borough between 2006 and 2026 was accepted, subject to a clear undertaking that should the North East Sector new neighbourhood or town centre developments not come forward within the plan period, any re-provision of housing must be considered at the wider sub-regional level as part of a future review of the South East Plan.”*

- 6.87 The terms of the resolution emphasise the importance of the North East Sector to the Council. Also, there is no suggestion that any re-provision must be provided elsewhere; merely that the consideration of re-provision is considered at a sub-regional level.
- 6.88 Given that there is no objection to the extra requirement of 50 dwellings per annum, and given there have been no other objections to the figure from any other body, it was agreed by both Mr Dennington and Mr Fairham in cross-examination that significant weight could be accorded to it in accordance with *The Planning System: General Principles*. This accords with the PINS view that the housing requirement in the LDF should accord with what is presently proposed by SEERA in the South East Plan (GWB1/2, Annex 9).
- 6.89 Thus, taking the agreed existing shortfall of 944 and the agreed South East Plan requirement to 2012 of 300, there is already an agreed extra requirement of 1,244 dwellings to 2012 (assuming that the Council achieves an output year on year from 2006-2012 of 300 per annum as required by the Structure Plan). That requirement in the period to 2012 is in fact greater than the 900 units which it is estimated would be produced by the appeal scheme in that same time frame (GWB1/1, para 5.8).

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<sup>1</sup> Mr Dennington is the Council’s witness covering housing supply matters.

<sup>2</sup> Policy H1 of the draft South East Plan requires Crawley to make provision for 7,000 additional new dwellings over the plan period, 2006-2026 with an annual average of 350 new dwellings (CBC03/06, para 4.5).

- 6.90 The above assumes that there is delivery of 300 units per annum each year from 2006 to 2012. However, completions in the last five years (2001-2006) have averaged only 111 units per annum (CD72).<sup>1</sup>
- 6.91 The consequence of allowing the appeal, leaving aside the correct time period in which to consider the shortfall of housing land, is that the appeal proposals would redress the existing agreed deficit by 2012.
- 6.92 Crawley Borough Council is identified by GOSE as one of the worst performing South East local planning authorities in terms of a sustained failure to deliver houses (GWB1/2, Annex 8). In common with many of these authorities, the answer provided to criticism on this account is “jam tomorrow”. But the requirement for delivery is getting increasingly worse. The Council’s consistent failure to deliver the Structure Plan requirement of 300 dwellings a year over the past 5 years has resulted in an agreed deficit of 944 units to 2006. If the deficit is to be addressed by 2012, and the South East Plan requirement for 350 units per annum met, then 508 dwellings per annum must be delivered each year. This is equivalent to almost five times the past average rate. The Council is deluding itself that such a rate of delivery can be achieved, let alone sustained for the six years.

#### ***The Period for Assessment***

- 6.93 Before going further in the analysis of housing need, it is helpful to address the question of the period for assessment of the housing need.
- 6.94 The parties started discussing the issue of housing need at the beginning of 2006. As both Mr Dennington and Mr Woolf confirmed, those discussions proceeded entirely on the basis that the correct period for assessment was to 2018. It was not until shortly before the exchange of evidence that this agreement was cast aside by the Inspector’s own observations which he clarified in INQ6. The Appellants are grateful for that explanation which has been considered carefully.
- 6.95 In the Appellants’ submission, an assessment which focuses solely on what would effectively be a five year period (to 2012) would fail to give a full picture of the extent of the need and how it should be addressed. Notwithstanding this, the Appellants see the sense in also considering the position in the short term.
- 6.96 It has been suggested by the Council that the basis upon which a five year period should be taken is paragraph 34 of PPG3. This states: “*Sufficient sites should be shown on the plan’s proposals map to accommodate at least the first five years (or the first two phases) of housing development proposed in the plan*”. But, does it support the Council’s contention?
- 6.97 The answer is that it does not. The Keith Hill MP statement (GWB0/5) makes it clear beyond doubt that:

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<sup>1</sup> CD72 notes agreed completions in the period 2001 to 2006 as 556, equivalent to 111 per annum.

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*“The duration of a plan should be for a period of 10 years from the plan’s forecast adoption date. This means plans should make provision for at least ten years’ potential supply of housing.*

*Paragraph 34 of PPG3 requires sufficient sites to be shown on the plan’s proposal map to accommodate at least the first five years (or the first two phases) of housing development proposed in the plan. This does not mean plans should only have a 5-year time horizon nor is it guidance directed at the determination of planning applications”.*

Indeed, if anything, the Keith Hill statement is authority for the proposition that a ten year period should be considered.

- 6.98 Nor does the Arun decision (CD119) assist, given that the period chosen in that case reflected the fact that the plan ended in 2011 which was five years from the date of the inquiry.
- 6.99 The reality with a large strategic site such as the North East Sector is that the housing provided would span more than a five year period. However, what should be considered, in assessing the contribution which the appeal site would make, is the extent to which the actual output from the appeal site can contribute to remedying a serious shortfall in that same five year period. In this case, the Appellants’ evidence is that some 900 dwellings would be delivered from the appeal site by 2012 (GWB2/1, para 5.2; GWB1/1, para 5.8). This was not challenged in cross-examination or by any Council witness. The evidence shows that the shortfall in the period to 2012 exceeds, marginally, what the appeal site would provide.
- 6.100 On analysis, it makes little difference as to how one assesses the need. If the period to 2012 is taken, the deficit would be substantially reduced, but not entirely eliminated, by the North East Sector contribution. Looking to 2018, and considering the position over the plan period (which the Appellants consider is the appropriate method of assessing housing need for a strategic site) it is clear that the North East Sector is still required. Indeed, this is acknowledged by the Council itself in its representations to SEERA (see para 6.86 above).

### ***The Windfall Allowance***

- 6.101 Before considering the aspect of the housing need analysis at the Borough level where there is greatest dispute (the identified strategic sites), it is appropriate to consider the windfall allowance.
- 6.102 Mr Dennington agreed in cross-examination that it was essential that any such assessment of windfalls should be “*evidence based*”, as both paragraph 36 of PPG3 and paragraph 14 of draft PPS3 advice. However, the Council’s approach is the very antithesis of this.
- 6.103 Mr Dennington further agreed in cross-examination that, as at May 2006, his position was as set out in the table at GWB1/1, paragraph 6.36. The Council’s assessment,

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based on March 2005 data, indicated a total windfall allowance from 2005 to 2018 of 350 dwellings based upon the Urban Capacity Assessment, equivalent to an annual provision of 27 dwellings. The overall deficit to 2018 was shown to be 870 dwellings.

- 6.104 This contrasts with the position of the Council, as set out in the submission Core Strategy where the windfall rate from 2005-2018 was 140 per annum (CD62, para 2.13). Extraordinarily, the windfall allowance in the submission Core Strategy was derived by taking the residual requirement of 1,818 for 2005 to 2018 (CD62, p24) and dividing it by 13 years.
- 6.105 This approach was entirely consistent with that taken by the Council in the Draft Core Strategy Evidence Base Document where the identified residual requirement was 1,788 units which suggested a windfall allowance of 138 per annum (CD63, Table p10 and para 2.18).
- 6.106 It is that same approach which has led to what Mr Dennington now contends for, a windfall allowance of 82 per annum. This is derived from the Agreed Statement on Housing Land Supply (CD72) where the gross shortfall to 2018 is 979. Divided by 12 years gives a windfall requirement of 82.
- 6.107 In the Appellants' submission, the above betrays a hopeless approach to the assessment of windfall allowances. No regard was given to the advice in PPG3 as to how such an assessment should be undertaken. The Council's approach is fundamentally flawed.
- 6.108 In contrast to the Council's approach, Mr Woolf<sup>1</sup> assessed the appropriate windfall allowance by reference to both the Urban Capacity Study (UCS) and the trend in past completion rates. The UCS demonstrates that the windfall figure over the period 1991-2003 was 44 per annum (CD71, paras 6.12-6.15). The study was undertaken by Baker Associates, whose experience in this field is widely acknowledged. It is likely to be an overestimate, as the statistics collected in the 1990s did not differentiate between windfalls on PDL and housing built on unallocated greenfield sites. Mr Dennington agreed in cross-examination that it was a "*cautious and reasonable*" figure, and "*robust*".
- 6.109 If the windfall completion rates for the three years 2004, 2005 and 2006 are included - and in 2005 there were an unprecedented number of windfall completions - then the average from 1991-2006 increases to 52 per annum.<sup>2</sup> Nevertheless, in light of the acceptance of the figure of 44 as being "*cautious and reasonable*", the Appellants urge that the UCS figure is adopted. The Council's assertion in closing that Crawley "*has come late to the PDL party*" (CBC00/12, para 152) is not backed by evidence. Crawley has been subject to PPG3 since March 2000. Equally, the suggestion that

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<sup>1</sup> Mr Woolf is the Appellants' witness covering planning policy and housing land supply issues.

<sup>2</sup> In the three years 2003/04 to 2005/06 there were 253 windfalls (CD72A). In 1991 to 2003 there were approximately  $44 \times 12 = 528$  (CD71 para 6.12). The total for the 15 year period is 781 or 52 per annum.

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Russell Way might come forward if the design were changed (ibid, paras 153 and 154) does not reflect the substance of the challenge which also questioned the reasonableness of the Secretary of State's approach to the Borough's employment policy.

- 6.110 Following the exposure of the shortcomings of their windfall calculations, the Council produced several papers which sought to demonstrate how many planning permissions have been granted, particularly of late. However, this exposed a serious failure on their part to understand the nature of the problem. The number of planning permissions has very little indeed to do with the number of completions. This, no doubt, is why the number of extant permissions is not included as one of the matters to be considered in assessing windfalls in, for example, PPG3, paragraph 36. The relevant considerations are past windfall rates and future potential as assessed in an UCS. Moreover, the Council failed to put forward any evidence of a relationship in numerical terms between the number of permissions and a proper windfall rate. Notwithstanding this, the Council's assessment has continually lumped the two together. This is clear from the Draft Core Strategy Evidence Base Document where the number of completions was counted with the number of outstanding planning permissions and then an average completion rate of 318 was extracted (CD63 para 2.18). This demonstrates the folly of this Council's approach.
- 6.111 Further, there can be no basis for counting in windfalls for the next year, as Mr Dennington advocated, given that if the site is to contribute to completions for 2006-2007, it would already have obtained planning permission (and be included elsewhere in the figures).

### ***The Core Strategy Identified Sites***

#### *The Proper Approach*

- 6.112 What is required is a realistic assessment of likely delivery: see (a) PPS1, paragraph 26(iv) ("*planning authorities should ... be realistic about what can be implemented over the period of the plan*"); (b) the last sentence of PPG3, paragraph 34 ("*... it is essential that the operation of the development process is not prejudiced by unreal expectations of the developability of particular sites ...*"); and (c) paragraph 13 of draft PPS3, where the tests of availability, suitability and viability are expressed in terms of what the position is or is likely to be in the relevant period. Thus, neither side has the burden of establishing that completions either certainly will or certainly will not be produced from particular sites. The issue is "what is probable" (i.e. what is likely on a balance of probability) and not "what is possible".
- 6.113 When the necessary realistic assessment is made in relation to the six "identified sites", it becomes apparent that the Council's projections are in some cases in the realms of fantasy, and are at best an example of the "art of the possible". Mr Woolf's evidence is that the Council's reliance on the six identified sites is a reliance on sites where (in some cases) there are substantial question-marks over the feasibility and/or viability of any residential development, and where (in other cases) there are major constraints in policy and/or physical terms, and no indication whether or how these

can be overcome (GWB1/2, Annex 4). The Council's approach is the very antithesis of the approach explained above.

*Town Centre North*

- 6.114 For the reasons set out below, there are major uncertainties as to whether any redevelopment scheme at Town Centre North will get off the ground at all, or at any rate, in the period under consideration (i.e. to the end of the plan period, 2018). Mr Woolf's assessment is that this is most unlikely to occur, and that the development process would be severely prejudiced by assuming any housing completions in the requisite period. This is realistic. In the terms of paragraph 13 of draft PPS3, Town Centre North fails all parts of the test.
- 6.115 First and foremost, it is not in dispute that there is a major unresolved question-mark over the feasibility of the project. This alone is a more than sufficient basis for Mr Woolf's analysis to be preferred. The evidence on which his assessment is based is as follows:
1. English Partnerships' website (the Council have recently been working with English Partnerships (EP) on this project) expressly notes that feasibility remains unresolved (GWB0/8, final para).
  2. The Council's Core Strategy Evidence Base Document states (CD70, para 15.20) "*should the site come forward within the plan period, this could provide a useful counter to the potential employment decline at Gatwick*". This qualification reflects the underlying uncertainties as to whether this project will proceed at all, or (if it does) in what form and when.
  3. The Council's July 2006 response to the emerging South East Plan similarly reflected a doubt about the Town Centre North scheme coming forward (this was coupled with a doubt as to the provision of the North East Sector – see paragraph 6.86 above). As Mr Dennington agreed in cross-examination, there was no need for the resolution to include such a caveat if there was not a reasonable doubt about the ability of Town Centre North to deliver residential development in the period to 2026.
  4. No financial figures or appraisals have been made public in order to assess the commercial viability of a scheme at Town Centre North (GWB1/3, para 6.22).
- 6.116 Mr Woolf's evidence is that "*it is not at all unusual for major town centre schemes such as [Town Centre North] to be proposed and backed by all relevant parties but still to be delayed in terms of their implementation. The history of Bracknell Town Centre, another 1960's New Town, provides an example of this with schemes dating back to the 1990s and still failing to come forward*" (GWB1/2, Annex 4, page 4). He expanded during cross-examination on why he considered that the analogy with the 15 years or so that it took to arrive at a planning permission for the redevelopment of

Bracknell Town Centre was a fair one. In Crawley, there are already real parallels with the present situation at Sussex House (see paragraph 6.123 below).

- 6.117 Mr Dennington argues that *“in light of a preferred developer being selected and remaining committed to bringing forward the scheme from a commercial perspective it is considered [the] site is financially viable at this stage”* (CBC02/1, page 34). The highlighted qualification is very revealing. In any event, the position is over-stated in relation to the preferred developer. While Grosvenor has been selected, Heads of Terms have not yet been signed or even approved by its Board. Even if they were signed, this would *“just mean that issues such as viability are presently being given some consideration”* (GWB1/3, para 6.22).
- 6.118 Inevitably, without even an outline scheme, it is impossible to make an assessment of viability.
- 6.119 Concerns as to the feasibility of any scheme at Town Centre North are very real. As explained in more detail below, there are a number of potentially significant constraints and uncertainties, all of which have obvious implications for the financial viability of the project. This is underlined by Mr Fairham’s evidence that he considers that the Sussex House planning application is little more than a disguised *“valuation exercise”*. There are a large number of third party land interests to be acquired as part of the Town Centre North redevelopment, and the financial viability of the proposals is likely to be adversely affected when these landowners seek to take appropriate steps to ensure that the value of their land interests is maximised. There is no dispute about these points. Mr Dennington agreed in cross-examination that there would be *“large compensation bills”* to be *“factored in”*, but that he had not assessed or seen evidence relating to the viability of the possible scheme, whether having regard to such *“large compensation bills”* or otherwise.
- 6.120 Secondly, it is wholly unclear at the present time what the proposals actually are or will be if and when a scheme emerges by way of a planning application. In particular, the residential site capacity has not been ascertained; and the Council’s recently stated positions vary widely. This merely serves to illustrate the uncertainty over the proposal. Specifically:
1. The UCS identified the site for a possible 410 flats (CD71, Site NG9).
  2. The Core Strategy Evidence Base Document (May 2006) referred to 520 dwellings (CD70, p17).
  3. A May 2006 study prepared by GVA Grimley for Grosvenor referred to 1,400 residential units (GWB1/2, Annex 11, para 5.9). Interestingly, the 1,400 figure was published in the same month as the Council’s prediction of 520.
  4. GVA Grimley’s letter of 25 August 2006 (GWB1/3, Annex 15) – just three months later – returns to 800 residential units, without offering any explanation of the change.

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- 6.121 Additionally, the development area has not been definitively ascertained. The area assessed in the UCS was just over 9ha (ibid). The area covered by the GVA Grimley study was 14 ha: (ibid, p30). There has been no planning application. There is no definite scheme and no other firm indication as to what is to be proposed or where.
- 6.122 Thirdly, there are very significant constraints that would need to be addressed by any proposals that might emerge. All these constraints have clear implications for the feasibility and viability of any scheme, as well as for the time-frame for any housing completions to emerge. The constraints are:
1. The need to relocate a significant number of current uses within the search area, including the Borough Council's offices, the County Council's offices, the Magistrates Court, Library, TA Centre, Car Parks, and Post Office. Provision of new accommodation will need to be seamless; it will not be possible to stop any of these functions for a period of time. It is to be noted that Grosvenor's representations on paragraph 15.13 of the Core Strategy (CBC02/15) state: "*The TCN Masterplan has not to date identified a location of the Post Office and Magistrates Court but these may be located within the TCN scheme*". This admission speaks for itself. There can be no confidence that there is sufficient space for all the various ingredients of the project to be accommodated.
  2. The need to contend with a very substantial number of private interests within the search area, and the possibilities of ransoms and the need to use CPO powers. Third party interests include:
    1. 46 privately owned residences (GWB1/2, Annex 10, para 6.2)
    2. A number of retail units, occupying 6,000m<sup>2</sup> (GWB1/2, Annex 4, p2)
    3. At least one substantial office building (Woodall Duckham House) (GWB1/2, Annex 4, p2).
- 6.123 Allied to this, there is a potentially major battle brewing in relation to the Sussex House site. There has been a recent report to committee recommending that the application for its redevelopment should be refused (CBC02/11), amongst other matters on the grounds that it would prejudice Town Centre North. The matter was deferred when it came to committee, but the expectation must be that the refusal recommendation will be adopted. Although Mr Fairham gave the inquiry his opinion that the planning application in question was merely a "*valuation exercise*", it is clear that there is a difference in view as between the Council and the landowner as to how the site should be developed. It may be that the stage will shortly be set for a substantial battle, if the developers take the matter to appeal. Neither Mr Dennington nor Mr Fairham were able to assist with the obvious question as to whether a grant of permission for the Sussex House scheme would put paid to the entire Town Centre North project. It seems very likely, though, that this would be the case, given that Sussex House is the intended location for the proposed new Council offices. Indeed, Grosvenor's representations on paragraph 15.13 of the Core Strategy (within
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CBC02/15) support this, as they record: “An *integral* part of the masterplan proposal is the development of a Civic Quarter at the west end of The Boulevard which will include the development of a new Town Hall on the Sussex House site” (emphasis added).

6.124 Further constraints arise from:

1. The proposal to close The Boulevard to all traffic. Mr Dennington confirmed in cross-examination that he was not aware of any assessment of the implications of this. Self-evidently, though, the implications of pedestrianising a significant road through the middle of the Town Centre are likely to be substantial and controversial.
2. Car-parking provision. It is clear that this has not yet been properly thought through. The most recent GVA Grimley proposals would result in the loss of 1,100 car-parking spaces. The GVA Grimley document (GWB1/2, Annex 11, p32) refers to provision of about 2,500 spaces in total. This would equate to one-for-one replacement, together with one for each of the 1,400 new residential units (as per the Council’s request) mentioned in those proposals. This means that no net increase in parking is proposed for a major retail led commercial scheme (54,812m<sup>2</sup> of retail space), which is likely to have clear implications for commercial viability. Paragraph 7.5.3 of the Development Principles Statement states (GWB1/2, Annex 10) “*it is recognised that new retailers will require a considerable amount of car parking immediately adjacent to their stores*” and then suggests a ratio of 1:25m<sup>2</sup> (which equates to 2,200 in respect of the retail space). Even if the number of new homes proposed is reduced from 1,400 to 800 and making no other change to the proposals set out in GVA Grimley’s May 2006 study, there would still be a woeful under provision of car parking which would be likely to stifle the commercial viability of any scheme. The problem would be further exacerbated by the need to re-provide, as part of the Town Centre North scheme, the 200 spaces which would be lost to the proposed new library at Haslett Avenue/Telford Place.
3. There are building height limits. Adjoining the Conservation Area, the limit is 3 to 3 ½ storeys; otherwise it is 5 to 6 storeys (GWB1/2, Annex 10 para 7.3.3).

6.125 Even if all these constraints were overcome, there is a clear “lead time” issue. Mr Woolf notes (GWB1/2, Annex 4, p5) “*In particular, for major schemes such as this, the development lead times are significant and need to allow for the design of the scheme, land assembly, establishment of favourable policy regime, processing of planning application and construction. Any residential component is likely to be at the end, in terms of delivery, of this retail led scheme*”.

6.126 The Council has been exploring the possibilities for a Town Centre North type scheme in this part of the town for the last 5 to 6 years (GWB1/2, Annex 11, para 2.4). Despite this substantial period of exploration, the project is still only at the embryonic

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stage with substantial questions relating to viability. The Council's partial answer to this point was to refer to a CPO which it progressed in a relatively short period which appeared to be a contest between rival developers (CBC03/14). But no analogy can fairly be drawn. That case involved only one objector and was for a relatively simple scheme (a new ASDA supermarket). Any scheme for the redevelopment of Town Centre North would be substantially more complex, and involve substantially more third party land interests.

- 6.127 It was the exploration of all of the above matters with Mr Dennington which led him to agree in cross-examination that the certainty and confidence which he initially expressed of Town Centre North being brought forward by 2018 was misplaced.
- 6.128 One additional issue related to Town Centre North needs to be addressed. The Council suggest that development of the North East Sector might jeopardise the delivery of Town Centre North (CBC03/1, para 8.21). The suggestion is nonsense. In particular:
1. It is wholly inconsistent with the Council's July 2006 response to the emerging South East Plan (CD104). This document confirms that the Council well appreciates that it needs both Town Centre North and the North East Sector to meet South East Plan requirements. But it contains no reservation to the effect that one must precede the other, or else prejudice might or would be caused. It is this document (and not Mr Fairham's evidence) which represents the Council's formal and considered position on this issue.
  2. Mr Fairham's proof of evidence was the first occasion on which there was any suggestion that the North East Sector might somehow prejudice Town Centre North. It is striking that no similar point was made in either of the reports to committee which gave birth to the various putative reasons for refusal. The history betrays that this line of argument is an afterthought, does not represent the Council's view, and should be treated as having no credibility whatever.
  3. In any event, as Mr Woolf explained in cross-examination, taken to its logical conclusion, the consequence of this argument is that all strategic greenfield development should be stopped until such time as Town Centre North has come forward or been abandoned. There is, of course, no support in the Development Plan for such an extreme view.
  4. It is clear that the concern (if related to assumed competition for sales of new homes) is wholly without substance. Given that Town Centre North is intended to be a retail led scheme, a new and substantial housing development at the North East Sector would, in reality, assist, not hinder, that scheme. The additional population would contribute to the vitality and viability of the retail elements. Moreover, because any residential development in Town Centre North would be predominantly (if not exclusively) flats, whereas North East Sector would be predominantly

houses, it is hard to see how there would be any material competition in relation to sales of homes.

5. There is no sewage related point. There is no evidence to suggest that granting planning permission for the North East Sector would result in all capacity at the sewage treatment works being taken up. Rather, CD137 shows that there is more than sufficient capacity at the sewage treatment works for new residential development over the coming years, and that there is more than ample time for Thames Water to make appropriate provision for additional facilities once it is clarified what the relevant development plan requirements are. Ultimately additional treatment capacity will be needed irrespective of where in Crawley development occurs.
6. Even if, contrary to the above, it was concluded that the concern amounted to a well-founded point, it would not get the Council anywhere. This is because the relevant housing need (whether expressed in Crawley terms or in sub-regional terms) is so great that there can be no countenance for delaying the North East Sector on account of a concern as to its possible impact on the residential component of Town Centre North.

*Haslett Avenue/Telford Place*

- 6.129 This site fails the tests of “availability” and “suitability” set out in paragraph 13 of draft PPS3.
- 6.130 The Council’s case on this site revolved around a possible scheme on the southern part of the site. It is to be noted that the scheme set out in the UCS (CD71, Site TB16) for 135 units on the northern part of the site (presently occupied by the car park) appears to have been abandoned. No clear scheme and no planning application for the southern part of the site have yet emerged.
- 6.131 As to availability, it appears at the present time that there is an insuperable difficulty as to the deliverability of the southern part of the site, in that it is in multiple ownership, with the various landowners neither ready nor willing to work together and reach an appropriate agreement as to possible residential development on the site. The southern part of the site comprises a new retail unit occupied by Magnet, a number of new employment premises, a furniture showroom and shop (fronting Haslett Avenue), and a former Unigate Distribution Centre.
- 6.132 Mr Woolf gave unchallenged evidence that “*clients of my practice who own the trade park to the east of Telford Place [Denvale Trade Park], sought to acquire the land during 2003/2004 but were unable to agree any terms with the different parties*” (GWB1/2, Annex 4, p7). Two to three years later, nothing has changed in this fundamental respect. It would appear to be the position that, although there has of late been a developer involved (Centros Miller), no deal has been brokered that would facilitate the necessary collaboration. Mr Dennington did not, in his written evidence, seek to grapple with or address this obvious difficulty. In particular, his

supplementary proof (CBC02/2) did not take the opportunity to comment on this point. Equally significantly, Mr Dennington was unable in cross-examination to give an indication that there was the slightest cause for confidence on this front. He agreed that “*there was still no landowners’ agreement*” and that he was “*not aware that anything had changed since the scheme Mr Woolf’s practice was involved in*”. In consequence, he accepted that there was “*no clear indication of availability*”.

- 6.133 Mr Dennington also agreed in cross-examination that the whole scheme was dependent on the Town Centre North redevelopment because of the need to replace car parking that would be lost.
- 6.134 It can fairly be added that the Council’s predicted timescale has been slipping. In October 2005 the Housing Action Plan predicted a planning application in mid 2006 (GWB1/2, Annex 13, p6). Mr Dennington’s supplementary proof predicted a planning application for the southern part of the site in October 2006 (CBC02/2, p17). However, Mr Fairham informed the inquiry on 9 November that this application would be delayed until at least December 2006.
- 6.135 As to suitability, the main point is that any redevelopment of the southern part of the site for residential/retail use would involve the loss of well-located (and, in the case of the new southern-most units, actively used) employment land. This would, as Mr Dennington fairly conceded in cross-examination, be flatly contrary to Local Plan policy E7. This is the policy relied on by the Council in resisting the Russell Way scheme, and is the basis of its s288 challenge. In addition, there is a noise/amenity issue which will need to be subject to detailed investigation given the HGVs and delivery vehicles which will use Telford Place to access the builders yard (Travis Perkins) to the south and south east of the site.

#### *Dorsten Square*

- 6.136 This site fails the tests of “viability” and “suitability” set out in paragraph 13 of draft PPS3.
- 6.137 A sufficient basis for disregarding this site when assessing likely housing completions in Crawley over the coming years is that, despite having been looked at by the Council over the last several years, it appears to be common ground that there remains a huge question-mark hanging over the viability of a scheme at Dorsten Square.
- 6.138 The viability concern arises because, as Mr Dennington conceded in cross-examination, the area in which the site is located is one of the more run-down parts of Crawley; and because the scheme set out in the draft Supplementary Planning Document (SPD) for the area (CBC02/6) is ambitious in involving not just residential development but also (inter alia) new primary care facilities, a new community/youth centre and a new sports facility. It may well also be the case that these viability concerns are compounded by the apparent need to upgrade the sewage mains for some or all of the sites which lie a substantial distance from the Sewage Treatment Works (GWB0/7).

6.139 The basis on which the Appellants submit that the viability of a possible scheme at Dorsten Square indisputably remains in question is as follows:

1. Mr Dennington accepted in cross-examination that the feasibility/viability of a scheme had “*not been determined*” and, as a consequence, “*the Council has not at this time taken a decision to progress it*”.
2. Mr Dennington’s oral evidence was consistent with his written evidence. His proof refers to “*feasibility work being underway*” and to the fact that the “*wider project/neighbourhood centre renewal is subject to feasibility work*” (CBC02/1, p34). Further, the October 2005 Housing Action Plan refers to “*feasibility and deliverability*” work being “*well progressed*” (GWB1/3, Annex 13, p7). But a year later there has been no resolution or (apparently) progress in this critical respect.

6.140 Turning to suitability, the possible scheme at this site set out in the draft SPD would be wholly contrary to PPG17. Mr Dennington agreed that this would be so “*in the purist sense*” and that a breach of PPG17 was a “*serious policy objection*”. The breach of PPG17 arises in the following way:

1. There would, contrary to paragraph 15 of PPG17, be a loss of playing fields without (as Mr Dennington conceded in cross-examination) the requisite assessment of need. The playing fields that would be lost comprise over 1 hectare of land on the eastern side of the proposed area for residential development. Although it was at one time suggested by the Council that this area might not constitute playing fields (CBC02/2, p17), this is wholly untenable given that the Council’s own LDF Proposals Map clearly marks the land in question (together with the land to the south) as “*playing fields*”. Mr Dennington subsequently agreed that the land in question was indeed playing field land. He then suggested that the lost playing field could be reinstated on the land to the south. Again, this is a wholly untenable proposition. The land to the south is already playing field land. Paragraph 15(iii) of PPG17 is inapplicable because Mr Dennington’s suggestion would not result in replacement playing fields of “*equivalent or better quantity and quality*” (emphasis added).
2. Further and in any event, the entire 2.6ha area for the majority of the proposed residential development is protected by paragraph 10 of PPG17. This advice applies to “*existing open space, sports and recreational buildings and land*”. The actively used leisure centre buildings, the adjacent playground and the playing fields all fall within this definition. This is put beyond any possible doubt by the definition of “*open space*” in the Annex to PPG17, which covers land that offers “*important opportunities for sport and recreation*”, “*outdoor sports facilities (with natural or artificial surfaces) ... and other outdoor sports areas*” (para 2(iv)) and “*provision for children and teenagers – including play areas ... and other more informal areas (e.g. hanging out areas)*” (para 2(vi)). In this regard also there is a serious policy objection because there has been

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no assessment, consistent with the advice in paragraph 10 of PPG17, considering whether the open space in question is surplus to requirements.

- 6.141 Furthermore, even if all points set out above were rejected and the Council were right to say that 160 new homes at Dorsten Square were just around the corner, there is no good reason why this should have any bearing on the appeal proposal. This is because: (a) on proper analysis, this site is essentially greenfield, and (b) it is common ground that there is no basis, whether in policy terms or otherwise, for a preference of one greenfield site (Dorsten Square) over another (the North East Sector), especially where the latter is a strategic site identified as such in the Structure Plan.
- 6.142 The Dorsten Square site should properly be classed as greenfield in nature for the reasons set out in GWB1/10. In summary, the position is that Annex C to PPG3 excludes from the definition of brownfield land “*land in built-up areas which has not been developed previously (e.g. parks, recreation grounds ... even though these areas may contain certain urban features such as paths, pavilions and other buildings)*”. This clearly applies to the whole of the 2.6 hectare southern area, which effectively operates (together with the additional playing fields to the south) as a unified recreational park. This approach is endorsed by paragraph 14 of PPG17, which provides that “*Parks, recreation grounds, playing fields and allotments must not be regarded as ‘previously developed land’, as defined in Annex C of PPG3. Even where land does fall within the definition of ‘previously developed’, its existing and potential value for recreation and other purposes should be properly assessed before the development is considered*”. As noted above such an assessment has not been undertaken.

#### *Ifield College*

- 6.143 The position with the Ifield College site is that there is a fundamental and seemingly insuperable access difficulty. This arises on account of the inadequacy for so substantial a development of the proposed access route down Lady Margaret Road (GWB7/1, para 9.2). The obvious drawbacks of the proposed access (in terms of a route which, because of the narrowness of the road and on-street parking, operates as a one-lane road for two-way traffic) are exacerbated by the fact that in the morning there would be pandemonium, with development traffic in conflict with traffic associated with the schools. This arises because, as Mr Boswell explained in his oral evidence, those dropping off at the schools are (because of the inability to turn around in Lady Margaret Road East, and the “no entry” sign prohibiting traffic moving from this road down Lady Margaret Road) likely to enter via Lady Margaret Road West, in the opposite direction to that in which development traffic would wish to go. Nor would the position be alleviated by development traffic going down Lady Margaret Road and exiting via Lady Margaret Road East, because this would bring it in conflict with the 80 – 100 people who work at the school and (because they park on the school site) enter by Lady Margaret Road East.
- 6.144 Further, there is nothing novel about Mr Boswell’s assessment and conclusion. The Urban Capacity Study reached the identical conclusion “*New housing development should be in keeping with existing neighbourhood, and layout should be suitable for*

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*location adjacent to a school. Access may be a constraint onto Lady Margaret Road, which would be unable to accommodate increased traffic levels, and if this is used as an access point existing traffic should be redirected” (CD71, Site If5).*

- 6.145 Although there has been a planning application for 170 dwellings on this site, it was deferred by members on 7 August for further consideration of highway issues. It is plain that members are familiar with the infrastructure deficiencies of the proposed access, which the planning application had made no attempt to address. Further, it is to be noted that although Mr Dennington anticipated that the application would return to committee in October 2006 with additional Transport Assessment work (CBC02/2, p17), this did not occur and there is no word from the Council or the applicants as to whether or when it will.
- 6.146 During Mr Boswell’s cross-examination, he was asked to consider a scenario in which the relevant part of Lady Margaret Road West were widened. Such an approach has not to date been proposed or suggested by the applicants. In any event, it would provide no solution (GWB7/3). In short, this is because (a) it is not possible to use the footpaths on either side for road widening because they are necessary for the residents; and (b) while there is no objection as such to the use of the verge on the eastern side (shown as “E” on CD138), this would not solve the problem, it would only widen the road sufficiently to encourage off-street parking on both sides with the net result that the road would still operate as one lane but two-way. Equally, the suggestion that parking could be provided in the application site is not reflected in the application made.
- 6.147 Finally, the site was subject to adverse comments from Thames Water in its representations on the submission Core Strategy (GWB0/7). It appears that the sewer mains in this part of Crawley are insufficient to cater for a new development of 170 homes. It is unclear whether a development of the site would remain viable once the cost of requisitioning the necessary new sewer mains has been assessed and factored in.

*Thomas Bennett School*

- 6.148 Mr Woolf has accepted that 100 units will come forward on Site A in the plan period. There is a dispute as to whether Site B, which is greenfield in nature and at present outside the defined built-up area boundary, will produce another 100.<sup>1</sup>
- 6.149 The Appellants’ position is that Site B fails the suitability and availability tests in draft PPS3 and so cannot be relied on, and that in any event (as with Dorsten Square and Tinsley Lane) there is no basis on which it should “trump” a strategic site like North East Sector. On this basis alone, Site B is of no relevance to this inquiry.
- 6.150 The first point in support of this submission is that there is an unanswerable PPG17 objection to the development of Site B. Site B is “open space” within the definition

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<sup>1</sup> For locations of sites A and B see plan in the UCS – CD71, Site T6.

contained in the Annex to PPG17. The land has obvious public value in visual amenity terms: see paras 1 and 3(vi) of the Annex. The northern-most footpath within Tilgate Park (which borders Site B to the south) is at a higher elevation than the site, so users of the footpath look down and over Site B. Especially in a world where site A is built out with housing, but in any event, Site B would facilitate a soft southern boundary and would materially and positively contribute to the outlook from this footpath. On this basis, site B is protected by the policy in paragraph 10 of PPG17. Accordingly, its development is prohibited by PPG17 unless or until there is an assessment which establishes that it is “*surplus to requirements*”. But in view of the role it performs in visual amenity terms, and the fact that this role will be elevated with Site A built out, it is hard to see how it can possibly be declared surplus to requirements. Indeed, its retention as open space becomes more rather than less important if Site A is developed.

- 6.151 Next, there are major highways uncertainties (GWB7/1, pp44-45). In short there are major issues to be investigated and considered in respect of (a) the Ashdown Road junction with Southgate Avenue, which “*currently operates with significant peak period congestion*” (as the Inspector informed the inquiry he had observed, at least in the evening peak hour, and as Mr Boswell confirmed is experienced too in the morning peak); and (b) the existing mini-roundabout junction of Canterbury Road and Ashdown Road (where there are also concerns about probable third party land interests affecting the ability to carry out any necessary improvements). These issues need to be modelled in detail, and may well not be capable of being overcome. Mr Boswell confirmed during his oral evidence that he had discussed this site with the appropriate officers of the highway authority, the County Council, who agree with his assessment that there are major questions to be assessed. It can be noted that the Council has made no attempt to challenge Mr Boswell’s evidence on these points, nor to suggest that the uncertainties which he has identified are in any sense illusory. There is nothing in the Council’s written evidence which addresses these matters. His assessment was not challenged during cross-examination. Indeed, Mr Dennington accepted in cross-examination that it was not possible to say that Site B was “*reasonably available*” until there has been “*an assessment of the traffic issues*”. In these circumstances, the Appellants submit that it would be perverse for Site B to be included for present purposes as a site from which housing completions can realistically be regarded as probable.

*East of Tinsley Lane*

- 6.152 This greenfield site consists of three playing fields to the north of Crawley Avenue. The southern two fields are actively used by the Oakwood Football Club. The northern-most field is also a playing field, and football posts remain in place, though the grass in this field does not appear to have been cut in 2006. All three playing fields are described as “*Sports Ground*” on the LDF Proposals Map. According to the Urban Capacity Study, English Partnerships (EP) intend to redevelop the middle and northern playing fields (CD71, Site TB25).
- 6.153 This site fails all the tests in paragraph 13 of draft PPS3.

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- 6.154 First, there is an insuperable PPG17 objection. Mr Dennington agreed in cross-examination that the grant of planning permission for any part of this site would be in breach of PPG17. He was plainly right to give this concession. As noted above, paragraph 15 of PPG17 protects playing fields save in certain circumstances (none of which apply here) or unless there has been a “*robust assessment*” which has concluded that the playing fields in question are surplus to requirements. Mr Dennington confirmed in cross-examination that there has been no such assessment. Further, as noted above, the middle playing field is in active use by the Oakwood Football Club. As to this playing field, Mr Dennington recorded that “*the landowner is keen to progress a planning application shortly, subject to suitable accommodation arrangements being established for Oakwood Football Club*” (CBC02/1, p35). However, in cross-examination he conceded that he had no idea what such solution might be, and that there was no evidence before the inquiry from which it could be concluded that a solution to this issue was likely to be found.
- 6.155 Second, there is no realistic prospect of a satisfactory access to the site (GWB7/1, pp 46-47). In summary, the main points are:
1. The present access (from Kenmara Court) is unsuitable and unavailable. The road is currently only 3.5m wide and could not on any view serve a 100 unit development in its present state. Nor is there any realistic prospect of widening this road. It is clear from the evidence in chief of Mr Boswell that the residents of Kenmara Court have acquired prescriptive rights which would need to be purchased before any road widening could occur. The relevant principles of “adverse possession” are set out in the House of Lords’ decision in *J A Pye (Oxford) Ltd v Graham* [2003] 1 AC 419 (GWB0/19). The short point is that where land has been possessed in the relevant sense for more than 12 years without the permission of the owner of the paper title, a new title is acquired and the latter’s interest falls away. As Mr Boswell explained in his oral evidence (which reported conversations he had recently had with many of the residents of Kenmara Court) and as can be seen in the photographs (GWB0/13) there has been very significant encroachment into EP’s land through the laying out of gardens, the laying of paving stones, the extension of walls and the construction of various hardstandings. Further, Mr Boswell confirmed that the residents contend that all these works were carried out more than 12 years ago. Finally and importantly, Mr Boswell related that a representative from EP visited about 18 months ago and asserted that the residents had unlawfully encroached onto their land. The residents resisted this, and alleged that they had on any view become the owners of the land, since when they have heard nothing further from EP. The significance of this evidence is that it confirms (a) that the various works referred to above have not encroached onto EP’s land with its permission, and (b) that the residents will not be giving up the land without a fight (a position they would appear to be well within their rights to take), not least because (as they told Mr Boswell) they are opposed in principle to substantial residential development of the Tinsley Lane site.
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2. The other cul-de-sacs off Tinsley Lane could not be used without acquisition of third party land, and in any event are insufficiently wide and deficient in terms of forward visibility. Further, it is to be noted that, although the Council resolved in about 1997 to grant permission for 60 houses on the southern-most playing field (CBC03/11) with access through number 75 Harewood Close, this resolution has (for whatever reason) never materialised into a formal grant of planning permission.
- 6.156 Even if the issue of immediate access were overcome, detailed modelling would be required to assess (a) the traffic implications of serving 100 units through Tinsley Lane (itself only 5m wide, with much on-street parking, and a bus route), and (b) the congested junction of Gatwick Road and Tinsley Lane.
- 6.157 Third, against this background, it can be no coincidence that part of the site (the southern playing field) has been allocated for development since the Local Plan was adopted in 2000, under policy H3B(20). The fact that this has not led to any planning permission, that the 1997 application has not been further pursued, and that no further application has been submitted pursuant to the allocation, sends a very clear and coherent message as to the undeliverability of this site.
- 6.158 Fourth, a like concern as with certain other identified sites arises in respect of the sewage mains connecting this site to the treatment works. It is uncertain to what extent this would impact on the viability of any development scheme. Viability is particularly a concern here given that (a) cost issues may well explain, at least in part, why the 1997 application (which involved acquisition and demolition of a house) has not been pursued; (b) constraints that would need to be addressed in developing the site include noise from the Goods Yard and railway line, and the taking of appropriate steps to preserve the ancient woodland known as Summersvere Wood; and (c) in the event that the highways issues could be resolved through highway improvements, there would be cost implications, although it is not presently possible to assess what they would be or how they would impact on the viability of the scheme as a whole.
- 6.159 Finally, the site is greenfield, and, as the Council accepts, enjoys no preference over the North East Sector.

### ***Borough Housing Supply – Conclusion***

- 6.160 The starting point is the existing serious shortfall in housing provision which has grown rapidly since 2001. To that deficit must be added the agreed requirement for the draft South East Plan.
- 6.161 It is clear that the Council's windfall assessment is hopelessly flawed. By contrast Mr Woolf's assessment has been very cautious, in favour of the Council's position. In respect of the six year period to 2012 he has assumed that all the outstanding large planning permissions (916) will be completed, whereas it would be usual to apply a non-implementation allowance, usually 10-15%. This merely serves to emphasise the robust and cautious nature of Mr Woolf's assessment.

- 6.162 It is plain that there is no real prospect of the six identified strategic sites making the provision which the Council has assumed either in the period to 2012 or 2018. Considerable reliance is placed on these sites coming forward in the next 6 years. Given the great uncertainty surrounding them, the adoption of a six year period for the housing need analysis actually favours the Appellants' position. Reliance on them by the Council is wholly misplaced.
- 6.163 However, the significant shortfalls in the wider sub-regional context also need to be considered to appreciate the full picture.

### **The Sub-Regional Housing Shortfall**

#### *Summary*

- 6.164 A key and overriding consideration in respect of the appeal proposal is the massive and indisputable shortfall (both present and future) of housing completions as against sub-regional requirements, and the impotence of any person or authority other than the Secretary of State to redress the situation. This has at all times been one of the fundamental aspects of the Appellants' case: the matter was raised in the Grounds of Appeal (para 6) and the Appellants' Rule 6 Statement (para 4.11). It was developed in detail in Mr Woolf's main proof of evidence (GWB1/1 and GWB1/2, Annex 5).
- 6.165 The relevant shortfalls are shown in numerical terms in Mr Woolf's tables (GWB1/2, Annex 5, Tables 1 and 2 (amended) and GWB1/6). The main points are:
1. Assessed against Structure Plan requirements, there is presently a shortfall of at least 2,251 new homes in the relevant part of West Sussex (Crawley, Mid Sussex and Horsham) for the period 2001-2005 (GWB1/6, Table 1). This shortfall was accepted by Mr Dennington in cross-examination.
  2. Mr Woolf's assessment is that there is likely to be a deficit as against the Structure Plan requirement for this sub-region of (a) in the period to 2016, between about 5,400 and 6,000 dwellings (GWB1/2, Annex 5, Table 1); and (b) in the period to 2012, of about 3,000 dwellings (GWB1/6, Table 2). These deficits would, even if Mr Woolf's assumed deficit for Crawley were ignored, still be of the order of 3,800 to 4,400 and 2,300 respectively. So far as the districts other than Crawley are concerned, the deficits derive exclusively from Mr Woolf's assessment of likely shortfalls in delivery from the strategic sites – for the other (non strategic) sites he assumed that the neighbouring planning authorities will achieve their predictions and deliver all the dwellings planned.
  3. When the same exercise is performed in relation to the emerging South East Plan requirements for the Gatwick Diamond, Mr Woolf's assessment is that: (a) in the period 2001-2006, there is already a 2,655 shortfall as against the draft plan requirements (GWB1/6, Table 3); (b) by 2012, the likely shortfall as against South East Plan requirements would be just over 4,000 (just over 3,000 if the Crawley deficit is ignored - *ibid*); and (c) by

2016, the likely shortfall on the same basis would be between about 5,355 and 5,955 (about 3,250-3,850 if the Crawley deficit is ignored) (GWB1/2, Annex 5, Table 2). As above, save in relation to Crawley, these figures take account only of likely shortfalls in delivery from the strategic sites considered below.

- 6.166 The evidence which supports Mr Woolf's assessment of these deficits is considered in detail below. It was not challenged during cross-examination. By contrast, Mr Dennington's written evidence was (as he admitted) no more than hearsay repetition of the assessment of officers of neighbouring planning authorities, none of whom were called by the Council. Further, as is set out below, Mr Dennington conceded in cross-examination many of the points which Mr Woolf makes about particular sites. If, as the Appellants contend and the Council did not in reality contest, Mr Woolf's assessment of the sub-regional strategic sites is correct, it is undeniable that the situation would be extremely serious and would (if not redressed by the release of the North East Sector) lead to economic stagnation and stifling of the prospects of the Gatwick Diamond.

#### ***The Relevance of These Sub-Regional Deficits***

- 6.167 Although the relevance for present purposes of the sub-regional deficits in housing delivery referred to above was not in any way questioned by any of the Council's witnesses, an attempt was made during Mr Woolf's cross-examination to cast doubt on the point. The attempt failed.
- 6.168 The first point to note is that the approach advocated by the Appellants derives directly from the terms of the Structure Plan. There are a host of policies which emphasise the central importance of Crawley for the regional economy. In particular:
1. Policy NE7 of the Structure Plan (CD43) recognises "*the importance of Crawley/Gatwick as a focus of growth in the context of the Western Policy Area in RPG9*". The policy provides that local plans must (i) allocate sites for development in accordance with the locational strategy in policy LOC1 and the requirements of NE1, and (ii) ensure that sites are allocated in the vicinity of Crawley and Gatwick to meet the strategic requirements of the Crawley/Gatwick economy.
  2. Further justification for considering the strategic sites outside Crawley's area for the purposes of the appeal arises from footnote (e) of Structure Plan policy NE1: "*A large proportion of the allocation of dwellings to Horsham and Mid Sussex Districts, which is attributable to the strategic locations, and an element of the employment allocation in both Districts relates to the needs of the Crawley/Gatwick area*".
  3. This approach is emphasised by Structure Plan policy LOC1(b)(2) which identifies the west of Crawley, west and south west of East Grinstead and west and/or south west of Horsham as the three strategic sites "*associated primarily with growth in the Crawley/Gatwick area*".

4. There is a similar provision in emerging policy GAT2 of the draft South East Plan (CD65). This emerging policy is supported by Crawley (CD104), and provides that *“the majority of future development should be in the form of major developments at or adjoining Crawley (supporting its role as a transport hub and regional centre) and the other main towns within the main north/south and east/west transport corridors”*.
- 6.169 Allied to this, the Structure Plan specifically contemplates the need to address shortfalls on a sub-regional basis. Structure Plan policy NE4(b) provides that *“in exceptional circumstances, any major shortfall arising in one district should be addressed within the relevant sub-area of the County through joint assessment with the district planning authorities”*.
- 6.170 Policy NE4(b) is (on the basis of Mr Woolf’s assessment of likely delivery from the strategic sites) demonstrably engaged in the present case. This was agreed by Mr Dennington. When asked in cross-examination whether certain assumed shortfalls as against the sub-regional requirements would justify the grant of planning permission in this case, he acknowledged that a sub-regional deficit of 1,597 (to 2012) would justify the grant of planning permission even in circumstances where there was a surplus of 713 in Crawley.<sup>1</sup> Unsurprisingly he further agreed that the grant of planning permission would be justified if the sub-regional deficit (and Crawley’s performance) were assumed to be worse than a net deficit of 1,597. Mr Fairham associated himself during cross-examination with the answers of Mr Dennington on these issues.
- 6.171 One of the more surprising lines of questioning to Mr Woolf during his cross-examination was to the effect that the relevant words of policy NE4(b) are written in the singular, so deficits in a number of districts cannot be aggregated. This suggestion defies logic where there are substantial predicted shortfalls in a number of districts. In such a scenario, the policy and approach set out in NE4(b) apply all the more forcibly and urgently. It was not a point taken up by any Council witness.
- 6.172 The next important consideration is that there is no way to redress the massive predicted sub-regional deficits other than by the release of the North East Sector. Indeed, Mr Fairham conceded in cross-examination that *“if there is a need for the release of a further site, it has got to be [the North East Sector] – there is no sensible alternative”*. This concession is clearly right. As explained below, the North East Sector is a site with impressive sustainability credentials which has long been identified in the Development Plan as a strategic housing site. There are no other alternative major sites in Crawley Borough which can be brought forward to meet the identified deficit. The Borough is tightly constrained by physical features and the administrative boundary. The contrary was not suggested by either of the Council’s witnesses. Further, there is no other alternative major site in the sub-region. The

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<sup>1</sup> The figure of 1,597 is derived from GWB1/6, Table 2 (showing a total deficit of 3,023 to 2012), but on the assumption (reflecting the different positions shown in the Statement of Common Ground – CD72) that the position in Crawley in 2012 is a surplus of 713, not a deficit of 713.

locations for potential strategic housing development were identified as part of the preparation of the Structure Plan, and are those assessed by Mr Woolf. Nor, contrary to the premise of a line of questions put to Mr Woolf in cross-examination, is there a realistic concern about prejudicing brownfield land in the sub-region by the release of the North East Sector. It was (as Mr Woolf explained in cross-examination) the very insufficiency of brownfield land in the sub-region which led to the identification of the relevant strategic sites (all of which are greenfield sites). There is no evidence to the contrary.

6.173 Finally, apart from the Secretary of State, there is no person or authority who is in a position to consider or address the sub-regional deficits established in Mr Woolf's evidence, or to take steps to redress the position by releasing the North East Sector. As to this:

1. It is only the Secretary of State who can remove the Article 14 direction in respect of the Appeal Site.
2. Crawley Borough Council has disavowed responsibility for assessing or redressing the sub-regional position. Notably, the emerging Core Strategy makes no attempt to acknowledge or alleviate the sub-regional position, notwithstanding the undisputed shortfall of 2,251 dwellings as against Structure Plan requirements for 2001-2005. It is the Council's evidence that the Core Strategy examination commencing in February 2007 will not consider the sub-regional picture. Despite the Appellants having clearly flagged up their intention to rely on the sub-regional position as a potent aspect of their case on housing need (see para 6.164 above), the Council's first proofs of evidence said not a word on the subject. While Mr Dennington's rebuttal proof made a few brief points, it turned out that this evidence was all second hand and that Mr Dennington had not sought to inform himself sufficiently to take a view on Mr Woolf's contentions. The Council's treatment of this subject at the inquiry merely serves to emphasise that the Council cannot be relied on to acknowledge or take steps to alleviate the unsatisfactory position which Mr Woolf's evidence exposes.
- Further, there is an "ownership issue" as to who else is ready, willing and able to take responsibility for these matters. The County Council's strategic planning functions have effectively been ceded to SEERA, so, as Mr Woolf put it in cross-examination, the County is no longer performing "plan, monitor, manage" (aside from continued collection of statistics). SEERA is at an early stage, and has other things to concern it at the present time.

6.174 It is true that there has not been a "*joint assessment with the district planning authorities*" as contemplated by policy NE4(b). But this point goes nowhere. For the reason just given (its effective ceding of strategic planning functions to SEERA), it is unsurprising that the County has not sought to supervise such a joint assessment. Moreover, it is hardly surprising that there has not been such a joint assessment in

circumstances where the relevant district planning authorities are all taking the position in their various emerging Core Strategies that they are “on target” to meet their individual requirements.

6.175 The Borough Council’s closing submissions on the matter further expose the shortcomings of their case. In particular:

1. It is not correct that the Section 78 process does not admit interested landowners and neighbouring local authorities (CBC00/12, para 157). The Council was free to call whoever it wished in support of its case.
2. It is wrong to say that the Secretary of State would not be in a position to assess whether releasing the appeal site to meet shortfalls as a result of delays in bringing forward other strategic sites would accord with policy NE4 of the Structure Plan (CBC00/12, para 157). Mr Dennington agreed the shortfall. The relevant information is before the inquiry and should be reported to the Secretary of State. Mr Fairham accepted that the Secretary of State was as good an arbiter on the question as the joint authorities and that “*she could deal with it*”.
3. Questions as to the extent of PDL available in Mid Sussex and Horsham (CBC00/12, para 158) are not relevant as Mr Woolf’s analysis assumed all the identified PDL in these districts will come forward in accordance with their plans.
4. Mr Woolf did not agree that releasing the North East Sector to meet shortfalls arising from the non-delivery of the strategic sites would not accord with its allocation in the Borough Local Plan and undermine the LDF process (CBC00/12, paras 159 and 160). Rather, the site is at the heart of the Structure Plan strategy for the sub-region. It is clearly not outside the LDF process. Once the position is reached that there is a clear need which is not being met, then logically the site should be released.

6.176 In all these circumstances, it is only the Secretary of State who can cut the Gordian knot and address the problem by releasing the North East Sector.

#### ***Assessment of the Sub-Regional Strategic Sites***

6.177 Before turning to consider the relevant strategic sites, it is appropriate to comment on the quality of the evidence on likely sub-regional housing shortfalls. On the one hand, there is the detailed consideration which Mr Woolf has given matters. He has almost unrivalled experience on issues of housing delivery generally, and planning in the South East and West Sussex particularly. On the other hand, Mr Dennington conceded in cross-examination that he had no first hand evidence or assessment to give in relation to the specifics of likely delivery at the strategic sites. Further, the Council elected not to call evidence from anyone else to do so, and did not challenge during cross-examination any aspect of Mr Woolf’s consideration of the strategic sites. In these circumstances, against such an evidential background, the Appellants submit

that it would be perverse for Mr Woolf's assessment of likely delivery from the strategic sites to be rejected in any material respect.

*Mid Sussex District Council – South East and South West of Haywards Heath*

6.178 Policy LOC1 and paragraph 82 of the Structure Plan (CD43) identify this site for 1,400 homes. Part of it has been completed, as has part of the relief road. Mr Woolf considers that, although there are issues to be resolved regarding the development of the balance of this site, they are likely to be resolved so as to result in all 1,400 units being completed by 2016 (GWB1/2, Annex 5, Appendix 1, para 1.6).

6.179 Mr Dennington's written position was confused. In paragraph 8.1 of his rebuttal (CBC2/2, page 18) he stated that he agreed with Mr Woolf that the site would produce 1,400 units to 2016. However, in his table at page 23, he stated that he agreed with Mid Sussex District Council that 1,650 units would be delivered. Subsequently he advised that the 1,650 figure was based on a phone call with a planning officer at Mid Sussex, and did not derive from any document which he had seen. He accepted in cross-examination that the figure of 1,400 should be taken.

*Mid Sussex District Council - West of East Grinstead*

6.180 The figure of 1,300 units is that of Mid Sussex District Council, and derives from the draft Area Action Plan (CD80, p65). The trajectory there set out assumes adoption of the Area Action Plan (AAP) by the end of 2008; completion of all inquiries by 2011; relief road built and 400 completions by 2013; and 300 completions a year thereafter. Such a timescale is hopelessly optimistic.

6.181 Mr Woolf's considered opinion is that "*there are likely to be continued delays in securing release of the site and there is the serious prospect of no housing development at all by 2016*" (GWB1/2, Annex 5, Appendix 1, para 2.9). In support of this viewpoint, the following points fall to be made:

1. As recognised in paragraphs 82 and 85 of the Structure Plan and paragraph 13 of the AAP, the scheme is wholly dependent on an A22/A264 relief road. This is likely to prove a time-consuming and controversial issue to resolve. There are at present five "preferred" options for the route of the relief road, reflecting the fact that all options have adverse environmental consequences. Paragraph 16 of the Executive Summary to the AAP records that "*Due to the large number of constraints along all potential routes around the town and development sites, it is highly likely that the route of the final relief route will be one that is dictated by environmental, landscape and topographical constraints*", and para 11.2 of the document states that "*It is not possible to construct a relief road without impacting on some environmentally sensitive areas. Depending on the option, this could include land designated as AONB, ancient woodland, SNCIs and ghyll woodland*".

2. Settling the route of the relief road will be a major, time-consuming and controversial question involving issues as to (a) funding, (b) land assembly, (c) balancing impacts in terms of noise, visual and air quality and (d) the effect on the AONB (which would need to be crossed by the new road, on a number of the options (ibid, para 9.7). Unsurprisingly, in view of the planning issues raised by and constraints on the possible routes of the relief road, an extraordinary degree of local opposition has already been excited. 7,000 objectors to the development commented on the draft AAP (GWB1/2, Annex 5, Appendix 1, para 2.7).
3. Equally, there is as yet no clarity where the housing development will go, the AAP setting out 3 “preferred” options (ibid, pp50-51). This is precisely the type of scenario which is likely to delay the project as various developers and landowners vie for their scheme or their land to be selected.
4. It is also apparent from the AAP that there are other constraints which will need to be factored in, including listed buildings and a former landfill site (which has been deemed to pose a moderate risk of contamination) in the search area.

6.182 Mr Dennington accepted in cross-examination that the West of East Grinstead scheme would be “*hugely controversial*” and that it was not presently resolved or known where either the road or the housing will go. When asked about the realism of delivering 1,300 new homes from this site by 2016, he refused to answer the question directly but did concede that “*there were constraints*” to achieving this prediction.

6.183 Pulling these strands together and considering the time frame of likely delivery of any housing completions, Mr Woolf is clearly right to take the view that it is unduly optimistic to assume any housing completions from this strategic site. In terms of the process between now and any housing completions, there will need to be (though not necessarily in this order):

1. A decision by the Council on its various “preferred options”.
2. An examination of those options by an Inspector and publication of his or her binding report.
3. A planning application, supported by an Environmental Statement, and subsequent processes, including negotiation of the terms of any permission and discharge of reserved matters.
4. Inevitably, a CPO process, which is likely to add significantly to the delay, cost and viability of the scheme that emerges. One of the five current preferred options for the relief road would involve 64 separate land ownership interests, and the others are likely to be similarly complex.

5. Appropriate road orders and an associated road inquiry in respect of the relief road. At that inquiry, it will be open to objectors to complicate and lengthen matters considerably by revisiting the various “*preferred options*” set out in the AAP irrespective of the binding report. Road inquiries have the capacity to be very long and involved, and this proposal has (with all the local controversy that has been excited to date) all the hallmarks of a case which will fall into this category.
- 6.184 Further, the relief road will need to be in place before most of the proposed houses can be released. On viability grounds, there is unlikely to be a sensible prospect of construction beginning on any houses until all matters concerning the relief road and any other substantial infrastructure required are resolved. Realistically, the developers will need to have secured the necessary ownership interests for the entire scheme, and arranged their funding, before any work is commenced.
- 6.185 In support of the realistic view espoused by Mr Woolf as to likely completions from this project, it can be noted that this site has been “around for a while” without anything very much happening. It was considered by the EIP into the 1991 West Sussex Structure Plan, where it was regarded as an acceptable location, though inferior to the North East Sector (GWB1/2, Annex 5, Appendix 1, para 2.5). There has been little meaningful progress in the subsequent 15 years, which reflects the enormous undertaking that this project represents.
- 6.186 Mr Woolf’s figure for this scheme is expressed as a range of 0-600 by 2016. The latter figure assumes that residential development commences in 2012/2013, which would constitute (a) a delay of 2 or 3 years being factored in to the trajectory shown in the draft AAP (CD80, p65) and (b) adoption of the same trajectory as applicable to the North East Sector which produces 600 completions in the first 3 years. However, the hurdles confronting this project are so substantial in nature that assuming such a relatively short delay errs on the side of optimism.
- 6.187 Finally, it should be noted that this site was identified in the Structure Plan for 2,500 units by 2016: see policy LOC1 and para 82. Thus, even on the Council’s figure of 1,300 completions by 2016, there is a projected shortfall of 1,200 units as against Structure Plan requirements.
- 6.188 In the Appellants’ submission, Mr Woolf’s assessment of no more than 600 is the figure which is clearly to be preferred.
- Horsham District Council - West of Crawley*
- 6.189 Mr Woolf’s view that, on a realistic assessment, there will be no completions of new housing at West of Crawley in the period to 2016 should be accepted. There are a number of constraints and pre-requisites which are likely to delay any development in this location at least until 2016.
- 6.190 First, the Structure Plan makes it clear that delivery of this strategic location is dependent on provision of “*a relief road around the north western side of Crawley*”

(CD43, paras 82 and 84). However, it is hard to see how a sensible route for such a road is capable of being determined and agreed unless and until decisions are taken as to whether a second wide-spaced runway at Gatwick is to come forward, and if so where and when (GWB1/2, Annex 5, Appendix 1, para 3.12). There will be no decision about the second runway until 2014 on current expectations. Even Mr Dennington accepted in cross-examination that “*it would be sensible*” to determine the route of the relief road only after the relevant decisions have been taken about a second runway. Deliverability of any road scheme would also be affected by the need for it to pass through the land owned by the competing developer interests (see below). It is of note that Horsham District Council’s June 2006 Topic Paper merely states that “*the location and form of any western Crawley relief bypass has yet to be determined*” and will be left to the Joint AAP process (CD82, para 3.10). In this way the Topic Paper fails to acknowledge or grapple with the obvious and real difficulties as to where the relief road should be routed or how a decision could sensibly be taken in advance of a decision on the second runway.

- 6.191 Second, and a further fundamental obstacle, is the question of sewage. The draft Joint AAP confirms that Thames Water’s preference is that a new sewage treatment works should be provided to serve West of Crawley (CD127, para 10.24). This alone could cause a delay of 8-10 years. Alternatively, if the option of upgrading the current sewage works were pursued for West of Crawley, the lead in time for provision of the necessary infrastructure is estimated to be up to 5 years (ibid). The relevant part of the draft Joint AAP is consistent with Thames Water’s representations on the Core Strategy (GWB0/7, pp6-7).
- 6.192 Third, there are competing developer interests. A “linear development” would not be acceptable, so a battle is inevitable (GWB1/2, Annex 5, Appendix 1, para 3.13). The “search area” identified in the Core Strategy (CD62) is 500 ha, which is 5 times more than required for a neighbourhood. The competing ownership interests include those of Crest Nicholson, English Partnerships and Taylor Woodrow.
- 6.193 Fourth, there are many other substantial issues to be resolved including (a) part of the site being landfill; (b) flooding issues with the River Mole; (c) achieving a concentrated, sustainable neighbourhood form, and (d) definition of the Crawley/Horsham gap boundary (GWB1/2, Annex 5, Appendix 1, para 3.29 and CD82, para 2.1).
- 6.194 Pulling these various strands together, Mr Woolf’s assessment that no housing completions from West of Crawley can realistically be assumed in the period to 2016 is clearly and obviously correct. It is hard to see how any other conclusion is possible in light of the evidence explained above as to the relief road and the new sewage treatment works. Even if these two huge constraints were ignored, a realistic timescale which reflected the numerous decisions and processes to be undergone (which will, in broad terms, be comparable to those confronting the West of East Grinstead project) would be unlikely to predict any (or any more than a minimal number of) completions in the period to 2016. Horsham District Council’s trajectory at Appendix 4 to the Housing Provision Paper (CD78, p14) which projects 50 completions in 2010-11, and 1,800 by 2016 is outrageous in its defiance of logic and

the facts. Even Mr Dennington eventually conceded in cross-examination that this trajectory was “*optimistic*” and that first completions were likely to be “*several years later*”.

*Horsham District Council – West of Horsham*

- 6.195 Appendix 4 to the Housing Provision Paper sets out a possible trajectory, based on first completions in 2008/2009 (CD78, p14). It assumes 1,700 homes will be delivered by 2016. However, the start date is wholly unrealistic given that (a) it is not yet clear what the form or location of development will be and there are competing developers’ schemes, (b) there are 3,000 objections to the scheme from local residents, and (c) there remain issues of infrastructure, transportation and environmental issues, which need to be resolved. Mr Woolf’s analysis to this effect (GWB1/2, Annex 5, Appendix 1, para 4.8) is based on the “*Main Issues*” identified in Horsham District Council Topic Paper for this site (CD84, para 2.1).
- 6.196 These points were explored with Mr Dennington in cross-examination, and he agreed that it “*may well be the case*” that the timetable in Appendix 4 of the Housing Provision Paper will be optimistic by at least three years while the various outstanding matters are considered and resolved. On this basis, first completions would be in 2011-12, and on the basis of the trajectory set out in Appendix 4 of the Housing Provision Paper there will only be 800 completions by 2016. This suggests that Mr Woolf’s figure of 1,000 is, if anything, overgenerous in terms of the number of completions he has assumed.

*Reigate and Banstead – North East Horley*

- 6.197 Planning permission has recently been granted for this site, and it is agreed that there will be 710 completions by 2016. However, this is a site where Mr Woolf has been seeking to secure planning permission for over 23 years. This is a clear example of how long these substantial strategic sites (and this is the least substantial of the six sites here considered) take to deliver.

*Reigate and Banstead – North West Horley*

- 6.198 The issue here is the likely start date. Reigate & Banstead Borough Council’s Housing Delivery Background Paper, May 2006 sets out a trajectory for “*Meath Green*”, showing first completions in 2006/2007 and a rate of up to 180 per annum thereafter (CD79, Appendix 1). Mr Woolf considers that a realistic assessment would assume first completions in 2010/2011. This view is based on (a) the fact that, although an outline planning application has recently been submitted, there are a number of issues to resolve including environmental objections, archaeological interest and flooding problems with the Burstow Stream; (b) the need to negotiate the s106 obligation; and (c) the need to allow time for major infrastructure such as access roads (which will need to cross the Burstow Stream) to be constructed once detailed consents have been issued (GWB1/2, Annex 5, Appendix 1, para 6.4). This view should be accepted. The Council proffers no contrary first-hand assessment.

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***Overall Conclusion on Housing Need***

- 6.199 Whichever way one looks at it, whether by reference solely to the Borough position to 2012 or by reference to the sub-regional position, it is perfectly apparent that there is an existing very serious need for housing at both Borough and sub-regional level which has been unfulfilled; and that position is merely going to be exacerbated.
- 6.200 There is a clear policy basis for supporting economic growth within the Crawley/Gatwick sub-region; and it is self-evident (but also acknowledged in the Structure Plan) that the North East Sector at Crawley would make an extremely important contribution to the fulfilment of that objective.
- 6.201 The case for immediate release of the North East Sector is undeniable, overwhelming and compelling.

***Affordable Housing and Dwelling Mix***

- 6.202 The above analysis focuses on the actual provision of houses generally rather than in respect of any particular sector of the housing market. However, it is important that any decision in relation to the appeal proposals has full regard to the Council's failure to make proper provision for affordable housing in the Borough. The seriousness of the situation has been recognised by the Secretary of State in the Russell Way decision (GWB1/2, Annex 12, paras 8, 9 and 29).
- 6.203 It is accepted that only 98 new affordable dwellings were provided in the Borough in the period 2001-2006 (GWB1/3, para 3.4). In contrast to this, the appeal proposal would deliver 760 or so affordable dwellings. This provision is a matter which Mr Fairham agreed in cross-examination should be given "*very considerable weight*" in the determination of this appeal.
- 6.204 The Council has attempted to diminish the seriousness of the situation by seeking to rely upon the expected yield from either commitments or allocations. In this regard they submitted CBC02/09 which suggests that a total of 1,135 affordable dwellings will be provided in the plan period. But many of the sites relied upon suffer from the same issues about delivery outlined in paras 6.112 to 6.162 above. Also it is telling that the developers of Town Centre North are clearly seeking to make a case for a lower provision than 40% affordable housing in that development (CBC02/15, representations on policy H5).
- 6.205 Further, the vast majority of affordable dwellings provided will be in the form of flats. This is borne out by the analysis of outstanding permissions (CBC02/16) which demonstrates that 90% of all affordable dwellings will be provided in flats. Unfortunately, such a mix is completely at odds with what DTZ identify as the urgent and pressing need. GWB9/1, para 5.34 concludes that "*the evidence points to an ongoing need for provision of new affordable housing for families in two or three bed houses to meet priority housing needs. It is generally acknowledged that houses meet the needs of families better than flats*". Mr Fairham accepted these conclusions. The present situation has arisen because the Council's housing stock displays a relative

bias towards smaller properties (GWB9/1, p48). Further, it is the case that three quarters of households (325 out of 483 for 2004/2005) in temporary housing have dependent children (ibid, Figure 5.1 and para 5.08). The number of homeless households in temporary accommodation has risen in recent years (ibid, Figure 5.2). Thus Mr Cobbold concludes (ibid, paras 5.25-5.26):

*“The evidence points to Crawley Borough Council having a greater shortage of affordable housing suitable for families than of smaller accommodation. Given that many of those accorded priority for re-housing are families, this would indicate a need to ensure that a significant element of new affordable housing provision should take the form of family housing.*

*There is a clear case for providing 2-3 bed properties or larger to meet this priority housing need. This would also free up smaller social rented properties for other households, as these families are re-housed. Thus, by creating a chain in the social housing sector the needs of two different households could be met.”*

6.206 The grant of planning permission for the North East Sector subject to the Appellants’ proposed conditions (GWB0/17, Conditions 59 and 60) would make a highly material contribution to redressing this pressing need.

6.207 In addition, it is clear that there is a need in Crawley for houses, as well as flats (GWB9/1, Section 4). The Council’s proposed strategy is heavily biased towards the provision of flats. This is illustrated by CBC02/16 which shows an 80%/20% ratio of flats to houses in respect of extant planning permissions on large sites. While Crawley’s overriding requirement is for more new homes (to meet its strategic requirements), it is vital not to exacerbate the present bias in Crawley’s housing stock towards flats and small dwellings. As Mr Cobbold concludes (GWB9/1, para 4.39):

*“At the moment [Crawley] has an unbalanced social structure with under-representation of professional and associate professional groups. Greater representation of these groups would be achieved by provision of larger family housing, and help contribute to the draft PPS3 objective of mixed and balanced communities, encourage more sustainable travel to work patterns, and help the regeneration of Crawley town centre.”*

### **Prematurity**

6.208 The Prematurity argument adds nothing to the Council’s case at the inquiry. The fact is that if, as the Council maintain, there is no need for the appeal proposals, having regard to all material considerations, then this is not an argument which adds anything.

6.209 On the other hand, if there is an urgent need for more dwellings, then there can be no basis for refusing planning permission on grounds of prematurity given that the appeal site is expressly identified in the Structure Plan as a “site” for residential development (CD43, policy LOC1(b)(1)(ii)), and it is also identified in the Council’s Submitted Core Strategy as a site upon which the Council rely for achieving its housing strategy.

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- 6.210 Both Mr Fairham and Mr Dennington confirmed in cross-examination that there are no alternative brownfield sites being promoted at the LDF examination as being available for development to assist in making up the deficit. And from a policy perspective, there can be no warrant in seeking to rely on any potential greenfield sites which, unlike the appeal site, have no development plan policy support.
- 6.211 Having regard to *The Planning System: General Principles* it is clear that (para 17):
- “it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD...Where there is a phasing policy it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.”*
- 6.212 However, there is no possibility of any prejudice to the DPD given that there is no dispute but that the appeal site must be identified in the Core Strategy having regard to the requirements of Structure Plan policy LOC1. Further, there are no other sites being put forward as alternatives. So it is absurd to suggest that there could be any prejudice to or predetermination of decisions about scale and location of future development in the context of the Core Strategy. Indeed, as the Inspector observed in INQ6 *“there is no dispute that, putting all other matters aside, including questions relating to Gatwick Airport, the NE Sector is likely at some stage to need to be released in order to meet the Borough’s housing needs. The question the SoS will have to grapple with is whether, having regard to the housing supply situation, the release of the appeal site is justified immediately; or whether the timing of the release of the NE Sector can safely be left to the LDF to determine, either through the impending core strategy examination or subsequent monitoring and review. To this extent, the matter is essentially one of timing”*.
- 6.213 As the above analysis indicates, if the site is required immediately, then there is no justification for awaiting a decision by the LDF Inspector. Indeed, and this is the key point accepted by Mr Fairham in cross-examination, there will be no better evidence before the LDF inspector on the question of need than there exists now. For his part, the LDF Inspector has indicated that he wishes to have the closing submissions from the North East Sector inquiry as Core Documents for the LDF inquiry. Accordingly, the Secretary of State is in at least as good a position as the LDF Inspector to make a decision on the question of need.
- 6.214 Further, having regard to the Article 14 direction, it is only the Secretary of State who can release this site.
- 6.215 If, therefore, the Appellants are correct and the housing need situation justifies release of this appeal site now, then there is no prejudice to the LDF process.
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- 6.216 In the unlikely event that the LDF Inspector and the Secretary of State were to reach a different view, the only consequence would be that this may lead to an early review of the Core Strategy, as Mr Fairham agreed. In practice, this is unlikely. If the hypothesis is that the Secretary of State concludes that there is an urgent need to release the site, but the LDF Inspector takes the contrary view, it is really impossible to see what practical utility an early review of the LDF would have.
- 6.217 Finally, with respect to the advice in draft PPS3, it is clear that there is no conceivable basis upon which the prematurity argument can succeed. There would be no prejudice to the review of the DPD given that the North East Sector has a distinguished development plan policy pedigree. As to the requirement in paragraph 42 of draft PPS3 that such a basis for refusal could only arise if the development would “*clearly discourage the development of allocated developable brownfield sites*”, there is, as Mr Fairham agreed, absolutely no evidence that such would be the case in respect of Town Centre North. Indeed, the suggestion completely cuts across the Council’s own recognition that it requires both Town Centre North and the North East Sector (CD104). Nor is there any evidence before the inquiry to suggest that Town Centre North would be put at a competitive disadvantage. It is first and foremost a retail led redevelopment proposal. For the reasons given at paragraph 6.128 above, the reverse would be the position. The extra homes which would be provided at the North East Sector should be welcomed with open arms.
- 6.218 The Council’s prematurity argument should be dismissed.

#### **Development Control Issues**

- 6.219 Leaving aside the issue of noise in the event of a second runway at Gatwick, Mr Fairham confirmed in cross-examination the in principle suitability of the site for residential development for 1,900 dwellings. No development control issues were identified which would stand in the way of a grant of planning permission for the appeal scheme.

#### ***Highways***

- 6.220 Agreement has been reached with both the Highways Agency and the County Council in respect of the necessary highways improvements, and in respect of cycle/pedestrian improvements and public transport provision required to serve the development (CD134). These will all be secured by condition (GWB0/17, Conditions 41 to 56).

#### ***Sustainability***

- 6.221 The excellent sustainability credentials of the appeal site are endorsed in the adopted Local Plan. In paragraph 7.26, the North East Sector is described as “*the best location for a new neighbourhood. It is sufficiently large to accommodate a neighbourhood of the size required together with local facilities, employment and infrastructure. It is close to the existing major employment areas of the town centre, Manor Royal, the Beehive Business Park and Gatwick Airport and it will not necessitate lengthy journeys to work. It is also close to major transport routes within the Borough which*

*include the main London to Brighton railway line*". The sustainability credentials of the site have been confirmed by the agreed evidence. In particular:

1. The Highways Statement of Common Ground agreed between the Appellants, the Highways Agency and WSCC records that "*the proposed local facilities to be provided within the appeal site will enable many of the day to day requirements of the future residents to be met locally. This in turn will reduce the need for future residents to travel beyond the appeal site, which in turn will lead to the creation of a sustainable community*" (CD134, para 4.6.2).
2. Paragraph 7.2.11 of the document notes that the proposed cycleways associated with the development, in combination with the existing good provision of cycling facilities in central and north eastern Crawley, would ensure that cycling is a practicable mode of transport for future local residents to destinations both within the development and to destinations within a reasonable cycle ride of the development.
3. Similarly, paragraph 7.3.3 identifies that the combination of on-site and off-site pedestrian measures would provide a conducive environment for walking as a practical mode of transport for travel to both on-site and off-site destinations through the provision of continuous pedestrian routes.

6.222 Further, release of the North East Sector would be likely to lead to a reduction in the present unsustainable rate of in-commuting to Crawley. The comparative performance of Crawley in this respect is poor and the evidence is that the town has the worst record (as compared with other towns in the South East identified for growth in the South East Plan) in terms of in-commuting by private motor car (GWB9/1, Figures 3.12 and 3.13, and GWB9/2). The latest academic research on the issue also shows that matters have declined significantly in this respect in Crawley in recent years (GWB9/3). A failure to grapple with and address these points is the antithesis of sustainability as the core principal underlining the planning system. The Council's suggestion that the evidence from Maidenbower somehow shows that the proposal would not reduce in-commuting (CBC00/12, para 202) is illogical. Equally, the inference in the closing submissions that granting planning permission for 1,900 dwellings on the appeal site, as opposed to the 2,200 to 2,700 envisaged by the Local Plan, should be seen as a disadvantage does not bear scrutiny. The development proposed would contain the full range of facilities expected in a new neighbourhood which would contain more dwellings than the 1,750 which the Local Plan identifies as required to develop a satisfactory neighbourhood with all social and other infrastructure (CD44, para 13.15).

### ***The Masterplan***

6.223 There is no reason for refusal in respect of any masterplanning issue, and the relevant Council witness (Mr Fairham) confirmed in cross-examination that neither he nor the Council were specifically putting forward any complaint as to the contents of the masterplan. Nevertheless, the Council has put before the inquiry a report from David

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Lock Associates, apparently with a view to demonstrating that there are alternative ways of developing the site, and the Council submits that the masterplanning process should be subject to further consultation. The Council's line is incoherent and illogical. GBW2/3 is a detailed response to the points raised in the Lock report. As to the matters raised by the Council:

1. Contrary to the Council's assertions, the masterplan has been subject to public consultation, and points have been taken on board where appropriate. This is set out in Green Issues' Statement of Community Engagement (GWB2/4). Further, the masterplan was "tweaked" to reflect representations from Natural England (regarding the wildlife corridor between Ballast Hole Lake and the woodland), from the County Council (as to the size of the school site), and in relation to air quality matters, as well as to reflect certain points (in terms of pedestrian connectivity) made by David Lock Associates (albeit that the Appellants always intended to bring forward these matters).
2. Locating the neighbourhood centre on Balcombe Road (as David Lock Associates recommend) would have been fundamentally the wrong choice. Such a location would inevitably encourage the use of the car. The approach to the masterplanning of the site is to locate the neighbourhood centre centrally within the site, close to the Sustrans network, and on the main east-west pedestrian/cycle network. The community centre, in the eastern part of the site, is likewise on the main pedestrian network and sits centrally within this part of the site. By locating the centres in this way, they would be readily accessible from within the development, benefit from shared trips to the school site and playing fields, and be far more likely to be visited on foot or by cycle (GWB2/3, para 3.2). With the masterplan proposed substantially more dwellings would be within a 400m walking distance of the two centres than with a centre on Balcombe Road (GWB2/3, para 3.4). Moreover, locating the local centre at the junction of Balcombe Road and Steers Lane would sever movement between the two sides of the new neighbourhood, and would be likely to result in a deleterious change to the character of Balcombe Road (GWB2/3, para 3.5). No doubt, it was for all these reasons that Mr Fairham accepted in cross-examination that the treatment of Balcombe Road in the Appellants' proposals (and the location of the neighbourhood/local centres) was "*not inappropriate*". Finally (and again contrary to David Lock Associates' concern), there is (as Mr Fairham conceded in cross-examination) no viability concern which would support location on Balcombe Road (GWB10/1 and 10/2).
3. There is no legitimate concern as to the distribution and location of the various playing fields within the North East Sector. Mr Fairham confirmed that he had no issue at all in relation to the fact that the playing fields were to be spread through the appeal site, in three separate locations. Although Mr Fairham raised a possible concern as to supervision in

relation to the playing fields in the south west corner of the appeal site, this was addressed by Mr Garber during his evidence in chief (and he was not challenged on it in cross-examination). The answer is that the playing fields in question are intended for team sports and activities, so there will in effect be “self-supervision” by the various participants.

4. The location of the proposed neighbourhood centre and the playing fields is entirely consistent with the Council’s own Design Brief (CD64), which itself was the subject of public consultation.

### *Ecology*

- 6.224 The Council raises no reason for refusal relating to ecological matters, and Natural England has confirmed that it does not object to the appeal scheme (INQ5, letters 25 and 26 and GWB6/4). The proposed mitigation and enhancements which led Natural England to support the scheme would be secured by condition (GWB0/17, Condition 13). They would result in a net benefit in ecological terms (GWB6/1). This is a further material consideration favouring the grant of planning permission. The ecological benefits would arise from (a) the introduction of active long-term management of the woodland (for example, through the removal of rhododendrons) which would favour many protected species (dormice, bats and birds in particular); and from (b) enhancement of the Gatwick Stream corridor through the introduction of herb-rich grassland, and the creation of a much improved pond/pool network which would favour great-crested newts.
- 6.225 Second, it is necessary to deal briefly with the position adopted by the Environment Agency. Although a large number of ecology-related requirements were initially sought to be imposed by the Agency (INQ5, letters 20 and 23), most of these were withdrawn by the end of the inquiry (ibid, letter 52). The remaining requirements which the Appellants resist are proposed conditions that would retain woodland W2 and Ditch 2. This objective cannot be achieved by condition (having regard to the masterplan); it could only be achieved by refusing the appeal. The Agency’s proposals should be rejected. Natural England has considered the loss of these features, and they are content with it. No doubt this is because they share Mr Goodwin’s views that the features in question are in fact of very poor quality, and that their loss is in any event more than compensated for by the proposed mitigation measures. Significantly, the Environment Agency’s ecologist declined the opportunity of giving evidence on these issues, choosing to rely on the letter of 16 October 2006 as a written representation. Such views (which have not been subjected to cross-examination) cannot rationally be preferred to those of Mr Goodwin and Natural England.
- 6.226 It is furthermore clear from the discussions at the conditions session that the Environment Agency had not visited the appeal site prior to making its initial representations. The representative at the conditions session, who attended to support the case made, declined to assist the inquiry by saying how long she had spent on the site.

***Infrastructure***

- 6.227 The Appellants' unchallenged evidence confirms that there are no infrastructure concerns in respect of the delivery of the North East Sector (GWB7/1, pp38-42).
- 6.228 Specifically in relation to foul sewage, Thames Water has recently confirmed that the Crawley sewage treatment works has capacity available for an additional 3,000 dwellings (CD137). This is more than ample for the appeal scheme. Further, allowing the appeal would not delay the delivery of other sites and provides ample time and opportunity for Thames Water to plan for further future provision.

***Air Quality***

- 6.229 Having regard to the evidence of Professor Laxen (GWB4/1, 4/2 and 4/3) and the Statement of Common Ground on Air Quality (CD116), there can be no possible objection to the appeal scheme on air quality grounds. The various buffer zones referred to in these documents will be secured by condition and/or by the location of proposed development set out on the masterplan.

***Landscape and Visual Impact***

- 6.230 As would be anticipated in relation to a site allocated in the development plan, there is no possible objection to the appeal scheme on landscape or visual impact grounds. There is no reason for refusal raising any landscape or visual issues, and there was no challenge (by the Council, or anyone else) to Mr Self's evidence on these matters.

***Conditions***

- 6.231 Notwithstanding the submissions made during the conditions sessions, at the end of the inquiry the position is that no party suggests that there is any concern as to the legality of the proposed conditions or the Appellants' approach that the requisite infrastructure be secured by Grampian conditions. This approach is consistent with a number of decisions by inspectors and the Secretary of State's own decision at Blyth (GWB0/16). It is, of course, clear that conditions are to be preferred to Section 106 obligations: see Circular 11/95, paragraph 12 and Circular 05/2005, paragraph B2.
- 6.232 In the Council's closing submissions a concern is raised regarding "*the creation of ransoms if planning permission is granted*". It is extraordinary that the Council should wish to rely on such a point. The argument is both devoid of merit, and arises entirely from the Council's defective comprehension of the inquiry process. Specifically:
1. It is often the case that planning permission is granted without a land equalisation agreement being in place, but the mutual incentives should permission be granted are such that this is no reason to refuse permission. Mr Fairham agreed in cross-examination that these matters provide no basis for not granting planning permission. Mr Garber advised the inquiry that at Blyth (GWB0/16) planning permission was recently granted over

the objections of one landowner, since when the hatchet has been buried and the parties are now co-operating. In the present case, the only reasonable expectation is that a land equalisation agreement with the Council (and English Partnerships, unless its interests have already been acquired) will shortly follow the grant of permission. Mr Fairham confirmed that the Council would not be “awkward”.

2. In any event it is clear from the proposed phasing of the masterplan, that the various triggers contained in the Appellants’ conditions, and the substantial front end loading of expensive infrastructure (in particular, the highways improvements) that there is a mutual interest in all landowners behaving co-operatively once planning permission is granted. From the Council’s perspective, it is to be noted that part of their land is required for the playing fields and the eastern local centre intended to come forward in Phase 2. These are secured by Conditions 26 and 27, the initial trigger for which is 500 dwellings (GWB0/17). In these circumstances, it is on analysis impossible to comprehend why this concern has been expressed by the Council.
3. In addition, the concern, such as it is, has been entirely manufactured by the Council’s refusal to engage in negotiations with the Appellants while this appeal is before the Secretary of State. Affording the point the slightest weight would be to allow the Council to place reliance on its own foot-dragging.

6.233 As to the other points on conditions raised in CBC00/11:

1. The Appellants’ final set of conditions includes a travel plan condition (GWB0/17, Condition 58). The only practical difference is that the Appellants’ draft is enforceable, whereas the Council’s is not. The Appellants’ draft is sufficient for the intended purpose and should be preferred.
2. The request for a condition preventing residential development beyond 1,300 dwellings (less than the 1,700 proposed by the Council during the final conditions session, although no explanation or justification is given for this change) should equally be rejected. As Mr Garber explained, the Appellants would wish and have a legitimate expectation, on a development of this scale, for maximum market flexibility. There is no good reason for imposing a condition that would potentially prevent 600 much-needed new homes (1,900 less 1,300) being built to secure the relatively small amount of employment development proposed in the application.
3. The Council’s proposed amendments to Condition 55 should be rejected. First, whilst the bus frequency was referred to in the Transport Assessment (ES Volume 3, Part 2) as one every 15 minutes, matters have moved on. It has now been agreed with the County Council (the responsible authority

for such matters) that the appropriate frequency is one every 20 minutes, as set out in the Transport Working Paper 1C (CD135). The reason for this change, agreed with the highway authority, is that the Transport Assessment was based on an extension to the 4/5 service (which runs every 15 minutes). However, this option is no longer available, so a stand-alone service is to be provided, and the agreed frequency (every 20 minutes) reflects what is both appropriate for the new service and viable. There is no justification for the Borough Council's involvement in the matter. Second, there is no good reason for the addition of the word "*enforceable*" before the word "*scheme*", in the condition. It remains obscure what alleged defect the addition of this word is directed towards. Further, such re-drafting is potentially vague and may create confusion. It is not the scheme as submitted which needs to be enforceable, but the scheme as approved by the Council.

- 6.234 The revision in respect of the travel information pack condition has been incorporated in the Appellants' suggested conditions (GWB0/17, Condition 57).

### **Conclusion**

- 6.235 The case for the grant of planning permission could not be clearer and more compelling. The Council's case based on noise is wholly lacking in any development plan or other policy support. It has treated a possible future event, which runs counter to preferred Government policy, as a certainty. By contrast, the Appellants' case is entirely supported by the operative provisions of the development plan and it has demonstrated no harm arising from the development to the future of a second runway in the unlikely event that such should come to fruition.
- 6.236 As to housing need, the Council's case is shameful. The appeal site is a fundamental component in the housing strategy not just of the Borough but also the sub-region. The strategy of the Council is failing the economy of the sub-region and it is failing the needs of existing and prospective residents of the area. It has put forward a classic "jam tomorrow" argument – an argument that has seen it labelled as one of the worst performing South East authorities in terms of housing delivery. And it is seemingly oblivious to the damage which such policy does, both from an economic and social perspective.
- 6.237 The Appellants' proposals would make a substantial contribution to the housing needs of the Borough as well as the sub-region. The appeal proposals would make a marked difference to the miserable provision of affordable housing which has been the hallmark to date of the Council's strategy.
- 6.238 The development comprised in the appeal scheme is urgently needed and would provide a high quality neighbourhood in a sustainable location.
- 6.239 No other development control reason has been identified which would justify withholding planning permission.

6.240 For all these reasons, the Inspector is invited to recommend that planning permission be granted for the appeal scheme, and the Secretary of State is invited to grant such permission.

## 7. THE CASE FOR CRAWLEY BOROUGH COUNCIL

### Introduction

- 7.1 This is an unusual appeal against non-determination. The outline application was made on 19 January 1998, before the adoption of the Crawley Borough Local Plan 2000 which allocated the site for development of a new neighbourhood. It is significant that the application remained undetermined for so long. It is also unfortunate that the Appellants should wait over eight years before lodging an appeal, at the very same time as Crawley Borough Council was embarking upon the Local Development Framework (LDF) process. That they should choose to continue with the appeal some four months before the examination into the submitted Core Strategy betrays a wholly dismissive approach to the plan led system and, it might be thought, little faith in the result.
- 7.2 Since it pre-dated PPG3 and the West Sussex Structure Plan 2001-2016, the determination of the 1998 application would have been a relatively straightforward matter were it not for the fact that on the 10 March 1999, the then Secretary of State for the Environment, Transport and the Regions made an Article 14 direction (CD67). Subsequently, on 31 March 1999, the Borough Council was directed not to adopt the Local Plan because UK airports policy might make the proposed new neighbourhood in the North East Sector inappropriate, or inappropriate in part.
- 7.3 In the event the Secretary of State directed the Council to modify policy before adoption rather than not adopt at all. Policy H3A of the adopted Local Plan reflects that direction in that it says that planning permission was not to be granted within three years of the adoption of the plan unless, first, the Secretary of State had published the new national airports policy and, secondly, the development was compatible with the combined effects of that policy and PPG24.
- 7.4 The submitted Core Strategy (CD62) represents the Council's first opportunity to consider the North East Sector since being directed to alter the Local Plan policy. Setting aside PPG3 and PPS3 considerations, the submitted Core Strategy approaches the development of the North East Sector in much the same way as the adopted Local Plan. In Chapter 11 *North East Sector* it is plain that development of the Sector is not anticipated, if that development would be inconsistent with airports policy.
- 7.5 Paragraph 11.3 acknowledges the uncertainty regarding the Government's potential requirement for a second runway at Gatwick and as such recognizes the *"inability and uncertainties of delivering the North East Sector in the short and medium term"*. Paragraph 11.4 states that a new neighbourhood *"should not be permitted whilst there is a possibility that a significant proportion of the development would be in an area above 60dB Leq if a wide-spaced parallel runway were required in accordance with the Government's White Paper"*. The Borough Council's strategy is to retain the North East Sector as a long-term option, but ultimately even that long-term option is subject to airports policy. Paragraph 11.6 makes it clear that the timing, form and content of development at the North East Sector will be decided in future reviews of

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- the Core Strategy, or when a definitive decision regarding the future of Gatwick Airport has been made.
- 7.6 The submitted Core Strategy approach in policy NES1, to include the North East Sector within the longer-term housing land supply provision, subject to the Government's decision on a second runway, is consistent with the Government's retention of the Article 14 direction. That no Secretary of State has seen fit to lift the Article 14 direction indicates that UK airports policy still means that it is inappropriate to release the North East Sector.
- 7.7 In a context in which the option of a second runway is kept open (and quite aside from PPG3/PPS3 considerations), whether the North East Sector will be developed for a new neighbourhood is still to be resolved, rather than just when.
- 7.8 The judgment of Sullivan J in *R. (On the application of Persimmon Homes (South East) Limited) v. Secretary of State for Transport* reveals that as recently as 12 January 2004, GOSE considered that it was appropriate to retain the Article 14 direction (CD98, para 3). The judicial review challenge considered by Sullivan J was originally a challenge to the Government's White Paper, later amended to a challenge to the Government's failure properly to review its airports policy. It did not include a challenge to the issue of the Article 14 direction. Indeed, there has never been a challenge to that direction.
- 7.9 In their opening submissions, the Appellants sought to use the direction as an alibi for pursuing the section 78 appeal. They suggest that the direction would prevent the release of the site through the plan led system (GWB0/1, para 29). This suggestion is misconceived.
- 7.10 It is surprising to suggest, and indeed it has not been so suggested by the Appellants in their representations on the submission Core Strategy, that the LDF process has no jurisdiction to consider whether, and if so when, the release of the North East Sector for development in the period to 2018 is warranted. It is true that the Secretary of State has retained powers to intervene post examination pre adoption in the LDF world, but that is not to say that, merely because an Article 14 direction has been issued following an application, the land in question cannot be identified in an emerging development plan whether by the planning authority or following the binding recommendation of an inspector.
- 7.11 Crawley Borough Council is now proceeding with the LDF and, in accordance with its submitted strategy, is seeking to allocate strategic housing sites (i.e. sites of 100 dwellings or more) in the submission Core Strategy. The North East Sector is not identified in the submission Core Strategy for release in the period to 2018. The Council contends essentially that the development of the Sector is not necessary, and should in any event await a decision on the possible second runway.
- 7.12 When this appeal was first lodged, there was no submitted Core Strategy. Once the Core Strategy had been submitted to the Secretary of State, the Council signalled its intention through the 7 August 2006 committee report (CD60) to further resist the
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grant of planning consent, in advance of the examination and adoption of the LDF, on the basis that this would undermine the plan led system, founded in statute and policy.<sup>1</sup> This is considered further in paragraphs 7.174 to 7.177 below. Notwithstanding this, the attempt to use the Article 14 direction as a justification for continuing with the appeal is no answer to the point that to grant consent now, in advance of and outside the LDF system, would fundamentally undermine the plan led system and indeed delivery of the LDF.

- 7.13 Finally, it should be noted that the Appellants now present a case in relation to noise from a second runway at Gatwick which is entirely at odds with their position in the R. (On the application of Persimmon Homes (South East) Limited) v. Secretary of State for Transport judicial review (CD98). In paragraph 7 of the judgment, Sullivan J explained that it was being argued on behalf of the Claimants that the 2003 White Paper had the effect of precluding residential development of the North East Sector.
- 7.14 In cross-examination, the Appellants' noise witness, Mr Charles, agreed that the claim had been brought in 2004. He agreed the claim post-dated the publication of the ERCD 0308 forecast contours for 2030 with wide-spaced runway at London Gatwick and post-dated the publication of the White Paper. He could not point to another set of noise contours which could have been used by the Claimants in their challenge. The inevitable conclusion is that there has been a total volte face as between the judicial review and the present appeal.
- 7.15 Mr Charles advised, by way of explanation, that he had not provided the Appellants with acoustic advice at the time the challenge was brought. The Council argues that the position now is as it was at the date of the challenge, that because 60dB is the desirable upper limit for major new noise sensitive development and much of the site falls within the 60dB contour, the comprehensive development of the site as a new neighbourhood is precluded by the expansion of Gatwick Airport unless compelling reasons for exceeding that desirable upper limit are provided.

### **The Proposal**

- 7.16 It is important at the outset to understand the nature of the application with which the appeal is concerned. The outline application is now for approximately 1,900 dwellings. It is agreed that the number of dwellings should be limited by condition to that figure (GWB0/17, Condition 3). The application is based upon a masterplan devised entirely by the Appellants, although there are in fact two other major landowners (CBC00/5). Mr Garber, the Appellants' witness dealing with design and implementation, accepted in cross-examination, that the masterplan is not the product of a "*consortium led approach*".
- 7.17 It might be tempting to sympathise with the Appellants that they have not yet achieved an equalisation agreement to which the four major landowners are party, having regard to the time that has elapsed since the land was allocated. But any such temptation can

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<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act and paragraph 7 of PPS1.

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easily be set aside given that the Appellants are seeking to obtain a consent ahead of and outside the LDF process and in so doing are relying upon a shortfall in housing land supply, which all the planning authorities in this region of West Sussex are seeking to address through the plan led system. It is particularly ironic, having regard to the Appellants' position with respect to the North East Sector, that one of the factors the Appellants' planning witness, Mr Woolf, relies upon to demonstrate delays on strategic sites, in particular on the West of Crawley site, is the failure of Crest Homes to have secure equalisation agreements.

- 7.18 So far as the planning process is concerned, it is the consequences of the absence of the equalisation agreement that are important. There is no formal consortium of landowners, nor any single body in control of the land. The delivery of a comprehensive and coordinated scheme is by no means assured. The Secretary of State may conclude from Mr Garber's evidence that it is unlikely that Phase 1 would begin in the absence of a deal with English Partnerships who hold the door to Phase 2 and beyond, given their control of the main access off Crawley Avenue. However Mr Garber also confirmed that if and when English Partnerships' land could be acquired the Appellants could and would proceed in the absence of Phase 4.
- 7.19 The Appellants' desire to promote their scheme, in advance of formal arrangements being entered into, inevitably results in the creation of ransoms if planning permission is granted. The creation of ransoms is poor planning. In the plan led system, ransoms are avoided through the planning requirement for a comprehensive and coordinated approach. This is reflected in policy NES1 of the Local Plan (see paragraph 7.210 below).
- 7.20 In the absence of an equalisation agreement, neither English Partnerships nor Crawley Borough Council as landowners have felt able to enter into a section 106 (s106) planning obligation. There can be no criticism of this approach given Mr Garber's candid acceptance in cross-examination that he would act no differently in similar circumstances. Plainly, the absence of a binding s106 obligation is a cause for concern and runs counter to policies in the development plan and national guidance which anticipate the payment of contributions by way of s106 (CD44, policy GD36 and Circular 05/2005, paras B15 and B51).
- 7.21 Although the Local Plan anticipated that the new neighbourhood would comprise between 2,200 and 2,700 new homes, the Appellants now promote 1,900 dwellings. This follows their acceptance that the extent of the new neighbourhood envisaged in the Local Plan could not now come forward in totality unless and until a second runway at Gatwick is ruled out as an option in national air transport policy (GWB1/1, para 5.2). Noise issues are considered in detail below. However, it should be noted that even if a second runway comes forward at Stansted or a third runway at Heathrow, it does not necessarily follow that the case for additional capacity at Gatwick will be ruled out once and for all as an option for the future.
- 7.22 Thus it seems to the Council that if the Secretary of State were to grant consent for the appeal scheme now, she must do so on the basis that she cannot rule out the prospect that the totality of the new neighbourhood as envisaged originally may never come to

pass. Whilst the Council does not suggest that this is of itself fatal to the grant of consent, if the Secretary of State were considering releasing this site not to meet the Borough's housing needs over the next 5 or 10 years but in fact to make up for shortfalls elsewhere in West Sussex, as the Appellants urge, then the fact that this greenfield site might only deliver 1,900 dwellings and no more may be seen as disadvantageous.

- 7.23 There are practical disadvantages which result from the way in which the appeal proposal has come forward. It was not the subject of early, meaningful consultation. It is apparent from GWB2/04 that public consultation was carried out after the formulation of the masterplan. The Appellants' landscape witness, Mr Self, admitted in cross-examination that important decisions, e.g. the location of the school, were not taken with the benefit of the Borough Council's advice. Had the masterplan evolved through the plan led system, it may well be that the school would be in a quieter, more southerly part of the site and the community facilities may well have been more optimally located. It is no answer to say that the 1998 proposals were well known, in that the present road layout is substantially different.

**Whether the Development would have any Bearing upon Proposals for the Expansion of Gatwick Airport (SoS Matter (f))**

- 7.24 The unchallenged evidence of the Council's planning witness, Mr Fairham, was that he estimated that 50% of the appeal site and approximately 1,300 dwellings, based on the average density of 41dph advocated in the Design Statement, would lie beyond the 60dB  $L_{Aeq}$  contour. Using average household sizes for Crawley, he estimated that 3,300 people would find themselves living beyond the desirable upper limit (CBC03/1, para 8.6). Mr Lockwood's evidence (also not challenged) differed, in that he suggested that 60% of the dwellings on the North East Sector (1,140) would be within the 60dB  $L_{Aeq}$  contour, which he estimated would house some 2,700 people (GAL1, para 41). In Mr Charles's proof of evidence, he said merely that, "*some of the affected dwellings would be exposed to aircraft noise in ... excess of 60dB(A)...*" (GWB5/1, para 4.36).
- 7.25 For the reasons given in paragraphs 7.70 to 7.76 below, it would be those living beyond the 60dB  $L_{Aeq}$  contour who would bear the brunt of the impact of additional noise from a second runway, notwithstanding the conditions which the Appellants accept should govern any consent. The construction of additional houses now would inevitably mean that more people in the future would be seriously affected by noise from a second runway, should this option be pursued in the national interest. Thus their presence would be a material factor in the decision making process when it comes to both the principal decision as well as matters of detailed design.
- 7.26 In bringing forward proposals for development of the second runway, various options could be considered by BAA to mitigate the impact of noise from that runway on the local community. They could, for example, decide to operate that runway in segregated mode. These measures could benefit the existing residents of Charlwood, Burstow, Langley Green and Ifield. If the North East Sector were developed, those options would be far more limited given that the interests of those living at the North

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East Sector would have to be taken into account in addition; and segregated mode may well affect them more.

- 7.27 These factors suggest that permitting the development now would have a bearing upon proposals for the expansion of Gatwick Airport.
- 7.28 The fact that Mr Cox, as an environmental health officer, considers he would have a robust case to argue against the siting of a second runway so close to the homes of at least 2,700 people, demonstrates the real disadvantage and harm that would be caused to these residents as a result of additional noise and disturbance caused by a second runway. Notwithstanding this, he recognises that airports policy is dictated by wider considerations of national interest and he does not suggest that the presence of the additional dwellings would be determinative. There are only a limited number of locations where major expansion and additional airport capacity in the South East can be achieved and, as is recognised in the current airport policy, a second runway at Gatwick is an option that must be kept open.
- 7.29 The Council does not suggest that the presence of the new homes would prove fatal to the strong economic case on its own merits that Government policy recognises. Common sense suggests, however, that the more people who would be affected by aircraft noise, the more controversial the process would be. Good planning dictates that, all other things being equal, this is a situation that should be avoided.

**Whether the Development Would Provide Satisfactory Living Conditions for Future Occupiers in Respect of Noise, Particularly Aircraft Noise (Matter (g))**

- 7.30 The North East Sector is presently affected by noise from nearby industrial uses, road traffic (the M23, A2011 and B2036), rail traffic (the London to Brighton line) and aircraft traffic (from Gatwick Airport). Notwithstanding this, the Council agrees with the Appellants that, subject to the imposition of appropriate conditions, the existing noise environment does not preclude the development of the North East Sector.
- 7.31 In considering whether the development of the site can be carried out so as to provide satisfactory living conditions for future occupiers in respect of noise, particularly aircraft noise, the Council contends that noise from the operation of a second runway at Gatwick must be taken into account. Furthermore, when that aircraft noise is considered, it is clear that, even taking into account the conditions proposed by the Appellants, the proposed new neighbourhood cannot be made a satisfactory living environment for families.
- 7.32 The effect of the proposed conditions is to ensure that within dwellings where doors and windows are closed, the noise environment would be acceptable. It would also be possible to achieve a high level of noise attenuation within the proposed primary school, with windows closed and additional ventilation provided. However, outside the building, an acceptable outside teaching area requires a noise level of no more than 50dB  $L_{Aeq,30min}$ . This would not be achieved even if the school were to be correctly orientated and a canopy constructed (see paragraphs 7.77 to 7.83 below).

- 7.33 Plainly, conditions are not capable of dealing with the wider amenity impact of aircraft noise from a second runway. In particular, there are no conditions which could reduce noise in many of the areas in which children would spend their time – the play areas, playing fields and gardens. In the parts of the North East Sector worst affected by aircraft noise, the barrier effect of dwellings is likely to be minimal (CD130). Children would be subjected to high levels of aircraft noise all the time they are within the North East Sector and not inside a sealed building.

***Should Aircraft Noise from a Second Runway at Gatwick be Taken into Account?***

- 7.34 Despite the Environmental Statement (ES) being prepared on behalf of the Appellants with the assistance of Bickerdike Allen Partners, it did not contain any assessment of the impact of noise from the operation of a second runway at Gatwick on the proposed development (ES, Volume 1, Chapter 13). Notwithstanding this, it is no part of the Appellants' case, as the Council now understands it, to suggest that noise from the operation of a second runway at Gatwick is immaterial. On the contrary, as was apparent from the language in the Design Statement (CD58, paras 1.9 and 1.10), the possible second runway and its consequences in terms of the North East Sector were taken into account in the formulation of the revised masterplan.
- 7.35 The Design Statement advises that the Appellants considered that land within the 66 – 69dB noise contour was, “*an unfavourable [noise] environment for residential development*”. The implication is clear, namely that land outside the 66dB contour may appropriately be developed for residential purposes. Whilst that is not a proposition accepted by the Council, the inclusion of the statement demonstrates that the Appellants accept that the noise consequence of a second runway is a relevant consideration in the design of any new neighbourhood and therefore ought to be weighed in the planning balance in determining this appeal.
- 7.36 In his evidence, the Appellants' noise witness, Mr Charles, explained that the Appellants were proposing to restrict development to within Noise Exposure Categories (NECs) A and B having regard to the proposed second runway at Gatwick (GWB5/1, para 8.24).<sup>1</sup> The actual impact of additional noise upon the residents should a second runway be introduced was not a matter he explored in his main proof of evidence, as he accepted in cross-examination. He did not consider he needed to. His simple reliance on NECs is surprising, given the widespread acknowledgement that aircraft noise causes annoyance. This is clearly recognised in the Air Transport White Paper which states (page 34):

*“Based on research the Government has used 57dBA  $L_{eq}$  as the level of daytime noise marking the approximate onset of **significant community annoyance**... In the consultation document for the South East, the 54dBA  $L_{eq}$  contours were also shown as a sensitivity indicator.”*

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<sup>1</sup> Inspector's Note. For explanation of NECs see PPG24, Annex 1.

7.37 The Council contends that increased aircraft noise, from the operation of a second runway at Gatwick, may reasonably be expected in the foreseeable future. It ought therefore be taken into account in considering whether the appeal proposal would be compatible with an expanded airport use having regard to the advice in PPG24 which states (para 12):

*“Local planning authorities should consider carefully in each case whether proposals for new noise-sensitive development would be incompatible with existing activities. Such development should not normally be permitted in areas which are - or are expected to become - subject to unacceptably high levels of noise. When determining planning applications for development which will be exposed to an existing noise source, local planning authorities should consider both the likely level of noise exposure at the time of the application **and any increase that may reasonably be expected in the foreseeable future, for example at an Airport**”* (emphasis added).

7.38 Moreover, and in accordance with paragraphs 2 and 6 of PPG24, the appeal proposal, involving housing, a school and a health facility, is manifestly to be regarded as “*noise sensitive development*”.

7.39 Setting aside whether the appeal proposals constitute major new noise sensitive development, it appeared at one point in Mr Charles’s cross-examination to be suggested on behalf of the Appellants, that the expansion of Gatwick Airport and the consequent increase in noise from aircraft traffic is not to be reasonably expected in the foreseeable future. He further suggested that such eventuality would only fall within the ambit of the test set in PPG24, paragraph 12 if and when a second runway actually had planning permission. Curiously, he failed to acknowledge and address explicitly the advice in paragraph 12 of PPG24, in any of the documents he provided to the inquiry.

7.40 The Council finds the approach taken by the Appellants to be surprising and at times contradictory. Either the possibility of the second runway needs to be taken into account or it does not. Government policy requires that it is an option which must be kept open. Given that policy approach, paragraph 12 of PPG24 also bites. Having regard, firstly, to the contention in the high court proceedings that it was only the prospect of a second runway at Gatwick that stood in the way of the development of the North East Sector, secondly, to the admitted noise constraint acknowledged in the Design Statement and, thirdly, to the conditions proposed by the Appellants, it seems a rather pointless exercise to suggest that noise from a second runway should only be taken into account if and when a planning permission for it is granted.

7.41 The repeated efforts of Counsel for the Appellants in the cross-examination of both Mr Cox and Mr Fairham on paragraphs 11.11 and 11.80 of the White Paper to seek to establish that it was clear beyond doubt that a second runway at Gatwick was entirely contingent upon whether a third runway at Heathrow could meet stringent environmental restrictions, was incongruent in this context. In this regard, the second, third and fourth sentences of paragraph 11.80 are particularly on point. It is plain as a matter of language that the identification of the Gatwick option is not wholly

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contingent upon a third runway at Heathrow. It is not inevitable, as night follows day, that if the stringent conditions for a third runway at Heathrow are met, then the Government will abandon the Gatwick option. Nor is it any answer to this point to rely upon the absence of any support from either the County Council or Crawley Borough Council for a second runway at Gatwick. Airport policy is dictated and governed by considerations in the national interest.

- 7.42 It was suggested by Mr Charles in cross-examination that the correct test for the Inspector (and subsequently the Secretary of State) to apply, is whether “*on the balance of probabilities*” a new runway would be provided at Gatwick. This suggestion was predicated on Mr Charles’s misapprehension that this test amounts to the same as the language used in PPG24 paragraph 12: “*may reasonably expected in the foreseeable future*”. It is the wrong test. Self-evidently, the purpose of paragraph 12 is to advise local planning authorities to take into account increases in noise which not only will occur, but may occur.
- 7.43 In light of the Government’s stated intention to keep the option of expansion of Gatwick airport open, an outcome which is reasonably to be expected is that expansion at Gatwick will take place.
- 7.44 Given the requirement to make best use of land, and the Appellants’ contention that there is a significant shortfall in housing completions, why limit the development of the North East Sector in that way if the expansion of Gatwick Airport is not reasonably to be expected in the foreseeable future?

***The Desirable Upper Limit for Major New Noise Sensitive Development Subject to Aircraft Noise***

- 7.45 As noted above, the definition of noise sensitive development in paragraph 6 of PPG24 includes residential development, schools and hospitals. In Annex 3 of the PPG, the Government gives detailed guidance on the assessment of noise from different sources. Under the sub-heading “*Noise from Aircraft*” in paragraph 8, a desirable upper limit of 60dB  $L_{Aeq}$  is given for major new noise sensitive development.
- 7.46 Mr Charles suggested in his main proof of evidence at paragraph 4.5 that it is not clear whether this “*desirable upper limit*” for major new noise sensitive development relates only to replacement schools, clinics and other community facilities (which are the subject of the next sentence in paragraph 8) or also to dwellings. He suggests that if it does relate to dwellings, the advice conflicts sharply with the advice in Table 1 of Annex 1 which for aircraft noise advises that in NEC B, up to 66dB  $L_{Aeq}$  “*noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise*”.
- 7.47 Properly understood, there is no such conflict. The PPG draws a distinction between residential development and major development. The latter can and may include residential development if the scale is large enough to connote major development along with replacement schools, clinics and other community facilities. Thus the

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tables in Annex 1 apply to residential development, but the 60dB  $L_{Aeq}$  desirable upper limit in Annex 3 applies to major new noise sensitive development, which can include dwellings. Mr Charles's approach fails to take into account that distinction. This distinction, between the advice applicable to dwellings and the advice applicable to major new development is not new. It was drawn, as Mr Charles acknowledged in cross-examination, from Circular 10/73, which PPG24 replaced.

- 7.48 As Mr Charles accepted, the references in paragraphs 2, 6 and 7 of the main text and Annex 1 of PPG24 to noise sensitive development include residential development. He also accepted that to interpret "*major new noise-sensitive development*" in paragraph 8 of Annex 3 as including new residential development would be consistent with each of those earlier references. In the Council's submission, it is sophistry to suggest that paragraph 8 of Annex 3 is unclear.
- 7.49 Leading Counsel for the Appellants in cross-examination of Mr Cox attempted to square what he described as the ambiguity by suggesting that the underlying principle in PPG24 was that it is acceptable to have major new residential development up to 66dB  $L_{Aeq}$  by reference to the noise exposure categories in Annex 1.
- 7.50 The reason for the Appellants' willingness to limit themselves to NEC B is plain. It is anticipated that they will submit that the Secretary of State need not consider whether there are any alternative quieter sites available unless and until development on the land is proposed which falls into NEC C. This approach denies the basic advice that the planning system should ensure that, wherever practicable, noise sensitive development is separated from major sources of noise. Importantly, it ignores the 60dB  $L_{Aeq}$  desirable upper limit for major new noise sensitive development. In this connection it must not be forgotten, firstly, that the identification of the North East Sector for a new neighbourhood preceded the White Paper; and secondly, that the Structure Plan recognized that the delivery of the North East Sector may well be delayed as a result of the White Paper's conclusions (see also para 7.187 below).
- 7.51 The interpretation for which Leading Counsel and Mr Charles implicitly contend ignores the grammar of paragraph 8 of Annex 3 of PPG24. If their interpretation were to be accepted it would render the word "*but*" otiose in the sentence: "*recommended noise exposure categories for new dwellings exposed to aircraft noise are given in Annex 1, but 60  $L_{eq}$  dB(A) should be regarded as a desirable upper limit for major new noise sensitive development*". Where 1,900 new dwellings, a school, and two new community centres are proposed, as in the appeal proposal, plainly that development is major new noise sensitive development. As such, the 60dB  $L_{Aeq}$  desirable upper limit applies and justification must be provided for exceeding that limit.
- 7.52 The Appellants are driven to suggesting that the 60dB  $L_{Aeq}$  desirable upper limit may not apply to the residential element of the proposal, because otherwise they would need to explain why the desirable upper limit should be set aside at the North East Sector. None of the submitted Core Strategy housing sites are as close as the North East Sector to Gatwick and a possible second runway. In terms of the strategic sites, and locations identified in the Structure Plan, not even the land to the West of Crawley, since it extends over a large search area, in a southerly direction away from

the airport, is as proximate to Gatwick and a possible second runway as the appeal site.

- 7.53 If, as the Council argue, the proposed development of the North East Sector does fall within the definition of major new noise sensitive development, then exceeding the 60dB  $L_{Aeq}$  desirable upper limit is a factor which militates significantly against the grant of planning permission.
- 7.54 In this context, the differing but unchallenged evidence of Mr Fairham and Mr Lockwood that some 3,000 people would live within the 60dB  $L_{Aeq}$  contour is a very significant disadvantage, in that the greater the likely annoyance caused by noise and disturbance, the more compelling the case for not granting planning permission in the public interest becomes. In this context it is important to note that residents would have no choice but to endure the change in their living conditions if a second runway is developed, despite their right to a decent home.
- 7.55 The situation at the North East Sector would, moreover, be materially different to that at Apple Tree Farm (CD105). At Apple Tree Farm the scale of development proposed was much smaller. Also, the site lies within the built-up area and is largely surrounded by existing development.

#### ***The Applicability of PPG24 Noise Exposure Categories***

- 7.56 Annex 1 of PPG24 sets out the noise exposure categories (NECs) for dwellings. When assessing a proposal for residential development near a source of noise, Paragraph 1 of the Annex advises local planning authorities to determine into which of the four NECs the site falls. Paragraph 4 of the Annex advises:

*"The NEC procedure is only applicable where consideration is being given to introducing new residential development into an area with an existing noise source, rather than the reverse situation where new noise sources are to be introduced into an existing residential area. This is because the planning system can be used to impose conditions to protect incoming residential development from an existing noise source but, in general, developers are under no statutory obligation to offer noise protection measures to existing dwellings which will be affected by a proposed new noise source. Moreover, there would be no obligation on individuals with an interest in each dwelling affected to take up such an offer, and therefore no guarantee that all necessary noise protection measures will be put in place."*

- 7.57 Mr Cox suggested two practical reasons in his evidence, to explain why, in the reverse situation, the NEC procedure should not apply at the North East Sector. The first is that, if sound insulation were put in place in new dwellings, there is no guarantee that the sound insulation would be maintained adequately, given that residents may not understand at the time they occupy the dwelling the purpose of the sound insulation. In this regard there has been no commitment from the Appellants to inform all would be occupiers and/or purchasers of their stated intent. Also, whilst the Council accepts that removal of permitted development rights would help to reduce incidents which

would compromise the insulation measures, there would be practical difficulties in this approach in that evaluating the impact of noise from a second runway is at present an imprecise science. The difficulty of projecting future noise contours is expressly acknowledged in the White Paper (p34, box entitled *Aircraft Noise Measurement and Mapping*, para 3). It inevitably introduces an element of uncertainty. Given the substantial potential impact that a second runway at Gatwick would bring and the difficulties of predicting future noise contours, the Appellants reliance upon mitigation measures is misplaced. A more precautionary approach is warranted.

- 7.58 The Appellants reliance upon average mode contours when, by their own admission, range mode contours would result in, broadly speaking, a 3dBA increase, further illustrates the dangers of relying upon the NEC procedures to satisfy oneself as to the impact of a second runway on the future residents of the North East Sector, especially those who lie above the desirable upper limit.
- 7.59 Also, it is inevitable that the peaks of noise will be higher than presently anticipated and, as such, the sound insulation proposed would be ill designed to ensure adequate noise levels within the dwellings. The ERCD forecast noise contours are the only contours available to the inquiry. But as a matter of fact they certainly do not represent the noisiest forecast contour. This serves to compound the uncertainty in predicting future noise contours.
- 7.60 In any event, those people who either have little choice about living at the North East Sector, or who moved to the North East Sector without a full appreciation of the likely noise impact of the second runway, would not be able to evaluate the change that would arise as a result of the expansion of Gatwick.
- 7.61 For these reasons, the Council contends that reliance upon the NECs in the manner advocated by the Appellants brings with it an approach which is at odds with the precautionary principle – see PPS1, paragraph 26(vi). To use the terminology adopted in PPG24 we are in the “*reverse situation*”. As a matter of fact, a second runway would represent a new noise source. It is Government policy to keep the option of building that runway open, and the Appellants are seeking consent now to introduce major noise sensitive development over land where noise contours are predicted to rise significantly.
- 7.62 Mr Charles introduced the Coventry case in his rebuttal evidence to show that in considering the merits of a ground (a) appeal arising from an enforcement notice, in respect of the unauthorised construction of a passenger terminal without the benefit of planning permission, the Inspector had found the use of the thresholds in Annex 1 of PPG24 of “*considerable assistance*” (GWB5/4, para 10.14.3). However, this was in the context of objectors urging the inspector to assess the impact of such a development on the basis of BS4142 and also referring to the WHO guidelines.
- 7.63 Also, the factual matrix of the North East Sector appeal is not akin to the situation at Coventry. In the present case we are one step removed in considering whether to grant consent for significant new noise sensitive development in the knowledge that a second runway at Gatwick is reasonably to be expected, although current predictions

of future noise associated with that second runway are necessarily uncertain. The Coventry case cannot be advanced to support the proposition that the use of the noise exposure category procedure is determinative of a planning application in the reverse situation. That plainly is not what PPG24 advises. Even if the Inspector and the Secretary of State consider that the NEC procedure is helpful, given that predicting future noise contours is imprecise, the use of the NEC procedure now cannot provide certainty about the living conditions of future occupiers and in any event doesn't override the fundamental principle that major development above 60dB(A) is undesirable.

- 7.64 Likewise the introduction of the Finningley Airport decision does not support the use of NECs in a situation akin to present circumstances. That case involved the development of a former RAF base into a commercial airport. In that scenario the Inspector had no doubt that the proposed development should be treated as a new noise source (GWB/02b, para 13.164).

#### ***The Relevance of the WHO Guidelines***

- 7.65 Another matter considered by the inspector at Finningley is the fact that the UK Government is a signatory to the World Health Organisation (WHO) charter which contains lower thresholds than those promulgated in PPG24. He judged it reasonable, especially in the context of the Heathrow T5 decision, to base his assessment on the PPG24 standards (ibid, para 13.166).
- 7.66 Since that inquiry the Department of Transport has indicated that the values in the Guidelines for Community Noise published by the WHO were intended as long-term targets for improving health and not intended to result in draconian measures (GWB5/1, para 4.13). However, clarification has now been provided as to what is meant by long-term and the 30 year period in the White Paper is indicated as a suitable time parameter for the longer term (CD122, para 37). If planning consent is granted for the North East Sector, plainly within the lifetime of the proposed dwellings there is not only a reasonable expectation that a second runway might occur, but also the prospect that WHO values will be adopted through changes to national planning policy.
- 7.67 That prospect serves to reinforce the materiality of considering the impact of a second runway on the future residents of the North East Sector by reference to WHO guidelines, although not so as to replace the values in PPG24, but rather to highlight the disadvantages that would be endured by most of the residents if the second runway were to be built.

#### ***The Impact of Noise from a Second Runway***

- 7.68 There has been no assessment made by the Appellants of the impact of the noise from a second runway on the lives of the residents. The fact they would be accustomed to a particular noise environment which would then change as expansion of Gatwick Airport occurs would be likely to be, quite reasonably, a cause for concern and annoyance.

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- 7.69 Mr Cox's evidence anticipated that in the centre of the site, away from existing major roads and the railway, future background noise levels would be in the region of 40 to 45dB. If a new second wide-spaced runway is constructed the predicted contours, on the average mode basis, show that the whole site would lie within the 54dB  $L_{Aeq}$  contour. It would be dissected by the 57, 60, 63 and 66dB contours.
- 7.70 Mr Cox judges, and as an environmental health officer he is well qualified so to do, that residents inside the 57dB  $L_{Aeq}$  contour would be at significant risk of being annoyed by the noise from the wide-spaced second runway. The only tool to assess such an impact is BS4142, which the Council accepts only refers to industrial noise and not aircraft noise. Nevertheless, with that qualification in mind, it does not seem to the Council to be wholly irrelevant and does at least assess the impact of a new noise source. Mr Cox's assessment further shows, all other things being equal, the disadvantages that would have to be endured in due course, if a second runway proceeds (CBC01/1, para 9.13).
- 7.71 The Appellants propose to insulate dwellings so as to provide an acceptable noise level within living rooms and bedrooms, day and night. Achieving those noise levels is predicated upon all doors and windows being closed.
- 7.72 If, as an ordinary incident of family life, doors and windows are opened, then the noise levels within those dwellings would rise to unacceptable levels; gardens and outdoor amenity areas would not be protected (CBC01/1, paras 8.11, 9.6 and 9.14). This was a matter not taken particularly seriously by Mr Charles in cross-examination. In considering the lifestyle of young families, who would want to have patio windows or perhaps a back door to the garden open during the day, so that children can come in and out, his suggestion was that noise is likely to be the least of their problems. Such a response does not recognise the increasingly common desire to have a conservatory with doors leading out onto the garden, so as to "bring the garden into the home".
- 7.73 In fact, the quality of life of residents of the North East Sector if Gatwick expands lies at the very heart of the reason for having a desirable upper limit for major new development.
- 7.74 As far as ventilation is concerned, it is still not clear how the Appellants propose to ventilate dwellings adequately. If ventilation is intended to be passive, it is likely to be inadequate in circumstances in which rising summer temperatures, linked to global warming, may well increase further. If mechanical ventilation is being suggested, that has sustainability implications (in terms of the electricity used by that mechanical ventilation) and itself has implications for the noise level within dwellings.
- 7.75 Given that people purchasing dwellings in the North East Sector between 2008 and, say, 2016 would not be experiencing noise from the operation of a second runway, it may seem to them to be expensive and unnecessary to operate and maintain mechanical ventilation, as noise levels then experienced would not stop them from having their windows open. Also, there would be no obligation on householders to maintain the sound insulation and ventilation. The cost of running mechanical
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ventilation would likely be a considerable extra cost for any householder, but may be felt keenly by those qualifying to occupy the proposed affordable housing.

- 7.76 It is for these very pragmatic reasons that PPG24 advises that the NEC procedure does not apply in the reverse situation and recommends that 60dB  $L_{Aeq}$  is to be considered the desirable upper limit for major new noise sensitive development.

### *The School*

- 7.77 Notwithstanding the differences between the parties as to the applicability or otherwise of the NECs to dwellings in the North East Sector, it is common ground that they are not applicable to the consideration of acceptable noise levels or insulation of the proposed school.
- 7.78 In this regard, the omission of any reference to the school in Mr Charles's main proof of evidence is telling, as was his apparent lack of appreciation of the learning difficulties that research has demonstrated can accrue to those children who find themselves in school exposed to high levels of aircraft noise (CD95). His reliance upon the fact that the County Council were content with the location of the school proved to be misplaced, given that the County's advisers on noise matters focused on assessing the material in the ES which did not even mention the possibility of a second runway (WSCC/02 and para 7.34 above).
- 7.79 PPG24, Annex 3, paragraph 8 explicitly advises that, in considering applications for schools, regard should be had to the likely pattern of aircraft movements which would cause noise exposure during normal school hours and days to be significantly higher or lower than shown in average noise contours. This was completely ignored by Mr Charles in his written evidence, as he accepted in cross-examination.
- 7.80 The Appellants now accept that the school would need to be specifically designed to guard against the noise impact of a second runway. The specification has not been discussed with the County Council. Had they appreciated, for example, the need for mechanical ventilation, they may well have taken a different view. The sums of money agreed in principle to be paid to the County and originally envisaged to be the subject of a s106 agreement, do not reflect any of the inevitable additional costs involved. Nor does it seem that the County have ever been made aware by the Appellants of the need for special measures. Plainly, in these circumstances little weight can be given to the County's acceptance of the location of the school.
- 7.81 The proposed school location, measured relative to the existing runway, is just above the 60dB  $L_{Aeq}$  contour (i.e. at approximately 61dB  $L_{Aeq}$ ) but  $L_{Aeq,30min}$  noise levels on departures were measured as being up to 69dB, which is 8dB higher than the contour (CBC01/06). These results, of course, have to be considered against the background of the current level of activity at Gatwick of 32 million passengers per annum which could increase to 45 million without a second runway, and mixed mode operations. It is unclear how two runways will be operated but a segregated mode cannot be excluded which could lead to a doubling of departures and an increase of 3dBA on the measured  $L_{Aeq,30min}$ .

- 7.82 Given that the proposed school would lie between the 60 to 63dB  $L_{Aeq}$  contours, then  $L_{Aeq,30min}$  levels of 68 to 71dBA could be expected. Accordingly, even with the maximum building barrier effect which might be achieved by imaginative design, i.e. 10dB, noise levels outside would still be in the order of 61dB  $L_{Aeq,30min}$ . This seems to the Council to be a real disadvantage in terms of the school location, which the education authority appears not to appreciate. If and when the need for the North East Sector to be released ever arises, then in the Council's submission there is at least a prospect that this situation could be further ameliorated by better consideration at the outset of the optimal location and design for the school.
- 7.83 In his evidence, Mr Charles sought to compare external noise levels at the proposed school with schools in Crawley (GWB5/3, first attachment). But the comparative exercise had little value, given that, firstly, noise at the existing schools was road noise only; and secondly, as Mr Charles accepted (and was seen on the Inspector's site visit) the distances given represented the nearest parts of the usable outside areas to the noise source. Noise levels further away from the road generally represented acceptable levels for outside teaching, having regard to the standards recommended in Building Bulletin 93. Also, the schools considered were replacement schools built to serve existing communities on land within the grounds of the original school.

**PPG3: Housing Considerations, Including Provision of Affordable Housing, the Sequential Approach to Residential Development, Sustainability, Housing Density, Local Need and Car Parking (SoS Matter (c))**

*Affordable Housing*

- 7.84 The agreed affordable housing conditions provide for 40% of the proposed dwellings to be affordable (GWB0/17, conditions 59 and 60). Accordingly, provided that the conditions are imposed, the appeal proposal would accord with PPG3 so far as the provision of affordable housing is concerned.
- 7.85 As to affordable housing provision in the Borough, the Council accepts that its performance in terms of delivery has been poor. This is due in large part to the delay in bringing forward the North East Sector in the manner anticipated when the Local Plan was drawn up.
- 7.86 CBC/02/16 identifies that there are 796 outstanding planning permissions for affordable housing in the Borough.<sup>1</sup> These include some substantial sites under construction, for example at Haslett Avenue and Apple Tree Farm, which together will deliver 350 new affordable dwellings. The submission Core Strategy sites also offer the prospect of more affordable housing being secured within the built-up area. The appeal site at Lucerne Drive, if developed, would also bring more affordable housing. Some schemes have emerged which comprise 100% affordable housing (CBC02/16, Walstead House and Tushmore RAB).

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<sup>1</sup> Including 91 at Russell Way granted on appeal, but currently subject to challenge.

7.87 In principle the delivery of additional affordable housing represents a considerable planning gain. But that gain would largely be lost at the North East Sector having regard to the substantial disadvantage that most residents would have to endure of living in a community beset with the enduring and substantial noise from a second runway. One cannot even be sure, given the outline nature of the scheme, that the most vulnerable in Crawley, i.e. those in housing need, would not find themselves bearing the brunt of the substantial noise impact.

7.88 Equally the provision of affordable housing should not be at the expense of the plan led system and the need to comply with other policies.

### ***Car Parking***

7.89 Provided the agreed conditions are imposed (GWB0/17, Conditions 37 and 38), the Council considers that the appropriate level of car parking would be provided.

### ***The Five Year Housing Land Supply Period***

7.90 Before turning to the specifics of housing land supply, it is appropriate to deal with the approach the Council invites the Inspector and the Secretary of State to adopt in the determination of this appeal. In the Council's submission, the inquiry rightly focused on the five year period in looking at housing land supply and in seeking to judge whether there is a need now to grant planning permission on this very substantial greenfield site. Paragraph 34 of PPG3 and paragraphs 12 and 13 of draft PPS3 support this approach. The Felpham decision is a classic example of an attempt by an appellant to justify the grant of planning permission outside the plan led system on the basis of a shortfall in the five year housing land supply. That the relevant local plan period ended in 2011 is apparent on the face of the decision letter. However, it is expressly recorded that reliance on an absence of a five year supply was based upon the requirement in paragraph 34 of PPG3 (CD119, para 9).

7.91 The Appellants and Mr Woolf in his oral evidence rely upon a statement by the Minister of State for Housing and Planning, Keith Hill, issued on 17 July 2003 which says (GWB0/5):

*“... This does not mean plans should only have a 5-year time horizon, nor is it guidance directed at the determination of planning applications...”*

7.92 At first reading, it might be thought that Mr Hill's statement does no more than state the obvious. The sentence that the Appellants rely upon must be seen in context. The context is firstly, the reference to paragraph 28 of PPG3; and secondly, the reference to paragraph 34. In this case, the Appellants are seeking a consent for the release of a substantial greenfield site, not identified for release in the submission Core Strategy before 2018. Moreover, the examination of that submission Core Strategy is soon to take place, which in the plan led system is the appropriate forum to consider housing land supply to 2018. Accordingly, a shortfall in the five year supply must surely be identified in order to warrant the release of a site for housing outside the LDF process.

- 7.93 For his part, Mr Woolf seemed to suggest that, simply because the appeal proposals comprise some 1,900 dwellings which they anticipate would take eight years from commencement to completion in 2016, it would be inappropriate to judge the adequacy of housing land supply with reference to a five year period (GWB1/1 para 5.8). But it seems to the Council that Mr Woolf is driven to adopt this stance because, even if there were a shortfall in the 5 year supply, the release of a greenfield site as substantial as the appeal proposal would not be justified and would necessarily bring with it many disadvantages. For example, it would discourage previously developed sites that might otherwise come forward from doing so.
- 7.94 The Council commends the reasoning in INQ6 to the Secretary of State.
- 7.95 The specifics of housing land supply within the relevant five year period are addressed below. However, before turning to this matter, it is important to record that, even if it is concluded that there would be a shortfall in either the five year or the twelve year period, the grant of planning permission for 1,900 dwellings at this stage would be a disproportionate response which would bring disadvantages in any event. Furthermore, particularly with regard to the five year supply period, the Secretary of State would need to be satisfied, if she found there to be a shortfall, that the appeal site could deliver completions within that period. In this respect, a substantial amount of detailed design work (in relation to on-site and off-site matters) and ecological investigation remains. Whether the Appellants would wish to incur these significant costs without having an equalisation agreement in place is doubtful. Accordingly, the Council anticipates that the decision maker may find it difficult to conclude that the North East Sector could come forward within a timescale that would enable it to meet any shortfall in the five year period, if one exists.

### ***Housing Land Supply***

- 7.96 Policy NE1 of the Structure Plan requires the provision of 4,495 dwellings in Crawley between 2001 and 2016. That equates to an annual average rate of 300 dwellings per annum, although it is acknowledged, in footnote (b), and was accepted by Mr Woolf in cross-examination, that the actual annual rates will vary over the period to 2016 having regard to the likely timescale of development.
- 7.97 The Statement of Common Ground on Housing Land Supply (CD72) identifies a residual requirement for 2006-2012 of 2,744 dwellings. In terms of supply, it is agreed that as at 31 March 2006 there were outstanding planning permission for a total of 916 dwellings on large sites (of 6 or more dwellings), and for 32 dwellings on small sites. The difference between the parties on the number of dwellings expected to be delivered by 2012 from the sites identified in the submission Core Strategy is 1,111 dwellings.
- 7.98 Policy GAT2 of the draft South East Plan (CD65) identifies a requirement for a total of 7,000 new dwellings in Crawley for the period 2006 to 2026. This equates to a requirement for 4,200 new dwellings in the period 2006 to 2018. It is 600 more than assumed in Crawley's submission Core Strategy which was based on the (extended) Structure Plan requirement set by policy NE1. Notwithstanding this difference, the

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South East England Regional Assembly (SEERA) has confirmed that the submission Core Strategy is considered by members of the Regional Planning Committee to be “*in general conformity*” with both the adopted and emerging RSS (CBC03/6, p1). The Assembly acknowledges that the GAT2 figures have not been finalised and, unsurprisingly, merely “*encourages*” Crawley Borough Council to amend policies H1 and H2 to reflect and align with the emerging RSS (ibid, para 4.5).

- 7.99 These views expressed by SEERA in their representations on the submission Core Strategy on 6 July 2006 are inconsistent with the more general indication attributed to PINS in the e-mail of 1 June 2006 from GOSE to Steven Brown, a colleague of Mr Woolf (GWB1/2, Annex 9). In the context of this section 78 appeal, the SEERA representation should be accorded greater weight.
- 7.100 There is no doubt that the Inspector appointed to examine the submission Core Strategy will in due course and at the proper time have regard to SEERA’s representation. The Council suggests that, in all probability, he will be content to see the SEERA figures reflected in a review in due course.
- 7.101 Paragraph 2.9 of the submission Core Strategy identifies the figures in the emerging RSS and the fact that the figures take into account the potential delivery of the North East Sector in the period to 2026. The stated policy of the Borough Council is that the figures in the emerging RSS will be considered at the review of the submission Core Strategy. Even so, the Council acknowledges the materiality of the GAT2 figures in determining this appeal. It shows the direction of travel. However, if it were to transpire that any shortfall was materially affected by the inclusion of the 300 extra dwellings required by GAT2 in the period to 2012, that could not begin to justify the release now of this substantial greenfield site (particularly where a significant proportion of the site lies within the forecast 60dB  $L_{Aeq}$  contour for a second runway at Gatwick). It must not be forgotten that the Council has not even set out to identify sites which might be allocated to meet the revised target set by the emerging RSS.
- 7.102 Of all the sites identified in the submission Core Strategy, the Appellants, through Mr Woolf, contend that only 800 dwellings on Haslett Avenue (the Leisure Centre site) and 129 dwellings on Stone Court will be completed by 2012.
- 7.103 It is noteworthy that the only sites which Mr Woolf is prepared to accept as being capable of being developed in the period to 2012 are those which already have planning consent. Indeed, he suggested in cross-examination that, in the absence of a grant of planning permission, there could be no certainty as to whether a site is capable of being developed in five years. Thus Mr Woolf appears to draw no distinction between a planning consent and a housing allocation. That denies the plan led system, which is surely founded on the premise that most sites are allocated before any planning application is made. The suggestion that allocations in a submission Core Strategy cannot reasonably be regarded as capable of being developed in the absence of a grant of planning permission, is to seek to turn the premise of the plan led system on its head. The Council invites the Secretary of State to reject the proposition that there is this additional hurdle implicit in the draft PPS3 test that, to be considered developable, a site should be available, suitable and viable. It should also be borne in

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mind that the submission Core Strategy is the product of a process of continuous community involvement. As PPS12, paragraph 4.3, advises, frontloading is particularly important when the development plan document is dealing with site allocations.

### ***Haslett Avenue***

- 7.104 It is common ground that the Haslett Avenue site will deliver 831 dwellings. In the Council's trajectory these are delivered by 2012. The Appellants suggest 800 by that date (CD72, Note 1).
- 7.105 The Haslett Avenue Leisure Centre site was identified in the 2004 Housing Potential Study (CD71, Site TB24) and described as an, "*outdated Crawley Leisure Centre*". At that time, the intention to relocate to the Thomas Bennett campus was known. Nevertheless, echoing the advice in PPG17, paragraphs 12 and 13, Baker Associates described the site as "*fundamentally constrained*" by the need to replace the Leisure Centre by equal or better facilities elsewhere. Haslett Avenue is a good example of how, despite these fundamental constraints, the Borough Council worked in conjunction with others (the County Council and Sport England) to bring forward redevelopment of both previously developed land and playing fields so as to boost housing land supply, improve leisure facilities and achieve new schools in association with the Thomas Bennett School. There was no attempt at the inquiry to gainsay the Council's evidence that the K2 Leisure Centre, as a modern comprehensive sports facility, represents an improvement on previous facilities and a significant benefit for Crawley.
- 7.106 Although Mr Woolf accepts that Haslett Avenue will come forward very largely within the 5 year period to 2012, his projected completions show the developer to be achieving a maximum annual completion rate of 175 dwellings. The Council's Principal Forward Planning Officer, Mr Dennington, however, anticipates over 300 completions per annum for 2008/2009 and 2009/2010 (CBC02/01, Appendix B). This accords with Fairview's phasing programme, received by the Council in May 2006 (CBC02/19). Having committed substantial sums in the preparation of this site, there is surely every incentive for Fairview to bring forward development as quickly as possible. According to the David Couttie Associates Ltd Supply/Demand Analysis 2004 there is considerable demand for open market flatted development in Crawley (CD92, Table 3.14). There is no evidence of any market-led considerations which would warrant Fairview holding back on the completion of their development.

### ***Telford Place***

- 7.107 At Telford Place the Council's housing trajectory assumes 250 dwellings will be delivered by 2012. The Appellants suggest zero (CD72, Note 1).
- 7.108 Telford Place is a town centre site. It is previously developed land. Part of the site is owned by West Sussex County Council. This part currently comprises a public car park with 220 spaces. The Borough Council has received a planning application from the County Council for a library on this part of the site, which includes 26 car parking

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spaces for library staff and 38 for users. This library is expected to replace the existing library located within the boundary of the Town Centre North scheme. Town Centre North will include town centre car parking.

- 7.109 At the inquiry Mr Fairham confirmed his understanding, based on pre-application discussions with Centros Miller, that they control the remainder of the site anticipated to come forward for development. Mr Woolf accepted in cross-examination that he was not in a position to gainsay that evidence. In suggesting that the developer might not have the necessary land interests in order to be able to bring forward the site for redevelopment, it transpired that Mr Woolf was relying upon the experience of clients of a colleague in his practice who had tried unsuccessfully to acquire the land during 2003/2004 (GWB1/2, Annex 4, p7). Recent representations by Drivers Jonas on behalf of Centros Miller confirm Mr Fairham's evidence that a planning application will shortly be received for mixed use redevelopment of the site (GWB1/7). A high density of flats can reasonably be expected on this site given its impeccable location in sustainability terms.
- 7.110 The Urban Housing Potential Study 2004 suggested a final yield for the Telford Place site of 135 dwellings (CD71, Site TB16). This was based on a scheme for five floors of development on just under half of the Haslett Avenue car park (ibid). Mr Dennington's figure of 250 dwellings reflects pre-application discussions. It is based on five floors of accommodation on the remaining site. This seems to the Council to be an appropriate density in such a sustainable location, bearing in mind the policy imperative to make best use of previously developed land.

### *Dorsten Square*

- 7.111 At Dorsten Square the Council's housing trajectory assumes 160 dwellings will be delivered by 2012. The Appellants argue for zero (CD72, Note 1).
- 7.112 Dorsten Square is the only submission Core Strategy site not identified in the Urban Housing Potential Study 2004. As such, and bearing in mind it is a scheme involving previously developed land, it is proof positive, if it were needed, that further windfalls have and will continue to come forward following the Urban Capacity Study. Another and better example of windfall sites coming forward is the Seeboard site at Russell Way (GWB1/2, Annex 12). Dorsten Square is a classic urban regeneration scheme seeking to deliver better health, leisure, retail and community facilities in one of the most deprived wards in Crawley. The local centre is particularly down at heel and, following development of the K2 Leisure Centre, the Bewbush Leisure Centre is struggling.
- 7.113 Dorsten Square also includes the redevelopment of greenfield land, partially within and partially outwith the Borough Boundary as defined in the adopted Local Plan (CD44, Proposals Map). That boundary currently bisects the Bewbush Leisure Centre and the submission Proposals Map takes the opportunity to redefine the Borough Boundary more sensibly (CD62, Proposals Map). For a partly greenfield site, it relates well to the built-up area in any event.

- 7.114 As to the area of previously developed land, the three areas edged red on GWB1/10 extend to 0.68ha. This must be taken as the minimum area of previously developed land, because the areas edged red do not include all of the orange areas identified by Mr Dennington on CBC2/20. It appears from that aerial photograph that the orange highlighting, omitted by Mr Woolf in GWB1/10, covers areas upon which there is existing development. In addition, the Leisure Centre and car park which Mr Woolf describes as “*Leisure Centre buildings (0.87 ha)*” (ibid) is previously developed land within the meaning of Annex C of PPG3. To suggest, as Mr Woolf does, that the leisure centre buildings and associated car parking comprises, “*park, recreation grounds, playing fields and allotments*” which must not be regarded as previously developed land, in accordance with the advice in PPG17, paragraph 14 stretches the ordinary meaning of the words beyond credulity.
- 7.115 As far as the area marked as “*playground area*” on CBC02/20 is concerned, the Council recognises that this area is more akin to what one might expect to find within a recreation ground. But even so, it does not appear to fall squarely within the definition in paragraph 14.
- 7.116 The greenfield element of the Dorsten Square regeneration project is a necessary ingredient of the scheme. It is not comparable to the release of an entirely greenfield site. The regeneration of the previously developed land cannot be secured without the greenfield land. Thus, Dorsten Square remains sequentially preferable to the appeal site.
- 7.117 As to the allocation, the evidence is that no one, other than the Appellants, has objected to the allocation of this site. As a matter of fact, Sport England, who has responded to the submission Core Strategy, has not objected. West Sussex County Council and Crawley Primary Care Trust, who are project partners, are working hard with the Borough Council to achieve delivery of the project (CBC02/6). To suggest that a scheme that provides a new community and youth centre, new healthcare facilities, possibly an extreme sports facility, new retail development and new residential development, in one of the most deprived wards in Crawley, is a crime, is absurd. The scheme is fundamentally urban regeneration and encouraged by PPS1, paragraphs 27(ii), (v), and (vii), as Mr Woolf accepted in cross-examination. On any sensible analysis the scheme should be supported.
- 7.118 Contrary to the suggestion in the Appellants’ Counsel’s cross-examination of Mr Dennington, the lack of a PPG17 compliant assessment is not fatal to the identification of Dorsten Square in the Core Strategy. This assessment would be required as part of an application for planning permission. It is not necessary to reach the level of detail required before the grant of planning permission, before a proposal can be promoted through the LDF process either as a strategic site in the submission Core Strategy or as an allocation in a DPD.

### ***Ifield Community College***

- 7.119 At Ifield Community College the Council’s housing trajectory assumes 170 dwellings will be delivered by 2012. The Appellants argue for zero (CD72, Note 1).

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- 7.120 Ifield College was identified in the Urban Housing Potential Study 2004 (CD71, Site IF5), for 160 dwellings. It is indisputably previously developed land.
- 7.121 In Mr Woolf's evidence, policies COM11 and 12 are referred to. But he accepted in cross-examination that, since Ifield Community College has been demolished and replaced, those policies no longer bite. The County Council has now submitted a planning application for the residential development of the site, which has been considered by the Borough Council but deferred for further consideration of the transport assessment.
- 7.122 The Appellants' witness dealing with highway and infrastructure matters, Mr Boswell suggests that neither the eastern nor the western arms of Lady Margaret Road leading to Ifield Drive would be suitable for vehicular access for a 180 dwelling development without improvement works involving the potential acquisition of third party land (GWB9/1, Section 9.2). In fact, improvement works have already been undertaken on the eastern arm in connection with the development of the new Manor Green special school and there is no suggestion that the acquisition of third party land was necessary.
- 7.123 Mr Boswell's primary concern relates to the width of the western section of Lady Margaret Road. He accepted that the County Surveyor had neither objected to the allocation of the site in the submission Core Strategy, nor to the planning application currently before Crawley Borough Council.
- 7.124 The length of the section of highway involved is limited. The western arm of Lady Margaret Road is intended to provide direct access into the new housing site in much the same way as it provided access to the former Ifield College. There is no dispute that the verge shown on CBC00/7 could be removed so as to facilitate road widening and in GWB7/3 Mr Boswell accepts that doing so would allow the width of the carriageway to be increased to more than 5.5m. He also accepted in cross-examination that additional off street car parking could be provided within the application site, if it were thought necessary. Notwithstanding these concessions, he argued that these potential solutions are not currently before the Council. The crucial point, however, is that Mr Boswell is not contending that there is a knockout highway objection. It would be unusual if the County as landowner now found itself unable to advance proposals for housing development on account of hitherto unidentified access problems. In any event, the inquiry has established that there is scope within the public highway for road widening to occur if this is considered necessary.

***Thomas Bennett***

- 7.125 At the Thomas Bennett site, the Council's housing trajectory assumes 200 dwellings will be delivered by 2012. The Appellants argue for zero to 2012 and 100 to 2018 (CD72, Note 1).
- 7.126 The Thomas Bennett site was identified in the 2004 Urban Potential Study (CD71, Site T6), as previously developed land for 115 dwellings. It was identified by DfES officials as "*buildings/footprints and surrounding marginal land...*". They confirmed that prior consent to sell the land was not required (CBC02/13).
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- 7.127 Mr Dennington's evidence correctly identifies the site as previously developed land (CBC02/1, Appendix B). Mr Woolf's assessment that the site comprises former playing fields (GWB01/2, Appendix 4, pp14 & 15) is wrong as a matter of fact. Neither the tennis court nor the open land between the school and the line of trees to the south can by any stretch of the imagination fall within the four identified categories which must not be regarded as previously developed land, identified in paragraph 14 of PPG17. Unlike Dorsten Square and the land east of Tinsley Lane, no PPG17 assessment would be required to accompany any planning application. Historically, the amenity value of the open land would have been minimal due to the limited inter-visibility between that land and existing residential development.
- 7.128 Mr Woolf did not suggest that 200 dwellings represent an inappropriate density on this site. Rather, he questioned whether the road network has sufficient capacity to accommodate 200 dwellings due to the narrowness of the surrounding roads and on-street parking. This latter point is not substantiated by Mr Boswell's evidence. Mr Boswell made plain in his evidence in chief that his concerns were directed primarily at the impact of residential development on the junction of Ashdown Drive and Southgate Avenue.
- 7.129 The Thomas Bennett site is land left over after a coordinated redevelopment strategy, the result of which has been the delivery of a brand new Desmond Anderson first school, K2 Leisure Centre and the replacement Thomas Bennett Community College, together with newly laid out playing fields. As such, its potential for housing land was recognised in the Urban Housing Potential Study. The Appellants seek to persuade the Secretary of State, by implication, that the County Council simply failed to consider the highways implications of the residential development. That is entirely speculative.
- 7.130 Insofar as there is congestion in the vicinity, it appears to relate to the prioritisation of Fastway along Southgate Avenue. There can be no doubt that the priority given to Fastway has played a part in achieving an increase of 23% in the use of public transport in Crawley, as described in Mr Boswell's highways evidence (GWB8/1, para 3.3.5). That success should not be allowed to impede the delivery of additional housing on the Thomas Bennett site.

#### ***Land East of Tinsley Lane***

- 7.131 On the land east of Tinsley Lane the Council's housing trajectory assumes 100 dwellings will be delivered by 2012. The Appellants argue for zero (CD72, Note 1).
- 7.132 The Urban Housing Potential Study identified 4.88ha of the 6.83ha site as suitable for residential development with a suggested yield of 150 dwellings (CD71, Site TB25). A number of constraints were mentioned: access, noise, possible relocation of a telecommunications mast, the relocation of the sports pitches and the need to conserve the ancient woodland adjoining the site. Nevertheless, the market appraisal concluded that land values, having regard to both private and affordable housing, were high enough to overcome any abnormal development costs and planning obligations. On that evidence alone, it should be concluded that the site is suitable and viable within the meaning of paragraph 13 of draft PPS3. With regard to its availability, the

evidence of Mr Dennington and Mr Fairham confirmed the desire of the football club, currently occupying part of the site, to secure replacement facilities on site and English Partnerships' discussions to facilitate that. The northern playing field is unused and plainly has been for some time.

- 7.133 As with Dorsten Square, the absence of a PPG17 assessment is not fatal to the allocation since paragraph 15 of the guidance expressly contemplates and advises planning authorities to give very careful consideration to any planning applications made in advance of an assessment of need. Paragraph 15 offers two alternatives. Either an assessment of need can be provided to demonstrate that playing fields are not required; or it must be demonstrated, for example, that any playing field lost would be replaced by a playing field of equivalent or better quantity and quality, in a suitable location. It is not uncommon to find examples of two grassed playing fields being replaced by one artificial turf pitch. Another obvious scenario contemplated in paragraph 15 is where the proposed development includes a new clubhouse, better pitch and associated spectator facilities, the benefits of which would outweigh the loss of a pitch - in this instance the unused northernmost pitch. The very significant benefits which redevelopment would bring to the club, funded by housing development, seem to the Council to be in danger of being obscured by the emphasis given by the Appellants to highway considerations.
- 7.134 The northernmost access to the site and adjoining land, via Kenmara Court, is in the ownership of English Partnerships (CBC03/11). The Appellants led second hand, oral evidence of what householders said and suggested that those assertions could amount to well founded adverse possession claims. This evidence, from householders who would have every reason to protect their position given their apparent in principle opposition to development of the site, is entirely speculative and should not be considered to constitute a constraint to the development of the site. Also, it is surprising that the point should emerge only at the inquiry, given that the site was allocated in the Local Plan and there is no evidence of objections to the submission Core Strategy on the basis of contested land ownership issues, when we were told that the period of claimed adverse possession is about 20 years in some cases.
- 7.135 In any event, the Linden Homes planning application for 60 dwellings and the demolition of one house off Harewood Close on the southern part of the site shows that other access solutions are feasible (CBC03/11). That application was never determined, but there is no evidence before the inquiry to suggest that the Linden Homes approach does not represent a satisfactory solution. Nor, as the site visit should reveal, does it represent the only potential solution.

### ***Town Centre North***

- 7.136 At Town Centre North the Council's housing trajectory assumes 200 dwellings will be delivered by 2012 and 800 by 2018. The Appellants argue for zero to 2012 and 2018 (CD72, Note 1).

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- 7.137 The Urban Housing Potential Study identified 9.29ha to the north of The Boulevard for a major mixed use scheme including residential uses (CD71, Site NG9). A yield of 410 dwellings was suggested on the basis of the then most recent layouts.
- 7.138 Town Centre North is a longstanding priority of Crawley Borough Council. It is a major mixed use retail led redevelopment scheme (CBC02/5). Its identification in the submission Core Strategy accords with the plan led system. That identification is the product of a number of studies commissioned by the Council, including shopping and feasibility studies, which underpin the project (GWB0/2, Appendix 11, para 2.5). As Mr Woolf accepted in cross-examination, the retail element of the Town Centre North scheme would accord with national policy in PPS6 and PPS1; policy TC2 of the draft South East Plan (CD65) where Crawley, like Brighton, is identified as a “*primary regional centre*” (and thus a focus for major retail developments, other cultural tourism, social and community venues which attract large numbers of people, large scale leisure and office developments and a range of housing); and policy NE10 of the Structure Plan, which expressly recognises Crawley’s need to grow to complement Croydon to the north and Brighton to the south (CD43, para 192).
- 7.139 The reasons for the selection of the location of Town Centre North as the appropriate place to accommodate the required retail led regeneration scheme is clear. There is a need for physical improvements to this original and now tired part of the Crawley new town. The Town Centre North proposals would undoubtedly lead to a more efficient use of this most sustainable location. The land area included within the proposed scheme covers some 14 hectares, centred on The Boulevard. The majority of the site lies within the defined town centre boundary on the adopted Local Plan.
- 7.140 The proper application of Structure Plan policy NE4 and PPG3 demands that the housing element of Town Centre North takes priority over the North East Sector. Mr Woolf is not prepared to accept that Town Centre North is capable of delivering any residential units before 2018. That position is wholly untenable. It is a town centre, mixed use redevelopment scheme, rooted in the development plan and has been marketed and promoted successfully by both English Partnerships and Crawley Borough Council (CBC02/5).
- 7.141 Grosvenor Investments Limited, English Partnerships and Crawley Borough Council entered into a cooperation agreement on 4 April 2006. Heads of Terms, which will form the basis of a development agreement, have been approved by the Council and agreed with Grosvenor’s professional advisers. The Council’s Forward Plan anticipates approval of the development agreement being secured in February 2007. A detailed programme has been drawn up which anticipates adoption of the Core Strategy and Supplementary Planning Document (SPD) in July 2007. A Key Issues and Options SPD on Town Centre North (CBC00/4) is presently out for consultation.
- 7.142 It is intended that only the unlisted properties that fall within Town Centre North are proposed for demolition. Thus, 103 High Street (The Tree) and 109 will remain (CBC00/4, paras 3.3 and 3.4). The telephone exchange is no longer included within the site. Discussions on the relocation of the Town Hall (the largest single occupier) are well advanced as between the Council and Grosvenor. That is reflected in the
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detailed representations submitted by Grosvenor seeking to fix the Sussex House site as the location for a new town hall (CBC02/15, representations on para 15.13).

- 7.143 At one stage it seemed to be suggested by the Appellants that the recent application by Palace Street Developments for 5,000m<sup>2</sup> of Class B1 floorspace and 246 residential units on the Sussex House site if granted planning consent, could thwart the Town Centre North proposal. However, the report of 18 September 2006 recommended that planning permission be refused on the basis that the proposed development forms part of the Town Centre North, site for which comprehensive redevelopment is envisaged (CBC02/11). In addition, the application was recommended for refusal on the basis that it would prejudice the emerging Core Strategy and the proposals for Town Centre North. In the event, the application was deferred to enable amendments to be made. Discussions are taking place between Grosvenor and Palace Street Developments.
- 7.144 No objections have been received from or on behalf of Palace Street Developments, to the submission Core Strategy or the inclusion of Sussex House within the Town Centre North boundary as shown on the submission Proposals Map. That lack of objection, and the fact that Grosvenor and Palace Street Developments are in discussion, is entirely consistent with Mr Fairham's observation that the real function of the outline application may well be to establish a site value for the purpose of assessing compensation for its compulsory purchase, consistent with the statutory compensation code.
- 7.145 The representations on the submission Core Strategy's identification of Town Centre North are, in summary, as follows (CBC02/15):
- *Revill Consultancy - on behalf of the owners of 9 The Boulevard.* No in principle objection; their comments are limited to concerns about their own property interests.
  - *Standard Life - owners of County Mall.* No in principle objection; they would like to see any additional retail capacity not taken up by Town Centre North being directed to County Mall.
  - *Grosvenor/GVA Grimley* support the proposals. They make a number of representations about the detail of the scheme.
  - *Reigate and Banstead Borough Council* express "concern" about the scale of retail growth proposed and its possible impact on Redhill given its proximity. They criticise the GVA Grimley retail assessment on the basis that it assumes Crawley is the only town in the sub-region which can accommodate an increase in retail provision.
- 7.146 As can be seen from the above summary, there is very little in principle objection to the Town Centre North scheme. Notwithstanding Reigate and Banstead's objection, the retail growth of Crawley is anticipated in the Structure Plan (see para 7.138 above).
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- 7.147 The timetable for delivery of the residential element of the Town Centre North scheme takes account of the possible need for a compulsory purchase order. The Borough Council's recent experience of making and securing confirmation of a contested CPO 13 months after the making of the Order (CBC03/14) suggests that the anticipated Town Centre North timetable is realistic.<sup>1</sup>
- 7.148 The first written representation submitted on behalf of Grosvenor includes the advice of Knight Frank that the release of the North East Sector over the next 10 years could saturate the residential market and prejudice the supply of housing coming forward as part of Town Centre North (INQ5, rep21). If the Secretary of State is to determine the appeal before her in accordance with Structure Plan policy NE4, PPG3 and PPS1, she must necessarily give priority to Town Centre North over the North East Sector.
- 7.149 It was suggested in cross-examination of Mr Dennington that the quantum of 800 residential units was unlikely to be achieved, given the apparent limitations on height and scale referred to in the Crawley Town Centre North Development Principles Statement (GWB1/2, Annex 10). However, Mr Fairham confirmed in his oral evidence in chief that this document had not been adopted formally as Supplementary Planning Guidance since it could not be said to supplement the adopted Local Plan policy in accordance with paragraph 3.4 of PPG12. Neither as a Development Plan Document could it precede the adoption of the Core Strategy (PPS12, para 4.40). Secondly, and in any event, properly understood, paragraph 7.3.3 of the Development Principles Statement does not seek to limit development to blocks up to 5/6 storeys high. Indeed, it is anticipated in the draft Key Issues and Options document that some buildings may rise to 9 storeys at key focal points (CBC0/4, para 6.10). In the Council's submission, the suggestion that Town Centre North is expected to be limited to 5/6 storeys is fallacious.
- 7.150 Given the progress made to date and the commitment of Crawley Borough Council, English Partnerships and Grosvenor to the scheme, the Secretary of State should conclude that reliance on Town Centre North to deliver some 200 residential units in the period to 2012 is appropriate.
- 7.151 Even if, for whatever reason, Town Centre North as a comprehensive scheme were to founder, the largely empty Sussex House and adjoining land is plainly ripe for redevelopment. That site on its own could readily deliver 200 dwellings by 2012. In that scenario, and bearing in mind that most of the land in Town Centre North is in the identified town centre, there would be substantial policy support for an alternative, retail led mixed use scheme. Either way, looking to 2018, the achievement of a further 600 within the town centre is eminently achievable.

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<sup>1</sup> For details of timetable see GVA Grimley's letter of 26 September 2006 (INQ5, rep31). This suggests a planning application for Town Centre North will be made in the autumn of 2007 with confirmation of the CPO, if required, in mid 2009.

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### *Windfalls*

- 7.152 In the Council's view, the crucial issue in relation to windfalls is whether in the period to 2012 the total of 492 relied upon by the Borough Council is robust and realistic. Mr Woolf's approach, until his evidence in chief, was to rely upon a figure of 220 for that period. Both figures are recorded in CD72. For his part, Mr Woolf contends that the windfall rate must be based on completions hitherto achieved. His figure of 44 per annum reflects the average annual windfall completion figure between 1991 and 2003, calculated by Baker Associates in their Urban Housing Potential Study (CD71, para 6.12). Baker Associates admitted that this figure was low, likely due to the nature of Crawley as a new town and its phased, planned growth through the development of neighbourhoods (ibid). Their anticipation that the low rate of large site windfalls of 44 per annum was in fact likely to become lower in the future (ibid) has so far proved incorrect. Indeed, Mr Woolf accepted that average windfall completions in the period 1991 to 2006 were 52 per annum. Baker Associates plainly did not anticipate employment sites such as Russell Way coming forward for residential development.
- 7.153 The period from 1991 seems to the Council to be inappropriate to rely upon, since PPG3 and the advent of the sequential approach did not arrive in national planning policy until PPG3 was published in March 2000. Furthermore, Crawley as a new town largely constructed in the post-war era, has come late to the "previously developed land party". It is only relatively recently that developers have begun to bring forward large previously developed sites in the town. Haslett Avenue is the largest to date. Russell Way is the largest example to date of land in an employment use coming forward for residential development. Already another employment site (albeit on undeveloped land) at Lucerne Drive in Maidenbower, which is allocated for Class B1 uses in the Local Plan (CD44, policy E3B) is being promoted at appeal for residential development. Mr Woolf's suggestion that the Russell Way appeal could be regarded as a one off is plainly misguided.

### *Russell Way*

- 7.154 The Secretary of State's decision on Russell Way (GWB0/12, Appendix 12) is the subject of legal challenge (CBC02/10). There are three principal grounds of challenge relating to firstly, policy E7 of the Local Plan and its application; secondly, the application of paragraph 42(a) of PPG3; and thirdly, the Secretary of State's conclusion on the impact of the proposed development on the character and appearance of the area. It is plain from the Secretary of State's decision that in considering the need for employment land as compared to the need for land for housing, the Secretary of State felt there was a compelling case for the release of the land at Russell Way for housing. It is to be noted that the Secretary of State had the benefit of an up to date Employment Land Review to inform her decision.<sup>1</sup> No doubt the failure to meet housing targets was a key consideration as was the fact that the buildings had long been empty and yet marketed for employment use.

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<sup>1</sup> At p29 of GWB1/2 Annex 12 there is a list of core documents at that inquiry. CD1 and CD2 comprise the Review and Appendices.

- 7.155 Even if the Secretary of State's decision is quashed and the case falls to be redetermined, unless the Secretary of State fundamentally alters her approach, it is unlikely that the balance between employment and housing will change. What is more likely is that the Secretary of State might be persuaded to reach a different conclusion on the issue of the impact of the building on the character and appearance of the area. One obvious option for the appellant who brought that appeal, to avoid undue delay, would be to submit a less controversial residential scheme.

### ***Outstanding Planning Permissions***

- 7.156 CBC02/17 is an agreed document (save for the inclusion of Russell Way). It demonstrates that as at 31 March 2006, there were 277 outstanding commitments i.e. planning permissions for windfalls. With the exception of one site, along the Balcombe Road, all the planning applications which led to the grant of the 277 consents were made in 2004 and 2005. After 1 April 2006, there are a further 446 commitments of which, 270 comprise Russell Way. Quite apart from Russell Way, three other windfall sites have each resulted in more than 50 dwellings coming forward. In light of this evidence, Mr Woolf's revised figure of 52 per annum is unduly pessimistic.
- 7.157 The figures recorded in CBC02/17 amply demonstrate the robustness of Mr Dennington's 82 per annum windfall figure. Indeed it may reasonably be concluded that the figure of 82 per annum is itself unduly modest. The winds of change are blowing; the housing market in Crawley is finally reacting to PPG3 and the housing land supply issues brought about by the delay to the release of the North East Sector. There is further scope for housing on previously developed land to come forward in Crawley. Refusing this planning appeal now would give the market confidence that the opportunity to put together sites on previously developed land will not be jeopardised by the unwarranted release of the North East Sector.

### ***Housing Supply in the Wider Sub-Region***

- 7.158 In his evidence Mr Woolf considers various greenfield locations in Horsham and Mid Sussex, identified in the Structure Plan to come forward for development. Policy NE4 applies to the release of those sites, as it does to the North East Sector. The inquiry did not have the benefit of any direct evidence from Mid Sussex District Council, Horsham District Council or any of the landowners involved in the promotion of these sites. This is no criticism, since their participation in the inquiry would not have been appropriate or helpful. The s78 process does not admit them, nor should it. However, it does mean that the decision maker cannot properly assess whether the release of the North East Sector to meet alleged shortfalls, as a result of delays in the bringing forward of other strategic housing sites in West Sussex, would accord with policy NE4 of the Structure Plan.
- 7.159 Unless the full extent of available previously developed land within the built-up areas in Mid Sussex and Horsham is known, release of the North East Sector cannot be demonstrated to accord with policy NE4 nor be compliant with the sequential approach.

- 7.160 Mr Woolf admitted in cross-examination that the release of the North East Sector to meet shortfalls arising from the non-delivery of these strategic locations would not accord with its allocation in the Crawley Borough Local Plan.
- 7.161 Mr Woolf's analysis indicates shortfalls of well over 5,000 dwellings in the sub-region by 2016 (CBC01/2, Annex 5, Tables 1 and 2). Even if this figure is correct, which the Council does not accept, the solution is not planning by appeal. Particularly on a site which would have such a long-term impact, to grant planning permission would undermine very seriously the new LDF process and the Area Action Plans which are being promoted to ensure a plan led approach to the delivery of the strategic sites. To grant planning permission on a greenfield site outside the LDF process would be tantamount to pulling the rug from under the feet of the three district councils working to provide a plan led approach to the delivery of these strategic sites.

*Land to the West and North West of Crawley*

- 7.162 Of the other strategic locations identified in the Structure Plan, Crawley Borough Council's influence and input only properly extends to the Land to the West and North West of Crawley.
- 7.163 With regard to this location, Crawley Borough Council has entered into a joint working arrangement with Horsham District Council, with whom a Joint Area Action Plan (JAAP) is presently being formulated. This is explained in the submission Core Strategy (CD62, Chapter 10). The production of this JAAP is within both Councils' Local Development Schemes. The issues and options paper (CD127) has recently been produced in accordance with those timetables.
- 7.164 Although Mr Woolf suggests that until a final decision on the second runway is taken (he says, not before 2014), the planning and timing of this strategic location is likely to be stifled (GWB1/2, Annex 5, Appendix 1, para 3.4). The LDS of both Councils and the submission Core Strategy of Crawley Borough Council indicate adoption of the JAAP in December 2008. Given the very large area of land involved, it is hardly surprising that neither planning authority contends that the site specific search should be delayed until a final decision is taken about the need for a second runway.
- 7.165 In the Position Statement of Horsham District Council, consideration is given to the extent to which noise from a second runway at Gatwick would constitute a constraint to development of the strategic site. In this regard the Council notes "*The established principle is that proposals should avoid development in areas of aircraft noise contours of 60dBA Leq or more, either as existing for a single runway operation, or in relation to the alignment of a potential second runway*" (CD82, para 3.7). There is no suggestion that suitable land for development cannot be identified having regard to this acknowledged constraint.
- 7.166 The Council's submitted Housing Action Plan (GWB1/3, Annex 13) is further evidence of this approach. The Secretary of State has not indicated, in response to the Housing Action Plan, that the selection of a site within this strategic location is premature, given Government policy in the White Paper.

*Land North East and Land North West of Horley*

- 7.167 Of the five other strategic locations, there is no dispute between the parties that housing on Land North East of Horley will come forward. Mr Woolf accepts that the allocation of 710 dwellings will be delivered by 2016 (GWB1/2, Annex 5, Appendix 1, para 5.7). On the Land North West of Horley, where an application has been made for 1,570 dwellings, Mr Woolf accepts that 1,150 will be delivered by 2016 (ibid, para 6.5).

*Land South West and South East of Haywards Heath*

- 7.168 650 completions have already been achieved on this strategic site. Mr Woolf accepts that the 1,400 allocation will be completed by 2016 (ibid, para 1.6).

*West of East Grinstead*

- 7.169 This site lies within the Mid Sussex administrative boundary. An Area Action Plan (AAP) is being promoted. There are five options for this site. Mid Sussex District Council anticipate that 1,300 will be completed by 2016 (CD80, Table 6, p65). Mr Woolf considers that 600 will be completed by then (GWB1/2, Annex 5, Appendix 1, para 2.9). Despite the Appellants' Counsel's emphasis on the five options and seven thousand objectors who have commented on the AAP, the issue between the parties is when, not whether, this site will come forward.

*West of Horsham*

- 7.170 This site was identified for 2,000 dwellings in Horsham District Council's submission Core Strategy, recently the subject of an examination. The Council's LDS includes the production of an SPD, anticipated to be adopted in July 2007. The issue is whether delivery of housing through the plan led system is preceded by either an SPD or an AAP. There is no dispute that the site will be delivered, the issue is when that will happen. Horsham District Council's Position Statement provides a timetable which suggests that the production of an AAP could lead to a delay of up to two years (CD84, p17). It is no answer to this potential delay, to allow another greenfield site, beyond Horsham, to proceed by way of a planning appeal at which neither Horsham District Council nor the relevant landowners have or could reasonably be expected to have locus. Such an approach would undermine Horsham's approach to the plan led system.

**Design Principles and Consistency with PPS1 (SoS Matter (b))***The Masterplan*

- 7.171 As noted in paragraph 7.16 et seq above, the Council considers that the layout of the appeal proposals and the siting of buildings, as far as can be ascertained from the masterplan, appear to be functions of land ownership (without the benefit of an equalisation agreement). The masterplan is the product of a developer-led approach. Community involvement with its production was minimal. A public exhibition was

arranged by the Appellants. But it was held after the original masterplan had been formulated and the report on the consultation (GWB2/4) did not allow the responses to be evaluated. In any event, the public consultation process was a reactive, tick-box process. The revised masterplan has not been formulated with the benefit of community involvement as envisaged in PPS1, paragraphs 40 to 44.

- 7.172 The report from David Lock Associates, commissioned by the Council, considers whether the masterplan successfully integrates development on both sides of the Balcombe Road and creates an environment in which everyone can access and benefit from the full range of opportunities (CBC03/4).
- 7.173 In the Council's view, the approach to designing the masterplan has been wholly inadequate for a development of the scale proposed. If and when the release of the North East Sector is warranted, the masterplanning process would benefit from a plan led approach and thus the involvement of the community and all relevant stakeholders.

***Prematurity and the Priority Afforded to Previously Developed Land***

- 7.174 *The Planning System: General Principles*, records that, where a proposed development is so substantial that granting planning permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD, it may be justifiable to refuse planning permission on grounds of prematurity.
- 7.175 In putting forward a prematurity reason for refusal the Council acknowledges the need to demonstrate clearly how the grant of planning permission now for the North East Sector would prejudice the outcome of the DPD process.
- 7.176 In this regard the submission Core Strategy is one of the suite of development plan documents, which will comprise Crawley Borough Council's LDF. It is self-evident that the appeal proposals constitute significant development in the context of the submission Core Strategy. Moreover, the submission Core Strategy, which identifies strategic sites so as to provide sufficient housing land in the period to 2018, does not include the release of the North East Sector. If planning consent were granted now, outside the LDF process, it would drive a coach and horses through the fundamental tenets of the submission Core Strategy - reliance on brownfield land together with urban regeneration and renewal.
- 7.177 Even if, contrary to the Council's submissions, the Secretary of State were to regard the provision of affordable housing on the site to be such a significant benefit so as to warrant its release in due course, regard must be had to the priority given to towns, villages and previously developed land in policies LOC1 and NE4 of the West Sussex Structure Plan. These policies reflect national policy guidance. The only way that planning consent could be granted for the North East Sector so as to accord with these important Structure Plan policies, would be if it came through the development plan process. This is because it is only through that process that the release of the North East Sector can be held back, so as to give priority to Town Centre North and other

housing sites on previously developed land. This is not a matter which, in the context of the appeal, could be addressed by condition.

**Consistency with PPG13 and Guidance on Sustainable Transport Choices, Accessibility, Reducing the Need to Travel and Car Parking (SoS Matter (d))**

- 7.178 Setting aside the Council's concerns about the lack of a s106 planning obligation (see para 7.20 above), provided that the Council's suggested amendment to the Appellants' proposed public transport condition is adopted (CBC00/11), then the Council considers that the appeal proposals are consistent with the advice in PPG13.
- 7.179 The amended condition would have the effect of ensuring a bus service which could provide a realistic alternative to car travel. It would reflect properly the assumptions upon which sustainability and traffic impacts of the development were assessed in the ES.
- 7.180 Whilst not raising any objections with regard to the consistency of the proposals with PPG13, the Council nevertheless has concerns regarding the experience at Maidenbower, which is similar to the appeal site in terms of its proximity to the motorway, and the high level of out commuting observed in that neighbourhood. This is considered further in paragraph 7.208 below.

**Traffic and the Adequacy of the Local Highway Network (SoS Matter (e))**

- 7.181 Provided that the conditions suggested by the Highways Agency and West Sussex County Council, which require highway improvement works, are imposed, the Council considers that the traffic likely to be generated by the proposal would be safely and conveniently accommodated within the local highway network.

**Whether the Proposal would Accord with the Development Plan and the Emerging Local Development Framework (SoS Matter (a))**

*The West Sussex Structure Plan 2001-2016*

- 7.182 The West Sussex Structure Plan 2001-2016 post-dates PPG3 and properly reflects the national guidance therein.
- 7.183 Policy LOC1(b)(1)(ii) identifies that development requirements, which cannot be met within towns and villages, should be provided for mainly in the form of large scale mixed use development at, amongst other sites and locations, Crawley (North East Sector). Policy LOC1(d) requires planning authorities to allocate sites in their local plans which contribute to meeting the development requirements of the plan, taking into account locational strategy in the policy and other policies of the Structure Plan.
- 7.184 In a similar vein, policy NE1, which identifies the level of residential and employment development for which provision needs to be made to 2016, requires that provision be made taking into account not only the locational strategy in policy LOC1, but most importantly, policy NE4. The explanatory memorandum to policy NE1 (paragraph 113) advises the district planning authorities that in making adequate provision in their

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local plans for housing land, *“they will need to take account of the locational strategy in LOC1 and ensure that the provision of new housing within built-up areas is maximized, before the allocation of greenfield sites”*.

- 7.185 The Appellants will no doubt seek to persuade the Secretary of State that, since the built-up area boundary shown on both the adopted Local Plan Proposals Map and the LDF submission Proposals Map includes the North East Sector, its release now would accord with the development plan. However, policy LOC1, which with LOC2 forms the general framework within which all the other policies of the Structure Plan operate (CD43, para 72), makes it plain that the priority is to locate new development within towns, particularly through the use of previously developed land.
- 7.186 The North East Sector is a greenfield site. Accordingly, if the Secretary of State is satisfied about the extent of previously developed land available to meet housing need, its release now would not accord with Structure Plan policy LOC1 notwithstanding its allocation in the Local Plan and its identification in the Structure Plan. Merely to suggest that, because the North East Sector is within the defined built-up area boundary its release would accord with LOC1, is firstly to deny the sequential approach; and secondly to ignore the objectives underlying and expressly stated in policy LOC1(a).
- 7.187 The identification of Crawley (North East Sector) in policy LOC1 is tempered by the need to determine, through the LDF process, whether and, if so, when this substantial greenfield site should be released. Coming as it did after the publication of the White Paper, the Structure Plan, whilst identifying Crawley (North East Sector) as a site where development requirements should be provided, subject to the sequential test, nevertheless recognised explicitly that development at the site may be delayed because of the implications that a possible second runway, and the need to safeguard land for that purpose, would have on the North East Sector (CD43, para 84). A decision not to grant consent unless and until the second runway is ruled out would not be inconsistent with the Structure Plan.
- 7.188 Policy NE4 states that the release of housing land should be managed in order to give priority to the re-use of previously developed land within built-up areas. PPG3, paragraph 38, requires where planning applications relate to the development of a greenfield site allocated for development in an adopted local plan, that it should be assessed against the policies in PPG3. Policy NE4 of the Structure Plan is wholly consistent with that advice. Thus both the development plan and national policy require the re-assessment of this greenfield site in accordance with a presumption in favour of previously developed land. For the reasons already explained, the submission Core Strategy sites which include previously developed land are sequentially preferable. Indeed, even the greenfield site on the land east of Tinsley Lane is preferable, since it is well related to the existing community and lies within the built-up area. The release of the appeal site now would not accord with policy NE4.
- 7.189 One of the dangers of policy NE4 is the policy exhortation that, once started, land at the North East Sector should continue to be released and should not be affected by any subsequent review of the phasing of sites. There appears to the Council to be two

consequences of this policy approach. Firstly, the Council could not properly seek to resist through phasing the release of the 1,900 dwellings if planning permission is granted. Secondly, it would be difficult to resist the release of further land within the allocation at the North East Sector. Even if the Secretary of State concluded in looking at the five year supply that there was a shortfall of, say, a few hundred dwellings, the release of a substantial greenfield site now would be a wholly disproportionate response which would bring substantial disadvantages, for example, prejudicing the delivery of Town Centre North.

7.190 Policy NE19(b) of the Structure Plan advises:

*"District planning authorities will,*

*(2) include policies in local plans to:*

*(vii) restrict residential and other noise-sensitive uses within the noisiest forecast 66  $L_{eq}$  contour around Gatwick Airport and ensure that adequate sound insulation is provided for new residential development between the noisiest forecast 60 and 66  $L_{eq}$  contours."*

7.191 The phrase "noisiest forecast contours" clearly denotes that there are different 66  $L_{eq}$  contours, and the Structure Plan exhortation is to restrict development having regard to the noisiest of those contours.

7.192 Noise forecast contours are based on the predicted fleet mix for a particular summer period. The contours represent the average noise over a 16-hour day for that period. There are two types of contour, the Average Mode and the Range Mode. The mode is the percentage split between westerly and easterly departures. The Average Mode is based on a rolling 20 year average (73%:27% at present). The Range Mode is a set of contours which represent the noisiest year in any one particular location, whether it is a high westerly mode year or a high easterly mode year. The Range Mode is also based on the last 20 years (1996 was based on the range 80% westerly or 40% easterly).

7.193 In the noise report submitted by the Appellants in 1998, WSP Consulting Engineers discussed the use of range mode contours then, they said, promoted by Crawley Borough Council jointly with other local authorities around Gatwick (CD120, para 3.20). The report notes that, "*their [range mode] use has not been accepted nationally and the average mode remains the most commonly used standard*". The report continued to consider the impact of aircraft, and concluded that none of the site fell within the 63dB  $L_{Aeq}$  (range mode) contour and was thus an acceptable noise environment for the new neighbourhood.<sup>1</sup>

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<sup>1</sup> Inspector's note. This report, which was produced in 1998, only considered noise from a single runway at Gatwick.

- 7.194 In the ES, the reason given for not choosing to assess noise using range mode contours was because, “*annual range mode contours are not produced by the Government*” (ES Volume 1, para 13.78) rather than because they were an inaccurate or otherwise inappropriate tool for assessing the impact of aircraft noise.
- 7.195 In Mr Charles’s proof of evidence, reference is made to forecast noise contours, which show predicted noise from the operation of Gatwick with a second runway (GWB5/1, para 8.12). He says that the 2003 ERCD noise contours represent the best assessment available at this time; and that these contours were used by the Government in the formulation of policy in the White Paper published in December 2003. He did not explain that the ERCD forecast contours were based on average mode, nor did he make any mention of the reference to range mode contours in the ES. At one point he gave the impression of an expert unfamiliar with the concept of range mode contours.
- 7.196 Currently there are no range mode contours published by the Civil Aviation Authority. Accordingly, the ERCD forecast noise contours are the only contours available to the inquiry, albeit that they do not represent the noisiest forecast contour. To remedy this, the Council proposes to fund the research and publication of range mode contours next year. But until those contours are available, the Council questions how the decision maker can be satisfied that the appeal proposals comply with the policy NE19 requirement to restrict development to outside the noisiest 66  $L_{Aeq}$  contour. In the Council’s submission by not adopting range mode contours, the Appellants have left themselves unable to demonstrate compliance with Structure Plan policy NE19.
- 7.197 This is a point of some significance in that it was accepted in the Appellants’ 1998 noise report that “*range mode contours suggest that in the worst case a doubling of noise energy occurs relative to the average case*” (CD120, para 3.21). On the basis of range mode, the 66dB  $L_{Aeq}$  average mode contour becomes a 69dB  $L_{Aeq}$  contour. This would put a significant proportion of the proposed development into what the Appellants describe in the Design Statement as an “*unfavourable environment for residential development*” (CD58, para 1.9).
- 7.198 Consistent with the two earlier structure plans (although only one was adopted), the explanatory text which follows policy NE19 at paragraph 277 advises that around Gatwick, intensification within existing built-up areas will be allowed only with proper sound insulation. In common with the two earlier versions of the structure plan it appears that the strategic planning authority differentiated between development within the built-up area and development outside it (CBC00/12, footnote to para 192).
- 7.199 When this context is understood, it becomes clear that there is no conflict between policy NE19 of the Structure Plan and policy GD17 of the Local Plan, because their focus is different. This is not unexpected given their different function and purpose.

***The Crawley Borough Local Plan 2000***

- 7.200 The proviso in Policy GD17 that:

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*“Notwithstanding that it may be possible to install noise insulation measures for individual buildings, major noise sensitive development will not be permitted in areas subject to aircraft noise exceeding 60dB(A) unless there are exceptionally compelling reasons”*

is consistent with the national policy guidance in PPG24, Annex 3, paragraph 8.

- 7.201 As Crawley’s growth has been by way of new neighbourhoods, which in PPG24 terms are major new noise sensitive development, it is to be expected that in implementing PPG24 advice, in policy GD17 the Borough Council would fully reflect the PPG24 advice relevant to major new noise sensitive developments.
- 7.202 In terms of the “*exceptionally compelling reasons*” aspect of the policy, the difference between that and what would be required applying only PPG24, is limited. Applying only PPG24, a developer would have to justify exceeding the desirable upper limit. Given the scale of development proposed, the justification required for exceeding the 60dB  $L_{Aeq}$  upper limit would have to be, in any event, exceptionally compelling.
- 7.203 Having regard to the Council’s case on housing land supply, the Appellants are nowhere near demonstrating that exceptionally compelling circumstances exist. Accordingly, compliance with Local Plan policy GD17 has not been shown.
- 7.204 As set out in paragraph 7.3 above, the allocation of the North East Sector as a new neighbourhood is contingent upon its development being consistent with the Government’s policy of keeping the option of a second runway at Gatwick open.
- 7.205 Given that the Local Plan policies were formulated long before and adopted one month after PPG3, the Appellants cannot suggest that the allocation in the Local Plan took into account PPG3 considerations. Self-evidently, less weight attaches to the fact of the Local Plan allocation in these circumstances.
- 7.206 Policy H3A of the Local Plan is part of the local strategy to accommodate housing needs identified in line with the 1993 Structure Plan. The land allocated for the North East Sector constituted the largest component of the 2,650 dwellings needed to meet the requirement of the 1993 Structure Plan (CD44, para 7.22). The allocated site measures approximately 165 hectares. The appeal site, which has an area of some 119 hectares, comprises approximately 72% of the allocated site.
- 7.207 Policy H3A of the Local Plan also requires that development on the North East Sector be compatible with national airports policy and PPG24. The appeal proposals could overcome the 60dB(A) point and thus be compliant with PPG24, only once the option of a second runway at Gatwick has been ruled out once and for all. Accordingly, release of the site now would not accord with policy H3A.
- 7.208 Although paragraph 7.24 of the Local Plan suggests that a new neighbourhood would help to reduce commuting, the Maidenbower experience suggests otherwise. The Travel to Work Neighbourhood Statistics relating to Maidenbower show that of the people in Crawley who travel between 40km and 60km to work, 25% live in

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Maidenbower (CBC00/8). Of Crawley's working population, 59% travel less than 5km to work. In Maidenbower, 60% of the working population travel more than 5km to work. If a similar pattern were replicated on the North East Sector, which Mr Cobbold accepted in cross-examination is similar to Maidenbower in terms of its proximity to the motorway, development of the North East Sector would fuel a disproportionately high amount of out-commuting compared to the majority of people living in Crawley.

- 7.209 Compliance with development plan policies to secure affordable housing, H6 Dwelling Mix, H7 Small Dwellings, H8 Subsidised and Low Cost Market Housing and H13 Wheelchair Housing of the Local Plan, and Structure Plan policies on Housing Provision NE2 and NE3, could be secured by condition.
- 7.210 Local Plan Policy NES1 calls for a comprehensive and co-ordinated approach to the provision of the North East Sector. Policy NES2 requires a sustainable approach to be taken. Policy NES3 requires the new neighbourhood to provide between 2,200 and 2,700 new houses.
- 7.211 Local Plan Policy NES4 requires the provision of 5,000m<sup>2</sup> of employment floorspace. In order to ensure compatibility with this policy, a condition would have to be imposed, the effect of which would be to require that this floorspace is provided within the development. Given the County Council's indication that park & ride provision is not presently necessary; and the Fire Services' agreement that a new fire station need not be provided, policy NES5 does not fall to be considered.
- 7.212 The Council is satisfied that compliance with Local Plan policies NES6 Facilities for the New Neighbourhood, NES7 Provision of Social Infrastructure, NES8 Structural Landscaping Strategy, NES9 Public Transport Services, NES11 Provision for Pedestrian and Cycle Routes, and Structure Plan Policies NE11 Community Facilities and Services, NE13 Transport, and NE14 Walking Cycling and Mobility, could be secured through the conditions.

***The Submission Core Strategy***

- 7.213 The submission Core Strategy will be the subject of an examination in February 2007. Contrary to Mr Woolf's assertions, there is no reason to suppose that the Council's timetable for adoption of the Core Strategy in about July 2007, following receipt of the Inspector's binding report, is inaccurate.
- 7.214 The emerging policies in the submission Core Strategy ought to be regarded as material considerations (The Planning System: General Principles, para 14). The only live issue at the inquiry in relation to the weight to be afforded to the Core Strategy was its approach to housing land supply. In this regard it should be noted that the Appellants have lodged objections to each of the identified sites in the submission Core Strategy and to the identified housing land supply target, drawing from the Structure Plan figures rather than those contained within the emerging RSS, the draft South East Plan. As considered further below, the Council's position is that the

submission Core Strategy contains a robust policy response to Crawley's housing needs.

- 7.215 As far as the revised housing land supply targets in the draft South East Plan are concerned, the submission Core Strategy provides that the additional 50 dwellings per annum which would be required by policy GAT2 if confirmed, will be addressed through the next review of the Core Strategy (CD62, para 2.9). That approach accords with the monitoring and review process envisaged in PPS12, paragraph 2.14.

### **Overall Conclusions**

- 7.216 The release of the North East Sector should not precede a Government decision to rule out, once and for all, a second runway at Gatwick Airport. Neither the Inspector nor the Secretary of State can be satisfied that a community living on the appeal site would enjoy adequate living conditions if Gatwick expands to accommodate a second runway. The proposals do not accord with policy GD17 of the Local Plan. Compliance with Structure Plan policy NE19 has not been demonstrated.
- 7.217 The release now of this significant greenfield site would be contrary to Structure Plan policies LOC1, NE1 and NE4. Whilst the Council acknowledges that to date, the Borough has failed to meet the Structure Plan housing target, the submission Core Strategy demonstrates there is an adequacy of supply having regard to both a five year period and a twelve year period to 2018. Other than the land east of Tinsley Lane, all other identified submission Core Strategy sites have priority over the North East Sector. To grant planning permission for the appeal proposal now would drive a coach and horses through the emerging LDF and as such is premature. The scale of development contemplated is so significant as to militate against the grant of consent. It would undermine the plan led system at the very moment in time when Crawley Borough Council is moving to embrace the new LDF process.

## 8. THE CASE FOR GATWICK AIRPORT LTD

- 8.1 Gatwick is the United Kingdom's second busiest airport, used by over 33 million air passengers in the past twelve months. Gatwick Airport Ltd (GAL) forecast that annual throughput will reach 40 million passengers in 2015. If a second runway should subsequently be required and permitted at Gatwick, the airport could ultimately serve up to 80 million passengers a year.
- 8.2 The Government's White Paper *The Future of Air Transport* supports maximum use of existing runways within the South East and the provision of two additional runways. Subject to planning permission, the first of these is to be at Stansted and, provided that stringent environmental limits can be met, the second at Heathrow. It is also noteworthy that the operators of Luton Airport propose that, in order to maximise its single runway capacity, it too should have a new runway, replacing the existing runway.
- 8.3 The White Paper requires that land should be safeguarded for a wide-spaced second runway at Gatwick, primarily because of the uncertainty as to whether or not the principle of a runway's development at Heathrow will be established by current Government studies. That apart, there can of course be no certainty that planning permission will be granted for new runways at Stansted, Heathrow and Luton, or that permitted additions to airport capacity will correspond with Government expectations. It is consequently reasonable to conclude that, whilst the development of a second Gatwick runway may currently appear to be less likely than that of runways at the other three airports, there is a very real possibility that capacity shortfalls at one or more of those airports could necessitate the submission of a planning application for a runway and related facilities at Gatwick. Given this context, GAL submits that development of a second runway at Gatwick must be regarded as "reasonably foreseeable".
- 8.4 It is consequently right that the evaluation of any planning application for noise sensitive development within the North East Sector should address the two airport-related questions that have been posed at the inquiry. Namely:
- whether the development would be adversely affected by aircraft noise, including noise from a wide-spaced second runway at Gatwick Airport; and
  - whether the development would have any bearing upon proposals for the expansion of Gatwick Airport.<sup>1</sup>
- 8.5 GAL's answer to both questions is "Yes, it would". The rationale for those answers is contained in the evidence that Mr Lockwood presented to the inquiry on GAL's behalf

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<sup>1</sup> See PINS letter to Jones Day, dated 29 August 2006.

(GAL/1). Little of that evidence was challenged by the Appellants' cross-examination. Accordingly, the conclusions stand.

***Would the Proposed North East Sector Development be Adversely Affected by Aircraft Noise, Including Noise from a Wide-Spaced Second Runway?***

- 8.6 Aircraft noise attributable to Gatwick's single runway operation is audible in the North East Sector. GAL's forecasts for 2015 show that the noise climate will be similar to that of today, with the entire Sector lying outside the 57dB  $L_{Aeq}$  daytime average mode noise contour. Only a small minority of any resident population would be likely to be significantly troubled by aircraft noise below that level, and on that account to consider the North East Sector to be an unacceptable living environment. GAL consider that, looking purely at the air noise impact of a single runway operation at Gatwick, the suitability of the Sector for residential development is not in question, although GAL would anticipate that some residents would occasionally complain about both air and ground noise.
- 8.7 The potential noise impact of a wide-spaced second runway at Gatwick is an entirely different matter. Daytime average mode noise contours for 2030, produced for the Government by the CAA (CD110), indicate that around 95% of homes in the Sector would be exposed to daytime noise levels in excess of 57dB  $L_{Aeq}$  – the level marking the approximate onset of significant community annoyance. The northern part of the North East Sector application site would be exposed to noise levels of around 66dB  $L_{Aeq}$ . The increase in noise exposure would be around 12dB  $L_{Aeq}$  in the northern part of the Sector and of the order of 9dB  $L_{Aeq}$  in the vicinity of its southern boundary.
- 8.8 An increase of 10dB(A) represents a doubling of loudness. In GAL's view it is indisputable that aircraft operations on a wide-spaced second runway at Gatwick would have a significant adverse impact on the noise environment of the North East Sector. If the appeal proposal is implemented, its residents would all be exposed to an appreciable increase in air noise and some 60% of them – some 2,700 to 2,800 individuals – would then be living in areas with daytime average mode noise levels in excess of 60dB  $L_{Aeq}$ . That noise exposure level is identified in PPG24, Annex 3, paragraph 8, as the one which "*should be regarded as a desirable upper limit for major noise sensitive development*". GAL submits that the appeal proposal is a major noise sensitive development.
- 8.9 As to the forecasts, there cannot be absolute certainty that the CAA noise forecasts are the worst case. The actual mix of aircraft using Gatwick in 2030 is bound to differ to some extent from that assumed by the CAA, and may produce larger noise contour areas. If runway operations were to be in segregated rather than mixed mode, the shape of the contour areas could be different, such as to reduce the daytime average mode noise levels in some localities but to increase them in others.<sup>1</sup> Also, average mode contours are a composite of easterly and westerly operations, whereas a single

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<sup>1</sup> With mixed mode operations, arriving and departing aircraft share the same runway. With segregated mode operations at a two-runway airport, arriving aircraft use one runway and departing aircraft the other.

day's operations are typically either easterly or westerly, producing noise contour areas less symmetrical in shape than the average mode contours. Easterly and westerly operations produce discernible differences in some localities' noise exposure.

- 8.10 In the event of the North East Sector's development being permitted, GAL welcome the Appellants' commitment to incorporate acoustic insulation into the fabric of the homes. That insulation would not, however, eliminate the impact of increased air noise on the North East Sector's residents in the event of a wide-spaced second runway being permitted and built at Gatwick. In particular:
1. There would be a discernible increase in the attenuated noise levels within the insulated properties.
  2. Residents accustomed to ventilating their homes through open windows may no longer find it practicable to do so, on account of the increase in aircraft noise.
  3. Residents' gardens would be exposed to unattenuated aircraft noise.
  4. Public open spaces in the North East Sector would be exposed to unattenuated aircraft noise.

***Would the North East Sector's Development have any Bearing upon Proposals for the Expansion of Gatwick Airport?***

- 8.11 GAL's interim master plan (CD128) explains that some new development will be required at Gatwick in order to facilitate passenger growth to the single runway's maximum capacity. GAL does not anticipate that the North East Sector's development would have any bearing on that expansion at Gatwick, to a passenger throughput of 40-45 million passengers per annum.
- 8.12 The circumstances of a second runway's development would be very different. Any proposal would be very contentious, because a second runway would have a number of significant environmental and other impacts. They would necessarily be subject to thorough study prior to the preparation of a planning application – a process which would entail the comparative evaluation of alternative runway options and the selection of a preferred option, having regard to the balance of the options' benefits and impacts, including measures to mitigate the impacts.
- 8.13 The incidence of aircraft noise, and its potential impact on local communities, would undoubtedly attract and merit significant attention in the event of a planning application being submitted, and would likewise inform the comparative evaluation of runway options. GAL anticipates that many objectors would cite aircraft noise as a reason for opposing a runway's development. At the inquiry, Mr Cox stated his belief that there would be a strong noise case against a second runway. Consideration of the means of mitigating a second runway's air noise impact consequently seems likely to be of considerable relevance to any future planning application process and, notwithstanding the downwards influence on capacity, there could well be a need to

explore the community benefits of adopting segregated rather than mixed mode runway operations during part, or indeed all, of the day.

- 8.14 In the absence of a developed North East Sector, and bearing in mind that the houses within the extended airport boundary would have been demolished, the Sector would have few residents. This absence of residents would be in marked contrast to the situation in the somewhat larger and long established residential areas of Langley Green and Ifield, to the south of the new runway's western end, where mixed mode runway operations would produce a similar noise exposure to that of the North East Sector. In such a situation, the possibility of lessening the noise impact on Langley Green and Ifield, by adopting a mode of operation that only used the southern runway for westerly arrivals or easterly departures, could bear serious scrutiny.
- 8.15 The existence of a developed North East Sector, introducing some 4,500 residents into a locality where there would otherwise be few, would clearly represent a major and material change to the context in which any alternative forms of runway operation would need to be considered. Residents of the North East Sector would no doubt be numbered amongst those objecting to the runway, and would themselves perhaps be advocating measures to reduce noise impact on their community rather than others. It would be naïve to presume that the Sector's residents might be more tolerant of aircraft noise than their counterparts elsewhere.
- 8.16 The above submissions should not be construed as suggesting that BAA would not ultimately choose to seek permission for mixed mode operations on wide-spaced runways. However, it must be recognised that the evaluation of the scale and distribution of various runway options' impacts, including the impact of aircraft noise, might, on balance, favour a different proposal. The development of the North East Sector would materially alter the number and geographical distribution of local residents most exposed to noise from aircraft operations on a second runway, and be likely to alter the conclusions to be drawn from a comparative evaluation of runway options.
- 8.17 It is, in GAL's view, indisputable that the Sector's development would have a bearing upon subsequent proposals for the expansion of Gatwick Airport by the provision of a second runway, and be inconsistent with the Government requirement that the option for a wide-spaced second runway should be safeguarded.

### ***Conclusion***

- 8.18 Having regard to the foregoing considerations GAL submits that the Appellants' proposals for residential development in the North East Sector are currently premature.

## **9. THE CASE FOR THE HIGHWAYS AGENCY**

- 9.1 The Highways Agency is responsible for the M23 motorway. Junction 10 on the motorway lies just to the south of the site and provides an all moves intersection with the A2011 Crawley Avenue and the A264 Copthorne Way. Responsibility for this junction is shared with the local highway authority for the area, West Sussex County Council. This junction is currently over capacity during the peak periods, with congestion on the slip road entries to the junction backing down to the motorway (HA/01). If the development proceeds, improvements will be required to prevent harm to the safety and free flow of traffic at this junction.
- 9.2 Following a series of meetings with the Appellants' consultants, the Highways Agency has agreed a scheme of improvements to the junction, including changes to meet the Stage 1 safety audit (HA/04). These are shown on Drg 0560/SK/124, Rev C (Plan D6).
- 9.3 This agreement satisfies the Agency's concerns, subject to conditions being attached to any permission granted to prevent:
1. The proposed all moves junction between the A2011 and Balcombe Road being opened to traffic in advance of the agreed improvement works at M23 Junction 10 being completed and open to traffic.
  2. More than 300 dwellings within the development being occupied until the agreed improvement works at M23 Junction 10 are completed and open to traffic.
- 9.4 This agreement was reached on the basis that the development would not include a park and ride facility (HA/05).

**10. THE CASE FOR WEST SUSSEX COUNTY COUNCIL**

- 10.1 West Sussex County Council (WSCC) takes no position on the planning merits of the proposal. It is of the view that it has no locus on the detailed policies that have been “saved” in the current Structure Plan, pending the adoption of the South East Plan. Accordingly, its concerns relate solely to the adequacy of the Appellants’ proposals to meet the demands which the development would place on the infrastructure of those services for which WSCC is responsible (WSCC/00).
- 10.2 In relation to this matter, agreement has been reached on the provision to be made for primary and secondary education. A 2.8ha site would be provided within the development for a primary school. This site would be adequate for a school to accommodate pupils from the 1,900 homes included in the application, or from 2,700 homes if the full neighbourhood identified for the North East Sector were to be developed. Agreement has also been reached on the provision to be made for children’s services and libraries. It is agreed that a new fire station is not required to serve the development<sup>1</sup>.
- 10.3 As to highways and transportation matters, WSCC is a signatory to the Statement of Common Ground (CD134). The County Council is satisfied that the measures set out therein would mitigate the increased transport demands of the development. These would be secured by the suite of conditions agreed between the Appellants, WSCC and the Highways Agency.
- 10.4 Whilst the Borough Council is seeking an amendment to Condition 55 to increase the frequency of the proposed bus service from 20 minutes to 15 minutes (CBC00/11) the County Council, who expect to be responsible for implementing the bus service, do not support the amendment. Having considered the predicted patronage, WSCC is concerned that a 15 minute service may never be commercially viable. If it were operating at a deficit, the frequency of the service would inevitably be reduced. This may damage local perceptions with regard to public transport and could therefore be detrimental to the achievement of sustainable transport objectives (WSCC/05).
- 10.5 As to park and ride, the County Council has concluded that there is insufficient justification for requiring provision of a site as part of the North East Sector development. The masterplan nonetheless identifies an area of land close to Crawley Avenue for potential development as a park and ride site, and the County Council considers this to be an adequate response to local policies on the subject (WSCC/03).

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<sup>1</sup> See e-mail attached to Jones Day letter of 19 June 2006.

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## 11. WRITTEN REPRESENTATIONS

Inspector's note. Written representations submitted in response to the appeal can be found in the red file INQ5. Reference numbers below refer to the individual letters and e-mails in that file. Written representations submitted in response to the application were unfortunately lost by the Council. All those who wrote were, however, notified that this was the case and invited to resubmit their observations to the Planning Inspectorate (INQ4, letter of 28 June). No representations were received overtly purporting to be resubmitted comments, although a number of letters and e-mails were submitted after 28 June. The contents of these are included in the summary below. The planning officer's summary of the representations made at application stage can be found in CD99, Section 4.

- 11.1 A total of just over 60 letters and e-mails were submitted in response to the appeal. Approximately a quarter of these were from statutory and other consultees and other organisations with a local interest. The remainder were from private individuals, mostly living at addresses near the appeal site, objecting to the proposal. There was one letter of support.
- 11.2 **Foster Yeoman** (6) occupy the railway sidings and aggregates yard on the western side of the railway opposite the site. Their operations involve unloading aggregate trains, sometimes at night. They do not object to the proposal, but suggest that the proposed business units in the development should be located alongside the railway line so as to limit the impact of their operations on future residents.
- 11.3 **Horley Town Council** (7) are concerned about extra traffic on the B2036, Balcombe Road. They support the LDF's proposal to delay development to 2018 which would allow time for the combined effects of the development and other development proposed in Horley to be more accurately assessed.
- 11.4 **Tandridge District Council** (9) would like the northern boundary of the site to be set further south in order to retain a larger area of open countryside close to Tandridge District. They suggest that highway mitigation measures should be designed to minimise additional traffic on cross boundary routes.
- 11.5 **Thames Water** (11) advises that they would have no objection with regard to sewerage infrastructure. It is the responsibility of the developer to make proper provision for stormwater drainage.
- 11.6 **The Crawley PCT** (12) note the need for a new Primary Care Centre within the development, including a GP's surgery.
- 11.7 **Network Rail** (16) express a concern that there appears to have been no consideration given to the impact that additional rail users from the development would have on Three Bridges and Gatwick Stations.
- 11.8 **English Heritage** (17) are content that sufficient work has been done to assess the impact of the proposals on the historic environment. They welcome the proposal not to develop the part of the site containing a scheduled ancient monument.

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- 11.9 **Reigate and Banstead Borough Council** (18 and 40) express concerns about surface water drainage and traffic on local roads which would arise from the appeal proposal and other development in Horley. Subject to the Inspector being satisfied on these points, they confirm they have no objection to the proposals.
- 11.10 **Sport England** (19) note that the application site does not include any land which forms part of or constitutes a playing field. Adequate sport and recreational facilities should be provided within the development to meet the demands created by the new community.
- 11.11 **The Environment Agency** (20, 23 and 52) initially wrote (20) confirming that, as the application was in outline, they had no objections provided that a series of conditions were imposed on any planning permission granted. These conditions covered flood risk, groundwater protection and ecological matters. Accompanying this letter was an attachment outlining various “*concerns and issues*” which the Agency wished to highlight.
- 11.12 In a subsequent letter (23) they wrote revising their comments on ecological aspects of the development. They noted and welcomed the proposal to secure the significant enhancements, mitigation and compensation measures outlined in the ES by way of a biodiversity management strategy for the site. Notwithstanding this, they advised that “*the Agency would object to the proposed layout... due to the loss of habitat*”. Eight conditions covering ecological matters were suggested.
- 11.13 In a third letter (52) the Agency further revised their comments on ecological matters. They re-iterated that they did not object to the development subject to conditions being imposed requiring:
1. The provision of a biodiversity management strategy for the site, including proposals for the conservation and enhancement of the Gatwick Stream.
  2. The provision of a 60m wide buffer zone to the Gatwick Stream.
  3. The provision of a 5m wide buffer zone to Ditch 2.
  4. The retention of Woodland W2.
  5. The provision of a drainage strategy for the site.
  6. The provision of planting.
  7. The avoidance of light spill into the watercourse, river corridor, standing water habitat and adjacent woodland.
  8. The provision of clear span bridges for all water crossings.
- 11.14 **GVA Grimley** (21) wrote on behalf of Grosvenor Ltd, the Council’s development partner for Town Centre North, objecting to the proposals on the grounds that the proposal would result in an oversupply of housing in the Borough up to 2018 which
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would reduce the ability of Town Centre North to deliver residential units. In a subsequent letter (31) they wrote commenting on Mr Woolf's evidence and clarifying the proposal for Town Centre North. They confirmed that it would provide 800 residential units. The first of these would be completed in 2010, with an annual rate thereafter of 100 units per annum to 2017.

- 11.15 **Natural England (then English Nature)** (25 and 26) initially wrote (25) suggesting, firstly, that mitigation should be put in place to compensate for any reduction in bats' feeding and roosting sites as a result of the works proposed in the Ballast Hole Lake area; and secondly that nest boxes or nesting sites should be provided for species such as Swift, House Martin, House Sparrow and Starling. They noted that the mitigation proposals for great crested newts, reptiles and dormice "*look adequate*". They welcomed the proposed enhancements to the Gatwick Stream and agreed that the finer details of the planting and management should be included in a Biodiversity Management Plan to be approved before works commence.
- 11.16 In their second letter (26) they confirmed receipt of further details of the area around Ballast Hole Lake. They confirmed that the improvements had dealt with their concerns and that they "*have no objections to the development on nature conservation grounds*".
- 11.17 Local residents and other individuals writing to object to the proposals cited a number of concerns including:
1. The effect that traffic generated by the development would have on the local road network, including increasing congestion and delays on Balcombe Road and other roads near the site and encouraging rat-running through Pound Hill and elsewhere.
  2. Conflict with local and national policies which require brownfield sites to be developed before greenfield sites are released for development.
  3. The unsuitability of the site for housing having regard to its proximity to Gatwick Airport – particularly with regard to the effect that noise from the possible second runway would have on future residents living in the development.
  4. The effect that developing the site for housing would have on further development of Gatwick Airport and whether it would constrain its growth to the detriment of the local economy and employment.
  5. The lack of capacity in local schools to accommodate children from the development, including particularly at Hazelwick Secondary School.
  6. The lack of capacity in local hospitals to cope with additional demand from the development, including concerns regarding the closure of the A&E department at Crawley and the time taken to reach the A&E facilities at East Surrey Hospital.

7. The impact on wildlife, including kingfishers, owls and other birds, dormice and bats and loss of woodland and trees along Balcombe Road.
8. Water shortages in the Crawley area and the wider South East, which would be exacerbated by additional development.
9. Increased pollution from the development and its associated traffic and the effects of pollution from Gatwick Airport on future residents.

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## 12. CONCLUSIONS

Inspector's Note. In this section references in square brackets [ ] indicate the paragraph in which the relevant source material can be found. Where I wish to draw attention to a particular word or passage, I have done this by underlining.

### Introduction

- 12.1 The appeal is unusual insofar as more than seven years elapsed between the application being made in January 1998 and the appeal being lodged in September 2005. The delay stems from the relationship between the appeal site and possible plans for the expansion of Gatwick Airport. The significance of this was brought into focus by the Secretary of State, who in March 1999 directed the Council not to grant permission on the planning application without special authorisation. That direction, made under Article 14 of the Town and Country Planning (General Development Procedure) Order 1995, remains in force [1.2, 7.8].
- 12.2 At the time of the direction, the Crawley Borough Local Plan, which allocated the North East Sector as a new neighbourhood, was close to adoption. The Secretary of State intervened, and directed the Council to modify the policy to take account of the emerging UK airports policy [7.2]. The allocation of the North East Sector as a new neighbourhood was retained, but policy H3A was modified to preclude a grant of planning permission for its development for a period of three years following the Plan's adoption unless, firstly, the Secretary of State had published the new national airports policy; and secondly, the development was compatible with the combined effects of that policy and PPG24 [5.24, 7.3].
- 12.3 Following the Local Plan, the site's allocation was carried through to the West Sussex Structure Plan 2001-2016, adopted in 2004. The allocation is, however, qualified by a footnote to policy LOC1 which states "*development at this location may be delayed or prevented, in whole or in part, due to the need to safeguard land for a possible second runway at Gatwick Airport*". The text following the policy further explains that the safeguarding "*will relate directly to the land needed for the runway and the enlarged airport but also indirectly to land affected by height restrictions and aircraft noise*" [5.7].
- 12.4 Crawley Borough Council now opposes the grant of planning permission (CD59). In December 2005 five putative reasons for refusal were identified covering (INQ3):
1. The asserted adverse effects that aircraft noise would have on the development should a second wide-spaced runway be constructed at Gatwick Airport.
  2. The asserted absence of need to release the land for housing at this time to meet the Borough's needs, having regard to the availability of housing land elsewhere in the Borough.
  3. The need for additional, up-to-date, environmental information.

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4. The lack of an agreement to secure an appropriate level of affordable housing.
  5. The lack of an agreement to secure highway improvements and other infrastructure required to support the development.
- 12.5 Subsequently on 7 August 2006, the Council's Development Control Committee resolved to add prematurity in relation to the emerging Local Development Framework Core Strategy as a putative reason for refusal (CD60).
- 12.6 The matters about which the Secretary of State particularly wishes to be informed were set out in PINS letter of 25 October 2005 to the Appellants and the Council (INQ1).
- 12.7 In the period between the Council formulating their putative reasons for refusal and the opening of the inquiry, discussions continued between the parties and further environmental information was supplied. By the time the inquiry opened it was common ground that the asserted need for additional, up to date environmental information had been satisfied [6.3, 6.4]. I was also advised that the Council and the Appellants had reached agreement on the provision that would be made for affordable housing and that it was anticipated that, by the time the inquiry closed, the County Highway Authority and the Highways Agency would reach agreement on the highway improvements and other infrastructure required to serve the development. This was achieved, albeit that the Borough Council maintained an objection relating to the frequency of the bus service to be provided to serve the development [7.178]. The areas of potential dispute were thus narrowed considerably.

### *The Main Considerations*

- 12.8 Having regard to the above and all that I have read and heard at the inquiry, it seems to me that the main considerations that will bear on the Secretary of State's decision on whether to grant planning permission for the development proposed are:
1. The compatibility of the proposed development with Gatwick Airport, having regard to the Government's policies for possible expansion of the airport, and particularly:
    - a) the effect that noise from aircraft using a second wide-spaced parallel runway at Gatwick would have on the living conditions of residents and others in the development; and
    - b) the extent to which the development proposed would prejudice the future development of the airport; and
  2. Whether or not there is a need to release the land for housing at this time to meet housing needs arising from the Borough and/or the sub-region, including consideration as to whether planning permission should be granted in advance of the emerging LDF Core Strategy.
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- 12.9 Other considerations include the extent to which the affordable housing that the development would deliver should weigh in favour of the proposal; whether granting planning permission for the appeal proposal would be likely to prejudice the development of other housing schemes in Crawley, including particularly that proposed as part of the Town Centre North proposal; and whether or not the form of development shown on the submitted masterplan would be satisfactory, having particular regard to the reservations voiced by the Council and the Environment Agency.

### **Noise and Gatwick Airport**

#### ***The Common Ground***

- 12.10 The site is bordered on its eastern and southern sides by the M23 motorway and the A2011, Crawley Avenue. Notwithstanding this, it is common ground that, with suitable noise barriers and building design, there is no objection to the appeal proposal so far as road traffic noise is concerned [4.6]. These barriers would include a noise bund and acoustic fencing alongside the M23 [3.16, 3.18].
- 12.11 To its west, the site is bordered by the London-Brighton railway, beyond which is an industrial area containing an aggregates yard. Operations on this site include unloading trains, sometimes at night [11.2]. However, the main employment area in the development would be located alongside the railway opposite the aggregates yard [Plan C1] and, with suitable noise barriers and building design, it is common ground that there is no objection to the appeal proposal so far as noise from rail traffic, or noise from rail traffic mixed with noise from industrial sources, is concerned [4.9].
- 12.12 It is common ground also that the operation of a single runway at Gatwick Airport (as at present) does not give rise to any noise constraint on the development of the appeal site, irrespective of the number of aircraft movements using that runway [4.10, 8.6].
- 12.13 Accordingly, it is only the possibility of a second runway at Gatwick that is of concern as regards to noise [6.7, 7.30].

#### ***The Policy Context***

- 12.14 The development plan for the area includes the Crawley Borough Local Plan 2000 and the West Sussex Structure Plan 2001-2016 [5.1].
- 12.15 The appeal site comprises a major part of the new neighbourhood allocated under policy H3A of the adopted Local Plan – the North East Sector. As noted in paragraph 12.2 above, the policy explicitly addresses the relationship between the allocation and Gatwick Airport. It requires that planning permission shall not be granted within three years of the Plan's adoption unless the development is compatible with the national airports policy, now contained in *The Future of Air Transport*, and PPG24: Planning and Noise. The three year period referred to in the policy has, of course, now passed.

- 12.16 On noise generally, policy GD17 notes that the Council will have regard to the latest published and finalised guidance regarding development and noise, the latest agreed predictions of aircraft noise, and the latest agreed calculations of noise from other sources. It will require by condition an adequate or commensurate level of protection from noise where residential or other similarly noise sensitive development falls within NEC B or NEC C zones as defined in PPG24, Annex 1. Residential or other noise sensitive development will not normally be permitted within a NEC D zone [5.22]. On noise from aircraft, the policy further states:
- “Notwithstanding that it may be possible to install noise insulation measures for individual buildings, major noise sensitive development will not be permitted in areas subject to aircraft noise exceeding 60dB(A) unless there are exceptionally compelling reasons.”*
- 12.17 In the Structure Plan, policy NE19 addresses Gatwick Airport [5.12]. It states that new residential or other noise sensitive development should not be permitted in areas most severely affected by noise. Local plans are required to include policies to *“restrict residential and other noise sensitive uses within the noisiest forecast 66  $L_{eq}$  contour around Gatwick Airport and ensure that adequate sound insulation is provided for new residential development between the noisiest forecast 60 and 66  $L_{eq}$  contours”*.
- 12.18 Elsewhere, the Plan recognises that development on the North East Sector may be delayed or prevented, in whole or in part due to the need to safeguard land for a possible second runway at Gatwick, including safeguarding land *“indirectly ... affected by ....aircraft noise”* [5.7].
- 12.19 PPG24 sets down the Government’s guidance on planning and noise, including aircraft noise. It advises that the aim of the guidance is to provide advice on how the planning system can be used to minimise the adverse impact of noise, without placing unreasonable restrictions on development (para 1). It notes that it will be hard to reconcile some land uses, such as housing and schools with other activities that generate high levels of noise. Wherever practical, the planning system should ensure that noise sensitive development is separated from major sources of noises, including noise from air transport (para 2). Policies on noise in development plans should take account of the guidance in PPG24 (para 3).
- 12.20 Paragraph 6 of the PPG advises that the Secretary of State considers that housing, hospitals and schools should generally be regarded as noise sensitive development. Paragraph 12 urges local planning authorities to consider carefully whether proposals for new noise sensitive development would be incompatible with existing activities. Such development should not normally be permitted in areas which are – or are expected to become – subject to unacceptably high levels of noise. When determining planning applications for development which will be exposed to an existing noise source, local planning authorities should consider both the likely level of noise exposure at the time of the application and any increase that may reasonably be expected in the foreseeable future, for example at an airport.

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- 12.21 For residential development, Noise Exposure Categories (NECs) are introduced to help in the consideration of applications for residential development near transport related noise sources (para 8).
- 12.22 Further guidance on NECs is provided in Annex 1. Paragraph 4 of the Annex explains that the NEC procedure is “*only applicable where consideration is being given to introducing residential development into an area with an existing noise source, rather than the reverse situation where new noise sources are to be introduced into an existing residential area*”. The reason for this is stated to be because the planning system can be used to impose conditions to protect incoming residential development from an existing noise source but, in general, developers are under no statutory obligation to offer noise protection measures to existing dwellings affected by a proposed noise source.
- 12.23 As to the NECs, where residential development is within NEC A, the guidance states that noise need not be considered as a determining factor in granting planning permission. In NEC B, noise should be taken into account when determining applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise. In NEC C, planning permission should not normally be granted. But where it is considered that permission should be given, for example because there are no alternative quieter sites available, then conditions should be imposed as for development in NEC B. In NEC D, planning permission should normally be refused.
- 12.24 For air traffic noise, daytime noise levels of less than 57dB  $L_{Aeq}$  fall within NEC A. NEC B covers 57 to 66dB  $L_{Aeq}$ . NEC C covers 66 to 72dB  $L_{Aeq}$ . Noise levels over 72dB  $L_{Aeq}$  fall within NEC D.
- 12.25 An explanation of the NEC levels is set out in Annex 2. Here, paragraph 4 notes that a considerable amount of research has been carried out in respect of air traffic noise and that the 57dB  $L_{Aeq}$  boundary between NEC A and NEC B relates to the “*onset of annoyance as established by noise measurements and surveys*”. Paragraph 9 advises that the 66dB  $L_{Aeq}$  boundary between NEC B and NEC C was the daytime criterion for noise insulation schemes at Heathrow, Gatwick and Stansted.
- 12.26 Annex 3 of the PPG provides detailed guidance on the assessment of noise from different sources. With regard to aircraft noise, paragraph 8 states:

*“Recommended noise exposure categories for new dwellings exposed to aircraft noise are given in Annex 1, but 60 Leq dB(A) should be regarded as a desirable upper limit for major new noise sensitive development. Where replacement schools, clinics, and other community facilities are needed to serve the existing population in high noise areas, expert consideration of sound insulation measures will be necessary. When determining applications to replace schools and build new ones in such areas, local planning authorities should have regard to the likely pattern of aircraft movements at the aerodrome in question which could cause noise exposure during normal school hours/days to be significantly higher or lower than shown in average noise contours.”*

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*The Effect of Aircraft Noise on Future Residents of the Development*

- 12.27 The northern boundary of the proposed housing area is located approximately 1,200m south of the flight path for aircraft approaching Gatwick from the east or taking off in an easterly direction. As such, it is affected by aircraft noise. Existing noise levels from aircraft operations, and future noise levels with the present runway used to its maximum capacity are, however, outside the 57dB L<sub>Aeq</sub> contour<sup>1</sup> and, as noted above, it is common ground between the Appellants and the Council that aircraft noise from Gatwick with a single runway does not give rise to any noise constraint on the development of the appeal site, irrespective of the number of aircraft movements using that runway. Having regard to the policies in the development plan and PPG24, I agree with that conclusion.
- 12.28 As to aircraft noise with a second runway, it is agreed that the best available information on future aircraft noise is that produced by ERCD and shown on Drawing 9 of the Gatwick Airport Master Plan, reproduced at a larger scale as CBC01/4 [4.13]. This shows the majority of the site as lying between the 57 and 66dB L<sub>Aeq</sub> contours. Whilst different estimates of the number of dwellings that would lie between each of the contour intervals were put forward, there is general agreement that a population of around 1,500 would live between the 63 and 66dB contours, a further 1,300 or so between the 60 and 63dB contours and 1,400 or so between the 57 and 60dB contours [6.69, 7.24, 7.54]. Approximately 300 inhabitants would live outside the 57dB contour (GWB5/5, Table 2). An agreed condition would prevent any dwellings being constructed on the most northerly parts of the site, within the 66dB L<sub>Aeq</sub> noise contour (Appendix E, Condition 30).
- 12.29 Putting aside for one moment the dispute as to whether PPG24's NECs should correctly be applied to the development proposed (see paragraph 12.42 below), it can thus be concluded that the development would for the most part fall within NEC B, if a second runway were to be developed at Gatwick. A small part at the southern end of the site would remain within NEC A. None would be within NECs C or D.

*Compliance with the Development Plan*

- 12.30 In testing the effect of aircraft noise from twin runway operations at Gatwick on the development against the development plan, two preliminary matters need to be addressed. These are, firstly, whether there is a conflict between Local Plan policy GD17 and Structure Plan policy NE19; and secondly, to decide what interpretation should reasonably be put on the term "*noisiest forecast 66 Leq contour*" in applying policy NE19.
- 12.31 On the first of these matters it seems to me that, notwithstanding the Council's arguments to the contrary, there is a conflict between policies GD17 and NE19. The former policy in the Local Plan generally allows development within NEC B and NEC

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<sup>1</sup> Noise contours for 2015 for single runway operations are shown in Drawing 5 in the Gatwick Airport Interim Master Plan (CD128).

C zones, provided that an adequate level of noise insulation is provided. However, major noise sensitive development will not be permitted in areas subject to aircraft noise exceeding 60dB  $L_{Aeq}$  unless there are “*exceptionally compelling reasons*” [12.16]. On the other hand, Structure Plan policy NE19 simply states that policies should restrict residential and other noise sensitive uses within the noisiest forecast 66dB  $L_{Aeq}$  contour, and provide for insulation where new residential development falls between the noisiest forecast 60 and 66dB  $L_{Aeq}$  contours [12.17]. To my mind, the conflict arises in that whereas both policies would allow noise sensitive development between the 60 and 66dB  $L_{Aeq}$  contours, major noise sensitive development within the 60dB  $L_{Aeq}$  contour is prevented by GD17 in the absence of “*exceptionally compelling reasons*”. Policy NE19, however, neither contains nor implies such a test. Neither, as I see it, is a different approach to major development from that set out in the policy implied by the explanatory memorandum [6.13, 7.198]. That the policies are in conflict is reinforced by the Council’s witnesses’ acceptance in cross-examination that the proposal would conform to NE19, but conflict with GD17 [6.12, 6.29].

12.32 Given that the Structure Plan was adopted some four years after the Local Plan, and my conclusion that the policies are in conflict, it follows that Structure Plan policy NE19 should take precedence over Local Plan policy GD17, having regard to the requirements of s38(5) of the Planning and Compulsory Purchase Act 2004 [6.29].

12.33 I turn now to what is meant by the term “*noisiest forecast contour*” in policy NE19. In this respect Mr Cox sought to argue on the Council’s behalf that it constituted the “range mode” contour and not the “average mode” contour produced by ERCD [6.14, 7.197 et seq].<sup>1</sup> I reject that argument, having regard to the following:

1. Nowhere does the Structure Plan define what is meant by the noisiest forecast contour. In particular, it does not state that such a contour is the range mode contour.
2. The last range mode contours were produced in 1996 by ISVR for the planning authorities around Gatwick Airport (CD132). Since then only average mode contours have been produced.
3. There is no evidence that the County Council or any other responsible authority has drawn attention to the absence of range mode contours, and

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<sup>1</sup> For an explanation of what is meant by range mode and average mode contours see CD132. In essence, the noise received at any point around the airport depends on the direction of take off and landing. This varies with the wind direction, but at Gatwick on average over the summer period used to calculate the noise contours, 73% of arrivals are from the east and 27 % of departures are towards the east. These long-term (20 year) average percentages are used to calculate the “average mode” noise contours. Plainly, in any one year the actual percentages can vary from the long-term average, as weather and wind directions vary from year to year. “Range mode” contours take account of this variation and are built up using (i) the highest percentage of arrivals from the direction under consideration that occurred in the summer period in the last 20 years and (ii) the highest percentage of departures to the direction under consideration observed in any one year in the same period. The range mode contours are then built up by taking the highest noise level from either of these two scenarios at each point.

the consequences of this with regard to the interpretation of Policy NE19, prior to this inquiry. This is so notwithstanding that the 1996 contours are now well out of date (and indeed were so well before the Structure Plan was adopted in 2004). Maintaining that the Structure Plan should be properly be interpreted having regard to range mode contours cannot, to my mind, be reconciled with the County's failure to either commission range mode contours or actively press others to do so.<sup>1</sup>

4. For their part Crawley Borough Council recently determined an application for new housing at Apple Tree Farm, Ifield, where aircraft noise was a consideration. It was determined on the basis of average mode contours. Range mode contours were not raised in the report to committee [6.16].
5. Similarly, range mode contours were not raised by Mr Cox<sup>2</sup> in his main proof of evidence or his first supplementary proof. Rather, they were only introduced in his oral evidence in chief [6.15, 6.21]. Their application is inconsistent with the Statement of Common Ground on Noise, signed by him shortly before the inquiry opened [6.22, 6.24].

12.34 To my mind, the Borough Council failed to make good the case for interpreting policy NE19 against range mode or any noise contours other than the standard average mode contours produced by ERCD. That there was no support for their position from the County Council as authors of the Structure Plan reinforces this view [6.20].

12.35 Further support for this conclusion comes from the advice in PPG24. The 66dB  $L_{Aeq}$  limit in Structure Plan policy NE19 matches the boundary between NECs B and C set out in PPG24, Annex 1. But PPG24, and the research which underpins it, is based on average mode contours [6.17 to 6.19]. There is no suggestion that range mode contours should be used to interpret the NECs; indeed they are not mentioned in the guidance. Interpreting the "*noisiest forecast contours*" as range mode contours in applying policy NE19 would therefore put the policy fundamentally at odds with Government policy as expressed in PPG24. Given that PPG24 was published several years before the Structure Plan was adopted, this cannot have been the intention.

12.36 Similarly, the evidence is that Government monitoring and recent decisions on aircraft noise have all been formulated on the basis of average mode contours, not range mode contours [6.20].

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<sup>1</sup> In reaching this conclusion I am aware that the Borough Council advised that it is its intention to commission range mode contours next year [7.196]. I am also aware that the Crawley Local Plan, Appendix 1 states that the local planning authorities consider that "*predicted ranged mode contours should be used for they better represent the Structure Plan requirement to control development according to the noisiest foreseeable situation. It is likely to be these contours that the Borough Council will seek to agree to use*". However, there is no evidence that such an agreement has been either reached or indeed is being actively pursued by the planning authorities involved [6.20].

<sup>2</sup> Mr Cox is the Borough Council's noise witness.

- 12.37 Given my conclusion that “*noisiest forecast contours*” should not be taken as range mode contours, it is appropriate to consider briefly the meaning intended. To my mind it is straightforward. For a single runway airport, the number of aircraft movements will vary (and usually increase) from one year to the next. The type of aircraft operating the services will also change, with newer aircraft generally quieter than older ones of a similar size. Forecasts of aircraft noise take into account the number and type of aircraft expected and will therefore vary from year to year. Because aircraft are getting quieter it is not necessarily the case that the year with the highest number of movements is the noisiest.<sup>1</sup> Accordingly, the policy sensibly aims to assess the impact against the noisiest year (as opposed to the year with the highest number of aircraft movements, or any specific year such as the year a development is expected to be completed).
- 12.38 At Gatwick the situation is complicated by the possible second runway. If this is built it would probably be 1,035m south of the existing runway. BAA’s preference would be to operate this runway in mixed mode and the ERCD forecasts prepared to inform the White Paper were prepared on that basis for 2030, which is the date BAA anticipate a twin runway airport at Gatwick might reach capacity (CD128, para 9.6). BAA’s advice in their Rule 6 statement was that these ERCD contours for 2030 “*show a reasonable representation of the air noise attributable to mixed mode use of the existing Gatwick runway and a runway 1,035m to the south*” [4.13]. This was reaffirmed in the Gatwick Airport Interim Master Plan, published during the course of the inquiry (CD128, para 9.74).
- 12.39 The Statement of Common Ground on Noise Matters confirms that the ERCD 2030 noise contours represent the best available information on aircraft noise for twin runway operations at Gatwick [4.13]. To my mind, they are the appropriate contours against which compliance with policy NE19 should be assessed. Given that no housing is proposed within the 66dB  $L_{Aeq}$  contour shown on the plan [12.28], I conclude that the proposal would not conflict with policy NE19. So far as noise is concerned, it can therefore be concluded that the proposal would not conflict with the requirements of the West Sussex Structure Plan 2001-2016.
- 12.40 As to the Crawley Borough Local Plan 2000, I have previously concluded that policy GD17 in that plan is in conflict with the later Structure Plan policy and should therefore be disregarded [12.31 and 12.32].

#### ***Compliance with PPG24***

- 12.41 As noted above, it is common ground that no housing would be located within the 66dB  $L_{Aeq}$  2030 twin runway contour for Gatwick. This would be secured by condition (Appendix E, Condition 30). Accordingly, setting aside for one moment questions as to the applicability of the NEC procedure to the proposal, all dwellings would be within NECs A or B. For those dwellings at the southern end of the site

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<sup>1</sup> That this is so is evident at Gatwick where the areas enclosed by the noise contours have recently decreased, despite increases in the number of passengers using the airport.

within NEC A, PPG24, Annex 1 advises that noise need not be considered as a determining factor in granting planning permission. For the remainder in NEC B the advice is that “*noise should be taken into account in determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise*”. In this case it is accepted that a condition could be imposed on any permission granted that would achieve acceptable noise levels within the dwellings (Appendix E, Condition 31) [6.58]. On this basis it might be concluded that the housing development would comply with this strand of policy in PPG24. Two issues arise, however, namely:

- whether having regard to the advice in PPG24, Annex 1, paragraph 4 it is appropriate to apply the NEC procedure in this case; and
- whether the advice in PPG24, Annex 3, paragraph 8 relating to major new developments is applicable to the appeal proposal.

12.42 On the first of these matters, paragraph 4 of the NEC states “*the NEC procedure is only applicable where consideration is being given to introducing residential development into an area with an existing noise source, rather than the reverse situation where new noise sources are being introduced into an existing residential area*”. Here the position is arguable, in that the appeal is for residential development that would be introduced into an area with an existing noise source. The existing noise source is, however, Gatwick with a single runway. But the noise source of concern is the possible second runway. Hence my conclusion that the position is arguable.

12.43 However, once the reason for the restriction is examined, the concern, to my mind, disappears. The reason is in the following sentence of paragraph 4. In short, the reason given is that the planning system can be used to impose conditions to protect incoming residential development from an existing noise source, but the reverse is normally not the case. Since here the effects of the incoming noise source (aircraft using the possible second runway) is predictable, and a condition to deal with noise from that source is agreed and can be imposed on any permission granted, the reason does not bite [6.44]. Therefore I conclude that it is appropriate to use the NEC procedure to assess the impact on housing noise in this case.<sup>1</sup>

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<sup>1</sup> In reaching this conclusion, I have noted the Council’s submissions reported in paragraph 7.57 of their case. It seems to me, however, that the risk of sound insulation installed in a property being compromised by the property’s owners is small, even in the (unlikely) event that they were not made aware of the possibility of a second runway at Gatwick and the measures taken to insulate their property against noise from that runway when they purchase the property. The agreed condition removing permitted development rights would also allow the planning authority to ensure that any extensions that might be added are appropriately insulated against aircraft noise. As to the “*difficulty of predicting future noise contours*”, I accept that there is an element of uncertainty in any future noise predictions of this type. However, it is common ground that the ERCD contours on which the assessments are based are the “*best available information*” on future aircraft noise for Gatwick with a second runway [4.13]. They assume 486,000 aircraft movements and 76 million passengers per annum (CD110, para 3.14). This is very close to the ultimate capacity of a two runway airport. There is no evidence to suggest that a more precautionary approach is warranted.

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- 12.44 My conclusions in this regard are reinforced by the recent Coventry Airport decision where, in considering proposals to increase traffic at the airport, the Secretary of State accepted the Inspector's conclusion that "*the thresholds in PPG24 are of considerable assistance in considering the noise issues*" [6.40, 6.41] and that at Doncaster Finningley Airport [6.42].
- 12.45 As to the advice in PPG24, Annex 3, paragraph 8, this is set out in paragraph 12.26 above. It was the subject of detailed scrutiny at the inquiry, particularly as to whether the 60dB  $L_{Aeq}$  desirable upper limit mentioned in the first part of the first sentence should be applied to housing or not [6.38, 7.46 et seq]. The positions of the Appellants and the Council on this differed sharply.
- 12.46 For my part, it seems to me that the interpretation favoured by the Council - that 60dB  $L_{Aeq}$  is a desirable upper limit for major noise sensitive development, whether or not it includes housing - is correct. The drafting is not perfect, but if the PPG is read as a whole the point is, to my mind, clear. Housing is plainly noise sensitive development and this is confirmed by paragraph 6 of the PPG. Also, aircraft using a second runway at Gatwick plainly have the potential to be a major source of noise. The development proposed is, moreover, the major part of a new neighbourhood, with 1,900 dwellings, a school and other facilities. On any common sense approach, it must constitute a major development proposal. Accordingly, it seems to me that the advice in Paragraph 8 of Annex 3 is directly relevant to the appeal proposal. To construe it as excluding major housing developments simply makes no sense.
- 12.47 This conclusion, moreover, ties in with the principles set out in the opening paragraphs of the PPG. These advise that it is the planning system's task to guide development to the most appropriate locations and, wherever practical, to separate noise sensitive developments and major sources of noise. To put it another way, whilst it may not be sensible to refuse planning permission for small scale housing development in a residential area already affected by noise, but rather to insulate that housing to protect the future inhabitants against noise, it is sensible, where noise sensitive development is required on a larger scale, to plan to separate that development from significant sources of aircraft noise. This, to my mind, is precisely the aim of the paragraph in dispute.
- 12.48 Further support for my position on this comes from the PPG's advice, repeated in the Air Transport White Paper, that 57dB  $L_{Aeq}$  represents the onset of annoyance as established by noise measurements and social surveys [7.36]. This level is adopted as
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I have further considered whether it is appropriate to assess the impact of the aircraft against the guidelines promoted by the World Health Organisation (WHO), or those in BS4142, as opposed to the guidelines in PPG24. As I see it, however, neither alternative is appropriate. The WHO guidelines are recognised as being very low. They are not design standards, but rather "*long-term targets*". There is no suggestion in any document that I have seen that this guidance should be preferred to that in PPG24; indeed recent decisions taken by the Secretary of State concerning aircraft noise have specifically preferred PPG24 over the WHO guidelines [6.48 to 6.50]. As to BS4142, this standard is a "*method for rating industrial noise affecting mixed residential and industrial areas*". There is no suggestion in the Standard or the PPG that the methodology is appropriate to the assessment of aircraft noise [6.56].

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the lower boundary of NEC B. The upper boundary of NEC B for aircraft noise is 66dB  $L_{Aeq}$ . This level was selected as being the daytime criterion for noise insulation schemes at Heathrow, Gatwick and Stansted [12.25]. Interestingly, the level at which acoustic insulation is to be offered to residential and other noise sensitive properties subject to future airport growth is set at 63dB  $L_{Aeq}$  in the White Paper.<sup>1</sup> To build a major noise sensitive development in an area where it is accepted that the noise levels for virtually all properties would be such as to cause community annoyance and where a significant number of the properties would be at or above the threshold where acoustic insulation would now be offered if the airport is expanded, seems to me to run counter to the principles of good planning enshrined in the opening paragraphs of the PPG.

- 12.49 Yet further support for my position comes from a consideration of the nature of the noise involved. Aircraft noise is different to noise from road and rail traffic in that the source is elevated. This has two practical consequences. Firstly barriers, such as those commonly placed alongside roads or railways to protect housing developments from noise, are not effective. Secondly, the noise levels are similar throughout the development – with major development close to roads or railways, properties further from the source are generally shielded to some degree by other properties nearer to the source. Also with aircraft noise it is less practical to arrange the properties to benefit from “quiet facades”; indeed there is no evidence that such considerations have figured in drawing up the masterplan [7.34].
- 12.50 Finally, noise insulation is only effective within the property. It is only effective when the windows are closed [7.32, 7.71, 7.72, 8.10]. Outside, screening is limited at best and, for open spaces within the development, non-existent [7.33, 8.10].<sup>2</sup>
- 12.51 Against this the Appellants argue that the approach of other local planning authorities is either (a) to consider the 60dB  $L_{Aeq}$  contour as not relevant to development control decisions at all or (b) to consider that it only applies to non-residential development [6.38]. I accept that, on the face of the evidence provided, this may be so. However, it seems to me that so far as major housing developments are concerned, the location of these would be specified and shown on the proposals maps. In selecting the sites, the planning authority would be able to take into account the advice in PPG24 alongside other considerations and, if they consider it appropriate, discount sites exposed to aircraft noise above 60dB  $L_{Aeq}$ . As major housing sites would not normally come forward except in response to an allocation, there would be little need for a policy along the lines of PPG24, Annex 3, paragraph 8, in a development plan. I therefore take the view that this argument should be afforded little weight.

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<sup>1</sup> See *The Future of Air Transport* paragraph 3.24. To qualify for insulation properties will also need to suffer an increase of 3dB  $L_{Aeq}$  or more.

<sup>2</sup> See CD130. Agreed reductions at the rear façade of two storey properties orientated north/south range between 2dB and 10dB depending on the position in the development and the height of the aircraft (departing aircraft are higher than arriving aircraft). In a garden 8m from the façade, the reduction varies from nil for properties 400m from the flightpath of a departing aircraft, to 8 or 10dB for properties 1,100m from the flightpath of an arriving aircraft. For properties orientated east/west the barrier effect would be negligible.

- 12.52 They further note that the guidance in PPG24, Annex 3, paragraph 8 describes 60dB  $L_{Aeq}$  as a “*desirable upper limit*”. As such, it is not an absolute limit [6.37]. Plainly, this is so and I accept that the guidance does not impose a bar on major development in areas exposed to aircraft noise above 60dB  $L_{Aeq}$ . The advice is nonetheless clear and, given that a large part of the development would be sited in an area subject to noise levels in excess of the desirable limit if the second runway at Gatwick were to proceed [12.28], I conclude that this is a significant material consideration weighing against the grant of planning permission at this time.
- 12.53 In reaching this conclusion, I have had regard to the Appellants’ submissions relating to the Council’s recent grant of planning permission for residential development at Apple Tree Farm [6.59]. Here, it would appear the Council was content to rely solely on noise insulation to the properties to mitigate the possible impact of future aircraft noise on residents. Also, so far as I can see, no consideration was given to the advice in PPG24, Annex 3, paragraph 8, in the officer’s report to Committee. The Apple Tree Farm site is, however, in an established neighbourhood. Unlike the appeal site, it is largely surrounded by existing housing [7.55]. Critically, the number of residential units proposed on that site (176) was an order of magnitude less than the 1,900 proposed in the appeal scheme. Accordingly, I take the view that the Council’s decision in that case does not set a precedent of significant weight in favour of granting planning permission for the appeal proposal.

*The Primary School*

- 12.54 It is common ground that, with appropriate noise insulation and ventilation, a satisfactory teaching environment could be achieved within the school. An agreed condition would secure this (Appendix E, Condition 32), notwithstanding that the Education Authority when they considered the matter, appeared not to take into account the noise from a second runway [6.64, 7.78]. Given the terms of the condition, it seems to me that the concerns raised by the Council with regard to the effect on pupil’s reading and concentration levels may be put to one side [6.65].
- 12.55 The condition would further secure “*reasonable efforts*” to provide an outdoor teaching area with a noise level of 50dB  $L_{Aeq,30min}$ , which is the standard recommended by Building Bulletin 93 for external teaching areas.<sup>1</sup> Whether or not the developer would be able to achieve this standard for an outdoor teaching area is uncertain, but having regard to the figures provided by the Council, it appears unlikely [7.32, 7.81 and 7.82]. Certainly, a canopy would need to be provided to augment the screening provided by the school building [6.64]. The suggested 55dB  $L_{Aeq,30min}$  standard for playing fields would be exceeded by a considerable margin over the entire playing field area [ibid].<sup>2</sup>

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<sup>1</sup> See CD121, Section 2.2.

<sup>2</sup> In this respect the proposal would differ from other schools recently constructed in Crawley adjacent to the A23. Here, recommended noise levels for outdoor playing areas are exceeded for those parts of the site

12.56 Whilst I do not take the view that the school should be located elsewhere within the development, given the advantages that would flow from having it close to the neighbourhood centre and parkland, it seems to me that the relationship between the site and aircraft noise from a possible second runway at Gatwick would be less than satisfactory, particularly with regard to the external noise levels that would be experienced on the playing fields. As such, I conclude that this is a further material consideration weighing against the grant of planning permission for the development at this time.

*Weight to be Given to the Possible Second Runway at Gatwick.*

12.57 In looking at the weight to be given to the adverse effects that noise from aircraft using a second runway at Gatwick would have on residents of the proposed development and pupils at the proposed school, it is necessary to take account of the likelihood of that runway being built. Plainly, the weight is reduced from the substantial weight which one might apply if the development of a second runway were certain, or nearly so [6.78]. Equally, given the Government's position that the option of building a second runway at Gatwick after 2019 should be kept open [6.75], it is clearly not an option that can be effectively discounted or given negligible weight.

12.58 As to the precise weight to be afforded to the possibility of a second runway at Gatwick, this is a matter with which the decision maker will ultimately have to grapple. For my part I do not find it particularly helpful to consider in detail whether or not such a runway is "reasonably foreseeable", or whether "on the balance of probability" it will occur (see paras 6.73, 6.77, 7.37 and 8.3). The White Paper makes it clear that a second runway at Gatwick is not the Government's preferred option for providing additional airport capacity in the South East - the favoured option is for a second runway at Stansted and a third at Heathrow [6.74]. At the same time, it cannot be said with certainty that either or both those runways will proceed. Currently no planning applications have been submitted, yet alone determined, and at Heathrow there is a question as to whether it will be possible to meet the air quality standards. Longer-term demand forecasts are uncertain. Accordingly, the White Paper explicitly requires that the option of building a second runway at Gatwick after 2019 should be kept open [6.75, 7.41 and 8.3].

12.59 Given this, it seems to me that the possibility of a second runway at Gatwick and the consequences of aircraft using that runway for the noise environment in the development, are factors that should, on the information currently available, be afforded significant weight in the overall decision.

***The Extent to which the Development would Prejudice the Future Development of the Airport***

12.60 In considering the extent to which the proposal would prejudice the future development of Gatwick Airport, it is common ground that the development would not

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closest to the road. Further from the road, however, the levels are significantly reduced and on the side of the buildings furthest from the road, levels are suitable for outdoor teaching [7.83].

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impinge to any material degree on the area of land safeguarded for the possible future development of a second wide-spaced runway at Gatwick.<sup>1</sup> It is also generally accepted that if, subsequent to the grant of planning permission for the appeal proposal, Government policy were to require a second runway at Gatwick, then the existence of development on the site would not frustrate that requirement [7.28, 7.29].

- 12.61 The reason for this comes in essence from the balance to be struck between, on the one hand, the harm that an additional runway would bring to the living conditions of residents in the new neighbourhood, and, on the other, the economic case for a new runway in the national interest [7.28]. The latter would represent a consideration of considerable weight, which in the case of proposals for new runways at Heathrow and Birmingham, the White Paper has signalled is capable of over-riding increases in the number of residents exposed to noise above the 60dB and 63dB  $L_{Aeq}$  contours much larger than would be the case at Gatwick, with or without the development proposed [6.69].
- 12.62 Notwithstanding the above, it nonetheless seems to me that Gatwick Airport Ltd and the Council are correct to assume that the existence of development on the appeal site would be a material consideration in the determination of any application for a second runway at Gatwick that could influence the configuration of that runway [7.26, 7.27, 8.4 and 8.5]. The number of residents exposed to noise levels likely to cause annoyance from aircraft using the runway would be increased significantly [6.69] and there is no reason to suppose that the future residents of the development, if permitted, would not object to any proposal for a second runway [8.15]. Their voices could add to the strength of arguments for an alternative runway configuration to the wide-spaced runway preferred by the White Paper, or an alternative operating regime, such as segregated operations for all or part of the day [8.13]. Importantly, the existence of substantial built development in the North East Sector of Crawley, in an area that would otherwise be relatively free of built development, would impose an additional constraint on operating regimes (such as segregated operations) which might otherwise provide some relief from the additional noise that a second runway would bring to residents of Ifield and Langley Green in the north west sector of the town [8.14].
- 12.63 In summary, I tend to the view that GAL's analysis of the effect the runway would have is broadly correct. In the event that a runway is required at Gatwick, they would expect to apply for mixed mode operations on wide-spaced runways. They recognise, however, that a comparative evaluation of the scale and distribution of the expanded airport's impacts might lead to a different configuration, on balance, being favoured [8.16]. The development proposed would materially alter that balance and the conclusions drawn from a comparative analysis of the options. As such, whilst it is not anticipated that the development of a second runway would be frustrated, its form might be affected and the ultimate capacity of the airport thereby be reduced.<sup>2</sup>

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<sup>1</sup> See GAL/1, para 30.

<sup>2</sup> See CD128.

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## Housing Need

### *Introduction*

- 12.64 The North East Sector is allocated as a new neighbourhood in the adopted Local Plan, subject to the caveat already noted regarding its relationship to proposals to expand Gatwick Airport [5.24, 6.80].
- 12.65 In the Structure Plan, the Crawley/Gatwick area is identified as a “*focus for growth*” [5.10, 6.80]. For Crawley, the housing requirement is set as 300 dwellings per annum in the period 2001 to 2016 [5.8, 6.83]. Priority is to be given to previously developed land in built-up areas, with the adequacy of supply assessed through monitoring [5.9]. Notwithstanding this, the Structure Plan assumes that in Crawley only some 35% of new dwellings will be delivered on previously developed land over the plan period [5.8], and policy LOC1 lists the North East Sector as a location for large scale mixed-use development, subject again to a caveat concerning the possible second runway at Gatwick [5.7].
- 12.66 In the emerging LDF Core Strategy, the North East Sector’s allocation is retained, but not for development until after 2018 [5.43]. Until that time, the Council anticipates that other sites, mainly on previously developed land, will come forward to meet the housing requirement for the Borough set by the Structure Plan [5.38]. It is the realism or otherwise of this expectation that is at the heart of the differences between the parties as to whether or not the Borough’s housing needs justify the grant of planning permission for the appeal site at this time.
- 12.67 In looking at this question, two preliminary matters need to be considered. These are:
1. What is the appropriate period for assessment of housing need?
  2. Whether that need should be assessed against the requirement set by the Structure Plan or the emerging South East Plan?

### *The Period for Assessment of Housing Need*

- 12.68 Initially the discussions between the Appellants and the Council on matters relating to housing need focussed on the period to 2018 [6.93]. It seemed to me that such an extended period was not appropriate, however, having regard amongst other matters to the timing of the LDF examination which it was anticipated would commence in early 2007. I suggested in a letter dated 29 August 2006 that sufficient evidence should be brought to the inquiry on housing need to enable me to report on the proposal’s compliance or otherwise with PPG3 and policy NE4 of the Structure Plan, but that “*matters which it would be more appropriate to leave for the LDF examination (such as whether the Borough’s housing needs can be met to 2018 without the NE Sector) should not be brought to the NE Sector Inquiry*”.<sup>1</sup>

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<sup>1</sup> This letter and the subsequent letters referred to can be found in the main (yellow) file.

12.69 On 4 September Jones Day wrote on behalf of the Appellants requesting further clarification on the point. This was subsequently provided in a letter dated 15 September from PINS, sent to the Appellants and the Council. In that letter I suggested that, having regard to my reading of the advice in PPG3 and the draft PPS, the evidence on housing supply at the North East Sector Inquiry should be limited to a five year forward period – i.e. to 2011/12. I further suggested that matters relating to the longer-term supply situation (i.e. to 2018) should be left for the LDF Core Strategy examination to consider. I followed this by setting out three specific matters which I specifically wished the evidence to address. These included:

*“ Whether or not in the absence of the North East Sector the SoS can be assured that a firm and deliverable housing supply is available to make up the current housing supply deficit and meet the Structure Plan requirement for the next five years (i.e. 3,300 dwellings for the period 2001-2012 inclusive). ”*

12.70 At the inquiry, Counsel for the Appellants asked for an outline of my reasoning behind this request. I responded (INQ6). The reasoning put, in essence, was that the emerging Core Strategy recognises that the North East Sector will need to be released to meet the Borough’s long-term housing needs. However, the Council’s position is that it is not required before 2018 or thereabouts. The Appellants, on the other hand, argue for an immediate release. To this extent, the issue separating the parties is essentially one of timing. I suggested that the question the Secretary of State would need to grapple with (putting other considerations aside) was *“whether having regard to the housing supply situation, the release of the appeal site is justified immediately; or whether the timing can be safely left to the LDF to determine, either through the impending core strategy examination or subsequent monitoring and review”*. I further suggested that:

*“If the evidence shows that other sites “in the pipeline” can reasonably be expected to meet the Borough’s needs for the next five years (i.e. to 2011-2012), and at the same time make up the current supply deficit, then the case for release of the NE Sector now may be limited and [the] need for it, and the timing of its release, could more safely be left to the LDF process to determine in due course. If, on the other hand, the evidence shows that there is likely to be a significant shortfall in this period, then this must be a material factor of some weight in favour of granting planning permission now.”*

12.71 To my view, the reasoning in INQ6 remains sound. It is commended to the Secretary of State by the Council [7.94]. Whilst PPG3 has been withdrawn since the close of the inquiry and the draft PPS3 has been overtaken by the final version, nothing in the new PPS to my mind indicates a fundamental change in the policy context as I understood it at the time I prepared the note. Indeed, PPS3 paragraphs 70 and 71 reaffirm that the availability of a five year supply of deliverable housing sites is a matter to be considered and taken into account in determining planning applications. Accordingly,

I concentrate on the 5 year supply to 2012 as the more appropriate period against which the appeal should be determined.<sup>1</sup>

### ***The Emerging South East Plan***

- 12.72 The emerging South East Plan revises the housing targets for the Borough of Crawley to 350 dwellings per year from 2006, which represents an increase of 50 dwellings per year over the requirement set by the Structure Plan [5.32]. However, the plan is a considerable way from being finalised. Therefore the weight which it may be afforded at this stage is limited. Notwithstanding this, Crawley Borough Council have not lodged any objection to the increased housing requirement other than to note that its delivery is contingent on both the North East Sector and Town Centre North proposals coming forward in the longer term [6.86]. Plainly, this increases the weight which may be attributed to the policy so far as it applies to Crawley [ibid].
- 12.73 PPS3, paragraph 53, notes that in preparing local development documents, local planning authorities should have regard to the level of housing provision proposed in the emerging Regional Spatial Strategy (RSS). This was done by Crawley insofar as the submission Core Strategy identifies the figures in the emerging RSS [7.101]. The policy is to take them into account at review stage [ibid]. SEERA has stated that they are content that the submission Core Strategy is “*in general conformity*” with both the adopted and emerging RSS [7.98].
- 12.74 In these circumstances, it seems to me that the primary benchmark against which the housing supply situation should be judged is that set by the adopted Structure Plan. At the same time it would be reasonable, as the Council acknowledge, to have regard to the increased requirement set by the emerging South East Plan, in that policy GAT2 in the plan “*shows the direction of travel*” towards a requirement for increased housing delivery in the Borough equivalent to 300 dwellings in the period to 2012 [7.101].

### ***Housing Land Requirement and Supply***

#### ***The Common Ground***

- 12.75 It is common ground that the housing requirement set by the Structure Plan for the period 2001 to 2012 for the Borough of Crawley is for 3,300 dwellings [4.1]. It is also agreed that 556 dwellings were delivered in the period April 2001 to March 2006 and that large sites with outstanding planning permissions at 31 March 2006 will deliver a further 916 dwellings in the period to 2012 [4.2, 4.3]. Small sites with outstanding

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<sup>1</sup> In taking this stance, I recognise that the appeal proposal is a large scheme that would take longer than 5 years to build out [6.99]. It seems to me that the point is of limited relevance, however, except insofar as, if permitted, it is necessary to remember that the proposal would proceed to completion (i.e. 1,900 dwellings would be built on the site) [7.189]. As to the test suggested by the Appellants in paragraph 6.99, I broadly concur with the thrust of the view here expressed - that what is important is the contribution that the housing output from the appeal site would make to the (alleged) shortfall in the five year housing supply (GWB0/18, para 16.7). This is addressed in paragraph 12.117 et seq below.

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planning permissions at that date will deliver a further 32 dwellings [ibid]. Accordingly, the outstanding requirement to 2012 is for 1,796 dwellings.

- 12.76 To meet this requirement sites can be anticipated to come forward from three sources, namely:
1. Sites identified for housing development in the emerging Core Strategy.
  2. Sites allocated in the adopted Local Plan, which have yet to receive planning permission.
  3. Windfalls.
- 12.77 The major differences between the parties arise in respect of the assumed number of dwellings that the emerging Core Strategy sites will deliver and the windfall allowance. Whilst the statement of common ground (CD72) also identifies a difference between the parties in the number of dwellings expected to come forward from the remaining Local Plan Sites, this difference (43) is relatively small. At the inquiry, the Appellants chose not to cross-examine the Council's witness on the figures he put forward for these sites. Accordingly, I shall adopt the Council's figure (106) for this element of the supply.
- 12.78 Seven housing sites are identified in the submission Core Strategy as likely to contribute a total of 2,511 dwellings in the plan period to 2018.<sup>1</sup> Of these, the Haslett Avenue site (formerly the Crawley Leisure Centre) has been granted planning permission. None of the others (Telford Place, Dorsten Square, Ifield Community College, Thomas Bennett, East of Tinsley Lane and Town Centre North) had planning permission at the time the inquiry closed. I consider each of these sites in turn below. However, before doing so it is appropriate to set out the policy context on which the assessment is based.
- 12.79 At the time of the inquiry the final version of PPS3 had not been published [1.9]. The draft was available, however, and there was no dispute that the guidance in paragraph 13 was pertinent to the assessment of housing land supply. This advises that to be considered developable, a site should be available or likely to become available for housing development and capable of being developed within 5 years. It should also be suitable and offer a sustainable option for development. Housing development on the site should be economically viable. It was submitted for the Appellants that "*neither side has the burden of establishing that completions either certainly will or certainly will not be produced from particular sites. The issue is 'what is probable' (i.e. what is likely on a balance of probability) and not 'what is possible'.*"[6.112]. I agree.

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<sup>1</sup> Actually, eight sites are identified in the submission Core Strategy (CD62, policy H2). However, one of these (Stone Court) was granted planning permission prior to 31 March 2006 (CD72) and included in the agreed figures for supply from outstanding planning permissions.

- 12.80 In the final version of PPS3 the wording is altered. However, the overall thrust of the policy guidance is similar. To be considered deliverable, sites should be available at the point of adoption of the local development document, suitable and achievable insofar as there has to be a “*reasonable prospect*” that housing will be delivered on the site within five years. Whilst the specific test of viability is not mentioned in the final PPS, to my mind it is plainly included in the test of achievability; if the proposal is not viable, it is very unlikely that it will be achieved.

*Haslett Avenue*

- 12.81 Planning permission for 831 dwellings on this site has been granted and work on the site was well underway when I visited the area during the course of the inquiry. In the Council’s housing trajectory, all dwellings are assumed to be complete by 2012. The Appellants assume 800 [7.104]. The difference is modest and for my part I favour the Council’s figure which is based on the phasing programme submitted by the developer, Fairview. Given the lack of any regulatory constraints to building out the site, the reported demand for open market flatted development, and the strong demand for affordable housing in the Borough, it seems to me that the Appellants’ view that the site will deliver a maximum of 175 dwelling per year is unduly pessimistic [7.106].

*Telford Place*

- 12.82 The Telford Place site is located on the edge of the town centre [7.108]. Of the area where development is proposed, part is occupied by a surface car park; the majority of the remainder is a disused Unigate Distribution Centre and a small retail unit, formerly occupied by Comet, but now occupied by a furniture retailer. A roadway (Telford Place) currently bisects the site and provides access to a builders’ yard (Travis Perkins) and a small group of modern retail warehouse type buildings. Some of these, including a unit occupied by Magnet, are included within the site allocated for housing and mixed use development on the LDF submission Proposals Map. However, it is my understanding that it is not proposed to redevelop these southernmost units. Rather, redevelopment would be confined to the car park, the former dairy and the former Comet unit.
- 12.83 As to the proposed development, the car park is owned by the County Council who have submitted a planning application for a new library on the site to replace an existing facility on the northern side of the town centre [7.108]. The remainder of the site where redevelopment is intended is reported to be in the control of Centros Miller [7.109], who the Council initially expected to submit a planning application for mixed use redevelopment on the site, including 250 flats, in October 2006 [6.134]. By the time the inquiry closed, this application had not been delivered [ibid]. However, there is no evidence to suggest that it will not soon be submitted [7.109].
- 12.84 Given the site’s excellent sustainability credentials and its identification for mixed uses including housing in the emerging LDF Core Strategy, its suitability for flatted

development is not in question [7.109].<sup>1</sup> Given also the present mix of disused land and low key uses, and the positive interest in its redevelopment being shown by Centros Miller, it seems to me that there is a more than reasonable prospect that 250 units will be delivered on the site by 2012 [7.110]. Notwithstanding the abortive attempt by the owners of the trade park to the east to acquire the site in 2003/2004 [6.132], there is no contemporary evidence to suggest that there are ownership, viability or other problems that might impede progress with a mixed use scheme on the southern part of the site including housing [7.109].

- 12.85 Accordingly, I conclude that, for the purposes of assessing likely housing delivery, it should be assumed that this site will deliver 250 dwellings by 2012.

*Dorsten Square*

- 12.86 Dorsten Square is assumed in the Council's housing trajectory to deliver 160 new dwellings by 2012. The Appellants' trajectory assumes zero [7.111].
- 12.87 The Dorsten Square proposal is an urban regeneration scheme that seeks to provide new healthcare, leisure, retail and community facilities in Bewbush [7.112]. Having visited the area, the need for improvements is plain and, to my mind, the Council's proposals contained in a draft SPD for the area have much to commend them. It is reported that West Sussex County Council and the Crawley Primary Care Trust are working hard with the Borough to achieve delivery of the project [7.117]. Notwithstanding that the housing proposed in the scheme would require the demolition of the Bewbush Leisure Centre and the loss of a playing field, there have been no objections to the allocation in the submission Core Strategy [ibid].
- 12.88 On the evidence available, it nonetheless seems to me that the achievability of the scheme is questionable. In particular, there is no evidence that the scheme would be viable [6.137 to 6.139], or that the implications of the loss of a playing field have been adequately addressed [6.140]. Indeed there is no evidence that the Council has formally resolved or otherwise taken any decision to proceed with the scheme [6.139].
- 12.89 Whilst plainly there is a possibility that the scheme will proceed, my view is that, on the evidence currently available, the Secretary of State cannot be assured that housing on the site is deliverable. As such, I conclude that, for the purposes of assessing the likely housing delivery to 2012 in connection with this inquiry, it should be assumed that no new dwellings will be provided on this site.

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<sup>1</sup> Whilst the Appellants raise planning objections to the loss of employment land [6.135], these will not bite once the LDF Core Strategy is adopted which allocates the site for mixed development including housing. Also, the noise/amenity issue referred to by the Appellants [6.135] is not one which in my experience would be likely to frustrate housing development on the site, having regard to the nature and volume of traffic involved, the nature of the housing proposed and the site's town centre location.

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*Ifield Community College*

- 12.90 At Ifield Community College the Council's housing trajectory assumes 170 dwellings will be delivered by 2012. The Appellants argue for zero [7.119].
- 12.91 The housing site at the College was formerly occupied by school buildings, which have been replaced elsewhere within the site. It is indisputably previously developed land [7.120]. It is vacant, and available for development. A planning application for 170 dwellings on the site has been submitted, but it had not been determined by the time the inquiry closed [6.145].
- 12.92 The Appellants' concerns regarding the developability of the site relate primarily to the access from Lady Margaret Road. It is a residential road that links to Ifield Drive in a loop. It now provides access to housing and the Manor Green special school. Its width is around 4.9m (CD138). It formerly also served the Community College, but the access to this school was moved to a new junction on the A23 when the new school building was erected.
- 12.93 The concern over access is shared by the development control committee who deferred the application for further consideration of highways issues [6.145]. Having visited the site, however, and considered the evidence presented by the Council and Mr Boswell,<sup>1</sup> it seems to me that a satisfactory solution is possible. For example, it would be possible to widen the western section of Lady Margaret Road onto the present verge. If at the same time parking on that section of the road was prohibited, this would provide an adequate access, albeit that the application might need to be modified to provide replacement parking within or adjoining the application site [6.146, 7.124]. Alternatively, it seems to me that it might be possible to extend the present one-way restrictions operating on Lady Margaret Road to restrict movements on the entire western section of the loop to one direction only.
- 12.94 An amended application might be required to achieve a solution [ibid], which might cause a short delay in the site's development. To my mind, however, there is no reason to anticipate an extended delay and I see no reason why the site should not be developed well before 2012.<sup>2</sup> The absence of any objection from the County Surveyor to either the application or the site's allocation in the submission Core Strategy gives weight to this conclusion.

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<sup>1</sup> Mr Boswell is the Appellants' highways and infrastructure witness.

<sup>2</sup> In reaching this conclusion, I have noted the representations made by Thames Water to the submission Core Strategy [6.147]. The submissions made are common to many of the submission Core Strategy housing sites, however (GWB0/7). They highlight the need for checks to be made on the capacity of the local sewerage network. The letter also suggests that the treatment works is "*operating near to or at capacity*". Subsequently, however, it was confirmed that the works currently have capacity for some 3,000 additional homes in the area (CD137). Critically, I was not made aware of any objection raised by Thames Water to the planning application submitted for development of the site.

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12.95 Accordingly, I conclude that, for the purposes of assessing likely housing delivery, it should be assumed that the Ifield Community College site will deliver 170 dwellings by 2012.

*Thomas Bennett*

12.96 At the Thomas Bennett school site the Council's housing trajectory assumes 200 dwellings will be delivered by 2012. The Appellants argue for zero by 2012, but accept 100 will be delivered by 2018 [6.148, 7.125].

12.97 Like Ifield Community College, the Thomas Bennett sites comprise surplus land formerly used for education purposes. Two parcels are available. On one (Site A), it is common ground that development will come forward. It is a brownfield site formerly occupied by school buildings [7.127]. It has good access. It is in a residential area. I see no reason why its development for housing should be delayed beyond 2012 as the Appellants suggest.

12.98 The second site (Site B) adjoins Site A. It was formerly part of the school grounds, but not playing fields [7.127]. It lies outside the development boundary shown on the Local Plan Proposals Map, but within the revised boundary shown on the submission LDF Proposals Map. Whilst the Appellants argue that it is open space protected by the policy in paragraph 10 of PPG17, there is no public access to the land and it is not used for any recreational purpose. Its only possible public value is as land offering visual amenity and I saw when I visited the area that it can be overlooked from the footpath which runs through woodland a short distance from the northern boundary of Tilgate Park [6.150]. Notwithstanding this, its value as a positive element in the landscape is limited, in my opinion, particularly having regard to the extensive tract of parkland to the south. I would not therefore expect any assessment of its value which PPG17 requires to frustrate its timely development.

12.99 As to the purported highway objections, I accept that there is congestion in the peak hours at the junction of Ashdown Road and Southgate Avenue [6.151]. This might be increased by developing housing on the Thomas Bennett sites, although it seems to me that any increase is likely to be very modest having regard to the area of housing which the junction already serves and the number of new homes proposed. Alternative routes between the site and Southgate Avenue and town centre destinations are also available, which may serve to limit the increase in traffic using the Ashdown Road junction.

12.100 Insofar as there is congestion at the junction, it is confined, so far as I am aware, to the Southgate Avenue approaches in the morning and evening peak hours [6.151]. Southgate Avenue is one of the main links between the A23 and development on the southern side of Crawley and the town centre. It has an extensive system of bus lanes, including some sections of guided bus route used by the Fastway service. In the peak hours, my observations suggest that buses move relatively freely, but private cars are generally held up. These hold ups are not confined to the section near the Thomas Bennett site, but are common to most, if not all, junctions on the route.

- 12.101 As to whether the congestion has resulted from the introduction of Fastway, there is no clear evidence either way. But if it did, I agree with the sentiment expressed by the Council that it would be perverse if the benefits achieved for Fastway and other buses using the route were now to impede delivery of housing on previously developed land at the Thomas Bennett site [7.130]. Peak hour congestion on the scale that occurs in Southgate Avenue is anyway not unusual in urban areas in my experience, and I see no reason why it should be allowed to frustrate the delivery of housing on sites that are otherwise suitable. My conclusions in this regard are reinforced by the lack of any apparent concern on the part of the County Surveyor to the use of the surplus land at the Thomas Bennett sites for housing [7.129].
- 12.102 I turn finally to the representations made regarding the capacity of the mini-roundabout at the junction of Canterbury Road and Ashdown Road [6.151]. Here, the concerns expressed by the Appellants were very general. They were not supported by any capacity analyses for the junction in question and, having visited it on several occasions, I always found it very lightly trafficked with no hint of congestion. Notwithstanding the Council's failure to provide rebuttal evidence on this point [ibid], there is no doubt in my mind that this matter can be safely discounted.
- 12.103 Accordingly, I conclude that, for the purposes of assessing likely housing delivery, it should be assumed that the Thomas Bennett sites will deliver 200 dwellings by 2012.

*Land East of Tinsley Lane*

- 12.104 On the land east of Tinsley Lane the Council's housing trajectory assumes 100 dwellings will be delivered by 2012. The Appellants argue for zero [7.131].
- 12.105 This site is in the ownership of English Partnerships who have been interested in redeveloping it for several years [6.158, 7.132]. However, it has not progressed. There are a number of constraints [ibid]. In particular, the site is playing field land [6.152]. The southern part of the site, which contains two pitches, is in active use by a local football club. The northern part appears not to have been used in the past year [ibid], but it has not been demonstrated that it is not required or that its loss could be offset by improvements to the other pitches or the provision of alternative facilities elsewhere [6.154, 7.133].
- 12.106 Also, the present access via Kenmara Court is severely constrained [6.155]. It is not certain whether the necessary land is available to allow it to be improved, which would be necessary if it is to serve a new housing development [7.134]. Also, whilst there appears to be several options to secure an alternative access to the southern pitches and clubhouse [7.135], I was not made aware that there were alternatives available to serve housing development on the northern part of the site.
- 12.107 To my mind the above uncertainties are such that it is not reasonable, on the evidence available to me, to categorise the site as deliverable in the terms of PPS3, paragraph 54. I accordingly conclude that, for the purposes of assessing the likely housing delivery to 2012 in connection with this inquiry, it should be assumed that no new dwellings will be provided on this site.

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*Town Centre North*

- 12.108 Town Centre North is a major development proposal. It is retail led, but includes a significant amount of office floorspace and, the Council advise, some 800 dwellings in total. Of these, the Council expects 200 to be delivered by 2012. The Appellants argue for zero, to 2012 and to 2018 [7.136].
- 12.109 The scheme is ambitious and aims to regenerate some 14ha of land on the margins of the town centre [7.139]. It is being promoted by English Partnerships and the Borough Council, who entered into a cooperation agreement with Grosvenor Estates in April 2006 [7.139, 7.141]. It requires a major route through the town centre (the Boulevard) to be closed [6.124]. A new town hall is to be provided to release the present site for redevelopment. Sites currently occupied by the Magistrates Courts, the County Council, the main Post Office and the Library are all included in the area [7.122].
- 12.110 As to the deliverability of the proposal, I accept that there is general policy support for the project [7.138]. I accept also that, having regard to its scale, there were very few objections made to its identification in the submission Core Strategy [7.145 and 7.146]. On the other hand, the scheme has yet to be fully defined; and there is no evidence that it will prove viable [6.115, 6.116 to 6.121]. There are many landowners involved; accordingly a complex CPO may well be needed to progress it [6.122]. Also, the scheme will need to be phased to provide new accommodation for the Borough and County Councils, the Courts, the Library and the Post Office before the accommodation which they currently occupy can be released [6.122, 6.124]. Given these constraints, and the desire to provide the retail element of the scheme as soon as practical in the development programme, it seems to me that delivery of any housing in the period to 2012 is unlikely.
- 12.111 In the terms of PPS3, paragraph 54, my firm view is that, on the evidence available to me, the proposal should not be considered deliverable at this point in time. I accordingly conclude that, for the purposes of assessing the likely housing delivery to 2012 in connection with this inquiry, it should be assumed that no new dwellings will be provided on this site. My conclusions in this regard are reinforced by the Council's own apparent doubt as to whether the scheme will proceed, reflected in their response to SEERA [6.86].

*Windfalls*

- 12.112 As to windfalls, there is little doubt that the approach taken by the Council in calculating the windfall allowances included in submission Core Strategy and the Draft Core Strategy Evidence Base Document failed to respect recognised good practice and the advice on the subject in PPG3 (para 36), draft PPS3 (para 14) and now the final PPS3 (para 59). All require windfall allowances to be "*evidence based*". The Council's approach, however, seems to have been to calculate the number of dwellings required to meet the housing requirement, to deduct from that the number completed and those anticipated to come forward on allocated sites and from extant permissions, and then to assume that the residual requirement will arise as windfalls. This approach is clearly wrong as a matter of principle [6.101 to 6.104].

- 12.113 As to the numbers, the agreed statement records that the Council anticipates 492 dwellings will be delivered as windfalls in the period to 2012 [7.152]. The Appellants argue for 220. Putting aside the flaws in the methodology employed by the Council to arrive at their figure, the real issue is (which the Council acknowledge) whether or not the Council's figures are robust and realistic [ibid].
- 12.114 In this respect, the figure of 44 per annum adopted by the Appellants derives from the Baker Associates Urban Capacity Study. It represents the average annual number of windfalls over the 12 year period 1991 to 2003 [7.152]. Baker Associates recognised that the figure was low, due to the nature of Crawley as a new town, and anticipated that it might become lower in the future having regard to the fact that larger sites were now being identified through the urban capacity study [ibid]. So far this has not proved correct and CD72A records that in the three years 2003/04 to 2005/06 there were 253 windfalls [6.109, footnote]. Over the 15 year period 1991 to 2006 the average number of windfalls is agreed to be 52 per annum [6.109, 7.152].
- 12.115 But what does the future hold? Inevitably there can be no certainty, but it seems to me that a windfall allowance of 52 per annum commencing in 2007/08 is fair<sup>1</sup>. This would yield 260 dwellings in the period to 2012. In reaching this conclusion, I have had regard to the totality of the evidence on the subject. In particular:
1. I recognise that in the period prior to the publication of PPG3 the windfall data collected would not have differentiated between windfalls on previously developed land (PDL) and housing built on unallocated greenfield sites. Accordingly, the Baker Associates' figure for windfalls between 1991 and 2003 is likely to err on the high side [6.108].
  2. Against this, it has to be recognised that in the early part of the period which Baker Associates considered, new neighbourhoods were still being built in Crawley, notably at Maidenbower. This supply of housing may well have made development elsewhere in the town on PDL less attractive.
  3. Whilst there is no specific evidence that Crawley has come "late to the PDL party" as the Council suggest [7.153], the nature of the town is to my mind a factor to be considered. Crawley was developed in the post war era on the neighbourhood principle [ibid]. As such there are generally fewer sites of the type which in older towns might be redeveloped for housing. However, the evidence is that some former commercial sites, older office buildings and the like are now coming forward for redevelopment. As time passes, it seems to me that the number of these may well increase. Some, moreover, are likely to have the potential to deliver a significant number of windfalls. An example is Russell Way, where an appeal for 270 dwellings was recently allowed by the Secretary of State. That

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<sup>1</sup> Windfalls are not included for 2006/07 as to be delivered in that year planning permission would generally need to have been granted in 2005/06. Including a windfall allowance for 2006/07 would thus have involved double counting the yield from outstanding planning permissions – see para 12.75 above.

decision is now subject to judicial review [6.109]. However, should the decision stand, then that site alone would be likely to account for some five years of windfall allowance at 52 dwellings per annum.

4. Allied to this, the submission Core Strategy only identifies sites that are expected to accommodate 100 dwellings or more [7.11]. Smaller sites are not identified and there is no specific allowance for housing which might be delivered in connection with the mixed use redevelopment which is encouraged in the Three Bridges Corridor [5.38].

12.116 It will be noted that the above list does not include as a consideration the number of dwellings which have recently been granted planning permission on windfall sites. Clearly there must be some correlation between planning permissions granted and subsequent windfall development, but I agree with the Appellants who broadly argued that the correlation is often not direct or meaningful [6.110]. The situation of Sussex House is a case in point. Here, the Council's witness speculated that the planning application for housing may well have been submitted as a "valuation exercise" [6.119]. This approach, as I see it, matches that advocated by PPS3, paragraph 58.

#### ***Borough Housing Supply Conclusions***

12.117 The table below brings together the various figures set out above to arrive at my "best estimate" of the supply in the period 2001 to 2012.

	Completions (dwellings)	Ref.
Completions 2001-2006	556	12.75
Outstanding large planning permissions at 31 March 2006	916	12.75
Outstanding small planning permissions at 31 March 2006	32	12.75
Remaining Local Plan Sites	106	12.77
Haslett Avenue	831	12.81
Telford Place	250	12.85
Ifield Community College	170	12.95
Thomas Bennett	200	12.103
Windfalls	260	12.115
<b>Total Supply 2001-2012</b>	<b>3,321</b>	

12.118 Measured against the Structure Plan Requirement of 3,300 dwellings for the period [12.75], the evidence points to the requirement being met and the present significant backlog eliminated by 2012. On this basis, I conclude that, having regard to the requirement set by the adopted Structure Plan, housing supply considerations do not favour granting planning permission for the appeal scheme at this time.

12.119 Measured against the increased requirement likely to be set by the emerging South East Plan [12.72 to 12.74] the figures indicate that there is likely to be a shortfall of around 280 dwellings. However, the weight that can be given to the draft South East

Plan at this stage is limited. Also, if planning permission were granted for the appeal site, it is not disputed that by 2012 it would deliver some 900 dwellings [6.99]. If it is assumed that delivery from other sites is not delayed by the early release of the appeal site there would, by 2012 be some 600 more dwellings than the policy requires. Whilst there is no evidence that this would be harmful, the response might be regarded as disproportionate [7.189].

- 12.120 In the event that the Secretary of State takes a different view to me on the appropriate period during which to assess the housing supply and favours the position adopted by the Appellants (i.e. to look forward to the end date of the emerging LDF Core Strategy - 2018), the picture inevitably becomes less certain. Whilst I have concluded above that no contribution should be assumed to arise in the period to 2012 from the Dorsten Square, East of Tinsley Lane and the Town Centre North schemes, there is a possibility that some or all of these schemes might come forward in the extended timeframe. To my mind all are developable in the terms of PPS3, paragraph 56 – i.e. the sites are in a suitable location for housing development and there is a reasonable prospect that they will be available and could be developed at the point in time envisaged.
- 12.121 If the prospective yield from these sites is added to the anticipated yield to 2012 derived above, the potential yield to 2018, including an allowance for windfalls at 52 per annum, is some 4,700 dwellings.<sup>1</sup> This is around 400 short of the extended local plan target for 2001 to 2018 of 5,100 [4.1], and 1,000 short of the revised target for the period anticipated by the emerging South East Plan [7.98]. Again, it might be concluded that to grant planning permission for the appeal site now, which would deliver 1,900 dwellings in the plan period, might constitute a disproportionate response to the predicted shortfall [7.189]. This is particularly so having regard to the potential for the strategy now being set by the emerging local development documents to be reviewed to take account of any changes in circumstances in the Borough in the interim, including those arising from the emerging South East Plan [7.101].

### ***Sub-Regional Housing Supply***

- 12.122 The asserted need for the appeal site to be released in order to meet a shortfall in the wider sub-regional housing supply is a long standing element of the Appellants' case [6.164]. The case put, in essence, is that the Crawley/Gatwick area is a recognised focus for growth in the Structure Plan and the Regional Planning Guidance (RPG9) [6.80, 6.168]. Strong economic growth is expected and encouraged, and the Structure Plan makes strategic housing allocations in Horsham and Mid Sussex Districts to meet the need for additional housing in the Crawley/Gatwick area [ibid]. Failure to provide this housing would adversely impact on the economy of the area [6.236]. The emerging South East Plan equally supports development at or adjoining Crawley and the other main towns within the main north/south and east/west corridors [6.168].

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<sup>1</sup> 3,321 + 160 (Dorsten Square) + 100 (East of Tinsley Lane) + 800 (Town Centre North) + 6x52 (Windfalls) = 4,693 (say 4,700).

- 12.123 Allied to this, the Appellants' evidence is that, because of delays to the anticipated delivery of the strategic housing sites, particularly in Horsham and Mid Sussex, there will be a significant shortfall in the sub-regional housing provision [6.178 et seq]. Moreover, the size of the predicted deficit is such that, even if (i) the housing provided on other sites in Crawley exceeds the Structure Plan requirement, (ii) all the housing on the non strategic sites in the adjoining Districts proceeds to programme and (iii) the appeal site is released immediately, the targets would still not be met [6.165]. Accordingly, it is argued that the situation is such as to justify the immediate grant of planning permission for the appeal proposal.
- 12.124 In putting this case the Appellants acknowledge that policy NE4(b) of the Structure Plan provides that any major housing shortfall arising in one district should be addressed within the relevant sub-area of the County through joint assessment with the district planning authorities [6.169]. They argue that the provision for joint assessment is now ineffective, however, as the County Council's planning functions have effectively been ceded to SEERA, but SEERA has other matters to concern it [6.173]. The Core Strategy examination, moreover, will not consider the sub-regional picture [ibid].
- 12.125 It is put that the Secretary of State is in a position to consider the impending deficit, and to address that deficit by granting planning permission for the appeal site. Indeed, having regard to the Article 14 direction, it is put that it is only the Secretary of State who can take steps to redress the position [6.175 and 6.176]. Apart from the appeal site, there is no other option available [6.172].
- 12.126 As to the arguments put, there were several significant concessions made by the Council's witnesses during their cross-examination. In particular, Council witnesses agreed that, as at March 2005, there was a significant shortfall of some 2,251 homes against the combined Structure Plan requirement for the Borough of Crawley, and Horsham and Mid Sussex Districts [6.165]. It was further agreed that, even if any deficit for Crawley were ignored, on Mr Woolf's analysis delays to the strategic sites in the neighbouring districts would result in a shortfall in the sub-region of some 2,300 dwellings by 2012 rising to 3,800 to 4,000 by 2016 [ibid]. Assessed against the requirement set by the emerging South East Plan, it was agreed on the same basis that the deficit would be over 3,000 dwellings by 2012 and more by 2016 [ibid]. It was further conceded that sub-regional deficits of this size would justify the grant of planning permission for the appeal site [6.170].
- 12.127 In examining the case put with regard to the sub-regional housing supply, it seems to me that the main matters that need to be considered are:
1. What weight should be afforded to the agreed current shortfall in sub-regional housing supply?
  2. Whether the shortfalls in the supply from the strategic sites identified by the Appellants are correct and, if so, whether this finding justifies the grant of planning permission for the appeal site?

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*The Current Shortfall in the Sub-Regional Housing Supply*

- 12.128 As I have noted above, in March 2005 there was a shortfall of some 2,251 homes against the combined Structure Plan requirement for Crawley, Horsham and Mid Sussex. Of this, the shortfall in Crawley stood at 832 dwellings (GWB1/6). For Mid Sussex it was 953 dwellings and for Horsham 466 dwellings (ibid). Whilst plainly significant, I have previously concluded that the present deficit in Crawley should be made good by 2012 [12.117 and 12.118]. Clearly, the shortfalls in the other Districts are significant, but so are their targets and the shortfall in Horsham amounts to just under 19% of the 2,480 target for the period. In Mid Sussex the 953 shortfall is 35% of the 2,720 target.
- 12.129 Whilst representatives of the neighbouring Districts were not at the inquiry to answer for themselves,<sup>1</sup> it seems to me that there is little doubt that they will be fully alive to the shortfalls that had accumulated at March 2005. I would expect them to be addressing the matter in the very near future, if they have not already done so. There is no evidence that they intend otherwise. Accordingly, I take the view that little weight should be afforded to the current housing shortfalls in Horsham and Mid Sussex Districts in deciding whether or not to grant planning permission for the appeal site at this time.

*The Shortfalls on Strategic Sites identified by Mr Woolf*

- 12.130 It is agreed by Mr Woolf that the strategic site to the South-East and South-West of Haywards Heath will deliver the full allocation of 1,400 dwellings required by policy LOC1 of the Structure Plan by 2016 [6.178]. On the other sites, however, he anticipates significant delays relative to the published programmes.
- 12.131 At the West of East Grinstead site, Mid Sussex District Council's draft Area Action Plan anticipates that 1,300 units will be delivered by 2016. Mr Woolf for the Appellants expects no more than 600 [6.180, 6.181, 6.186, 6.188]. For the West of Crawley site his anticipation is similar – no new homes can be anticipated before 2016 [6.186]. The District Council's Housing Trajectory on the other hand anticipates 1,800 [6.194]. For the West of Horsham site, Mr Woolf argued for 800 to 1,000 completions by 2016 [6.196] as opposed to the Council's housing trajectory which assumed 1,700 [6.195].
- 12.132 Policy LOC1 in the Structure Plan anticipated that the West of East Grinstead and West of Crawley sites could each accommodate 2,500 homes by 2016. The West of Horsham site was expected to deliver 1,000 dwellings by 2016 (CD43, para 82). Measured against this expectation, it is plain that there has already been slippage

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<sup>1</sup> In making this comment, I do not intend to criticise the authorities involved. Contrary to the assertions made by the Council [7.158], they could have appeared and given evidence, if they wished [6.175, 7.170]. I would not have prevented or discouraged such a move, had an application been made. However, I recognise that it would be unusual for representatives of a neighbouring authority to appear at a s78 inquiry unless invited by one of the participants. As far as I am aware, no such invitation was issued.

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between the programmes assumed when the Structure Plan was drawn up and those now anticipated by the district planning authorities for the West of East Grinstead and West of Crawley sites. On the other hand, Horsham District Council's assumed delivery from the West of Horsham site is now in advance of the Structure Plan expectation.

- 12.133 As to the reliability of Mr Woolf's forecasts, there is no doubt that he is an experienced practitioner in his field, with many years experience of analysing and promoting major development schemes on behalf of his clients [6.177]. He has looked at the three schemes and endeavoured to estimate what is a realistic delivery programme for each one. Individually, many of his assumptions do not look unreasonable and when the Council's witness was taken through them in cross-examination he conceded that the programmes for West of East Grinstead and West of Horsham sites put forward by the respective district planning authorities might indeed prove optimistic [6.182, 6.196].
- 12.134 At the same time, it does seem to me that the picture Mr Woolf paints may be unduly pessimistic. On the West of Crawley site, Mr Dennington conceded that "*it would be sensible*" to determine the route of the relief road after the position regarding the second runway at Gatwick is known [6.190]. In principle I agree. However, it seems to me that the need to progress development on the West of Crawley site is pressing to the point where a decision on the road will need to be taken in advance of any decision on the second runway. This might result in a road being built which subsequently has to be modified if the second runway proceeds. However, this is a matter which the airport authorities have addressed and in a letter dated 26 July 2004 (CBC02/14) BAA Gatwick accepted that part of the road would be likely to fall within the boundary of the area safeguarded for future airport expansion. Moreover, they took the view that this should not constrain the decision on the West of Crawley development, and indicated that they would not object if it was found necessary to route part of the road through the safeguarded area.
- 12.135 Similarly, whilst the area of search for the West of Crawley site includes a large part of the area safeguarded for a possible second runway, the search area is much larger than that required to accommodate the number of houses proposed. Importantly, there is no suggestion that it will not be possible to find a suitable site outside the safeguarded area [7.165].
- 12.136 As to the need for additional sewage infrastructure, clearly additional capacity will be required which will need to be investigated. Thames Water has indicated that the company's preference would be for a new sewage treatment facility to serve the development, which may take 8 to 10 years to deliver [6.191]. However, it appears that it would also be possible to upgrade the existing treatment works and provide a new connection from the West of Crawley site, which Thames Water estimate would take 3 to 5 years to complete [ibid and GWB0/17]. Whilst land at the present sewage works is constrained, with no spare land available for expansion, BAA Gatwick own the land surrounding the works and Mr Lockwood advised me at the inquiry that he saw no difficulty in releasing a modest area to Thames Water if it were needed to enhance their sewage treatment works. Given that the present works has capacity to

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accommodate 3,000 additional new homes in the area [12.94, footnote], it seems to me that, if the option of connecting to and upgrading the present works is taken, then any delays to housing delivery on account of a lack of sewerage infrastructure to serve the West of Crawley site should not be significant.

- 12.137 Overall my view is that Mr Woolf's position in respect of the West of Crawley site is unduly pessimistic, for the reasons outlined above. I also previously concluded that some of the delays he assumed in the delivery programme for housing sites in the Borough were unjustified, notably at the Telford Place, Ifield Community College and Thomas Bennett sites [12.82 to 12.84 and 12.90 to 12.103].
- 12.138 I do not have any evidence to show that his assumed trajectories for the delivery of housing on the West of East Grinstead and West of Horsham sites are similarly pessimistic. However, his position is in both of these cases at odds with that of the planning authorities involved who I would normally expect to be well informed as to the true position of these proposals. If this is not the case, and the assumptions on which their housing trajectories are founded are materially flawed, I would expect this to be revealed when the soundness of the relevant development plan documents is examined. Until such time as these are examined, it seems unwise to place too much weight on Mr Woolf's suggestion that the programmes they put forward are significantly optimistic.
- 12.139 My conclusions in this regard are reinforced by the lack of any move on behalf of the various parties with an interest in the matter to invoke action under policy NE4 of the Structure Plan. This states clearly that where there is a major shortfall in one district this should be addressed within the relevant sub-area of the County through a joint assessment with the district planning authorities [5.9, 6.169, 6.174]. It is true that the County considers that it no longer has any locus for this policy in the Structure Plan [10.1]. However, there is no evidence to suggest that SEERA would not take the lead in invoking action under this policy if they saw a need. No doubt they do have other matters on their mind, as the Appellants suggest [6.173], but it seems to me most unlikely that they would not take action under this policy or in some other way if they perceived that there was a real problem with housing delivery in this part of the Region.
- 12.140 In conclusion, I find Mr Woolf's evidence on the housing trajectory for the West of Crawley site overly pessimistic. On the west of Horsham and West of East Grinstead sites, I do not have sufficient information to reach a conclusive view. There is no evidence, however, that his pessimism regarding the programme for delivery of housing on these sites is shared by the district planning authorities involved, or SEERA. Accordingly, I take the view that only limited weight should be afforded to the Appellants' evidence on shortfalls in sub-regional housing supply in favour of an immediate grant of planning permission for the appeal site.
- 12.141 Should the Secretary of State not agree with me on this matter, and conclude that there will indeed be a significant shortfall in the sub-regional housing supply as measured against the Structure Plan or indeed the emerging South East Plan requirements, then it is necessary to consider further whether this justifies the immediate grant of planning

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permission for the appeal site. Putting aside all other matters, including matters relating to the possible second runway at Gatwick, it would be unusual, as the Council note, to allow an appeal for a site in one authority simply to make up for delays to strategic housing sites in an adjoining authority [7.170].

- 12.142 Against this, the strategic allocations in the neighbouring authorities are to meet the needs of the Crawley/Gatwick area. The appeal site is, by virtue of its location, ideally situated to meet that need [2.11]. It is available now, and I conclude below that there is no significant impediment to its development. If planning permission is granted now it should deliver 900 dwellings by 2012 and 1,900 by 2016, including some 760 affordable homes [6.99, 6.203, 7.93]. Clearly, its release would make a significant contribution to housing delivery in the Crawley/Gatwick sub-region.
- 12.143 A further consideration which would need to be taken into account in any decision to release the site now is whether alternative sites are available which could equally meet the need. In this regard it is common ground that there are no other suitable sites available in Crawley [6.172]. Equally, there are no other strategic sites identified in the Structure Plan, which could be brought forward to meet a shortfall. It can also fairly be assumed that the neighbouring planning authorities have allowed for all development that can reasonably be expected to come forward on previously developed land in their urban areas in drawing up their housing trajectories and making their strategic allocations [6.175]. Accordingly, it might be concluded that there are no other possible sites which could meet the need. Notwithstanding this, it has to be recognised that this was not a matter on which detailed evidence was brought to the inquiry and a joint assessment by all the district planning authorities involved, along the lines of that suggested by policy NE4 of the Structure Plan, may reveal other possibilities.

### ***Prematurity***

- 12.144 As to the question of prematurity, it is put by the Council that a grant of planning permission for the appeal site at this time “*would drive a coach and horses through the fundamental tenets of the submission Core Strategy - reliance on brownfield land together with urban regeneration and renewal*” [7.176]. These are strong words and there is no doubt in my mind that granting planning permission for the appeal site now would materially change the balance that would be struck in the greenfield/brownfield housing supply in the Borough, at least in the short term. It would also be likely to result in a significant oversupply of housing in the Borough measured against the Structure Plan requirement, given the number of dwellings likely to come forward from other sites in the Borough [12.118]. Accordingly, if planning permission were granted, the Council might need to re-examine the timing of some of the other housing proposals in the emerging Core Strategy. In this regard, it might be argued that refusal of planning permission on prematurity grounds is justified having regard to the advice in *The Planning System: General Principles* which notes that “*where there is a phasing policy it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect*” [6.211]. Notwithstanding this, it seems to me that to refuse planning permission on prematurity grounds may not be justified having regard to the particular circumstances of this case. In particular:

1. The site has strong support in the development plan. It is allocated in the adopted Local Plan, albeit that the Plan was adopted before PPG3 was published [7.205]. It is identified as a strategic housing site in the later Structure Plan. That Structure Plan effectively requires that the site be allocated in the emerging LDF [6.212].
2. The planning application was submitted in 1998. Its determination was held up by a direction issued by the Secretary of State, which still remains in force [1.2]. It would not have been sensible to submit the appeal before the Airports White Paper was published and the subsequent judicial review completed [6.2].
3. The appeal was submitted in September 2005, some eight months after the judgement was issued and well before the submission Core Strategy was published. The prematurity reason for refusal was only added by the Council following the publication of the submission Core Strategy, by which time the preparations for the inquiry were well advanced [12.5].
4. Given that the site is allocated in the submission Core Strategy for development after 2018, and there are no alternatives being put forward to take its place, the dispute is not about the scale or location of development, only its timing [6.209 and 6.210].
5. Whilst concerns have been expressed regarding the effect that granting planning permission for the appeal proposal might have on the delivery of other brownfield housing sites in Crawley, particularly in relation to the Town Centre North proposal [11.14], there is no evidence that permitting development on the appeal site would materially delay housing delivery on other sites in Crawley (see paras 12.149 and 12.150 below).

12.145 I accordingly take the view that the case for refusing planning permission on prematurity grounds in relation to the emerging LDF is, at best, marginal.

### **Other Considerations**

#### ***Affordable Housing***

12.146 There is no dispute that there is a large unmet need for affordable housing in the Borough of Crawley. Between 2001 and 2006 only 98 new affordable dwellings were provided in the Borough [6.203] and the Council accepts that its performance in terms of the delivery of affordable homes has been poor [7.85].

12.147 The appeal site would deliver 760 (40%) affordable homes in accordance with the policy requirement set by the emerging Core Strategy [5.39]. The agreed conditions require a minimum of 70% of these to be social rented accommodation, with a mix of housing type and size to meet local housing needs [7.84].

12.148 Whilst there is evidence that the Council is taking steps to address the very poor level of delivery of affordable housing, and that schemes already approved are likely to deliver some 700 additional affordable homes in the near future [7.86], some 90% of these will be flats [6.205]. Accordingly, there is no dispute that the ability of the appeal scheme to deliver 760 additional affordable homes, including housing for families required to meet priority housing needs [ibid], is a matter to which significant weight should be attached in favour of the grant of planning permission [6.203].

***Effect on other Housing Schemes in Crawley***

12.149 The Council's development partners for the Town Centre North proposal submit that granting planning permission for the appeal proposals would result in an oversupply of housing in the Borough up to 2018, which would reduce the ability of Town Centre North to deliver residential units [11.14]. As to the potential for oversupply, I broadly concur [12.117 to 12.121]. GVA Grimley did not attend the inquiry to justify their claim that delivery of housing in the Town Centre North scheme would be prejudiced, however, and Mr Fairham for the Council conceded in cross-examination that there is no evidence to support their contention that this would be the case [6.217]. Also, the Town Centre North scheme would deliver primarily flatted development, whereas the appeal scheme would deliver mainly houses. Competition between the schemes in the housing market would therefore be limited. Given that the Town Centre North scheme is retail led, I would not expect the early release of the appeal site to impact on its viability to any significant degree [6.128].

12.150 As to the other housing schemes in Crawley, there is no evidence that they would be likely to be delayed if planning permission for the appeal site were granted.

***Dwelling Mix***

12.151 As I have noted above, the nature of the appeal site is such that a significant proportion of the dwellings constructed are likely to be houses, suitable for family occupation, as opposed to flats. In contrast to this, many of the other housing schemes in Crawley would deliver a large proportion of flats. The development underway at Haslett Avenue will deliver 788 flats, but only 45 houses (CBC/02/16). Overall, some 80% of the dwellings expected to be built on large sites with planning permission will be flats, with only 20% houses [6.207]. Looking to the future, it seems likely that the 170 dwellings at Ifield Community College and the 200 dwellings at Thomas Bennett, which I anticipate will soon come forward, will be mainly houses. However, the 250 dwellings which I expect to be delivered at Telford Place will all be flats.

12.152 Whilst I am not aware of any specific policy favouring the provision of houses as opposed to flats in the Borough, policy H7 states that housing developments should include a substantial proportion of small dwellings, where appropriate to the character of the site [5.25]. Policy H6 in the emerging Core Strategy follows a similar line, but requires developments to secure a "*mix of dwelling type and size*" [5.34]. PPS3, paragraph 24, likewise emphasises the need for housing to contribute to the creation of mixed communities.

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- 12.153 Accordingly, it seems to me that the ability of the appeal proposal to deliver such a mix, including market and affordable family accommodation in the form of houses, as opposed to flats, is a factor weighing in favour of a grant of planning permission.

*The Masterplan*

- 12.154 Whilst the Council initially expressed reservations regarding the locations shown for the school and the neighbourhood centre on the masterplan, and suggested that alternative locations should be considered, these were firmly rebutted by the Appellants [6.223]. Subsequently, they were not pursued in detail by the Council who in their closing submissions restricted their criticism to submissions on the manner in which the masterplan was developed, and the asserted lack of public involvement in the process [7.171 to 7.173].
- 12.155 As to the matters raised, there is no doubt in my mind that the extent of public involvement in the development of the masterplan was limited. The plan was drawn up by the Appellants, and only after that was a public exhibition held [7.171]. Notwithstanding this, the Appellants did modify the plan in response to various concerns raised by English Nature [11.15 and 11.16]. Additional footpaths/cycleways were also shown through the woodlands to the west of Balcombe Road, in response to comments made by David Lock Associates who were appointed to appraise the masterplan for the Council [1.7].
- 12.156 David Lock Associates also suggested that the neighbourhood centre would be better located on Balcombe Road, possibly towards the south of the site, but this suggestion was not taken up by the Appellants, for reasons that were fully explained in their evidence [6.223]. Having considered that evidence, I agree with the Appellants that, taking all matters into consideration, the location for the neighbourhood centre shown on the submitted masterplan is definitely preferable to the alternatives suggested. Also, whilst I accept that more public involvement in the masterplanning process might have resulted in a slightly different disposition of land uses about the site, there is no evidence to show that the proposals put forward by the Appellants, and used to inform the ES, could be significantly improved. I therefore conclude that there is no case for refusing planning permission on account of alleged deficiencies in the masterplanning process.
- 12.157 Allied to the Council's criticisms of the masterplan is a suggestion that the masterplan was driven by land ownership considerations [7.171] and that the lack of a land equalisation agreement between the four landowners involved would be likely to lead to ransom situations developing which would frustrate development [7.19]. I reject those arguments. Plainly, in an ideal world it would be better if all the landowners involved had entered into a formal development agreement before the appeal was promoted. However, there is no evidence to support the view that unacceptable ransom situations would be created. The agreed conditions require substantial provision to be made early in the development programme for off-site infrastructure, which would almost certainly preclude the parties to the appeal proceeding with Phase 1 of the development without an agreement with the other landowners involved to share these costs [6.232]. Also, both English Partnerships and the Borough Council
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have control of land that is required before Phase 2 of the development can proceed [ibid]. As such, it seems to me that no one party has a material ransom advantage over any other. In any event, in a scenario where the Secretary of State has indicated by granting planning permission that she wishes the development to proceed, it seems to me that English Partnerships and the Borough Council can reasonably be expected to use their land holdings to facilitate it going ahead. Indeed, the Council's witness confirmed at the inquiry that, in such circumstances, he would not expect the Council to be "awkward" [6.232]. To my mind, there is no reason to suppose that, if planning permission were granted, development would be materially delayed by the landowners involved failing to reach agreement, or for any other reason.

### *Ecological Considerations*

- 12.158 There are no sites of national or international importance for nature conservation that would be affected by the appeal proposals. Notwithstanding this, there are several protected species present on the site, including bats, dormice and great crested newts. These were considered in the ES and proposals put forward in outline to mitigate and compensate for the impacts on the site's ecological resources. Conditions to secure the long-term management of the woodland about the site, enhancement of the Gatwick Stream corridor and the other mitigation and compensation measures were agreed in principle, as a result of which Natural England wrote confirming that they had no objections to the appeal proposals [11.16]. The conditions were subsequently modified to include specific references to additional concerns raised by the Environment Agency [Appendix E, Conditions 13 and 14].
- 12.159 The Council, for their part, took a similar position to that of Natural England and raised no reason for refusal relating to ecological matters [6.224]. The Environment Agency took a different view, however, and wrote three letters each suggesting a series of conditions on ecological matters [11.11 to 11.13]. Most of these were not contentious and were incorporated in the agreed conditions. Two of the suggested conditions, however, would have required significant changes to the masterplan. Accordingly, the measures they sought – the retention of Woodland W2 and Ditch 2 – could not be achieved by the imposition of conditions, only by refusing planning permission for the appeal proposals [6.225].
- 12.160 As to the position adopted by the Environment Agency, it is at odds with the evidence given by Mr Godwin for the Appellants who expressed the view that the features in question are of very poor quality and that their loss would be more than compensated for by the proposed mitigation measures [6.225]. This view was shared by Natural England and not questioned when Mr Godwin gave evidence. Having seen the features involved, I have no reason to question his expert judgement. The Environment Agency's representative, on the other hand, declined to appear and give evidence to support her request for the conditions sought.<sup>1</sup> Also, some aspects of her

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<sup>1</sup> Inspector's note. Representatives of the Environment Agency (EA) attended the conditions session at my request. They spoke and the ecologist present indicated that she had been on the site. She declined, however, to say how long she had been there [6.226]. The differences between the EA's position and that of

description of the features made at the conditions session did not match my subsequent observations on the site. In these circumstances I take the view that the Environment Agency's request should be given very limited weight.

- 12.161 I therefore conclude that, subject to the agreed conditions being imposed on any planning permission granted, there is no reason to refuse planning permission for the development proposed on account of its impact on features of ecological or biodiversity interest.

### ***Park and Ride***

- 12.162 Whilst the adopted Local Plan requires a park and ride facility to be provided in the North East Sector [5.28], it is common ground that there is insufficient justification for pursuing that requirement at this time [7.211, 10.5]. Accordingly, the appeal proposals make no provision for its delivery. Notwithstanding this, the masterplan identifies an area of land close the proposed new link road between Balcombe Road and Crawley Avenue which could be developed as a park and ride facility if it should be required in the future [ibid].

### ***Fire Station***

- 12.163 It is similarly agreed that the new fire station site required by the Local Plan policy [5.28], is not necessary [7.211, 10.2].

### ***Conditions***

- 12.164 Conditions were discussed on a without prejudice basis at three informal conditions sessions during the inquiry, which I chaired. By the time the inquiry closed, agreement had largely been reached on a suite of conditions to be imposed in the event that the Secretary of State should be minded to grant planning permission for the appeal proposal (GWB0/17). In drafting the conditions, regard was had to the tests set out in Circular 11/95, namely that they should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. In my opinion, the agreed conditions meet these tests.
- 12.165 At the end of the inquiry two areas of dispute relating to conditions remained between the Appellants and the Council. These concerned, firstly, the need or otherwise for a condition to be imposed restricting the number of houses that could be completed in advance of the completion of the 5,000m<sup>2</sup> of Use Class B1, B2 and B8 buildings; and secondly, whether a bus frequency of four per hour should be required by condition.
- 12.166 In relation to the first of these matters, 5,000m<sup>2</sup> of employment floorspace is required to be provided within the development by policy NES4 of the adopted Local Plan

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Mr Godwin and Natural England were discussed, following which I specifically offered her the opportunity to attend the inquiry, give evidence in chief on the conditions in dispute, and answer questions put by Counsel for the Appellants. She declined, notwithstanding that it was made clear to her that doing so would limit the weight that I would be able to give to the Agency's written submissions.

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[5.28]. The major part of this is shown on the masterplan as located alongside the railway opposite the Foster Yeoman aggregates yard [11.2]. In this location it is common ground that use of the land for housing would not be appropriate having regard to air quality concerns [4.19]. In terms of the intended phasing, the employment buildings fall within Phase 3 of the development [3.17]. The effect of the Council's suggested condition would be to require the employment buildings to be completed before more than 1,300 dwellings are occupied [6.233].

- 12.167 As to the soundness of this condition, I understand the Council's desire to ensure that the development, if permitted, makes provision for employment uses on site and complies with Local Plan policy NES4. However, I take the view that the condition as drafted is unreasonable. There is no suggestion that the Appellants would not seek to bring forward the employment floorspace; indeed given that other uses for this part of the site are effectively precluded by the agreed conditions [Appendix E, Conditions 1 and 61], they would have every incentive to do so. At the same time, it has to be recognised that market conditions may not favour the provision of new employment floorspace at the time Phase 3 proceeds [6.233]. To prevent further houses being occupied in that situation seems to me to be both unnecessary and unreasonable. I therefore do not support the amendment suggested by the Council.
- 12.168 Turning to the frequency of the proposed bus service, whilst the Council submit that a 15 minute service is required to provide a realistic alternative to car travel [7.179], their position is not supported by the County Council who consider that, as a stand alone service, a 15 minute frequency would not be viable in the long term [10.4]. They do not support the Borough's suggested amendment [ibid]. Also, whilst there is some force in the argument that the ES was based on a bus service with a 15 minute frequency [ibid], there is no evidence that, had the assumption been that a 20 minute service would be provided, then the conclusions reached would have been different. In these circumstances I take the view that the Council's suggested amendment should not be supported.

### ***Sustainability***

- 12.169 There is no doubt that, in terms of its location, the appeal site is well placed to meet the housing needs of the Crawley/Gatwick sub-region. It is some 3.5km from the town centre and very well located with respect to the employment opportunities available at Gatwick Airport and in the town's main employment areas [2.11]. Paragraph 7.26 of the Local Plan acknowledges that it is the "*best location for a new neighbourhood*" [6.221]. Its sustainability credentials would be further enhanced by the bus service proposed and the proposed footpath and cycleway improvements [3.10 and 3.11]. Many facilities required for day to day living would be provided as part of the development, including a primary school, shops, community centre, health centre and library [3.1]. These would be secured by condition [Appendix E, Conditions 25, 26, 27 and 29]. A further condition would require the homes to be built to achieve a "very good" EcoHomes rating [Appendix E, Condition 20].
- 12.170 Another positive feature of the development is that it would be likely to decrease the present rate of in-commuting to Crawley by car. In this respect, the evidence shows

that the town performs particularly badly at present [6.222]. Notwithstanding the Council's submissions regarding the level of out commuting observed at Maidenbower [7.208], there is no doubt in my mind that providing additional homes in the town close to the employment areas can only improve the situation.

- 12.171 Against this, it has to be recognised that the appeal site is a greenfield site. Consequently, its development prior to the development of alternative brownfield land in Crawley would run counter to the principle of making optimum use of previously developed land to meet future development needs.

***Development Control Issues and Other Matters***

- 12.172 Leaving aside the matter of noise from the possible second runway at Gatwick (see above), it is common ground that there are no development control issues that would stand in the way of a grant of planning permission for the appeal scheme [6.219]. It is further agreed that the proposed development would not result in any unacceptable visual impacts or result in unacceptable landscape impacts [6.230]. There are no impediments to its delivery in terms of the availability of services, including sewage treatment facilities [6.227 and 6.228].

**Matters of Particular Interest to the Secretary of State**

- 12.173 I turn now to the matters identified as being of particular interest to the Secretary of State in PINS letter of 25 October 2005 (INQ1).

***Accord with the Development Plan and the Emerging LDF (Matter a)***

- 12.174 Development of the site for housing would generally accord with the adopted Local Plan and Structure Plan, both of which allocate and identify the North East Sector as the preferred location for a new neighbourhood for Crawley [5.7, 5.24].<sup>1</sup> That allocation is carried through to the emerging LDF, but not for development in the short to medium term. An immediate grant of planning permission for the development proposed would accordingly conflict with policy NES1 of the emerging LDF which retains the North East Sector as a new neighbourhood "*phased to accommodate up to 2,700 dwellings and other uses in the longer term*" [5.43]. Given my conclusion that other sites on previously developed land are available in Crawley to meet the needs up to 2012, and potentially beyond [12.117 et seq], an early grant of planning permission for the appeal proposal would also involve conflict with those elements of Structure Plan policies LOC1, NE1 and NE4 and emerging Core Strategy policy H3, which give priority to the development of previously developed land before greenfield sites.
- 12.175 The proposal's lack of compatibility with the possible second runway at Gatwick (see below) would bring it into conflict with policy NES1 of the emerging Core Strategy, if

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<sup>1</sup> Note, however, that the Structure Plan recognises that development of the site may be delayed or prevented due to the need to safeguard land for a possible second runway at Gatwick [5.7].

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planning permission were to be granted in advance of a firm decision on the Government's part not to proceed with a second runway at Gatwick.

***Design and Accord with PPS1 and the Accompanying Guidance (Matter b)***

- 12.176 Insofar as the proposal is for a new neighbourhood on a greenfield site, it is inevitable that the character and appearance of the area would be fundamentally changed if the development proceeds. Notwithstanding this, the impact would be contained and there would be no harm to any landscape, ecological or other resources recognised for their national or international importance [2.9, 12.158]. Neither would there be any unacceptable visual impacts [12.172].
- 12.177 In terms of sustainability, the site is well placed to meet the housing needs of Crawley in a sustainable way that should help to reduce the present high levels of in-commuting to the area by car [12.169 and 12.170].
- 12.178 As to the design of the development, the application is in outline; consequently the details are not available for consideration at this stage. The masterplan and the design statement, however, show a development that should, to my mind, accord with the principles of high quality design set out in PPS1, and the agreed conditions would serve to provide adequate control over detailed design matters, should planning permission be granted. It is common ground that, aircraft noise aside, there are no development control objections to the development proposed [12.172].

***Accord with Housing Policy (Matter c)***

- 12.179 The proposal would deliver 40% affordable housing of a type and size to meet local housing needs. Of these, 70% would be social rented accommodation. In this regard the proposal would comply fully with the policy requirement set down in the emerging Core Strategy [12.147]. The overall density of development would be some 41 dwellings per hectare, which I consider appropriate for the site [3.1]. Parking provision would be controlled by conditions to comply with the County's parking standards and not exceed an average provision of 1.5 spaces per dwelling [Appendix E, conditions 37 and 38].
- 12.180 As to the need for the housing proposed, I conclude that there is no immediate need for the site to be released at this time to meet the housing requirement set by the Structure Plan for the Borough of Crawley [12.118]. The need case for its early release to meet the emerging requirements of the South East Plan for the Borough is greater, but not, in my view, compelling [12.119]. In the wider Crawley/Gatwick sub-region, there are concerns over the timetable for the delivery of other strategic housing sites, which might add weight to the case for the early release of the appeal site. The evidence on this point is uncertain, however, and to release the site now, in advance of a formal review of the position by SEERA and all the local planning authorities involved, would run counter to the requirements of Structure Plan policy NE4 [12.137 et seq].

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***Accord with Transport Policy and PPG13 (Matter d)***

- 12.181 There is no dispute that the location of the development, coupled with the measures proposed to enhance footpath and cycleway connections and to provide a viable bus service to the town centre, the main employment areas, Gatwick and Three Bridges Station would secure a development that would help to promote sustainable transport choices [12.169]. Further, the provision of shops, a primary school, health centre, community centre and library within the site would assist in reducing the need to travel [ibid]. In my opinion, the development would be fully consistent with the advice in PPG13, including that relating to parking [12.179].

***Effect on the Local Highway Network (Matter e)***

- 12.182 By the time the inquiry closed, the Appellants had reached agreement with the highway authorities involved on a package of off-site highway improvement works required to accommodate the additional traffic generated by the development [12.7]. These would be secured by a series of agreed conditions [4.23].
- 12.183 Whilst several local residents and others expressed concerns in their written submissions regarding the impact that the development would have on the local road network [11.3 and 11.17], I have no reason to doubt that the matter was thoroughly investigated by the highway authorities involved. There is nothing to suggest that their judgement as to the measures required to accommodate the development is in any way flawed. I accordingly take the view that the objections on highway matters from others who were not present at the inquiry should be afforded very limited weight in the overall planning balance.

***Effect on Proposals for Expansion of Gatwick Airport (Matter f)***

- 12.184 It is common ground that the appeal proposal would not impinge on the land that would be required should a second runway be constructed at Gatwick Airport. It is also generally agreed that, should the Government decide that a second runway at Gatwick is necessary in the national interest, the existence of the development proposed would not frustrate that runway's development [12.160 and 12.161].
- 12.185 Notwithstanding this, there is a significant prospect that the existence of housing on the appeal site would bring about a change in the configuration of the second runway, or its operating regime. Whilst GAL's preferred option is for a wide-spaced second runway to be operated in mixed mode, they recognise that a comparative evaluation of alternative runway options and operating modes would be required to support any future planning application for the construction of a second runway. Having housing in the North East Sector would materially alter that balance and the conclusions that might be drawn from it. Accordingly, the form of the runway might be changed and/or its operating regime modified to, for example, provide segregated operations for all or part of the day. This in turn could reduce the ultimate capacity of the Airport [12.62 and 12.63].

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***Whether Satisfactory Living Conditions would be Achieved for Future Occupiers (Matter g)***

- 12.186 There is no dispute that, except with regard to the impact of aircraft using the possible second runway at Gatwick, the development would provide satisfactory living conditions for future residents [4.5 to 4.19 and 12.172]. The question of aircraft noise with a second runway at Gatwick is critical, however, and it is agreed that, on the best information available, the majority of the housing would fall between the 60 and 66dB  $L_{Aeq}$  noise contours for 2030. As such, it would not be contrary to the limit imposed by Structure Plan policy NE19 [12.39]. In PPG24 terms, the housing would all fall within NECs A or B [12.41].
- 12.187 Whilst it would conflict with the requirements of policy GD17 of the adopted Local Plan (which restricts major noise sensitive development above the 60dB  $L_{Aeq}$  contour in the absence of “*exceptionally compelling reasons*”), I conclude that this policy should be discounted having regard to s38(5) of the Planning and Compulsory Purchase Act 2004 and the conflict between the requirements of that policy and the later Structure Plan policy NE19 [12.32].
- 12.188 As to the advice in PPG24, I conclude that the guidance in this PPG should prevail over the standards suggested by the WHO and the advice in BS4142 when assessing the impact of aircraft noise on the appeal site [12.43, footnote]. I further conclude that the advice in PPG24, Annex 3, paragraph 8 is directly relevant to the appeal proposal [12.47 et seq]. This states that the 60dB  $L_{Aeq}$  contour is a “*desirable upper limit for major new noise sensitive development*”. Whilst this is not an absolute upper limit, given that the majority of the development would be sited within the 60dB  $L_{Aeq}$  contour, I conclude that this is a significant material consideration weighing against the grant of planning permission at this time [12.52].
- 12.189 It would also conflict with the reasoned justification preceding policy NES1 in the emerging Core Strategy which precludes development of the North East Sector whilst there is a possibility that a significant proportion of it would be exposed to noise above 60dB  $L_{Aeq}$  if a wide spaced parallel runway were required at Gatwick [7.5].
- 12.190 As to the practical effect on the residents, it is common ground that with appropriate insulation, secured by conditions, acceptable living conditions within the dwellings and acceptable teaching conditions within the proposed school would be achieved [12.41, 12.54]. Achieving acceptable living conditions would require the windows to be closed, however, and consequently an alternative ventilation system would be needed. Also, the noise levels within the majority of the gardens, parkland and other open spaces in the development would significantly exceed 57dB  $L_{Aeq}$  which is the recognised level marking the onset of significant community annoyance [12.28, 12.48].
- 12.191 At the school, the agreed condition requires “*reasonable efforts*” to be employed to provide an outdoor teaching area with a noise level meeting the standard recommended by Building Bulletin 93, but it is uncertain whether the recommended standard would be met. The suggested 55dB  $L_{Aeq,30min}$  standard for school playing

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fields would be exceeded by a considerable margin over the entire playing field area [12.55].

- 12.192 As to the weight that should be afforded to the adverse effects of aircraft noise from the possible second runway at Gatwick, the Airports White Paper makes it clear that a second runway at Gatwick is not the Government's preferred option for providing additional airport capacity in the South East – the favoured option is for a second runway at Stansted and a third at Heathrow. But it cannot be certain that these will proceed, and the White Paper explicitly requires that the option of building a second runway at Gatwick should be kept open. Given this, I take the view that the adverse effects of aircraft noise from a second runway at Gatwick is a matter that should be afforded significant weight in the overall decision [12.57 to 12.59].

***Conditions (Matter h)***

- 12.193 Should the Secretary of State decide to allow the appeal, then I recommend that the conditions included in Annex E to this report should be attached to the permission granted [12.164 to 12.168].

**Overall Conclusion**

- 12.194 The appeal scheme comprises a major part of a new neighbourhood at Crawley (the North East Sector), allocated and identified for development in the adopted Local Plan and the West Sussex Structure Plan. The sites identification in the Structure Plan is qualified, however, in that the policy recognises that development of the site may be delayed or prevented because of the need to safeguard land for a possible second runway at Gatwick. In the emerging LDF Core Strategy, the allocation is retained, but only for development in the longer term. In the short term, alternative sites, mainly on previously developed land, are proposed to meet the Borough's housing needs.
- 12.195 The position regarding the possibility of a second runway at Gatwick is not yet completely clear. Government policies do not favour the proposal, but the Airports White Paper explicitly requires that the option of constructing a wide-spaced second runway at Gatwick should be kept open.
- 12.196 There is general agreement that the option of building a second runway at Gatwick would not be frustrated should the appeal proposal proceed. However, the configuration of any new runway might be altered, and the operating regime for it might be modified if the appeal site is developed as proposed. This could reduce the ultimate capacity of the airport.
- 12.197 As to the effect of aircraft using a second runway at Gatwick on the development proposed, agreed conditions would ensure that the criteria set in policy NE19 in the Structure Plan would be met. With appropriate noise insulation, living conditions within the houses, and teaching conditions within the school, would be acceptable with the windows closed. Notwithstanding this, outside in the gardens and other open spaces about the development, noise levels would generally exceed 57dB  $L_{Aeq}$  which is the level commonly accepted as marking the onset of significant community

annoyance. Similarly, a substantial part of the development would be exposed to noise levels in excess of 60dB L<sub>Aeq</sub> which PPG24 recommends as a desirable upper limit for major noise sensitive development. To my mind, this is a material consideration of significant weight telling against the grant of planning permission at this time.

- 12.198 With regard to the need for the housing proposed, analysis of the evidence presented shows that the housing target for the Borough up to 2012 set by the adopted Structure Plan should be met from other sites identified in the emerging Core Strategy and windfalls. Measured against the increased requirement proposed in the draft South East Plan, the case for early release of the site is greater, but not, in my opinion, overriding. In the wider Crawley/Gatwick sub-region, there are concerns over the timetable for the delivery of other strategic housing sites, which might add weight to the case for the early release of the appeal site. However, the evidence on this point is uncertain and to release the site now, in advance of a formal review of the position by SEERA and all the local planning authorities involved, would run counter to the requirements of Structure Plan policy NE4.
- 12.199 Permitting development on the appeal site, which is greenfield, in advance of brownfield sites elsewhere in the Borough, would conflict with policies LOC1, NE1 and NE4 of the Structure Plan and one of the main planks of the Government's policies for sustainable development. Otherwise, however, the sites sustainability credentials are excellent. In particular, it is well placed in relation to the town centre, the town's main employment areas and Gatwick Airport. A bus service and enhanced footway and cycleway networks would be provided to connect the site to these destinations and the nearby main line railway station. A range of facilities would be provided within the development to meet the day to day needs of the residents, including shops, a primary school, community buildings, a health centre and a library.
- 12.200 There are no development control issues which would constrain the development of the site, apart from the issue of noise in relation to the second runway at Gatwick.
- 12.201 In terms of the proposal's compliance with the development plan, I conclude that a grant of planning permission at this time would be in conflict with those elements of Structure Plan policies LOC1, NE1 and NE4, which give priority to the development of previously developed land before greenfield sites.
- 12.202 I further find the proposal to develop the site at this time in conflict with policy H3 of the emerging Core Strategy which retains the site as an allocation, but only for development in the longer term.
- 12.203 As to the material considerations in favour of granting planning permission for the appeal proposal at this time, I agree that significant weight should be given to the 760 affordable homes which would be provided as part of the development. Also, whilst an early grant of planning permission for the appeal site would conflict with the principle of securing development on previously developed land before greenfield sites, there is no evidence to suggest that granting permission now would delay or prevent other sites coming forward. In sustainability terms, the site performs well and

allowing additional dwellings to be provided on it should help to reduce the present high levels of in-commuting by private car to the Crawley/Gatwick area.

- 12.204 In the absence of the possibility of a second runway being constructed at Gatwick, I would tend to the view that overall the material considerations in favour of granting planning permission at this time would outweigh the conflict with the development plan and the emerging LDF Core Strategy that I have identified and justify the grant of planning permission.
- 12.205 However, Government policy requires that the possibility of building a second runway at Gatwick should be kept open. Permitting the development proposed would be unlikely to frustrate the development of a second runway, but could result in the ultimate capacity of the airport being reduced. Critically, aircraft using a second runway would result in noise levels within the proposed housing area well beyond those which would be likely to cause community annoyance and significantly in excess of the 60dB  $L_{Aeq}$  which PPG24 recommends as a desirable upper limit for major new noise sensitive development. I accordingly take the view that, on balance and taking all matters into consideration, the proposed development should not be permitted at this time.

**13. RECOMMENDATIONS**

- 13.1 For the reasons given above, I recommend that the appeal be dismissed and planning permission refused for the development proposed.
- 13.2 In the event that the Secretary of State should disagree with this recommendation, then I further recommend that any planning permission granted should be subject to the conditions set out in Appendix E of this report.

*Andrew M Phillipson*

**Inspector**

**APPENDIX A - APPEARANCES****FOR GEORGE WIMPEY UK LTD AND BEAZER HOMES (REIGATE) LTD:**

Mr Peter Village QC and  
Mr Andrew Tabachnik, of Counsel

Instructed by Mr Paul Garber, Group Planning  
Director, George Wimpey UK Ltd

They called

Mr Jeffrey Charles BSc MSc FIOA

Consultant, Bickerdike Allen Partners

Mr Jeremy Woolf MA DipTP  
MRTPI

Director, Woolf Bond Planning

Mr Tim Goodwin BSc MSc  
MIENBSC MIEPN MIALE

Director, Ecology Solutions Ltd

Mr Paul Garber DipTP

Group Planning Director, George Wimpey UK Ltd

Mr David Boswell BSc CEng MICE  
FConSE

Technical Director, WSP Development and  
Transportation Ltd

Mr Clive Self DipLA MLI

Managing Director, CSA Landscape and Urban  
Design

Mr Christopher Cobbold MA MBA  
MRICS

Director, DTZ Consulting and Research

**FOR CRAWLEY BOROUGH COUNCIL:**

Miss Mary Cook, of Counsel and  
Miss Melissa Murphy of Counsel

Instructed by Mrs Ann-Maria Brown  
Head of Legal Services

They called

Mr Brian Cox DipEH MSc MIEH

Senior Environmental Health Officer, Crawley  
Borough Council

Mr Stephen Dennington BSc DipTP  
MRTPI

Principal Planning Officer, Crawley Borough  
Council

Mr Paul Fairham BSc DipTP MRTPI

Development Control Manager, Crawley Borough  
Council

**FOR GATWICK AIRPORT LTD**

Mr Timothy Lockwood MA BPhil  
MRTPI

Head of Corporate Responsibility, Gatwick Airport  
Ltd

**FOR THE HIGHWAYS AGENCY**

Mr Philip Coppel, of Counsel

Instructed by the Treasury Solicitor

**FOR WEST SUSSEX COUNTY COUNCIL**

Mr Scott Lyness, of Counsel

Instructed by the County Secretary

**FOR THE ENVIRONMENT AGENCY**

Mr Jack Hayes  
Ms Antonia Scarr

Major Projects Officer  
Technical Specialist

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## APPENDIX B - DOCUMENTS

Inspector's Note. For completeness and understanding, all proofs of evidence are included as inquiry documents. However, it should be noted that they have not generally been updated to reflect changes made to the evidence during the course of the inquiry.

### General Documents

Document	INQ1	PINS letter of 25 October 2005 setting out the matters on which the Secretary of State particularly wishes to be informed
Document	INQ2	Inspector's note of pre-inquiry meeting
Document	INQ3	Inspector's statement of issues, delivered on opening the inquiry (with additions suggested by the Appellants)
Document	INQ4	CBC's letters of notification of the inquiry, published notices and list of persons notified
Document	INQ5	Bundle of written representations
Document	INQ6	Inspector's note on evidence relating to housing need

### Core Documents

#### European Community Directives

Document	CD1	The Assessment and Management of Environmental Noise Directive (2002/49/EC)
Document	CD2	Council Directive 85/337/EEC (as amended by Council Directive 97/11/EC)
Document	CD3	The Habitats Directive (92/43/EC)

#### UK Acts of Parliament

Document	CD4	Wildlife and Countryside Act 1981 (as amended)
Document	CD5	Town and Country Planning Act 1990 (as amended)
Document	CD6	Planning & Compulsory Purchase Act 2004

#### UK Statutory Instruments

Document	CD7	Town and Country Planning (General Development Procedure) Order 1995 (SI: 1995/419) (as amended)
Document	CD8	Conservation (Natural Habitats, &c.) Regulations 1994 (SI: 1994/2716)
Document	CD9	Air Quality (England) Regulations 2000 (SI: 2000/928)
Document	CD10	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI: 1999/293)

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Document CD11 Air Quality (England) (Amendment) Regulations 2002 (SI: 2002/3043)

### **Circulars**

Document CD12 Circular 08/93: Awards of Costs Incurred in Planning and Other Proceedings

Document CD13 Circular 11/95 : The Use of Conditions in Planning Permissions

Document CD14 Circular 05/00: Planning Appeals Procedures

Document CD15 Circular 05/2005 : Planning Obligations

Document CD16 Circular 06/2005: Biodiversity and Geological Conservation

Document CD17 Circular 02/99: Environmental Impact Assessment

### **Planning Policy Guidance Notes / Planning Policy Statements**

Document CD18 PPS1: Delivering Sustainable Development (February 2005)

Document CD19 The Planning System: General Principles

Document CD20 PPG3: Housing (March 2000)

Document CD21 PPS3: Housing (December 2005), Consultation Draft

Document CD22 PPG4: Industrial and Commercial Development and Small Firms (November 1992)

Document CD23 PPS6: Planning for Town Centres (March 2005)

Document CD24 PPS7: Sustainable Development in Rural Areas (July 2004)

Document CD25 PPS9: Biodiversity and Geological Conservation (August 2005)

Document CD26 PPS11: Regional Spatial Strategies (September 2004)

Document CD27 PPS12: Local Development Frameworks (September 2004)

Document CD28 PPG13: Transport (March 2001)

Document CD29 PPG15: Planning and the Historic Environment (September 1994)

Document CD30 PPG16: Archaeology and Planning (November 1990)

Document CD31 PPG17: Planning for Open Space, Sport and Recreation (July 2002)

Document CD32 PPS23: Planning and Pollution Control (November 2003)

Document CD33 PPG24: Planning and Noise (September 1994)

Document CD34 PPG25: Development and Flood Risk (July 2001)

Document CD35 PPS25: Development and Flood Risk (December 2005), Consultation Draft

### **UK Government Green Papers, White Papers, Strategy and Guidance Documents**

Document CD36 Transport White Paper, "The Future of Transport – a Network for 2030" (July 2004)

Document CD37 Transport White Paper, "The Future of Air Transport" (December 2003)

Document CD38 Transport White Paper, "A New Deal for Transport : Better for Everyone" (1998)

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Document	CD39	The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (January 2000)
Document	CD40	The Air Quality Strategy for England, Scotland, Wales and Northern Ireland: Addendum (February 2003)
Document	CD41	Local Air Quality Management, Technical Guidance, LAQM, TG(03) Defra (February 2003)

### **Development Plan Documents**

Document	CD42	RPG9 (RSS) : Regional Planning Guidance for the South East
Document	CD43	West Sussex Structure Plan 2001-2016
Document	CD44	Crawley Borough Local Plan 2000

### **Application and Supporting Documents**

Document	CD45	Planning Application and covering correspondence (January 1998)
Document	CD46	Supporting Statement (January 1998)
Document	CD47	Development Phasing (November 1998)
Document	CD48	Transport Study, Final Report (October 1998)
Document	CD49	Air Quality Investigation Summary Report (August 1998)
Document	CD50	Contaminated Land Investigation (August 1998)
Document	CD51	Preliminary Archaeological Evaluation (May 1998)
Document	CD52	Rail Station Viability Study (May 1998)
Document	CD53	Description of Historic Buildings (March 1998)
Document	CD54	Archaeological Desk Based Assessment (December 1997)
Document	CD55	Ecological Appraisal (January 1998)
Document	CD56	Air Quality Investigation Railway Goods Yard, Crawley (December 1997)
Document	CD57	Environmental Statement (June 2006 - 3 volumes)
Document	CD58	Design Statement (July 2006)

### **Committee Reports/Minutes**

Document	CD59	Report to Development Control Committee on 19 December 2005 together with related Minute
Document	CD60	Report to Development Control Committee on 7 August 2006 together with related Minute

### **Other Documents**

Document	CD61	West Sussex Structure Plan 1998 (not adopted)
Document	CD62	Crawley Borough Local Development Framework, Submission Core Strategy (May 2006)
Document	CD63	Crawley Borough LDF, Draft Core Strategy Evidence Base Document (October 2005)

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Document	CD64	Planning Guidance for the North East Sector (December 1998)
Document	CD65	Draft South East Plan (March 2006)
Document	CD66	Gatwick Airport Outline Master Plan (Consultation Draft, March 2005)
Document	CD67	Article 14 Direction dated 19 March 1999
Document	CD68	A Strategy for the West Sussex Landscape (October 2005)
Document	CD69	Agreement dated 13 August 1979 between British Airports Authority and West Sussex County Council
Document	CD70	Crawley Borough LDF, Submission Core Strategy Evidence Base (May 2006)
Document	CD71	Crawley Urban Housing Potential Study, August 2004
Document	CD72	Statement of Common Ground - Housing Land Supply
	CD72A	Completions on non-allocated sites 2003/04-2005/06
Document	CD73	Crawley Borough Housing Strategy 2004-2008
Document	CD74	Crawley Community Strategy 2003 to 2020
Document	CD75	Crawley Housing Needs Assessment, 2004
Document	CD76	Crawley Borough LDF - Sustainability Appraisal/Environmental Assessment Report, May 2006
Document	CD77	Mid Sussex LDF Small Scale Housing Allocations, Submission Document, May 2006
Document	CD78	Horsham LDF Core Strategy Paper Matter 2 – Development Strategy and Level of Housing Provision, June 2006
Document	CD79	Reigate and Banstead Housing Delivery Background Paper, May 2006
Document	CD80	East Grinstead Strategic Development Area Action Plan, Pre-Submission Document, May 2006
Document	CD81	Horsham LDF Core Strategy, November 2005
Document	CD82	Horsham LDF Core Strategy Paper Matter 4 - Strategic Location - West of Crawley, June 2006
Document	CD83	Statement of Common Ground - Noise Matters
Document	CD84	Horsham LDF Core Strategy Paper Matter 5 - Strategic Location West of Horsham, June 2006
Document	CD85	Air Quality Investigation, Crawley Sewage Treatment Works (December 1997)
Document	CD86	Air Quality Investigation, Crematorium (December 1997)
Document	CD87	Crawley Goods Yard Air Quality Review (July 2000)
Document	CD88	Supplementary Planning Guidance Note 1, Development of Gatwick Airport (August 2003)
Document	CD89	Detailed Assessment of Air Quality in Crawley (July 2004)
Document	CD90	BAA SERAS Response: LGW Air Quality Study (June 2003)
Document	CD91	Crawley Borough LDF Draft Core Strategy Preferred Policy

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		Options - The Draft Evidence Base October 2005
Document	CD92	Crawley Borough Housing Supply/Demand Analysis 2004
Document	CD93	Crawley Borough LDF Affordable Housing Viability Study, February 2006
Document	CD94	Crawley Borough Council Annual Monitoring Report, 1 April 2004 to 31 March 2005
Document	CD95	Lancet Vol 365 4 June, 2005 "Aircraft and road traffic noise and children's cognition and health : a cross-national study"
Document	CD96	Article 14 Direction, 19 March 1999
Document	CD97	Development Plan Directions, 30 March 1999 and 18 October 1999
Document	CD98	High Court Judgement : Persimmon Homes (South East) Ltd v Secretary of State for Transport, 21 January 2005
Document	CD99	Crawley Borough Council Report to Committee BPESO 1105, 26 July 1999
Document	CD100	WHO "Guidelines for Community Noise", April 1999
Document	CD101	WHO Technical Meeting Report on Aircraft Noise and Health, October 2001
Document	CD102	West Sussex Structure Plan 1993
Document	CD103	Crawley Borough Council Report to Committee BPESO 1106, 26 July 1999
Document	CD104	Minutes of the Executive, Crawley Borough Council, 12 July 2006
Document	CD105	How Efficiently is your Council Using Land? Report of the CPRE
Document	CD106	BS 4142: 1997 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas
Document	CD107	Representations on behalf of the Appellants to Crawley Borough Council LDF Submission Core Strategy
Document	CD108	Crawley Borough Council: Housing Action Plan, October 2005
Document	CD109	The Future Development of Air Transport in the UK: South East (2nd Edition)
Document	CD110	ERCD Report 0308 Revised Future Aircraft Noise Exposure Estimates for UK Airports, December 2003
Document	CD111	Noise Exposure Contours for Gatwick Airport 2000
Document	CD112	The Future Development of Air Transport in the UK: South West
Document	CD113	BS 8233:1999 Sound Insulation and Noise Reduction for Buildings - Code of Practice
Document	CD114	NHS Heatwave: Guide to Looking After Yourself and Others During Hot Weather
Document	CD115	Apple Tree Farm CR/2005/0335/OUT Committee Report & Decision Notice
Document	CD116	Statement of Common Ground - Air Quality
Document	CD117	The West Sussex Transport Plan 2006-2016, WSCC March 2006

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Document	CD118	Crawley Area Transport Plan, WSCC 2006
Document	CD119	Appeal Decision, Land at Flansham Lane/Worms Lane, Felpham
Document	CD120	Crawley North East Sector - Noise Report, January 1998
Document	CD121	Building Bulletin 93 - Acoustic Design of Schools
Document	CD122	Night Flying Restrictions at Heathrow, Gatwick and Stansted, DfT 2006
Document	CD123	BAA Gatwick: Community Buildings Noise Insulation Scheme August 2005
Document	CD124	BAA Gatwick: Home Relocation Assistance Scheme August 2005
Document	CD125	BAA Gatwick: Home Owner Support Scheme July 2005
Document	CD126	BAA Gatwick: Property Market Support Bond July 2005
Document	CD127	Horsham District and Crawley Borough Local Development Frameworks: West and North West of Crawley - Joint Action Area Plan Issues and Options, September 2006
Document	CD128	BAA Gatwick: Gatwick Airport Interim Master Plan October 2006
Document	CD129	ECRD Report 0502: Noise Exposure Contours for Gatwick Airport 2004
Document	CD130	Agreed statement on barrier effect of housing on aircraft noise
Document	CD131	Agreed note on location of proposed school relative to Gatwick flight paths
Document	CD132	Agreed note on definition and use of range mode noise contours
Document	CD133	Statement of Common Ground - Planning Matters
Document	CD134	Statement of Common Ground - Transport Matters
Document	CD135	Working Paper No 1C – Public Transport
Document	CD136	Working Paper No 2 – Pedestrian and Cycle Facilities
Document	CD137	Bundle of correspondence with Thames Water, relating to the capacity of Crawley Sewage Treatment Works
Document	CD138	Lady Margaret Road dimensions
Document	CD139	Revised County Parking Standards and Transport Contributions Methodology

### **Documents Submitted by the Council**

Document	CBC00/1	Opening submissions
Document	CBC00/2	Extract from School Standards and Framework Act 1998
Document	CBC00/3	Circular 10/73: Planning and Noise
Document	CBC00/4	Town Centre North Supplementary Planning Document – Key Issues and Options
Document	CBC00/5	Land ownership plan
Document	CBC00/6	CBC letter to Jones Day dated 22 September 2006
Document	CBC00/7	Aerial photograph - Lady Margaret Road (West)

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Document	CBC00/8	Neighbourhood Statistics - Maidenbower Ward
Document	CBC00/9	Plan showing extent of highway land - Lady Margaret Road (West)
Document	CBC00/10	SI1996, No 1817 - Town and Country Planning (General Development Procedure) (Amendment) Order 1996
Document	CBC00/11	Additional and amended conditions sought by the Council
Document	CBC00/12	Closing submissions
Document	CBC01/1	Mr Cox's proof of evidence
Document	CBC01/2	Mr Cox's supplementary proof
Document	CBC01/3	Draft statement of common ground in respect of noise matters including alterations requested by Mr Cox
Document	CBC01/4	2030 twin runway air noise contour plan (CAA/ERCD) (1:20,000 scale)
Document	CBC01/5	Plans showing 2004 actual noise contours around Gatwick, together with plans and aerial photographs of reconstructed school sites
Document	CBC01/6	Record of noise readings taken at representative school site
Document	CBC01/7	Note on barrier effect of housing and aircraft noise
Document	CBC02/1	Mr Dennington's proof of evidence
Document	CBC02/2	Mr Dennington's supplementary proof
Document	CBC02/3	Mr Dennington's summary
Document	CBC02/4	Core Strategy Housing Sites plans and aerial photographs
Document	CBC02/5	Note on Town Centre North
Document	CBC02/6	Central Bewbush Draft SPD, CBC September 2006
Document	CBC02/7	Housing starts and completions April-August 2006 (NHBC figures)
Document	CBC02/8	Housing planning permissions granted after 31 March 2006 and large residential applications awaiting determination at 1 October 2006
Document	CBC02/9	Social housing commitments and predicted future delivery as at 31 March 2006
Document	CBC02/10	High Court Claim relating to the SoS's grant of planning permission on Former TSB and Seaboard site, Russell Way Crawley
Document	CBC02/11	Minutes and Agenda of Crawley Development Control Committee 18 September 2006
Document	CBC02/12	Planning permission CR/2004/0801/FUL - land to the west of Matthews Drive, Maidenbower
Document	CBC02/13	Letter dated 4 October 2006 from WSCC to CBC re land for disposal at Thomas Bennett Community College
Document	CBC02/14	Letter dated 26 July 2004 from BAA Gatwick to Horsham District Council re proposals for development on Land West of Crawley
Document	CBC02/15	Bundle of DPD representations on Town Centre North
Document	CBC02/16	Table listing outstanding planning permissions for 6+ residential units, showing number and mix of affordable units
Document	CBC02/17	Table showing residential completions and commitments from April 2004 to present, including windfall sites
Document	CBC02/18	Table showing greenfield and PDL areas at Dorston Square, Bewbush assessed by Mr Dennington and Mr Woolf

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Document	CBC02/19	Fairview phasing for Leisure Centre Site
Document	CBC02/20	Plan clarifying CBC02/18
Document	CBC03/1	Mr Fairham's proof of evidence
Document	CBC03/2	Mr Fairham's summary
Document	CBC03/3	Mr Fairham's supplementary proof
Document	CBC03/4	Appendix 1 - Review of Forge Wood Master Plan, David Lock Associates, September 2006
Document	CBC03/5	Appendix 2 - Report to Development Control Committee, 18 September 2006
Document	CBC03/6	Letter of 6 July 2006 from South East England Regional Assembly to CBC re conformity of Core Strategy Submission Draft to RSS and emerging RSS
Document	CBC03/7	Grosvenor Ltd representation on LDF Core Strategy policy H5
Document	CBC03/8	Crawley Borough Leisure Space Audit 2002
Document	CBC03/9	Crawley Borough Playing Pitch Strategy for Outdoors Sports - Summary Report April 2005
Document	CBC03/10	Draft playground strategy for the Borough's unsupervised play areas
Document	CBC03/11	Planning application for residential development on land at Tinsley Lane (CR/97/0338/OUT) and map showing English Partnerships' land ownership at Kenmara Court
Document	CBC03/12	Town Centre North Feasibility Study - CBC and English Partnerships, October 2003
Document	CBC03/13	Consultation responses for NE Sector from utility companies
Document	CBC03/14	GOSE decision letter and Inspector's report re CPO at Spencer Road/Robinson Road

### **Documents Submitted by the Appellants**

Document	GWB0/1	Opening submissions
Document	GWB0/2	Finningley Airport decision and extracts from Inspector's report
Document	GWB0/3	Ecclesfield appeal decision and costs decision
Document	GWB0/4	Bundle of e-mails relating to noise statement of common ground
Document	GWB0/5	Planning for Housing Statement - Keith Hill, 17 July 2003
Document	GWB0/6	South East Plan timetable
Document	GWB0/7	Thames Water representations on Crawley LDF Core Strategy
Document	GWB0/8	English Partnerships' note on Crawley Town Centre Regeneration
Document	GWB0/9	Sensitivity testing of Mr Dennington's land supply analysis to 2012
Document	GWB0/10	Extract from West Sussex Structure Plan EIP Report of Panel
Document	GWB0/11	Minutes of CBC Executive meeting on 6 March 2002 and report on West Sussex Structure Plan Deposit Draft
Document	GWB0/12	Extract from Planning and Compulsory Purchase Act 2004
Document	GWB0/13	Jones Day letter of 23 September 2005 to the Planning Inspectorate, with appeal papers
Document	GWB0/14	Bundle of photographs of Kenmara Court
Document	GWB0/15	Note on status of explanatory memorandum in structure plans

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Document	GWB0/16	Bundle of appeal decisions
Document	GWB0/17	Conditions proposed by the Appellants
Document	GWB0/18	Closing submissions
Document	GWB0/19	J A Pye (Oxford) Ltd v Graham
Document	GWB1/1	Mr Woolf's proof of evidence
Document	GWB1/2	Mr Woolf's appendices
Document	GWB1/3	Mr Woolf's rebuttal
Document	GWB1/4	Not used
Document	GWB1/5	Draft statement of common ground including WBP assessment of housing land supply 2006/07 to 2018/19
Document	GWB1/6	Sub-regional housing provision calculations to 2012
Document	GWB1/7	Centros Miller representations on Crawley LDF Core Strategy
Document	GWB1/8	Revised housing trajectory for Crawley
Document	GWB1/9	Note on Bracknell town centre regeneration timeline
Document	GWB1/10	Note clarifying CBC02/18
Document	GWB2/1	Mr Garber's proof of evidence
Document	GWB2/2	Mr Garber's appendices
Document	GWB2/3	Mr Garber's rebuttal
Document	GWB2/4	Statement of Community Engagement, Crawley North East Sector: Green Issues, October 2006
Document	GWB2/5	Schedule of changes to GWB2/1 and 2/2
Document	GWB2/6	Plan showing layout of local centre and school
Document	GWB2/7	Plan showing 100m buffer zone to railway goods yard
Document	GWB3/1	Mr Self's proof of evidence
Document	GWB3/2	Mr Self's appendices
Document	GWB4/1	Professor Laxen's proof of evidence
Document	GWB4/2	Professor Laxen's appendices
Document	GWB4/3	Professor Laxen's supplementary note
Document	GWB5/1	Mr Charles's proof of evidence
Document	GWB5/2	Mr Charles's appendices
Document	GWB5/3	Mr Charles's rebuttal
Document	GWB5/4	Coventry Airport inquiry - extract from Inspector's report and conclusions
Document	GWB5/5	Mr Charles's further rebuttal
Document	GWB5/6	Note on noise readings at a representative site for the proposed school
Document	GWB5/7	Note on screening aircraft noise by buildings
Document	GWB5/8	Note on noise limit for local centre, community centre and other matters
Document	GWB6/1	Mr Goodwin's proof of evidence
Document	GWB6/2	Mr Goodwin's plans and appendices
Document	GWB6/3	Mr Goodwin's rebuttal

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Document	GWB6/4	Bundle of letters from Natural England, English Nature and the Environment Agency
Document	GWB7/1	Mr Boswell's proof of evidence on sustainability, access, drainage and infrastructure issues
Document	GWB7/2	Mr Boswell's appendices on sustainability, access, drainage and infrastructure issues
Document	GWB7/3	Note on Lady Margaret Road, Ifield
Document	GWB8/1	Mr Boswell's proof of evidence on transport issues
Document	GWB8/2	Mr Boswell's appendices on transport issues
Document	GWB8/3	Note on traffic generated by the employment use
Document	GWB9/1	Mr Cobbold's proof of evidence
Document	GWB9/2	Note on in-commuting to Crawley
Document	GWB9/3	Note on house price movements and commuting balance
Document	GWB10/1	Mr Littman's proof of evidence
Document	GWB10/2	Bundle of correspondence with retailers re proposed convenience store

#### **Documents Submitted by Gatwick Airport Ltd**

Document	GAL/1	Mr Lockwood's proof of evidence
Document	GAL/2	Mr Lockwood's summary
Document	GAL/3	2015 air noise forecasts
Document	GAL/4	Extract from draft text of interim master plan
Document	GAL/5	Extracts from ERCD Report 0308
Document	GAL/6	Gatwick Airport 2030 air noise contours with a wide-spaced second runway
Document	GAL/7	Extract from White Paper "The Future of Air Transport"
Document	GAL/8	Drawing showing envelope of 90dBA SEL footprints for airbus A300 departures and Boeing 747-400 arrivals
Document	GAL/9	Table showing monthly number of westerly and easterly movements April 2000 to September 2006
Document	GAL/10	Plots of aircraft tracks and altitudes
Document	GAL/11	Extract from The Future of Air Transport in the United Kingdom - North of England
Document	GAL/12	Note on runway operations and flightpath at Manchester Airport
Document	GAL/13	GAL representation on DPD Alternative Development Site North East Sector
Document	GAL/14	Closing submissions

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**Documents Submitted by the Highways Agency**

Document	HA/01	Mr Stoneman's proof of evidence
Document	HA/02	E-mail dated 20 October 2006, confirming withdrawal of the Agency's objection, subject to an (agreed) condition being imposed on any permission granted
Document	HA/03	E-mail dated 25 October 2006 re status of HA/01
Document	HA/04	Letter dated 6 November 2006 and drawing showing proposed improvements to M23 J10
Document	HA/05	Position statement on park and ride

**Documents Submitted by West Sussex County Council**

Document	WSSC/00	Opening statement
Document	WSSC/01	Mr Owen's proof of evidence
Document	WSSC/02	Extract from primary school feasibility study concerning noise
Document	WSSC/03	Note on park and ride site
Document	WSSC/04	Note on education condition
Document	WSSC/05	Note on public transport condition

**APPENDIX C - PLANS**

Plan	A1	Application plan (drawing 8010/07 Rev C)*
Plan	B1	Revised Application Plan (Drawing CSA/667/025 Rev A)**
Plan	B2	Masterplan (Drawing CSA/667/020 Rev A)**
Plan	C1	Amended Masterplan (Drawing CSA/667/020 Rev D)***
Plans	D1 to D26	Plans referred to in the conditions

\* Site boundary plan submitted with the application (CD45), 19 January 1998

\*\* Submitted under cover of Jones Day letter to the Planning Inspectorate of 19 June 2006

\*\*\* Submitted to the inquiry 3 October 2006

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**APPENDIX D - ABBREVIATIONS**

AAP	Area Action Plan
AOD	above ordnance datum
CAA	Civil Aviation Authority
CBC	Crawley Borough Council
DfES	Department for Education and Science
DPD	Development Plan Document
dph	dwellings per hectare
Drg	Drawing
EIP	Examination in Public
EP	English Partnerships
ES	Environmental Statement
et seq	and the following (pages etc)
GAL	Gatwick Airport Ltd
ha	hectares
ibid	in the same document
IR	Inspector's report
JAAP	Joint Area Action Plan
km	kilometres
LDF	Local Development Framework
LDS	Local Development Strategy
m	metres
m <sup>2</sup>	square metres
NECs	Noise Exposure Categories (as PPG24, Annex 1)
NPFA	National Playing Fields Association
p	page
para	paragraph
PDL	previously developed land
PINS	The Planning Inspectorate
pp	pages
RSL	Registered Social Landlord

RSS	Regional Spatial Strategy
s106	Section 106 (Undertaking)
SEERA	South East England Regional Assembly
SPD	Supplementary Planning Document
TPO	Tree Preservation Order
UCS	Urban Capacity Study
WHO	World Health Organisation

**APPENDIX E – CONDITIONS**

Inspector's Note. Conditions were discussed at the inquiry (without prejudice) and agreed by the Council (with the exceptions noted in CBC00/11), West Sussex County Council, the Highways Agency and the Appellants. In the event that the Secretary of State is minded to grant planning permission for the proposed development, I recommend that the following conditions should be attached to the permission granted. The reasons for the conditions are given in GWB0/17.

Masterplan

1. The development hereby permitted shall not be carried out except in general accordance with the master plan drawing number CSA/667/020 Revision D ("the Masterplan") and the Design Statement dated July 2006.

Phasing

2. Unless otherwise approved in writing by the local planning authority the phasing of the development hereby permitted shall be in accordance with, and in the order shown on, drawing number CSA/667/013-4 Revision E ("the Phasing Plan").

Extent of Residential Development

3. No more than 1,900 dwellings shall be constructed on the site pursuant to this planning permission.

Commencement/Implementation

4.
    - (i) Approval of the details of the siting, design and external appearance of any part of the residential development within each phase of the development hereby permitted and the landscaping associated with it (hereinafter called the "residential reserved matters") shall be obtained from the local planning authority in writing before that part of the residential development is commenced within that phase.
    - (ii) Approval of the details of the siting, design and external appearance of any part of the non-residential development within each phase of the development hereby permitted and the landscaping associated with it (hereinafter called the "non-residential reserved matters") shall be obtained from the local planning authority in writing before that part of the non-residential development is commenced within that phase.
    - (iii) The development shall not be carried out otherwise than in accordance with the approved details.
  5.
    - (i) Application for approval of the residential reserved matters and non-residential reserved matters in respect of phase 1 of the development hereby permitted (except the primary school as to which see (ii) below) shall be made to the local planning authority before the expiration of 3 years from the date of this permission.
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- (ii) Application for approval of reserved matters in respect of the primary school hereby permitted shall be made to the local planning authority before the expiration of 5 years from the date of this permission.
  - (iii) Application for approval of the residential reserved matters and non-residential reserved matters in respect of phase 2 of the development hereby permitted shall be made to the local planning authority before the expiration of 5 years from the date of this permission.
  - (iv) The first application for approval of reserved matters in respect of that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall include details of the proposals for the relocation of the 132kv overhead power line.
  - (v) Application for approval of the residential reserved matters and the non-residential reserved matters in respect of each of phases 3 and 4 of the development hereby permitted shall be made to the local planning authority before the expiration of 6 years from the date of this permission.
6. Phase 1 of the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the residential reserved matters or the non-residential reserved matters (as the case may be) to be approved in respect of that phase (excluding the reserved matters relating to the primary school referred to in condition 5(ii) above), whichever is the later.
7. Plans and particulars submitted pursuant to condition 4 above shall include the following details:-
- (i) any proposed access road(s) including details of horizontal and vertical alignment;
  - (ii) the layout, specification and construction programme for (1) any internal roads not covered by (i) above, (2) footpaths, (3) parking and turning areas (including visibility splays), (4) cycle parking areas and (5) cycle storage facilities;
  - (iii) the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure) to be provided;
  - (iv) finished ground levels for all hard landscaped areas, footpaths and similar areas, including details of all surfacing materials, street furniture, signs, lighting, refuse storage units and other minor structures;
  - (v) contours for all soft landscaping areas, together with planting plans and schedules of plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment); and
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(vi) lighting to roads, footpaths and other public areas.

The development shall not be carried out otherwise than in accordance with the approved details.

8. The particulars submitted pursuant to condition 7(v) above shall include:-

- (i) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter (when measured over the bark at a point 1.5 metres above ground level) exceeding 75mm, identifying which trees are to be retained and the crown spread of each retained tree;
- (ii) details of the species, diameter (when measured in accordance with (i) above), approximate height and an assessment of the health and stability of each retained tree;
- (iii) details of any proposed topping or lopping of any retained tree; and
- (iv) details of any proposed alterations in existing ground levels and of the position of any proposed excavation within the crown spread of any retained tree.

#### Construction Management Plan

9. Before each phase of the development hereby permitted is commenced a construction management plan in respect of that phase shall have been submitted to and approved in writing by the local planning authority. Each construction management plan shall include the following matters:-

- (i) provision for plant and stacks of materials;
- (ii) details of vehicle wheel-cleaning facilities to be provided; and
- (iii) provision for the temporary parking of vehicles and for the loading and unloading of vehicles.

Construction of each phase of the development shall not be carried out otherwise than in accordance with each approved construction management plan.

#### Central Parkland and Associated Open Space

10. Before the development hereby permitted is commenced details of the design of the central parkland and associated open space, as shown on the Masterplan, together with proposals for their future management (covering a period of no less than 15 years) shall have been submitted to and approved in writing by the local planning authority. No more than 500 dwellings shall be occupied until the central parkland and associated open space have been laid out in accordance with the approved details. The central parkland and open space shall be subsequently managed in accordance with the approved details.

### Landscaping

11. Before the development hereby permitted is commenced a landscape management plan (covering a period of 15 years), in respect of all the land within the red line as shown on the Masterplan, shall have been submitted to and approved in writing by the local planning authority. The landscape management plan shall include a programme for implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (including woodlands and other incidental areas) other than privately owned domestic gardens. The development shall be carried out in accordance with the approved landscape management plan.
12. No phase of development shall commence until all the existing trees/bushes/hedges to be retained within (and immediately adjacent to) that phase, as approved pursuant to condition 4 above, have been protected by a fence erected in accordance with the guidance contained in BS5837:2005, unless otherwise approved in writing by the local planning authority. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored within such areas without the prior written approval of the local planning authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

### Ecology

13. Before the development hereby permitted is commenced a biodiversity management plan, in respect of all the land within the red line as shown on the Masterplan, shall have been submitted to and approved in writing by the local planning authority. The biodiversity management plan shall be based upon the mitigation and management measures contained within Table 19.1 of Chapter 19 of the Environmental Statement dated June 2006 and shall include a programme for implementation together with proposals for the following:-
    - (i) the creation of habitats (including woodlands, grasslands and ponds) and their enhancement and management;
    - (ii) the conservation and enhancement of the Gatwick Stream including the provision of a buffer zone 60m wide, as identified on the Masterplan;
    - (iii) compensation and mitigation measures for the loss of any habitat(s) (including woodlands, hedgerows and ponds);
    - (iv) the conservation of protected species including Bats, Dormice, Great Crested Newts, Reptiles and Badgers; and
    - (v) the prevention of light spill into any watercourse, and adjacent river corridor habitat and standing water habitats, including Ballast Hole Lake and its adjacent wooded vegetation.
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The development hereby permitted shall be carried out in accordance with the approved biodiversity management plan.

14. Any water crossings to be provided within the development hereby permitted shall be by clear spanning structures (from banktop to banktop) so as not to impede the river corridor and to allow the migration of both channel and bank species.

#### Drainage / Flood Risk

15. Before the development hereby permitted is commenced a detailed drainage strategy, in respect of all the land within the red line as shown on the Masterplan, shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the strategy shall be based upon the principle of sustainable drainage systems (SUDS) as set out in Annex F of Planning Policy Statement 25: Development and Flood Risk (2006)<sup>1</sup> (or any revision or replacement thereof) and shall include the following:-

- (i) details of compensatory flood storage works;
- (ii) a programme for implementation; and
- (iii) proposals for the subsequent management and maintenance of the drainage system including any arrangements for adoption by any public authority or statutory undertaker.

The development shall not be carried out otherwise than in accordance with the approved strategy.

16. No spoil or materials shall be deposited or stored on any part of the site which lies within the 1 in 100 year flood plain, as shown on drawing number CS/000916/Figure 1 Revision A.
17. Any walls or fencing which are constructed within the 1 in 100 year flood plain, as shown on drawing number CS/000916/Figure 1 Revision A, shall be designed to be permeable to flood water.

#### Archaeology

18. Before the development hereby permitted is commenced an archaeological investigation shall have been carried out in accordance with a specification previously submitted to and approved in writing by the local planning authority.

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<sup>1</sup> The condition agreed at the inquiry referred to Appendix E to PPG25 (GWB0/17). This has been updated in the light of the publication of PPS25 in December 2006.

### Contamination

19. Before the development hereby permitted is commenced a scheme to deal with any contamination associated with the former abattoir site shall have been submitted to and approved in writing by the local planning authority. The scheme shall supplement information contained within Chapter 16 of the Environmental Statement dated June 2006 and shall include an investigation and risk assessment to identify the extent of contamination and any proposed remediation measures. The development hereby permitted shall not be commenced until the approved scheme has been completed.

### Eco-Homes

20. Before the development hereby permitted is commenced a scheme for the inclusion of renewable energy technologies to achieve a “very good” rating, calculated in accordance with the Building Research Establishment EcoHomes Rating (April 2006), shall have been submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved scheme.

### Recreational Facilities

21. Before each phase of the development hereby permitted is commenced a scheme identifying the size/extent, specification, location, timing of delivery and proposals for the future management of open space and play space (including local areas of play, local equipped areas of play, playing fields and other sports pitches) in respect of that phase shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition each scheme shall be in accordance with the standards of the National Playing Fields Association. Each phase of the development shall not be carried out otherwise than in accordance with the approved scheme.
22. No more than 200 dwellings within the development hereby permitted shall be occupied until the playing fields within the school site, as shown on the Masterplan, have been laid out and are available for use.
23. No more than 280 dwellings within the development hereby permitted shall be occupied until the neighbourhood equipped area of play, as shown on the Masterplan, has been completed and is available for use.
24. No more than 1,250 dwellings within the development hereby permitted shall be occupied until the playing fields (and any associated car parking and changing facilities) in the south west corner of the site, as shown on the Masterplan, have been laid out and are available for use.

### Local Centre

25. Before commencement of construction of the local centre within the development hereby permitted, as shown on the Masterplan and drawing number CSA/667/035
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Revision A, a scheme identifying (a) the facilities to be provided within the local centre and (b) the size/extent of those facilities shall have been submitted to and approved in writing by the local planning authority. The local centre shall include the following facilities:-

- (i) retail floorspace of no more than 2,500 square metres (net);
- (ii) a public library;
- (iii) a health centre;
- (iv) a recycling centre;
- (v) a covered transport waiting area;
- (vi) public toilets;
- (vii) a children's centre/play centre; and
- (viii) associated parking.

Unless otherwise approved in writing by the local planning authority, no more than 1,000 dwellings within the development hereby permitted shall be occupied until (1) at least 50% of the retail floorspace approved pursuant to (i) above and (2) each of the facilities listed at (ii) – (viii) (inclusive) above and (3) any other facilities included within the approved scheme, have been completed in accordance with the approved scheme. No more than 1,500 dwellings within the development hereby permitted shall be occupied until all the retail floorspace approved pursuant to (i) above has been completed, unless otherwise approved in writing by the local planning authority.

### Community Centre

26. Before commencement of construction of the southern building which forms part of the community centre within phase 2 of the development hereby permitted, as shown on the Masterplan, a scheme identifying the facilities to be provided within that building shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include the playing fields associated with the building (as shown on the Masterplan) together with appropriate changing facilities, a further facility for public use, and any associated car parking. No more than 500 dwellings within the development hereby permitted shall be occupied until that building, and the associated playing fields and car parking, have been completed in accordance with the approved scheme.
27. Before commencement of construction of the northern building which forms part of the community centre within phase 2 of the development hereby permitted, as shown on the Masterplan, a scheme identifying the facilities to be provided within that building, together with any associated car parking, shall have been submitted to and approved in writing by the local planning authority. No more than 800 dwellings

within the development hereby permitted shall be occupied until that building, and any associated car parking, have been completed in accordance with the approved scheme.

#### Fire/Rescue

28. No phase of the development hereby permitted shall be commenced until a scheme for the location and installation of fire hydrants within that phase has been submitted to and approved in writing by the local planning authority. For the purposes of this condition each scheme shall be in accordance with the Guidance Note: The Provision of Fire Hydrants and an Adequate Water Supply for Fire Fighting as published by West Sussex Fire and Rescue Services (as amended from time to time). No building hereby permitted shall be occupied until the fire hydrant(s) required to serve that building has been installed in accordance with the approved scheme.

#### Education

29. Before the development hereby permitted is commenced a scheme to secure the provision of primary school and secondary school places shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include the following details:
- (i) the mechanism (including the timing and phasing of delivery) by which a primary school (and associated community facility/interview room) shall be provided on the school site;
  - (ii) the mechanism (including timing) by which the demand for 465 primary school places (including those to be provided at the primary school pursuant to (i) above) arising out of the development hereby permitted shall be met;
  - (iii) the mechanism (including timing) by which the demand for 220 secondary school places arising out of the development hereby permitted shall be met; and
  - (iv) the mechanism (including timing) by which the demand for primary school places arising out of the development hereby permitted shall be met during the period before the primary school (as above) is completed and available for use.

The scheme shall be carried out as approved.

#### Noise

30. The residential development hereby permitted shall not be located otherwise than within Noise Exposure Categories A and B, assessed (as at the date of determination by the local planning authority of the scheme submitted pursuant to condition 31 below) in accordance with PPG24, and taking into account noise from a possible second runway at London Gatwick Airport as shown on ERCD 0308 figure 3.4 "London Gatwick Year 2030 – Noise contours with wide-spaced parallel runway" or such other noise contours as may be published by the Civil Aviation Authority in respect of such second runway.

31. Before each phase of the development hereby permitted is commenced a scheme shall have been submitted to and approved in writing by the local planning authority to protect dwellings within that phase against noise from (a) the operation of London Gatwick Airport (taking into account noise from a possible second runway at London Gatwick Airport as shown on ERCD 0308 figure 3.4 “London Gatwick Year 2030 – Noise contours with wide-spaced parallel runway” or such other noise contours as may be published by the Civil Aviation Authority in respect of such second runway), (b) the operation of the London/Brighton railway line, (c) traffic on the A2011 and M23 and (where applicable) (d) mixed source noise. For the purposes of this condition the scheme shall include:
- (i) a plan identifying the dwellings within that phase which require protection from noise;
  - (ii) the means by which the noise level within any (unoccupied) domestic living room or bedroom, with windows open, shall be no more than 35dB  $L_{Aeq,16hr}$  (between 0700 and 2300) and no more than 30dB  $L_{Aeq,8hr}$  (between 2300 and 0700); and
  - (iii) the means by which the noise level within any (unoccupied) domestic bedroom, with windows open, shall not normally exceed 45dB  $L_{AFMax}$  between 2300 and 0700.

Where the standards in (ii) and/or (iii) above cannot be achieved with windows open, the scheme must show how those standards will be met with windows shut and the means by which adequate ventilation will be provided. Each phase of the development shall be carried out in accordance with the approved scheme in respect of that phase. No dwelling hereby permitted shall be occupied until the approved scheme has been implemented in respect of that dwelling.

32. Before the commencement of construction of the primary school on the school site a scheme to protect the school against noise from the operation of London Gatwick Airport (taking into account noise from a possible second runway at London Gatwick Airport) shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall:
- (i) include forecast  $L_{Aeq,30min}$  levels for the school site, for peak hour aircraft movements on easterly departures in the period between 0900 and 1600, assuming the operation of a second runway at London Gatwick Airport (as above);
  - (ii) specify the means by which the internal areas of the school will meet the internal noise standards set out in Building Bulletin 93 (or any subsequent document which revises or replaces it), taking the forecast levels in (i) above into account; and
  - (iii) include evidence of reasonable efforts to achieve a noise level of 50dB  $L_{Aeq,30min}$  (taking the forecast levels in (i) above into account) in respect of an

appropriately sized external teaching area, in particular as regards the siting and orientation of surrounding buildings and (if necessary) the provision of a canopy over part or all of the said external teaching area.

The school hereby permitted shall not be constructed otherwise than in accordance with the approved scheme.

33. Before the commencement of construction of the local centre, community centre or health centre (as the case may be) hereby permitted, as identified on the Masterplan, a scheme to protect the local centre, community centre and health centre (as the case may be) against noise from the M23 and from the operation of London Gatwick Airport (taking into account noise from a possible second runway at London Gatwick Airport) shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include the means by which the noise level within the operative parts of the local centre, community centre and health centre (as the case may be) hereby permitted shall not exceed 40dB  $L_{Aeq,30min}$  for peak hour aircraft movements on easterly departures. The local centre, community centre and health centre hereby permitted shall not be constructed otherwise than in accordance with the approved scheme.
34. No building within the B1, B2 and B8 development hereby permitted shall be occupied until the background  $L_{A90}$  noise levels at the noise sensitive properties closest to that building have been submitted to and approved in writing by the local planning authority. At all times, the  $L_{Aeq}$  noise level (assessed in accordance with BS4142) plus a 5dB rating level (where appropriate, in accordance with BS4142) from all the activities from the proposed B1, B2 and B8 development on the site, measured 1 metre from the façade of any noise sensitive development, shall be at least 5dB below the approved background  $L_{A90}$  value.

### Finishes

35. No works to construct any building hereby permitted shall commence until a schedule of materials and finishes and, where so required in writing by the local planning authority, samples of such materials and finishes to be used for the external walls and roof of that building has been submitted to and approved in writing by the local planning authority. All buildings shall be constructed in accordance with the approved details.

### Infrastructure

36. The infrastructure, which is approved pursuant to condition 4 above, shall be provided (in accordance with the approved details) before occupation of any dwelling which is serviced by that infrastructure.
37. The number of car parking spaces in respect of the residential development hereby permitted shall not exceed an average of 1.5 spaces per dwelling.

38. The number of car parking spaces in respect of the non-residential development hereby permitted shall conform with the "Revised County Parking Standards and Transport Contributions Methodology"<sup>1</sup> adopted by West Sussex County Council in November 2003.
39. Areas for the parking and/or turning of vehicles, as approved pursuant to condition 4 above, shall not be used thereafter for any other purpose.
40. The area of land within the visibility splays, as approved pursuant to condition 4 above, shall be kept clear of any obstruction exceeding a height of 0.6m above the level of the nearest part of the highway. The visibility splays shall thereafter be retained at all times.

#### Off-Site Highway Works

41. The proposed all moves junction between the A2011 and Balcombe Road shall not open to traffic until the works to Junction 10 of the M23, broadly in accordance with drawing number 0560/SK/124C, have been completed.
42. No dwelling within the development hereby permitted shall be occupied until the works to form the junction of Steers Lane and the proposed access road into the west of the site, broadly in accordance with drawing number 0560/SK/121B, have been completed.
43. No more than 50 dwellings within the development hereby permitted shall be occupied until the following have been completed:-
  - (i) works to the junction of Gatwick Road/Radford Road/James Watt Way broadly in accordance with drawing numbers 0560/SK/112A and 0560/SK/129A;
  - (ii) works to the junction of Radford Road and Steers Lane broadly in accordance with drawing number 0560/SK/116A;
  - (iii) works to a combined footway/cycleway on the approaches to, and across, the Radford Road railway bridge, together with the construction of traffic signals to enable the shuttle working of traffic across the bridge and the widening of the road embankments and carriageways on each side of the bridge, broadly in accordance with drawing number 0560/SK/122B;
  - (iv) works to the junction of Balcombe Road and Steers Lane broadly in accordance with drawing number 0560/SK/127A; and
  - (v) works to convert the existing traffic signal controlled pedestrian crossings, as situated on the southern and western approaches to the roundabout at the

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<sup>1</sup> Inquiry Document CD139.

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junction of Gatwick Road and Fleming Way, to toucan crossings broadly in accordance with drawing number 0560/SK/131.

44. Before the occupation of (1) any dwelling within that part of phase 2 of the development hereby permitted which is located to the west of Balcombe Road or (2) more than 300 dwellings within the development hereby permitted or (3) any dwelling within phase 3 of the development hereby permitted the following shall have been completed:-
- (i) works to the junction of Gatwick Road/Hazelwick Avenue/Crawley Avenue: Hazelwick Roundabout broadly in accordance with drawing number 0560/SK/101A;
  - (ii) works to the junction of Crawley Avenue and Balcombe Road broadly in accordance with drawing numbers 0560/SK/117B and 118B;
  - (iii) works to Junction 10 of the M23 broadly in accordance with drawing number 0560/SK/124C; and
  - (iv) the provision of street lighting in relation to the section of Crawley Avenue situated between the Hazelwick Roundabout in the west and Junction 10 of the M23 in the east in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
45. No dwelling within that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall be occupied until the following have been completed:-
- (i) works to the junction of Balcombe Road and Heathy Farm broadly in accordance with drawing number 0560/SK/119C;
  - (ii) works to the junction of Balcombe Road and Radford Road broadly in accordance with drawing number 0560/SK/105D;
  - (iii) works to the junction of Balcombe Road and Antlands Lane broadly in accordance with drawing number 0560/SK/107B; and
  - (iv) the provision of street lighting in relation to the section of Balcombe Road between Antlands Lane in the north and Crawley Avenue in the south in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
46. No more than 300 dwellings within that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall be occupied until an emergency access from that part of phase 2 onto Balcombe Road has been constructed in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
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47. Before completion of the works to Balcombe Road pursuant to condition 45 above details of locations along Balcombe Road where future monitoring of traffic speeds will be carried out shall have been submitted to and approved in writing by the local planning authority. Traffic speeds shall be monitored along Balcombe Road in accordance with the approved details every 3 months for a period of 2 years from the date of completion of the works to Balcombe Road pursuant to condition 45 above.
48. Following completion of traffic speed monitoring along Balcombe Road pursuant to condition 47 above a report shall be submitted to and approved in writing by the local planning authority. If the report identifies a requirement for further traffic speed management measures within the public highway, then such measures shall be carried out in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
49. No dwelling within phase 4 of the development hereby permitted shall be occupied until works to the junction of Balcombe Road and the north east access to the site, broadly in accordance with drawing number 0560/SK/120B, have been completed.

#### Pedestrian/Cycle Measures

50. Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:-
- (i) a combined footway/cycleway along the western side of Balcombe Road from the junction of the new link road between Balcombe Road and Crawley Avenue in a southerly direction to St. Catherines Road, Pound Hill;
  - (ii) an on-road cycle route within Pound Hill to connect the Balcombe Road cycleway to the shops at Grattons Park and Milton Mount Schools;
  - (iii) an on-road cycle route along Grattons Drive and Chaucer Road to link to St. Mary's Drive;
  - (iv) the installation of no less than 60 cycle parking stands on highway land, or such other location as may be agreed with the local planning authority, adjacent to Three Bridges railway station; and
  - (v) the installation of real time information screens at 4 existing bus shelters within the Manor Royal industrial area, at the locations which are shown on drawing number 0560/SK/130.

No dwelling within the development hereby permitted shall be occupied until the works have been completed in accordance with the approved scheme.

51. Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:-

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- (i) a combined footway/cycleway to link the existing subway below Crawley Avenue to the shops at Grattons Park and Milton Mount Schools via the northern and eastern perimeter of Grattons Park; and
  - (ii) a combined footway/cycleway to link the existing subway below Crawley Avenue to St. Mary's Drive via the northern and western boundaries of the public open space along, in the most part, an already defined route to form part of the Sustrans route.

For the purposes of this condition the scheme shall include a programme for implementation and shall be substantially in accordance with Working Paper 2 dated November 2006 prepared by WSP<sup>1</sup>. The scheme shall be carried out as approved.

52. Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:

- (i) a short length of combined footway/cycleway along the eastern side of Gatwick Road between Tinsley Lane in the south to the existing traffic signal controlled pedestrian crossing of Gatwick Road in the north, and the conversion of two existing signal controlled pedestrian crossings of Gatwick Road and Fleming Way to toucan crossings, broadly in accordance with drawing number 0560/SK/131;
- (ii) a combined footway/cycleway along the southern side of Radford Road between Gatwick Road in the west, to a point to the west of the existing public footpath to the east of the public house in the east, to be constructed in conjunction with the traffic signal controlled shuttle working of traffic flows across the railway bridge and to form part of the Sustrans cycleway broadly in accordance with drawing numbers 0560/SK/112A and 0560/SK/122B;
- (iii) an on-road cycle route along Tinsley Lane between Crawley Avenue in the south and Gatwick Road in the north broadly in accordance with drawing number 0560/SK/132;
- (iv) a combined footway/cycleway along the eastern side of Hazelwick Avenue to link between Crawley Avenue in the north and the Tesco superstore on Hazelwick Avenue in the south and to include the conversion of the pedestrian footbridge and approach ramps over Crawley Avenue, to the east of the Hazelwick roundabout to a combined footway/cycleway, broadly in accordance with drawing number 0560/SK/133; and
- (v) the installation of a bus shelter on the north side of Haslett Avenue East, opposite Three Bridges railway station, broadly in accordance with drawing number TC17/1A.

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<sup>1</sup> Inquiry Document CD136.

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No more than 50 dwellings within the development hereby permitted shall be occupied until the works have been completed in accordance with the approved scheme.

53. Before the occupation of (1) any dwelling within that part of phase 2 of the development hereby permitted which is located to the west of Balcombe Road, or (2) more than 300 dwellings within the development hereby permitted or (3) any dwelling within phase 3 of the development hereby permitted the following shall have been completed:
- (i) a combined footway/cycleway along the northern verge of Crawley Avenue between the new Crawley Avenue junction in the east to the southern end of Tinsley Lane in the west, in accordance with a scheme previously submitted to and approved in writing by the local planning authority; and
  - (ii) a combined footway/cycleway between Tinsley Lane in the east, around the northern perimeter of the Hazelwick roundabout in conjunction with toucan crossings of the Gatwick Road slip roads, to connect to the existing cycle route using Woolborough Lane via Crawley Avenue to the west of the roundabout broadly in accordance with drawing number 0560/SK/135.
54. No more than 1,850 dwellings within the development hereby permitted shall be occupied until improved pedestrian crossing facilities on Haslett Avenue East, adjacent to Three Bridges railway station, have been provided broadly in accordance with Working Paper 2 dated November 2006 prepared by WSP<sup>1</sup>.

#### Public Transport

55. Before the development hereby permitted is commenced a scheme for the provision of bus services to and from the site shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall provide for a level of bus services which is no less than that set out in Public Transport Working Paper 1C dated November 2006 prepared by WSP<sup>2</sup> and shall include the following details:
- (i) the destinations and routes which shall be served by the bus services;
  - (ii) the frequency of operation of the bus services;
  - (iii) the hours of operation of the bus services; and
  - (iv) a mechanism by which the bus services shall be reviewed and, if necessary, varied as a result of any review.

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<sup>1</sup> Inquiry Document CD136.

<sup>2</sup> Inquiry Document CD135.

The scheme shall be implemented in accordance with the approved details including any variations approved pursuant to (iv) above, unless otherwise approved in writing by the local planning authority.

56. Before the development hereby permitted is commenced a scheme for the provision of bus stops (with real time passenger information) within the site shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include a programme for provision of the bus stops. The development shall not be carried out otherwise than in accordance with the approved scheme.

#### Sustainable Travel Information Pack

57. Before any building hereby permitted is occupied a sustainable travel information pack shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the pack shall include the following details:-

- (i) public facilities within a 5km radius of the local centre in the site;
- (ii) bus services operating in the vicinity of the development including service timetables and connections with any other public transport service and provider;
- (iii) improvements to public transport provision which are being promoted as part of the development;
- (iv) the location of secure storage facilities for bicycles within the development and elsewhere within a 5km radius of the local centre in the site;
- (v) information regarding existing and proposed cycle routes to and from the public facilities included in (i) above;
- (vi) services that will be provided in the local centre and the community centre hereby permitted; and
- (vii) delivery services by local retailers to the dwellings hereby permitted.

A copy of the pack shall be provided to the first occupier of (a) the B1, B2 and B8 development, (b) the school (c) the local centre, (d) the community centre and (e) each of the dwellings hereby permitted.

#### Travel Plan

58. No building within any part of the B1, B2, B8 development hereby permitted shall be occupied until a Travel Plan in respect of that part has been submitted to and approved in writing by the local planning authority. For the purposes of this condition the Travel Plan shall include:-

- (i) a programme for its implementation; and

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- (ii) a mechanism by which the local planning authority shall be provided with an annual monitoring report identifying the progress which has been made in respect of the measures set out in the Plan.

The Travel Plan shall be implemented in accordance with the approved details.

### Affordable Housing

- 59. No less than 40% of the total number of dwellings hereby permitted shall be affordable housing, of which no less than 70% shall be available as social rented accommodation and the remainder shall be available as other types of tenure such as shared ownership, discount market rented housing or key worker accommodation.
- 60. Before any phase of the development hereby permitted is commenced a scheme for the provision of affordable housing within that phase shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition such a scheme shall provide affordable housing which satisfies local housing needs (including the needs of the disabled where appropriate and identified) and shall include:-
  - (i) details of the type, size, tenure, location and timing of the provision;
  - (ii) proposals for the involvement (including future management) of a Registered Social Landlord (“RSL”) (as defined in the Housing Act 1996) or such other affordable housing provider having Housing Corporation Preferred Partner status in delivering the affordable housing; and
  - (iii) details of any alternative arrangement involving another RSL or affordable housing provider with Housing Corporation Preferred Partner status (not specified in (ii) above) providing the affordable housing in the event that funding for the provision of any affordable housing within a phase of the development hereby permitted is not secured within 2 years of development commencing within that phase or such other period as may be agreed in writing with the local planning authority.

Affordable housing shall be provided in accordance with the approved scheme. No more than 75% of the open market dwellings within any phase shall be constructed before the dwellings to be offered as social rented properties have been completed and handed over to the RSL or such other affordable housing provider as may have been approved pursuant to this condition. No more than 80% of the open market dwellings within each phase of the development shall be occupied until all affordable housing within that phase has been completed.

### Air Quality

- 61. None of the dwellings hereby permitted shall be sited within (1) 100m of the eastern boundary of the London and Brighton railway line, as shown on drawing number

CSA/667/031, and (2) 40m from the western edge of the northbound carriageway of the M23.

#### Restrictions on Permitted Development

62. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development within Classes A-C (inclusive) of Part 1 of Schedule 2 to that Order shall be carried out.

#### Miscellaneous

63. No works in respect of the implementation of the development hereby permitted shall be undertaken at the following times:-
- (i) Outside the hours of 0700-1800 on Mondays to Fridays (inclusive);
  - (ii) Outside the hours of 0800-1300 on Saturdays;
  - (iii) On Sundays; and
  - (iv) On public holidays.
64. The local planning authority shall be provided with no less than 28 days prior written notice of the projected occupation of:-
- (i) the first dwelling within the development hereby permitted;
  - (ii) the 50th dwelling within the development hereby permitted; and
  - (iii) every 100th dwelling within the development hereby permitted.