



Towcester UDA Planning Committee Paper

Report by Director of Planning and Development

Date of Committee Meeting: 18th January 2011

Agenda Item: 4

Description: Outline application for residential development up to 85 units including open space and associated works. All matters reserved.

Address: Land off Belle Baulk, Towcester, Northampton

Applicant:

Barwood Development Securities Ltd

Application No:

10/0090/OUTWNS

Date Registered:

11.06.2010

Expiry Date:

10.09.2010

Ward:

Towcester Mill

1. Recommendation

It is recommended that the application be **APPROVED** subject to the conditions set out at the end of the report with authority delegated to the Director of Planning Services to issue planning permission subject to the resolution of the following matters;

- The withdrawal of the Highways Agency holding objection;
- A S106 agreement.

Reason for Approval

The proposed development would make an important contribution to the delivery of housing adjoining the town boundary of Towcester in accordance with the South Northants Interim Rural Housing Policy. The development is considered to constitute an acceptable extension to the urban boundary of the town comprising an area which is contained within existing natural and physical confines providing a sound alternative boundary to the town. The development would be compliant with guidance contained in PPS1; PPS3; PPS9; PPS13; PPG24; and PPS25 and the relevant saved policies of the South Northants Local Plan (1997). The application is therefore considered to be

acceptable subject to the attachment of appropriate conditions and the entering into of a S106 agreement

2. Summary

- 2.1 The application is for outline consent for residential development of up to 85 houses at land off Belle Baulk, Towcester. All matters are reserved.
- 2.2 Whilst the final layout and mix of accommodation would be agreed at the detailed reserved matters stage, the indicative layout incorporates a mix of two, three and four bedroom homes. Affordable Housing will also be incorporated and integrated within the market dwellings at 40%.
- 2.3 The application site comprises 4.9ha of agricultural land to the north of the Belle Baulk estate and accessed from the existing cul de sac development. The site lies within well defined boundaries outside of the Towcester town boundary. The site is subject to a number of constraints including a significant area of flood risk within the north eastern corner of the site and the noise attenuation issues arising from the A43 which runs along the western boundary.
- 2.4 The application is supported by an indicative layout and a number of technical reports for the purposes of establishing the principle of development and the quantum of development. Whilst the final detailed layout and appearance of the development may be subject to change, it is considered that the developable area and the area designated for open space would remain largely unchanged due to the constraints of the site.
- 2.5 The principle of development at this location hinges largely on the South Northants Interim Rural Housing Policy in the absence of a five year housing land supply within the district. Regional housing targets, set out in Regional Spatial Strategies (RSS), were revoked by the Coalition Government. Whilst a challenge to that revocation has recently seen the RSSs reinstated by the High Court, the High Court has lifted a prohibition on the Secretary of State's letter of 10th November 2010 (which explained that regard should still be given to the Secretary's position regarding RSSs) being taken into account. The Secretary of State is due to be writing to Local Planning Authorities setting out the current position with regard to this legal challenge. Further detail is set out in the main report.
- 2.6 The applicant has agreed to the Corporation's approach to S106 through the application of the standard charge at the discounted rate of £18,000 per dwelling towards the necessary infrastructure requirements associated with the development.

3. Description of Site

- 3.1 The application site is situated to the west of Towcester outside of the settlement boundary as defined in the South Northants Local Plan (1997).
- 3.2 The site comprises approximately 4.9 hectares of agricultural land to the north of the existing Belle Baulk estate confined by the A43 to the west and the former railway line and embankment to the north. The site also adjoins the existing public open space to the east associated with the Belle Baulk estate. The River Tove runs through this area to the east of the site and balancing ponds are incorporated within the open space which is mainly laid to grass.
- 3.3 The site is bound to the north, east and west by mature trees and hedgerows including a Tree Preservation Order within the south west corner of the site. The site falls from the south west corner to the north east towards the River Tove.
- 3.4 Two public rights of way pass through the site. SB8 runs east-west along the northern edge of the site and SB9 runs north west-south east through approximately the centre of the site. Both rights of way meet on the northern side, cross over the disused railway line and continues westwards under the A43. The railway embankment is also used as an informal route. The site lies within an area of known archaeological assets and part of the site also lies within Flood Zone 3.

4. Description of Proposal

- 4.1 The application is for outline consent for residential development of up to 85 units including public open space and associated works. All matters are reserved. i.e. access, appearance, landscaping, Layout and scale.
- 4.2 An indicative layout plan has been submitted with the application in order to demonstrate that the proposed development can be achieved within the application site. The layout incorporates a single vehicle access from the existing Belle Baulk estate.
- 4.3 The indicative layout has been informed by a number of site constraints including the flood zone area to the north east; the noise levels and noise mitigation to the western boundary adjacent to the A43; and the retention of existing landscape features including the railway embankment and mature vegetation to the application site boundaries.
- 4.4 The proposed development would include the provision of a large area of public open space incorporating a local area for play (LAP); and a series of 'dry ponds' providing an opportunity for biodiversity enhancements as part of a sustainable drainage system.

- 4.5 A 3 metre high noise barrier is proposed to the west/north-western edge of the site in order to mitigate the impact of noise from the adjacent A43. This would incorporate a 3 metre high fence at the bottom corner of the site merging into a 2 metre high bund with 1 metre high fence. Landscaping is proposed to either side of the boundary to minimise the visual impact.
- 4.6 The submitted application was originally for up to 97 units with the incorporation of allotments within the area of open space. The numbers were reduced and the allotments removed following concerns raised by South Northants Council in relation to density and the visual appearance of the allotments within the open countryside and the practicalities of their location within an area prone to flooding.
- 4.7 The total developable area as set out on the indicative layout plan would be 3.09 hectares with 1.81 hectares of open space resulting in a density of 28 dwellings per hectare.

5. Policy Considerations

5.1 WNDC Purpose

Under S136(1) of the Local Government Planning and Land Act 1980, WNDC as Urban Development Corporation has a statutory objective to deliver the regeneration of the area. The Secretary of State has determined that WNDC should have development control powers for certain types of development in order to carry out its objective.

5.2 National Policy

PPS1 Sustainable Development

PPS1 supplement – Planning and Climate Change

PPS3 – Housing

PPS9 – Biodiversity and Geological Conservation

Planning for Biodiversity and Geological Conservation: A Guide to Good Practice

PPS13 – Transport

PPG17 – Planning for open space, sport and recreation

PPS22 – Renewable Energy

PPS23 – Planning and Pollution Control

PPG24 – Planning and Noise

PPS25 – Development and Flood Risk

Draft PPS - Planning for a Natural and Healthy Environment (Consultation Draft March 2010)

ODPM Circular 06/2005 Biodiversity and Geological Conservation - Statutory Obligations and their impact within the planning system

5.3 Development Plan

East Midlands Regional Plan (2009)

South Northants Local Plan (1997) saved policies apply as follows;

G2; G3; H3; H6; H7; EV1; EV2; EV21; EV24; EV29; and RC19 relate to development in the open countryside, visual impact, access, parking, residential amenity, affects on the transport network, loss of agricultural land, nature conservation, archaeology, landscaping, drainage, accessibility by public transport, crime prevention, design, hedgerows and on site leisure provision.

The Council's Interim Rural Housing Policy (IRHP) also applies.

5.4 Supplementary Planning Documents

Northamptonshire Place and Movement Guide (2008)

5.5 Other Documents

WNDC Planning Principles (2009)

WNDC Planning Obligation Strategy (2008)

WNDC Planning Obligation draft revised document (2010)

WNDC West Northamptonshire Manual for Design Codes (2009)

WNDC Sustainability Manual (2010)

English Nature - Great crested newt mitigation guidelines (2001)

English Nature - Bat mitigation guidelines (2004)

6. Representations

6.1 South Northants Council (SNC)

The Council have objected to the application on the following grounds following consideration by the Development Control Committee on 5th August 2010.

- Density too high for edge of settlement and the adjacent Belle Baulk development and would be out of character with the locality;
- The extent of the proposed built area would have a detrimental impact on the character and appearance of the locality;
- The height of the proposed dwellings is inappropriate for edge of settlement development and would be overly prominent in the landscape and out of keeping with the Belle Baulk development;
- The Transport Assessment does not contain enough information on the impact of the development on the Strategic Highway Network;

- The information submitted in relation to Air Quality is insufficient;
- The proposed developer contributions need to include affordable housing at 40%; commuted sum for the maintenance of the public open space; sum of £300 per dwelling for offsite leisure facilities; enhancement of existing local equipped area of play and commuted sum for maintenance; bus service improvement subject to consultation with NCC; upgrading of footpath link to Watling Street; contribution towards library services subject to consultation with NCC; contribution towards healthcare subject to consultation with Northamptonshire PCT; sum of £55 per dwelling for the provision of bins.

The Council also consider that the following should be taken into consideration by WNDC in determining the application;

- The views of the Highways Agency and Local Highway Authority;
- The views of the Environment Agency in respect of surface water drainage, the impact of the development on the flood zone and the location of allotments within the flood zone;
- The nature and maintenance of the water attenuation features to the north of the site;
- The views of Natural England and the Wildlife Trust in assessing Ecological impact;
- The views of NCC Archaeology in assessing Archaeological impact;
- The need for an additional pumping station;
- The delivery and maintenance of noise mitigation measures and the resolution of any land contamination matters.

The Council request that they be re-consulted on any material alteration to the application.

The Committee re-considered the application following the reduction in numbers on 28th October 2010. Their objection remains on the following grounds;

- The height of the proposed dwellings is inappropriate for edge of settlement development and would be overly prominent in the landscape and out of keeping with the Belle Baulk development;
- The Transport Assessment does not contain enough information on the impact of the development on the Strategic Highway Network;

- The proposed developer contributions need to include affordable housing at 40%; commuted sum for the maintenance of the public open space; sum of £300 per dwelling for offsite leisure facilities; enhancement of existing local equipped area of play and commuted sum for maintenance; bus service improvement subject to consultation with NCC; upgrading of footpath link to Watling Street; contribution towards library services subject to consultation with NCC; contribution towards healthcare subject to consultation with Northamptonshire PCT; sum of £55 per dwelling for the provision of bins.

It is also noted that the information submitted in relation to air quality is insufficient to be able to qualify the impact of the development and the Committee requests that the allotments, which had been removed from the scheme, be re-instated in an appropriate location.

6.2 Towcester Town Council (TTC)

The Town Council originally objected to the application on the grounds of Density; Traffic and Flooding Issues. Following re-consultation the Town Council maintained their objection as follows;

Density

- The development is high density out of keeping with the character and appearance of the area;
- The development is outside the Town's boundary and therefore contrary to the Local Plan; A previous application in September 2002 was refused on the grounds that the development would '*harmfully affect the character and appearance of the urban edge of the town by the construction of housing in the countryside contrary to the development plan*'. The revised PPS3 Housing clearly states that proposed developments are '*well integrated with, and compliments the neighbouring buildings and the local area in terms of scale, density, layout and access*'. The proposed plan does not fit these criteria.

Traffic

- Very concerned regarding the implications of additional traffic movements onto an already congested road network;

- Agree with the Highways Agency that planning permission should not be granted until there is sufficient information to say what disruption the development would have on the trunk road;
- There are already significant traffic issues on the small roundabout at the access to Belle Balk and these will get worse with substantial increase in traffic to this area.

Flooding Issues

- Concerned about the effect the proposed development will have on the flood plain of the river Tove. This concern was also expressed when the previous application was refused.

Allotments

- Object to the removal of the allotments as this would provide much needed recreational activity for the Town.

6.3 Northamptonshire County Council (NCC)

Development Management

The response is made on behalf of NCC Key Services following the NCC Planning Obligations Framework Guidance Draft (2010). Financial contributions are requested towards Libraries; Fire and Rescue (including the provision of fire hydrants within the development); and Education towards Primary and Secondary School places.

Archaeology

The Evaluation undertaken indicates that the development area contains archaeological activity of possible Roman date. However, this is not of such significance as to preclude development as long as provision is made for archaeological investigation. A condition to secure the implementation of a programme of archaeological work is required.

Rights of Way/Access

Footpath SB9 should be diverted and not incorporated into the street scene. An application should be made under s257 of the Town and Country Planning Act to SNC. The footpath also requires closure during construction through a Temporary Traffic Regulation Order. The diversion should be secured through condition.

Footpath SB8 will remain in place as part of the open space but should be formalised and offers the opportunity for upgrade to cycle path to connect to the existing network.

A link to the network should be enhanced to encourage walking and cycling. The need for a safe means of crossing where the footpath SB8 crosses the A43 is highlighted.

Transport and Highways

On initial review of the application the Local Highway Authority (LHA) considered that the application failed to provide adequate information to demonstrate that the application would be acceptable. Specific concerns were raised in relation to highway safety; capacity assessment and access and sustainability.

Following further discussion with the applicant and the submission of further information, the LHA has provided an updated response. The following recommendations are made;

- Single point of access - The LHA recommends that the view of the emergency services are sought to confirm that they are happy with the proposed development, access arrangements and likely response times;
- Accessibility and sustainability - The Local Planning Authority (LPA) need to be satisfied that the location of the site in relation to local facilities conforms to local and national guidance. A financial contribution of £50,000 is sought to provide lighting to an existing right of way to the north of the development;
- Bus accessibility and services – The applicant has agreed to provide 2no. bus stops on Brackley Road and a signal controlled pedestrian crossing. A suitably worded condition is therefore required to secure the works. A financial contribution of £130,000 is also required to enhance bus services on Brackley Road;
- Junction assessment – Agreement has not been reached in respect of the impact of the development on traffic levels. The LPA therefore need to take a view as to whether the applicant has promoted sufficient mitigation to reduce the impact of the development on traffic levels;
- Travel Plan and mode shift targets – The LHA do not consider the Travel Plan to be robust in the absence of any contributions towards enhancing bus services and the lack of any real measures to achieve mode shift. The LPA should therefore consider whether the applicant has demonstrated the County’s mode shift targets can be achieved.
- Internal layout – As the application is for outline consent and indicative only the LHA will comment on the internal layout at the appropriate stage.

6.4 Highways Agency (HA)

The HA have issued a TR110 holding objection directing that the application not be determined at this time. Insufficient information has been provided in support of the planning application to ensure that the A43 trunk road continues to serve its purpose

minimising disruption on the trunk road resulting from traffic entering and emerging from the application site.

Following further discussion with the applicant and revision to the Travel Plan, the HA have confirmed that the Transport Assessment and Travel Plan are acceptable. A figure of £71,000 is required towards the A43 corridor study and Travel Plan remedial payments of £13,468 are also sought.

The holding objection will be lifted once firm commitment is agreed to the figures proposed.

6.5 Environment Agency (EA)

No Objection to the application. Conditions are required to secure further detail prior to the commencement of development on site.

6.6 Anglian Water (AW)

Standard Informative Statements provided.

6.7 Natural England (NE)

Natural England originally raised no objection to the proposal subject to a condition restricting site clearance so as not to adversely affect breeding birds. However, local interest in the application raised specific issues with the submitted ecological surveys and the reports were reviewed by Natural England resulting in a holding objection subject to the submission of further information.

Further supporting information has been submitted by the applicant and Natural England has given advice as follows;

- Whilst surveys have been done and no great crested newts found, there remains a chance that species could be present. This is because a) the surveys were not implemented to good practice because they were done during relatively poor weather conditions early on in a cool season and b) interpretation has not followed good practice in undertaking an objective habitat assessment;
- However, the developer's consultant's professional opinion is that the chance of great crested newts being present is minimal. We are minded to agree that on balance great crested newts are unlikely to be present or are present only at low numbers (based on the data and interpretation provided by the applicant);
- The development would not result in loss of potential breeding ponds nor high value terrestrial habitat, should great crested newts indeed be present. Therefore

the risk of substantial harm to great crested newt conservation status is low on the basis of the current information;

Natural England therefore removes their objection. In doing so, they stress that there remains a chance that great crested newts are present, and that it is for the developer to consider the risk of committing an offence should the development proceed. The developer may wish to explore with their ecological advisors whether additional surveys under better conditions would be advisable in order to help address the risk and design mitigation that might be required.

6.8 The Wildlife Trust (WT)

The Wildlife Trust raised some concern relating to the ecological aspects of the proposed scheme relating to the Green Infrastructure (GI) network and the adjacent Potential Wildlife Site (PWS) from a biodiversity perspective. It was recommended that further detail be submitted setting out how biodiversity enhancements and strengthening of the GI corridor routes would be incorporated. It is also stated that care will need to be taken in order to protect the adjacent PWS. Consultation with Natural England and the Northants Bat Group is encouraged and an Environmental Management Plan (EMP) is welcomed.

Following the submission of additional supporting information in respect of Ecology and Green Infrastructure, the WT consider that the submitted 'Green Infrastructure Supporting Statement' is acceptable and satisfactory. Comments relating to consultation with ecology experts are reiterated.

6.9 Northants Bat Group (NBG)

Following initial consultation, the Bat Group recommended that an activity survey be undertaken to ascertain bat flight lines across the site. This further survey work was undertaken and submitted by the applicant's Ecologist. Following submission of the survey and further supporting statements from the applicant NBG continue to raise issues with the survey work undertaken and suggest that the application be rejected.

6.10 The Ramblers - Northamptonshire Area

No Objection to the proposed development but request that conditions are imposed to protect the routes of rights of way throughout the development period and thereafter. The need for a safe means of crossing where the footpath SB8 crosses the A43 is highlighted.

6.11 Northamptonshire Police Crime Prevention Design Advisor (CPDA)

No Objection. Whilst it is accepted that the layout is indicative detailed points are made regarding treatment of block layouts and security to the rear of properties to reduce the likelihood of crime and disorder.

7. Notifications and Responses

7.1 Consultations were sent to neighbouring and nearby occupiers of the Belle Baulk estate on 22nd June 2010. Following revision to the number of dwellings proposed and the indicative layout further consultations were sent on 28th September 2010.

7.2 A total of 134 representations have been received from 75 residents raising objections based on the following issues;

- Density would be too high out of keeping with the existing estate;
- Increase in traffic and congestion;
- Existing roads and junctions are already over capacity;
- Lack of affordable housing for the elderly;
- Encroachment onto the floodplain;
- Single access posing problems for traffic and emergency vehicles;
- NCC policy states no more than 200 dwellings to be served from one access;
- Potential for increase in car accidents and threat to safety of children;
- Increase in noise and air pollution to unacceptable levels;
- Unsightly noise reduction measures proposed;
- Lack of infrastructure and services;
- Development on Greenfield rather than brownfield site;
- Misleading or misrepresentation of information and recommendations;
- Lack of satisfactory investigation into existing wildlife;
- Impact on existing wildlife;
- Loss of large section of rural environment and green space;
- Lack of car parking;
- Precedent for refusal already set through Appeal decision in 2003;
- Access to adjacent agricultural field would be blocked by development providing opportunities for crime and anti-social behaviour;
- Impact on surrounding landscape and visual character and views;
- Loss of privacy and outlook;

- Increased flood risk;
- Footpath and cycle way provision and need for safe crossing of the A43;
- Premature development ahead of the large scale development south of Towcester;
- Infrequent bus services and access to public transport in the area;
- Site is outside town boundary and lies in open countryside;
- Development is contrary to South Northants Local Plan;
- Revocation of RSS housing figures are no longer material consideration;
- Known archaeological assets on site; and
- Increase in youths and anti-social behaviour;
- The competency of the ecology consultants has also been challenged.

The revisions to the scheme were not generally considered by residents to overcome their initial objections to the proposed scheme.

7.3 A petition has also been received containing 183 names of residents of the Belle Baulk estate in opposition to the application for the following reasons;

- The lack of adequate provision to address traffic issues;
- The number and high density of dwellings;
- The location of the new development;
- The consideration of noise and pollution issues;
- The existing infrastructure in Towcester being able to cope;
- The presentation of misleading conclusions within the application; and
- The lack of suitable investigation into existing wildlife.

7.4 Following the publication of the report for the now postponed meeting of the 22nd December 2010 a further letter has been received from a local resident commenting extensively on that report. The report has been amend where it has been considered material to the determination of the application.

7.5 Two letters have also been received from Pegasus Planning Group (PPG) acting on behalf of Persimmon Homes Ltd and Bloor Homes Ltd in respect of the proposed urban extension south of Towcester. The following issues are raised;

- The application is for major development outside the settlement limits and is a departure from the provisions of the saved Development Plan;
- The application proposed development which is likely to exacerbate congestion on the A43 at Abthorpe;

- The application proposes development which will increase air quality management problems in direct conflict with the current AQMA;
- Any proposal to help fund the HA's A43 corridor study will not in any material way overcome these objections;
- The development is premature in advance of the resolution of wider transport issues at Towcester through agreed provision of the bypass;
- A decision to grant permission must be conditional upon the applicants lodging payments as a contribution towards the future construction of the Strategic Road Network improvements.

7.6 An additional letter has been received from PPG on behalf of Persimmon Homes Ltd and Bloor Homes Ltd following their viewing of the report prepared for the cancelled meeting on the 22nd December 2010. They have requested the following additional comments be taken into account.

- PPG's clients continue to work with the Highways Agency in respect of the Towcester urban extension. Do not consider a contribution to a highway 'study' in itself can mitigate the impact of the development. Questions whether this approach is compliant with CIL Reg 122.
- Do not consider that a tariff based approach in respect of the mitigation of the impact of the development proposals meets the regulatory tests of CIL Reg 122.
- Any decision to grant planning permission must be conditional and contingent upon the Applicants lodging payments as a contribution towards the construction of the Strategic Road Network improvements at Towcester.

8. Site History

8.1 There is considerable planning history associated with the application site. Those most relevant to the consideration of this application are as follows;

- S/1999/0565/PO – application for outline consent made in 1999 to SNC for residential development. This application was withdrawn prior to determination;
- S/2001/0260/PO – application for outline consent made in 2001 to SNC for residential development. This application was withdrawn prior to determination;

- S/2001/0260/PO – application for outline consent made in 2001 for residential development including the provision of playing fields. The application was refused for three reasons;
 1. Development outside the town confines to the detriment of the setting and character of the town;
 2. Premature development in relation to the review of the Local Plan; and
 3. The application did not include a Flood Risk Assessment.

The refused application was subject to an appeal. The Council's reasons for refusal were upheld and the Inspector dismissed the appeal in September 2003.

9. Considerations

The key matters for consideration are;

- The Principle of Development;
- Environmental Impact Assessment;
- Layout;
- Highways, Access and Parking;
- Ecology;
- Archaeology;
- Drainage and Flood Risk;
- Air Quality and Noise;
- Sustainability;
- S106;
- Other Matters

The Principle of Development

- 9.1 The application site lies outside of the town boundary of Towcester as defined by the South Northants Local Plan (1997). As such the site is viewed as open countryside in policy terms where residential development is generally permitted only in exceptional circumstances. The development could therefore technically be viewed as a departure from Local Plan policy. SNC have prepared and adopted an Interim Rural Housing Policy (IRHP) (July 2009) which allows for development outside and adjoining the Towcester town boundary to be considered acceptable in principle. The proposed development is

therefore not considered to be a departure from development plan policy. The merits of the scheme in accordance with the IRHP are further considered below.

- 9.2 Given the age of the Local Plan it was generally considered in terms of housing requirements that the Local Plan had been superseded by the East Midlands Regional Plan. This set a minimum annual requirement of 330 dwellings to be completed between 2001 and 2021 demonstrating a significant requirement for housing within South Northamptonshire.
- 9.3 The East Midlands Regional Plan comprises the Regional Spatial Strategy for the East Midlands providing a development strategy for the East Midlands up to 2026. Housing policy is a key component of the Regional Plan seeking to ensure that good quality housing is available to all. Policy 13b relates specifically to housing provision in Northamptonshire setting figures that Local Planning Authorities should plan for from 2001 – 2026. The figure for West Northamptonshire is set at a total of 62,125 homes.
- The status of Regional Spatial Strategies (RSSs)
- 9.4 The position with regards to the status of regional strategies has been in fluctuation over the last few months. The current position is that set out in the decision in the matter of CALA Homes of October 2010 and the subsequent Court Order of November 2010. In the CALA Home decision, the High Court declared that the decision by the Secretary of State for Communities and Local Government to revoke the RSSs was unlawful.
- 9.5 To counter this, on 10th November 2010 the Secretary of State and his chief planning officer wrote to Local Planning Authorities explaining that they should still have regard to the decision to abolish RSSs as a material consideration.
- 9.6 Initially, on a further application from CALA Homes in relation to that letter, the High Court issued an Order that the letter of 10th November 2010 should be considered to be stayed (i.e. it should have no impact). However, on 3rd December 2010, the stay was lifted on the basis of an undertaking from the Secretary of State that he will write to all Local Planning Authorities and the Planning Inspectorate to inform them of the pending judicial review challenge to his statement. An expedited full hearing of the judicial review is scheduled for January 2011. Therefore, whilst the RSS may be taken into account the Secretary of State's position with regard to RSSs is a material consideration for members who may give it such weight as they believe reasonable.
- 9.7 Notwithstanding this, given the position adopted by South Northants Council as set out below, in this case the figures for housing provision as set out in the East Midlands

Regional Plan were still supported, even when that plan was subject to the Secretary of State's direction regarding RSSs.

South Northants Council's approach to Housing land Supply

9.8 Prior to the decision in CALA, the Regional Plan was considered revoked. Notwithstanding this revocation Councils were still required to maintain a housing land supply which was evidence based. The Government has also made it clear that Local Authorities must cater for housing growth and that the inability to demonstrate a five year supply of land remains an important material consideration in the determination of planning applications and appeals.

9.9 During that period and in the absence of robust housing targets for South Northamptonshire, and until such time that the revised figures were prepared and agreed through the preparation of the Core Strategy, SNC agreed at its cabinet meeting on 12th July 2010 that it would continue to provide for a housing target of 330 dwellings per annum based on the figure set out in the Regional Plan.

Housing Land Supply

9.10 PPS3 requires Local Authorities to ensure that a five year supply of housing is maintained stating that *'where Local Planning Authorities cannot demonstrate an up to date five year supply of deliverable sites, for example where Local Development Documents have not been reviewed to take into account policies in this PPS or there is a less than five years supply of deliverable sites, they should consider favourably planning applications having regard to the policies in this PPS'*.

9.11 The East Midlands Regional Plan incorporates the Milton Keynes and South Midlands Sub-Regional Strategy (MKSM SRS) adopted in March 2005 covering the whole of Northamptonshire. Policy MKSM SRS Northamptonshire 1 sets the spatial framework for the location of development in Northamptonshire identifying Towcester as a rural service centre where smaller amounts of development will be located. The policy sets the annual average rate of housing provision within South Northamptonshire at 330 dwellings within the period 2001 – 2021.

9.12 The 2009/2010 SNC Housing Land Availability Study showed a 4.1 years supply of housing land identifying those sites which are available, achievable and suitable for housing within the next five years (2010-2015). Those identified sites include remaining allocated housing sites, sites with existing planning permission, and other sites identified as being suitable for housing including an allowance for windfall sites. In April 2010 a shortfall of 326 dwellings was identified within the district. Following the receipt of appeal decisions which

addressed the matter of housing land supply and the granting of planning permission for other residential schemes within the district, SNC now considers that it has a 4.3 year supply of housing based on the 330 dwelling housing target set out in the IRHP and a subsequent shortfall of 271 dwellings still exists.

9.13 It is clear that where a five year supply cannot be demonstrated there will be a presumption in favour of residential development. However, it should be noted that this 'presumption' is not free-standing and that whilst the principle of development may be considered acceptable a number of detailed considerations must also be satisfied in accordance with PPS3.

9.14 Paragraph 69 of PPS3 states that; *In general, in deciding planning applications Local Planning Authorities should have regard to;*

- *Achieving high quality housing;*
- *Ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular families and older people;*
- *The suitability of a site for housing, including its environmental sustainability;*
- *Using land effectively and efficiently;*
- *Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives e.g. addressing housing market renewal issues.*

9.15 In response to the policies set out in PPS3 and the need to demonstrate a five year housing land supply, SNC have prepared and adopted their Interim Rural Housing Policy (IRHP) (July 2009) which is a material planning consideration until such time that the Council has achieved at least a five year housing land supply or the Joint Core Strategy has progressed. When this occurs the Policy will no longer apply. The policy sets out a series of material considerations to be considered alongside the saved policies of the South Northamptonshire Local Plan (1997). The IRHP allows for a more flexible approach to be taken towards development with the aim of delivering sufficient housing sites in appropriate locations in order to demonstrate the required housing land supply.

Interim Rural Housing Policy (IRHP)

9.16 Section 3 of the IRHP considers the implications for not having a five year housing land supply and concludes (in accordance with PPS3) that the Council should consider

favourably planning applications (subject to national guidance) for housing, where it does not have up to date planning policies or it has less than five years supply of deliverable sites.

- 9.17 In calculating the district's land supply it is not considered appropriate within the IRHP to make allowance for any future major development at Brackley or Towcester until there is more certainty over delivery (i.e. Towcester Urban Extension) and that future strategic housing development approved in the form of urban extensions adjoining the administrative boundary of Northampton will not contribute to the housing supply figures for South Northamptonshire (i.e. Grange Park and Norwood Farm). This position has recently been upheld by the Secretary of State in the consideration of planning appeals within the district.
- 9.18 The IRHP therefore sets out that, *'applications for development outside and adjoining the town boundaries for Brackley and Towcester will be considered acceptable in principle and they will be determined against the usual planning considerations as set out in section 7 of this report'*.
- 9.19 Although section 7 of the IRHP relates to the 'village hierarchy' setting out the most sustainable villages for development, the principles for the consideration of proposals for residential development within village locations is considered to be equally applicable to development on the edge of Brackley and Towcester. This section states that development will be permitted where;
- It can be demonstrated that there are no suitable and deliverable brown field sites within or adjoining the settlement confines;
 - The proposed extension to the settlement reflects and respects natural and other long term features; and
 - The scale of the proposal (either individually or cumulatively) would not exceed the existing number of dwellings within the settlement.
- 9.20 SNC has confirmed that there are no known brown field sites currently available for residential development in Towcester. The development would be contained within the physical confines of the A43 to the west, the disused railway line and embankment to the north, the flood zone and River Tove to the East and the existing Belle Baulk estate to the south providing a sound alternative boundary to the town. The development of 85 dwellings would not exceed the existing number of dwellings within the town (either individually or cumulatively).

- 9.21 In conclusion, whilst the application site lies outside of the settlement boundary and would not wholly accord with the saved policies of the Local Plan, the principle of residential development is considered to be acceptable in accordance with the IRHP.

Environmental Impact Assessment (EIA)

- 9.22 The proposed development would fall within Schedule 2 Part 10(b) (Infrastructure Projects) of the EIA Regulations. It is considered that the characteristics of the proposal, the location of the development and the potential impacts would not be of a nature which would require an EIA.

Layout

- 9.23 The indicative layout of the proposed development proposes 3.09 hectares of residential development resulting in a net dwelling density of 28 dwellings per hectare (dph).
- 9.24 In their initial consideration of the application for 97 dwellings at a density of 31 dph; SNC Officers and Members raised concern at the density of the proposed development without supporting contextual analysis with the surrounding area i.e. the adjacent Belle Baulk estate at this edge of town location. The existing Belle Baulk estate constructed in the 1990s comprises large detached units and is likely to have been constructed at a density of around 20dph or below which was common at the time. Whilst it was not considered by SNC to be desirable to build at such a low density and housing mix as Belle Baulk, a lower density was considered to be more appropriate given the context.
- 9.25 Whilst the latest revisions to PPS3 issued by the new Government in June 2010 removed the requirement for minimum density figures within new developments it still requires Authorities to make the best use of undeveloped land. It also states that, *'density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form.'*
- 9.26 In accordance with recent Government guidance and in response to the representations made in respect of the density of the proposed development, the number of units proposed was reduced to up to 85 units and the layout of the development was revised. This has resulted in a lower density development of 28dph. This revised figure is considered to demonstrate an appropriate level of development allowing for an appropriate housing mix including affordable housing in accordance with local need.
- 9.27 The indicative layout submitted with the application included the provision of allotments within the area of public open space following a request made by Towcester Town

Council at a pre-application meeting. However, the location of the allotments on the edge of the development was not considered to be acceptable by SNC due to the adverse visual impact that may arise from the erection of structures and enclosures within an open area on the edge of the settlement. Some concern was also raised in respect of the allotment location being within the flood plain area.

- 9.28 PPG17 and the draft PPS on Planning for a Natural and Healthy Environment refer to the provision of open space for recreation including allotments, following robust assessments of existing and future need. Whilst it is considered desirable to provide for allotments within new developments this provision should be based on an identified requirement within the area.
- 9.29 In compliance with PPG17, SNC published its Open Space Strategy (OSS) in December 2007 comprising a study of existing open space and an action plan for the provision of future open space to 2021 including the approach to be taken to the provision of allotment sites. The Green space Action Plan identifies the need for detailed consultation to identify the need for further allotment sites in Towcester. However, based on the approach set out in the OSS the application site is unlikely to be large enough to warrant on-site provision. Further information is sought from SNC officers in respect of any identified need. We are currently awaiting a response.
- 9.30 In the absence of robust justification it is difficult to argue specifically for the provision of allotments within the application site particularly given that a significant area of the site has been designated for recreational open space which offers a multi-purpose function for all residents. However, it may be considered reasonable to require contributions towards off site provision of allotments to be secured through planning obligation in accordance with the OSS.
- 9.31 The indicative layout incorporates 1.87 hectares of open space in total. The area is envisaged to be laid mainly to grass with storm attenuation features incorporated to manage storm water drainage from the site. The location and form of the open space links into and retains notable habitats within and adjoining the site including the disused railway corridor, the river Tove and the Belle Baulk public open space and potential wildlife site providing for biodiversity enhancement in accordance with green infrastructure principles.
- 9.32 Whilst indicative only, it is considered that the location and form of the open space is likely to remain largely unchanged through the detailed submission of reserved matters applications based on the constraints of the site, namely the flood risk area.

- 9.33 The submitted Design and Access Statement (DAS) sets out the design principles behind the indicative layout identifying a clear street hierarchy in accordance with basic urban design principles so as to achieve a permeable and legible development. The scale and form of the development is proposed to consider the existing Belle Baulk estate whilst responding positively to the varied topography of the site in accordance with the principles set out in the WNDL Manual for Design Codes.
- 9.34 A landscape and visual assessment has been undertaken providing an assessment of the character of the site and its surrounding context. The site is generally contained within a mature tree belt/hedgerow to the A43 to the west and north. However, some long distance views are afforded towards the site particularly from the footpath to the west of the site.
- 9.35 The existing properties on Belle Baulk are visible from public vantage points across the application site forming a 'roofscape' against the skyline. The introduction of further residential development is not considered to have an adverse visual impact in a location which is already characterised by residential development. The development of the application site would form a natural addition to the settlement within defined natural boundaries.
- 9.36 However, there is reference to two and a half storey development at key locations i.e. feature buildings within the development. Towcester is a predominantly 'low-rise' town with development generally no higher than two storey except in the central areas around Watling Street. Whilst it is accepted that the predominant built form is likely to be two storey, the introduction of two and a half storey development at this location on the edge of the settlement is not considered to be appropriate and would not assimilate well with the existing estate nor provide the required transition from town to open countryside. A condition limiting development to no more than two storey should be imposed.
- 9.37 Given that the application is Outline, the submitted layout is indicative only serving to demonstrate that the number of dwellings proposed can be accommodated within the development site to a satisfactory standard. Based on the information submitted it is considered that a satisfactory level of residential amenity can be achieved for future occupiers of the proposed development. Similarly, it has also been demonstrated that the residential amenity of existing residents would also not be adversely affected by the development of the site. The indicative layout has been amended to ensure that no undue overlooking would result.

- 9.38 The impact of noise from the A43 on the proposed development and the amenity of future occupiers has been considered. Whilst the issue of noise has been assessed and possible solutions identified, a Noise Mitigation Strategy for the detailed design of the scheme is required to ensure a satisfactory level of amenity for occupiers.

Highways, Access and Parking

- 9.39 A number of issues have been raised by Northamptonshire County Council (NCC) as the Local Highway Authority (LHA) in the consideration of the submitted Transport Assessment and Travel Plan; whilst some matters have been resolved the LHA continues to have some concern.

Single Access

- 9.40 The LHA generally seeks to limit the number of units accessed off a single estate road to 200 dwellings. The existing number of dwellings served off Belle Baulk is 160 units. The determining factor behind this consideration is the ability of the emergency services to access the site.

- 9.41 The emergency services have been consulted specifically in relation to this matter and both the Ambulance and Fire and Rescue services have confirmed that there would not be an issue with access for emergency vehicles to the application site. As such it is considered that this matter has been satisfactorily resolved, access arrangements to the site are satisfactory and a secondary access is not required to serve the additional residential units.

Accessibility and sustainability

- 9.42 The proposed development is located at the end of a cul-de-sac of approximately 400m in length and as such would be in excess of 400m from Brackley Road and Watling Street. The Chartered Institution of Highways and Transportation (CIHT) have published guidelines on acceptable walking distances. In accordance with these guidelines, the Northamptonshire Place and Movement Guide adopted by the County Council in 2008, requires that all new developments provide or are located within 800m of a range of facilities to ensure that the daily need of residents are provided for within reasonable walking distance.

- 9.43 Given the greater distances involved in accessing local facilities from the proposed development on foot, a Walking and Cycling Audit has been undertaken to identify the likely routes to key facilities and any enhancements that could be made to encourage walking and cycling. The Audit identified a number of deficiencies including inadequate

lighting provision to the existing right of way to the north of the site. It is therefore required that a contribution of £50,000 be secured through S106 to provide street lighting over a length of 580m to improve walking conditions. Footpath SB9 would be required to be diverted based on the current indicative layout. It is noted by the Rights of Way officer that an application will be required to be made under s257 of the Town and Country Planning Act to South Northants Council.

- 9.44 The submitted Transport Assessment identified the requirements for 2no. additional bus stops on either side of Brackley Road to the west of the Belle Baulk roundabout to pick up the bus service 88. However, the LHA have suggested that the provision of bus stops at this location would encourage pedestrians to cross three lanes of traffic without any controlled crossing facilities which was considered by the LHA to be unacceptable on highway safety grounds.
- 9.45 The provision of a controlled pedestrian crossing facility on Brackley Road to provide a safe crossing point to the bus stops has therefore been proposed. The applicant has agreed to undertake these works and a condition will be attached to require the works to be completed prior to the first occupation of the development. The cost of these works is estimated by the LHA as being £141,000. This figure will need to be recognised within the S106 agreement and subtracted from the overall S106 receipt and an obligation to claw back any surplus funds which are not expended up to the £141,000 in the undertaking of the works will need to be included.

Public Transport accessibility and services

- 9.46 The Department for Transport document *Inclusive Mobility a Guide to Best Practice on Access to Pedestrian and Transport Infrastructure (December 2002)* advises that the maximum walking distance to bus stops from residential properties should be no more than 400m. As such the LHA would normally object to an application in excess of 400m from existing bus stops or seek to encourage the applicant to fund the diversion of bus services.
- 9.47 Given that the proposed development is located at the end of a cul-de-sac of approximately 400m in length, the majority of the proposed development would therefore be located in excess of 400m from the existing bus services (88) on Brackley Road.
- 9.48 In order to resolve the matter, the LHA have taken a flexible and proactive approach to secure an increase in the frequency of bus services on Brackley Road, in the absence of bus services being provided within the site. It is considered by the LHA that residents

walking some distance to access a bus service will only do so in order to reach a high quality service. A figure of £130,000 is sought towards this provision and is considered to be reasonable and necessary in scale and keeping with the proposed development.

- 9.49 As set out above 2no. additional bus stops will also be provided as part of the development works.

Junction assessment

- 9.50 Junction capacity assessments were undertaken at the 3no. junctions on Brackley Road 2no. of which form part of the strategic highway network where Brackley Road meets the A5 to the east and the A43 to the west. The capacity of the junctions was assessed in the opening year of 2012 but no further future year assessment of the junctions were undertaken.

- 9.51 Following discussion with the Highways Agency (HA) a future year assessment was undertaken in respect of the impact to the A43/Brackley Road junction in consultation with the HA. The HA are in agreement with the findings and a nil-detriment mitigation scheme has been approved by them in consultation with the applicant to be secured through S106. The details of this scheme and the method of application through the S106 are still to be agreed with the Corporation through the drafting of the S106. However, the HA are satisfied with the approach agreed and have agreed to remove their holding objection once the detailed wording of the S106 is agreed.

- 9.52 The A5 crossroads at the opposite end of Brackley Road was also discussed with the HA. A future year assessment of this junction has still not taken place. However the information contained within the Transport Assessment showed that the junction would be over capacity in the opening year 2012 as a result of development traffic. Whilst NCC as LHA have raised concerns regarding the adequacy of the transport assessment data, they have agreed that the situation could be managed through the provision of sufficient mitigation measures in terms of bus service contributions and improvements. Such measures have been set out above and agreed to by the applicant so that the concerns of the LHA in respect of junction assessments are now considered to have been addressed.

Travel Plan and mode shift

- 9.53 The draft Travel Plan submitted with the application has been further developed in consultation with the LHA and whilst some measures proposed have been welcomed, the LHA still consider the Travel Plan to lack sufficient incentives to residents for walking, cycling and using public transport particularly given the location of the site.

- 9.54 Those measures currently proposed include;

- Household welcome pack;
- Development website containing a travel information section;
- Travel Plan Co-ordinator role for 5 years;
- Travel Plan Survey/Monitoring for 5 years;
- 2 new bus stops and the pedestrian crossing points on Brackley Road;
- Footway lighting; and
- Free bus tickets and free cycle vouchers;

9.55 These measures are considered to be acceptable solutions to achieving mode shift targets within an approved Travel Plan. However, it is considered that the LHA concerns relating to the robustness of the document are justified. Whilst a commitment to mode shift targets has been demonstrated it is considered reasonable, to ensure the approval of a satisfactory document and allow for appropriate monitoring of the mode shift targets, to secure a finalised Travel Plan through the S106 agreement prior to the occupation of the development.

Rights of Way

9.56 The proposed indicative layout would require the diversion of right of way SB9. Consideration has to be given as to whether any new line would generally be acceptable for the public. The indicative layout shows the line of a new footpath which appears acceptable following a route along that edge of the development where it abuts the public open space. However it needs to be noted that if planning permission is granted, outline or otherwise, it cannot automatically be assumed that an order to divert a footpath will be confirmed. This is determined under a separate process governed by Section 257 of the Town and Country Planning Act 1990 but does take into account any associated planning permission.

Ecology

9.57 PPS 9: Biodiversity and Geological Conservation has one of its key principles:

The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a

planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against or compensated for, then planning permission should be refused.

- 9.58 In this instance the application is supported by an Ecological Appraisal consisting of a desk study, extended phase 1 survey (identification and mapping of principal habitat types, plant species present and protected species) and great crested newt survey. Whilst the application is generally considered to be acceptable in respect of ecology and biodiversity, issues have arisen with regards to European Protected Species (EPS) which are protected under the provisions of the Habitats Directive as implemented by the Conservation (Natural Habitats etc) Regulations 1994 and the Wildlife and Countryside Act 1981, namely great crested newts and bats.

Great Crested Newts (GCN)

- 9.59 The GCN survey forming part of the Ecological Appraisal includes a detailed survey of nearby ponds within foraging/migrating distance of the application site. The findings of this survey did not produce any recording of great crested newts although three common species of amphibian were recorded. It is therefore summarised that there would be no significant impact to amphibians as a result of the development.
- 9.60 Natural England, the national organisation that local planning authorities have to consult on such matters and must take into account any comments they may have, raised no objection in response to the initial consultation on the application. Additional supporting information was submitted following consultation comments from local residents. This information sought to provide further clarification relating to specific comments and a number of further supporting letters followed in direct response to issues raised by residents. The main issues raised relate to the accuracy of the survey data and the adequacy of the surveys undertaken, in particular the air night temperature when the surveys were undertaken and the spacing between the bottles used to capture any newts. It should also be noted that a local resident has registered a complaint with the Institute of Ecologist and Environmental Management (IEEM) against two persons who have provided consultant ecological advice on behalf of the applicant in relation to the great crested newt survey. Both persons are members of the Institute and as such have signed up to the Institute's Code of Professional Conduct. The focus of the complaint is the allegation that the survey was not carried out sufficiently in accordance with current guidance and best practice and therefore the results cannot be accepted. The outcome

of this complaint is still unknown. The person making the complaint who has also objected extensively to the planning application primarily on ecological grounds considers that the application should not be determined until the outcome of his complaint is determined as one of the outcomes could be that the survey is found to be deficient for the reasons put forward by the complainant. However officers consider that this does not warrant deferral of the application and that significant weight has to be given to the position of English Nature in relation to the survey undertaken which is referred to below.

- 9.61 Natural England have reviewed the original survey taking into consideration the extensive correspondence on the matter and have provided a further response following advice from their national specialist on Amphibians.
- 9.62 It is the view of Natural England that confirming absence of great crested newts from a pond is very difficult to do. In practice most surveys in advance of development conclude either that a) a species is present; or b) a likelihood of absence. The latter conclusion should be based on all available information (notably the survey effort, methods and timing, along with habitat assessment). It is advised that guidance in the Great Crested Newt Mitigation Guidelines aims to inform consultants about standards for surveys that will optimise the likelihood of detection. However, they are generic and need to be considered in the light of individual circumstances.
- 9.63 The submitted information indicates that the survey had some chance of detecting great crested newts, were they to be present. However, Natural England remains concerned that the surveys were undertaken rather early in the year and during relatively cold conditions. Spring 2010 was considered to suffer from a particularly cold start to the season following the exceptionally cold winter. Based on the increasing evidence that temperature is a critical factor in the detectability of great crested newts, Natural England would have expected further surveys to be undertaken later in the season when conditions were more favourable for detection.
- 9.64 It is noted that the applicant has provided useful contextual information in respect of the detection of great crested newts on a nearby site on the same night although it is known that the timing of great crested newt activity can vary among ponds within a few hundred metres. It is considered by Natural England that there is a small to moderate chance that the Belle Baulk surveys would not detect great crested newts if they were present. A Habitat Suitability Index assessment would have assisted in the interpretation of zero detection. However, the applicant has chosen not to undertake such an assessment it is understood on the basis that the existing pond closest to the site and its immediate

environs excluding that part of the application site is suitable habitat for great crested newts.

9.65 Natural England therefore advises as follows;

- a) *Whilst surveys have been done and no great crested newts found, there remains a chance that the species could be present. This is because (a) the surveys were not implemented to good practice because they were done during relatively poor weather conditions early on in a cool season; and (b) interpretation has not followed good practice in undertaking objective habitat assessment;*
- b) *However, the developer's consultant's professional opinion is that the chance of great crested newts being present is minimal. We are minded to agree that on balance great crested newts are unlikely to be present or are present only at low numbers (based on the data and interpretation provided by the applicant);*
- c) *The development would not result in loss of potential breeding ponds nor high value terrestrial habitat, should great crested newts indeed be present. Therefore the risk of substantial harm to great crested newt conservation status is low on the basis of the current information.*

9.66 Natural England therefore removes their objection. However, in doing so, they have stressed *that there remains a chance that great crested newts are present, and that it is for the developer to consider the risk of committing an offence should the development proceed. The developer may wish to explore with their ecological advisors whether additional surveys under better conditions would be advisable in order to help address the risk and design mitigation that might be required.*

9.67 In response, the applicant has obtained the independent opinion of an industry leading third party ecology expert and the advice of a planning lawyer. In the opinion of the third party ecology expert, as the ponds are being retained; are not directly or indirectly affected by the proposed development; were not shown from the survey results to support great crested newts; and that the developable area of the site is largely inappropriate as terrestrial habitat for great crested newts, that these factors would lead any professional ecologist to the firm view that; i) there is no impact or effect on great crested newts; and ii) even if great crested newts had been present the overall balance of the development scheme would not result in a decline or associated effect on the species favourable conservation status.

- 9.68 Guidance set out in paragraph 116 of Circular 06/2005 (Biodiversity and Geological Conservation) requires that, in determining a planning application which may have an impact on European Protected Species (EPS) i.e. great crested newts, the Local Planning Authority has a legal duty under Regulation 3(4) of the Conservation (Natural Habitats etc) Regulations 1994 to have regard to the requirements of the European Habitats Directive in the exercise of its functions. The Directive's requirements include a strict system of protection for EPS and Planning Authorities should give due weight to the presence of an EPS in reaching planning decisions.
- 9.69 Based on the information and surveys submitted to support the application, the further view of Natural England and the additional comments provided by the third party ecology expert it is considered that the likelihood of great crested newts being present within the survey area is low. The development would also not result in the actual loss of any high value habitat or breeding ponds and would in fact offer enhanced open space and the opportunity for significant improvement to wildlife habitat linking into the existing open space to the east and the green corridors which already exist along the River Tove and the railway embankment. Condition 17 as recommended to be attached to any permission that may be granted would look to secure this by requiring the submission of a detailed and comprehensive scheme of ecological enhancement.
- 9.70 The view is therefore taken that there would be no demonstrable harm to great crested newts and their favourable conservation status as a result of the proposed development if indeed there are any present in the nearby ponds. Further if great crested newts were to be found in the vicinity of the site after the granting of any planning permission this would not override any existing legislative safeguards.

Bats

- 9.71 The ecological appraisal refers to records provided by the Northants Bat Group (NBG) and sets out that there are no buildings or other structures capable of supporting roosting bats within the site. The hedgerow and scrub along the old railway line to the northern boundary of the site and the mixed planting to the western boundary are considered to provide potentially suitable bat foraging habitat.
- 9.72 The NBG responded to request a bat activity survey to discover bat flight lines across the site. Whilst it was considered likely that bats would forage along the River Tove and the old railway line, the NBG was concerned that should bats cross the site to move from their roosts to foraging places then the proposed housing would block their routes.

- 9.73 A bat activity survey was undertaken, the findings of which were submitted to NBG for further comment. The survey included further investigation around the boundary vegetation considered to be the most suitable habitat feature for foraging bats as well as transect routes across the arable field where the development would be situated. The recommendation from the ecologist following this survey was that potential impacts of the development upon the local bat population would be negligible due to the minimal foraging/commuting activity recorded across the development site.
- 9.74 However, NBG were not satisfied that the activity survey was sufficient to record the full extent of possible flight lines across the site based on the transect routes surveyed and the timings of the recordings taken. The weather was also not considered to be optimal and key bat species were considered to have been missed from the survey. A further survey was commissioned by the applicant to address these concerns and concluded that the proposed residential development would have minimal impact on the local bat population. A single bat was confirmed commuting across the site at an altitude of 50m which would be largely unaffected by the proposed development.
- 9.75 Unfortunately, NBG objections remain based on the view that the latest survey was undertaken at the end of the season when surveying for bats is not considered by NBG to be optimal.
- 9.76 The Bat Conservation Trust good practice guidelines for Bat Surveys sets out the optimal and sub-optimal months for commuting and foraging surveys. April to September are considered to be optimal months for undertaking such surveys although it is noted that variation will occur due to geographic location and weather conditions. The latest submitted survey information was recorded on 30th September while conditions were still within the optimal period as set out in the guidelines. Whilst the NBG consider that the optimal time to undertake the survey would have been late May through to August, it is noted that even at the later survey date some bats were potentially commuting across the site. However, the majority of bat activity was again recorded along the site boundaries within established hedgerow and vegetation.
- 9.77 In coming to a view the Local Planning Authority must again have regard to the requirements of the Habitats Directive. Where protected species are found to be present, Local Planning Authorities may only permit development where either there would be no adverse effects or where derogation from that strict protection is justified by the absence of alternatives. Whilst the existence of bats within the site is not disputed, it is

argued by NBG that the surveys undertaken are not sufficient to demonstrate the impact of the proposed development on the species.

- 9.78 Notwithstanding the comments of NBG, bat activity surveys have been undertaken as requested within a period which is widely considered to be optimal for the recording of foraging and commuting bats. In all cases recording of activity was found to be prevalent along the site boundaries where established trees and hedgerow provide mature cover and foraging opportunities for bats. The recording of bats flying across the site was minimal and in the one recorded case was at a high enough altitude not be affected by built development. It is therefore considered that there would be no adverse impact to commuting and foraging bats as a result of the proposed development.
- 9.79 Although NBG do not share the view of the applicant that circumnavigation of the development would be acceptable, it does not seem to be an unreasonable conclusion based on the size of the site and the existence of an established housing development in close proximity.

Archaeology

- 9.80 The application site is situated within an area of known archaeological importance and has been subject to a desk-based assessment, geophysical survey and trial trench evaluation which have been undertaken in consultation with the County Archaeologist.
- 9.81 The evaluation undertaken indicates that the development area contains archaeological activity of possible Roman date. However, this is not of such significance as to preclude development as long as provision is made for archaeological investigation. A condition to secure the implementation of a programme of archaeological work is therefore required.

Drainage and Flood Risk

- 9.82 The application site is situated in close proximity to the River Tove. A large area to the north east of the site is situated within the flood zone and no built form is proposed to be located within this area. A series of surface water attenuation ponds are proposed within this area which are proposed to contain surface water which would then be discharged into the River Tove.
- 9.83 These surface water attenuation areas are considered to provide the opportunity for enhanced biodiversity and habitat creation as mentioned above to be secured through an Ecological Management Plan.

- 9.84 The Environment Agency have raised no objections to the proposed development in outline form subject to the imposition of a number of conditions requiring further detailed information in respect of flood storage areas, the attenuation ponds, contamination risks, and foul water drainage.

Air Quality and Noise

Air Quality

- 9.85 A supporting statement on Air Quality has been submitted with the application concluding that the expected increases in traffic associated with the proposed development off Belle Baulk are below relevant thresholds and that as such an air quality assessment would not be required.
- 9.86 Whilst the formal responses from SNC refer to insufficient information being submitted in respect of air quality, further detailed consultation with the Environmental Health Officer has resulted in no objection being raised on air quality grounds. It is considered that air quality on the A5 in particular is already over the objective level, a contribution towards resolving air quality issues in Towcester is therefore sought towards funding measures to improve air quality in accordance with the Air Quality Action Plan. A figure of £10,000 has been put forward by SNC Environmental Health and would be secured through S106.

Noise

- 9.87 A Noise Assessment has been submitted with the application identifying the Noise Exposure Categories (NEC) within the development as being within NEC A; NEC B; and NEC C as set out in PPG24 Planning and Noise.
- 9.88 Mitigation measures proposed as part of the outline application include a 3 metre high acoustic barrier adjacent to the A43 where noise sensitivity and exposure categories are highest due to traffic noise. This comprises a 3 metre high fence merging into a 2 metre high bund with 1 metre high fence above. Indicative layouts submitted also indicate buildings orientated so that they provide additional noise barrier effect to the proposed rear gardens.
- 9.89 The north western corner of the site is considered to be most affected by noise from the A43 resulting in the potential requirement for acoustic glazing and mechanical ventilation to maintain internal noise levels. The reduction in the number of units proposed has allowed for a better arrangement of dwellings within this most noise sensitive area

resulting in an increase in the physical separation from the A43 within this area where the NEC is at its highest.

- 9.90 Following the submission of representations raising issues with the timing of the noise surveys and the conclusions within the submitted Noise Assessment, a Noise Assessment Report Addendum has been submitted verifying the measurement of noise levels; traffic flow data used and predicted noise levels. The additional report confirms that the conclusions of the original Noise Assessment have not changed.
- 9.91 The SNC Environmental Protection Officer has raised no objection to the application subject to a number of suggested conditions relating to noise. In particular it is considered necessary to condition a Noise Mitigation Strategy for the detailed design of the scheme to ensure a satisfactory level of residential amenity for future occupiers with particular regard to the north-western corner of the site where additional mitigation measures may still be required to secure acceptable external noise levels to private rear gardens.
- 9.92 Acoustic measures to improve noise levels within rear gardens would be more appropriately addressed at reserved matters or detailed design stage given that the submitted layout is indicative and subject to change. However, the Noise Assessment identifies the extension of selected dwellings to three storeys as a potential solution.
- 9.93 Given the predominance of two storey housing in Towcester, the inclusion of three storey development on the boundary of the settlement is not considered to be acceptable. As set out earlier within the report, a condition will be imposed to ensure that dwellings do not exceed two storeys in height.

Sustainability

- 9.94 A Sustainability Statement has been submitted with the application setting out the Corporation's requirements in accordance with the WNDC Sustainability Manual. The development will be expected to achieve Code for Sustainable Homes Level 3 including post construction assessment as well as meeting 10% of the energy needs of the development through decentralised and renewable or low carbon sources to be secured through S106.

S106

- 9.95 The WNDC Planning Obligations Strategy (2008) sets out the Corporation's approach to planning obligations and developer contributions towards necessary infrastructure need across the Corporation's area. The Planning Obligations Strategy (POS) advocates a

'standard charge' approach setting a discounted standard charge of £20,000 applicable to all residential development on a per unit basis.

9.96 In recognition of the current economic downturn, continuing ongoing viability issues and the introduction of the Community Infrastructure Levy (CIL) and associated regulations WNDK is currently undertaking a review of the POS. The revised standard charge approach set out in the draft POS review sets the discounted standard charge at £18,000 per unit across the Corporation's area.

9.97 In relation to the introduction of CIL, on 6th April 2010 the Community Infrastructure Levy Regulations 2010 (the Regulations) came into force. From this date planning obligations secured need to be in accordance with these regulations. In particular, regulation 122 states that a planning obligation may only constitute a reason for approval if it is;

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

These are the three principal tests set out in Circular 05/05 on Planning Obligations which is the policy used to guide the negotiation of planning obligations sought prior to the coming into force of the Regulations. The applicant has accepted the revised approach to S106 within the POS review and has agreed to a contribution of £18,000 per dwelling leading to a net contribution towards the delivery of the necessary infrastructure of around £1.53 million. There are significant infrastructure costs associated with the delivery of the development most notably the required contributions towards the local public transport network and funding sought by the Highways Agency. The Corporation is agreeable to the approach set out by NCC Highways and the Highways Agency and will seek to 'ring fence' monies towards the improvements required to the strategic road network in the area. The standard charge will also incorporate the requirements for contributions towards education provision and community facilities. Non-financial obligations will also be included to secure the achievement of Code for Sustainable Homes Level 3 (as a minimum) and the submission of a Construction Futures Strategy.

9.98 There will also be obligations to provide 40% affordable housing in accordance with the requirements of SNC Strategic Housing including 75% social rented and 25% intermediate housing or other agreed ratio and monies to cover the cost of monitoring the agreements.

9.99 Briefly, the S106 contributions sought by individual Consultees are as follows;

SNC

- Affordable housing at 40%;
- A commuted sum for the maintenance of the public open space;
- The sum of £300 per dwelling for offsite leisure facilities;
- Enhancement of the existing Local Equipped Area of Play (LEAP);
- A commuted sum for maintenance of the LEAP;
- Upgrading of the footpath link to Watling Street;
- The sum of £55 per dwelling for bin provision.

NCC Key Services

- Libraries at a minimum tariff of £88 per person;
- Fire and rescue at £92 per household;
- Education towards Primary, Secondary and Sixth Form places.

NCC Highways

- A contribution of £50,00 towards lighting of the existing footpath to Watling Street;
- A contribution of £130,000 to enhance bus services on Brackley Road.

Highways Agency

- A figure of £71,000 towards the A43 corridor study;
- Travel Plan remedial payments of £13,468.

9.100 The following is an indicative list of Infrastructure to which the Standard Charge would be applied;

Infrastructure Item	
Type	Facility
Affordable Housing	
Education	Nursery; Primary; Secondary; Adult Learning; and Further Education
Culture and Community	Libraries; Public Art; Community Centre; Youth Centre
Social Care	Day Care; Older Persons Housing
Open Space	Local Park; LAP; LEAP; NEAP; District Park; Green Infrastructure
Recreation and Leisure	Sports/Leisure Centre; Swimming Pool; Playing Pitches
Crematoria and Burial	Crematoria and Burial Grounds
Emergency Services	Police Services and Ambulance Services

Health Services	GP Surgery/Health Centre (incl Dentist) and Dentist
Waste	Refuse and Recycling Points
Transport	Road; Rail; Public Transport; and Local Transport (incl walking/cycling)
Flood Defence (incl SUDs)	
Public Realm	
Community Cohesion	
Construction Futures/ Employment Training	

- 9.101 The Corporation's approach to S106 is considered to comply with the CIL regulations so that they can be properly taken into account as a reason for approval of the application. It should be noted that if the proposed standard charge contribution had not been offered then failure to contribute appropriately to the infrastructure needs generated by the development in the absence of any viability assessment would have justified the refusal of the planning application.
- 9.102 In response to the representations received that the Corporation's tariff based approach to S106 is not compliant with Regulation 122 of CIL this is not accepted as set out above. Additionally the view expressed that monies should be available to improve the Strategic Highway Network and not just be a contribution to a highway 'study' is not the case. Whilst certain monies would be targeted at a highway 'study' other monies being secured would go towards providing the necessary infrastructure in the wider but local area to the site which could included the Strategic Highway Network.

Other Matters

- 9.103 The SNC Environmental Health Officer has raised no objection in respect of contaminated land subject to conditions requiring further investigations into contaminated land issues.

10. Conclusion

- 10.1 The principle of the proposed development is considered to be acceptable being in accordance with the South Northants Interim Rural Housing Policy. There is current uncertainty around regional housing targets but as things currently stand RSSs are not revoked but the Secretary of State's position in this regard may be a material

consideration. Further it is noted that Local Authorities are still required to have due consideration to the provision of housing and the achievement of a robust and evidence based five year housing land supply in accordance with PPS3.

- 10.2 It is clear that there has been significant local opposition to the proposed development which is situated outside of the town boundary on a site which many residents may not have expected to be developed. Residents are understandably concerned about the potential impacts which may arise as a result of development. However, it is considered that the matters raised and all other material planning considerations have been given due consideration by Officers in coming to the recommendation and that no adverse impacts would arise which cannot be satisfactorily mitigated through the imposition of conditions and S106 obligations.
- 10.3 The development is considered to constitute an acceptable extension to the urban boundary of the town comprising an area which is contained within existing natural and physical confines providing a sound alternative boundary to the town in accordance with the South Northants Interim Rural Housing Policy. The development would be compliant with guidance contained in the related Planning Policy Guidance/Statements and the relevant saved policies of the South Northants Local Plan (1997). It is therefore recommended that the application be approved.

11. Conditions

1. Approval of the details of the access, appearance, landscaping, layout and scale ("the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: This permission is in outline only granted under Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason: To comply with Section 92 of the Town and Country Planning Act 1990.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or, if later, before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule 1 of this permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

5. The development hereby permitted shall not exceed two storeys in height meaning that no unit shall contain more than a ground and first floor unless otherwise agreed in writing by the local Planning Authority.

Reason: To ensure that development of the site would not adversely affect the character and visual appearance of the area.

6. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details for the management of waste arising from the construction process, siting and design and drainage arrangements for any temporary construction offices, buildings and storage compounds/areas and measures proposed to mitigate against adverse effects of noise, dust and vibration during construction and implementation of the proposed development and shall also include;
 - A. The proposed hours of operation of construction activities;
 - B. The frequency, duration and means of operation involving excavations, drilling, piling and concrete production;
 - C. Sound attenuation measures to be incorporated (in relation to construction) to reduce noise at source;
 - D. A scheme for the control of dust and emissions from construction activities and traffic during the development phase of the project.
 - E. Details of temporary lighting;
 - F. Arrangements for site access and vehicle parking;
 - G. A Construction Workers Travel Plan;
 - H. Details of the management of waste generated by the site clearance and construction process, together with measures taken to minimise its generation;
 - I. Details of measures to minimise waste and incorporate facilities for the management of waste in development;

- J. Method statement for the prevention of contamination or soil and groundwater and air pollution and remediation in the event of pollution; and
- K. The protection of ecologically sensitive areas and potential protected species during the construction phases.

The development shall be implemented in accordance with the approved details.

Reason: To ensure that appropriate consideration is given to environmental assets during construction and to ensure compliance with the Northamptonshire Waste Local Plan (March 2006) and Development and Implementation Principles Supplementary Planning Document (March 2007).

- 7. Details of wheel washing facilities for construction traffic connected with the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be installed on site prior to the commencement of development hereby permitted.

Reason: To safeguard the amenities of the locality and the general safety of highway users.

- 8. No development shall take place until a programme of archaeological work has been implemented and completed in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate provision is made for the investigation and recording of archaeological remains in accordance with PPS5 Planning for the Historic Environment.

- 9. Development shall not begin until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include;

- A. Full scheme of proposed drainage including all conveyance, storage and control elements, including any SUDs measures proposed. This shall include full drawings, plans and methodologies as necessary;
- B. Full details of long term maintenance and/or adoption of the drainage system in its entirety;

- C. Full details of overland flood flow routes, depths and velocities in the event of exceedance or failure of the proposed drainage system;
- D. Full calculations demonstrating adherence to the principles of no net increase in surface water runoff rates, volumes and quality as a result of the development;
- E. Details of preferred options of surface water disposal, in the event that it is not possible to use pipe underneath the Flood Storage Area.

Reason: To prevent the increased risk of flooding and to improve and protect water quality.

10. The layout to be submitted pursuant to condition 1 of this permission shall include;
- A. Details showing an easement of at least 9 metres from the edge of the designated Flood Storage Area and any development;
 - B. Details showing suitable maintenance access to the Flood Storage Area from the proposed site;
 - C. No allotments within the designated Flood Storage Area.

The scheme shall subsequently be implemented in accordance with the approved details.

Reason: To ensure that the Flood Storage Area remains fully functional at all times, and is not compromised by future occupation within the area or lack of maintenance access.

11. Development shall not commence until a revised, final drawing showing the position of the surface water attenuation ponds has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented and any works identified in the scheme completed in accordance with the approved details before the development is completed. The submitted information shall include:
- A. A plan demonstrating a suitable easement distance between 89.34mAOD contour and the attenuation facilities;
 - B. A cross section through each proposed surface water attenuation pond showing all dimensions, measurements and gradients of the pond(s), in relation to the Flood Storage Area;
 - C. Information detailing how the method(s) of maintenance of the ponds will not compromise the integrity of either the pond or Flood Storage Area.

Reason: To ensure that structural integrity of the proposed surface water attenuation pond is suitable and ensure that the function of the ponds and the Flood Storage Area remain operational for the lifetime for the development.

12. Prior to the commencement of development approved by this planning permission (or such other date or stage of development as may be agreed in writing with the Local Planning Authority) the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

A. A preliminary risk assessment which has identified;

- all previous uses;
- potential contaminants;
- a conceptual model of the site indicating sources, pathways and receptors;
- potentially unacceptable risks arising from contamination at the site.

B. A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

C. The site investigation results and detailed risk assessment (B) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

D. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (C) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: In the interests of protection of groundwater and surface water quality from potential contamination associated with the former use of the site.

13. No building works which comprise the erection of a building required to be served by water services shall commence until details of a scheme, including phasing and future management and maintenance arrangements, for the provision of mains foul water drainage has been submitted to and approved in writing by the Local Planning Authority.

The works shall be implemented in full prior to the occupation of any buildings within any phase(s) of the development.

Reason: To prevent flooding, pollution and detriment to public amenity and biodiversity through provision of suitable water infrastructure.

14. Any reserved matters relating to the layout of the development shall be accompanied by a Noise Mitigation Scheme to ensure that future occupants of the dwellings are protected from excessive noise exposure in accordance with PPG24 Planning and Noise. Any Noise Mitigation Scheme shall sound proof the proposed development against traffic noise so as to achieve internal levels of 30dB LAeq (8 hour) and 45dB LAmaxF in all living areas between 2300 hours and 0700 hours with windows closed and other means of ventilation provided. An internal level of 40dB LAeq (8 hour) shall be achieved in all other areas of the building and an external level of 50dB LAeq (1 hour) shall be achieved in garden areas and balconies where practical, but not exceeding 55dB LAeq (1 hour). Any works which form part of the Scheme shall be submitted to and approved by the Local Planning Authority before development commences and be completed in accordance with the approved details before any of the permitted dwellings to which the scheme relates are occupied and shall be retained thereafter.

Reason: To safeguard the amenities of the occupiers of the properties from the adverse effects of noise.

15. Prior to the commencement of development full details of the proposed highway alterations to include the 2no. bus stops and controlled pedestrian crossing points to be provided on Brackley Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the works shall be implemented in full in accordance with the approved details prior to the first occupation of the development.

Reason: To promote a sustainable development through the provision of increased accessibility to public transport and in the interest of highway safety.

16. Site clearance operations that involve the destruction and removal of vegetation on site shall not be undertaken during the months of March to August inclusive, except when approved by the Local Planning Authority.

Reason: To ensure that breeding birds are not adversely affected.

17. Prior to the commencement of development a detailed and comprehensive scheme of ecological enhancement of the site set out within an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning authority. The development shall be implemented in accordance with the approved details.

Reason: To increase biodiversity within the application site through a scheme of ecological enhancement in accordance with PPS9 Biodiversity and Geological Conservation.

18. Prior to the commencement of development, details of the method of protection of all existing trees and hedgerows shall be submitted and approved in writing by the Local Planning Authority. The approved protection measures shall be implemented prior to the commencement of development and retained thereafter until the development is complete. Within the protected area no development works shall take place on, over or under ground, no vehicles shall be driven, nor plant sited, no materials or waste shall be deposited, no bonfires shall be lit nor the ground level altered during the periods of development.

Reason: In order to ensure adequate protection of existing trees and hedgerows on or adjacent to the site in the interests of achieving a satisfactory standard of development and maintaining the amenity of the locality and the existing wildlife habitat which exists.

12. Notes

Water

- A. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the applicant will need to ask for the assets to be diverted under Section 185 of the Water Industry Act 1991 or in the case of apparatus under an adoption agreement liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.
- B. There is sufficient water resource capacity to supply this development. However, in line with national and regional government policy Anglian Water would wish to see measures taken by the developer to ensure that buildings are constructed to high water efficiency

standards. This can be achieved through the design of efficient plumbing systems and the installation of water efficient fixtures and appliances in line with the Code for Sustainable Homes. This will minimise the growth in demand for water from the new development and help to ensure the sustainable use of our regions water resources.

- C. The development can be supplied from the network system that at present has adequate capacity. The developer may submit a formal requisition for a water supply main under Section 41 of the Water Industry Act 1991 or enter into an agreement to lay the water main ready for adoption by Anglian Water under Section 51A of the Act.
- D. The foul flows from the development can be accommodated within the foul sewerage network system that at present has adequate capacity. If the developer wishes to connect to the Anglian Water sewerage network they should serve notice under Section 106 of the Water Industry Act 1991 when they will be advised of the most suitable point of connection.
- E. The foul drainage from this development will be treated at Towcester Sewage Treatment Works that at present has available capacity for these flows.

Rights of Way

- F. This planning permission in no way authorises the diversion, or stopping up of any public footpath or bridleway. This must be pursued separately only upon the granting of planning permission under Section 257 of the Town and Country Planning Act 1990.

