



## Appeal Decision

Inquiry Held on 11 -13 and 18 July 2017

Site visit made on 14 July 2017

**by Keith Manning BSc (Hons) BTP MRTPI**

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

**Decision date: 06 September 2017**

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**Appeal Ref: APP/E2734/W/16/3160792**

**Cornwall Road, Harrogate, North Yorkshire HG1 2NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Duchy of Lancaster against Harrogate Borough Council.
  - The application Ref 15/05163/OUTMAJ, is dated 18 November 2015.
  - The development proposed is up to 165 residential dwellings (C3), two main accesses from Cornwall Road, two private access drives from Cornwall Road, open space, landscaping, sports facility (D2) including playing pitches and pavilion building, drainage works and ancillary works.
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### Preliminary and Procedural Matters

1. The application is in outline with all matters reserved apart from access.
2. It is accompanied by a unilateral undertaking dated 6 July 2017 in favour of the Council of the Borough of Harrogate and the North Yorkshire County Council. In brief detail the undertaking provides for a variety of financial contributions to mitigate the impact of the proposed development on the physical and social infrastructure of the locality. These include provision for enhancement of the X12 bus service, provision for primary and secondary education, provision for traffic management measures on Otley Road, provision for improvements to open space in the vicinity of the site, provision for monitoring any travel plan required and provision for Traffic Regulation Orders in the vicinity of the site. The undertaking also commits to the formulation and implementation of a public open space management plan for the site.
3. The policy requirement to provide a significant (40%) element of affordable housing was anticipated to be met through the imposition of a planning condition to that effect.
4. Separate Statements of Common Ground (SoCG) were agreed by the parties in respect of landscape and visual matters, heritage matters and planning matters, all finalised on 12 June 2017.
5. The latter records the grounds which the Council resolved it would have refused the application, had it remained within its jurisdiction.

### Decision

6. The appeal is dismissed and planning permission is refused.

## Main Issues

7. In the context of relevant policy including the development plan and the National Planning Policy Framework, the main issues are:-
  - The effect of the proposed development on the character and appearance of the area with particular regard to landscape character and the settlement edge;
  - The effect of the proposed development on the character, appearance and significance of the Harrogate Conservation Area with particular regard to its setting; and
  - The effect of the proposed development on the amenity of various public rights of way.

## Reasons

### *The site in context*

8. The three SoCG, taken together, describe the site, its setting and its physical relationship to the Harrogate Conservation Area.
9. In brief, it comprises two fields, currently down to pasture with an area of playing field demarcated at their approximate centre and leased to the nearby school. In agricultural quality terms the land is shown to be primarily Grade 3b with a limited area of Grade 3a land along its northwest margin.<sup>1</sup>
10. It is central to what might be described as the western fringe of Harrogate, being set on land which slopes down to the north from Harlow Hill, the upper slope of which is a wooded area known locally as 'Pine Woods'. This woodland extends eastwards across Harlow Moor Road before descending towards the increasingly formal area of the Valley Gardens which lead into the town centre. A recognised recreational route, 'Harrogate Link', passes through Valley Gardens and Pine Woods to the RHS gardens at Harlow Carr, at which point it turns to the north and down into Cardale Woodland whilst Crag Lane links more directly to the 'Harrogate Ringway' recreational route which passes through woodland on the steep scarp slope featuring Birk Crag, which forms the valley side above Oak Beck. The Harrogate Ringway crosses Penny Pot Lane at its junction with Cornwall Road before continuing eastwards along the southern margin of Oakdale Golf Course.
11. The site directly fronts onto Cornwall Road between Penny Pot Lane and its junction with Harlow Moor Road and its southern margin is defined by the line of a public footpath known locally as 'the Cinder Path'. A number of benches are located on the Cinder Path facing out across the site to the vista to the north and west, primarily open countryside containing the Nidd Valley and higher ground in the far distance beyond, which includes features such as Beamsley Beacon Ridge and Brimham Moor. In the near distance, housing development at Oakdale and the Uniacke and Hildebrand Barracks are the principal settlement features evident in the landscape.
12. Features of note in the immediate open surroundings of the site include a Guiding centre on its northern margin and the bottling plant for Harrogate Spring Water on Harlow Moor Road to the south. Urban development adjacent

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<sup>1</sup> ID22

to the eastern margin of the site primarily comprises the extensive residential area known as 'The Duchy' which fronts onto the east side of Cornwall Road but is principally centred on Duchy Road and Kent Road, which are broadly parallel and lead to the town centre. A new housing development on a former reservoir site in the south east quadrant of the Cornwall Road/Harlow Moor Road junction is evident also between those roads and the woodland leading towards Valley Gardens.

13. Penny Pot Lane, Cornwall Road, where it abuts the site, and Harwell Moor Road together define the western extremity of the extensive Harrogate Conservation Area.

#### *Policy overview*

14. The full policy context is set out in the Planning SoCG. I refer to specific policies listed therein as relevant only as necessary to the determination of this appeal.
15. The development plan comprises the Harrogate Core Strategy 2006-2021 ('the HCS'), which was adopted in 2009, and the saved policies of the Harrogate District Local Plan ('the Local Plan') including the Policies Map, which was originally adopted in 2001.
16. The emerging Harrogate Local Plan ('EHLP') is at an early stage of preparation and it is common ground that it is therefore of limited weight. I have no reason to disagree.
17. The National Planning Policy Framework ('the Framework') is of course a powerfully influential material consideration.
18. It is common ground that the Council cannot currently demonstrate a five year supply of deliverable housing sites and that the supply in fact stands at around 4 years.<sup>2</sup> I have no reason to question that. The shortfall equates to 972 dwellings.<sup>3</sup> Relevant policies for the supply of housing should not be considered up-to-date in those circumstances<sup>4</sup> and it is common ground that policies SG1, SG2 and SG3 of the HCS fall into that category.
19. It is also common ground that the development limits shown in the Local Plan are out-of-date and "carry no weight".<sup>5</sup>
20. It is a matter of fact that planning permissions for housing on greenfield sites outside these limits<sup>6</sup> have been variously granted by the Council at first instance and on appeal and it is common ground that there is "*no objection in principle to the development of greenfield sites adjoining the built-up area of Harrogate.*"<sup>7</sup>
21. In addition to considering the appeal in the context of relevant policy I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Harrogate Conservation Area.<sup>8</sup>

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<sup>2</sup> 4.06 years supply – Planning SoCG paragraph 40

<sup>3</sup> Ibid. paragraph 41

<sup>4</sup> Framework paragraph 49

<sup>5</sup> Planning SoCG paragraphs 40 & 49

<sup>6</sup> Including those on the western outskirts of Harrogate shown on the map associated with ID5

<sup>7</sup> Ibid. paragraph 35

<sup>8</sup> Planning (Listed Buildings and Conservation Areas) Act 1990

*Landscape character and the settlement edge (policy and principle)*

22. The Framework policy context for “valued landscape” as referred to in paragraph 109 of that document became the subject of some contention at the inquiry and my consideration of this main issue is necessarily pre-informed at this juncture by the approach I favour in order to properly address the ultimate planning balance.
23. Legal submissions for the appellant on this matter, drawing on the judgement in the *Stroud* case<sup>9</sup> require detailed comment. It is clear enough from that judgement that the term “valued” as used in the Framework does not equate simply to “designated” (whether such designation be national or local). However, whilst only the courts can determine the law, I cannot see anything in that judgement to support the proposition, effectively, that because the land in this case is “designated” (as a Special Landscape Area, or SLA for short) it cannot also be “valued” in the sense intended by the Framework. (This was a point conceded by the relevant witness for the appellant in any event.)
24. It is not for me to judge the reasoning of my colleague in the Loughborough appeal to which reference has been made.<sup>10</sup> However, in this case the appellant, through submissions, does not now accept that paragraph 109 is a policy of restriction that disapplies the so-called “tilted balance” of the presumption in favour of sustainable development set out in paragraph 14 of the Framework by reason of its Footnote 9. (C/F paragraph 49 of the Loughborough decision.) The Council, on the other hand, argues that if the landscape is valued in Framework terms, then it falls within the purview of Footnote 9, which is not an exclusive list.
25. The appellant’s closing submissions on this point<sup>11</sup> cause some difficulty. The assertion that “*NPPF 109 does not exclude NPPF 14 by reference to footnote 9*” simply cannot be reconciled with the appellant’s opposite view set out in the agreed Planning SoCG under “Key Matters Agreed”, namely that “*if the site forms part of a valued landscape in accordance with paragraph 109 of the NPPF, it is agreed (my emphasis) that the tilted balance would be disapplied.*”
26. In the circumstances I have little choice but to come to a view one way or the other. Notwithstanding that the interpretation of policy is a matter of law, I can do no better than follow the approach of my colleague in the Loughborough case, having regard also, as he did, to the Leckhampton decision by the Secretary of State and subsequent refusal of an application for permission to apply for judicial review.<sup>12</sup> The relevant words of the Honourable Mr Justice Lewis in dealing with that aspect of the application are highly pertinent. They are as follows... “*The ground also alleges a misinterpretation of paragraph 14 and 109 of the Framework. In fact, paragraph 14 refers to development being granted where relevant plans are absent, silent or policies out of date unless, amongst other things, specific policies in the Framework ‘indicate development should be restricted’. Paragraph 109 indicating, amongst other things that valued landscapes should be protected and enhanced. It is a policy within the meaning of paragraph 14. There was no arguable error of law. This ground is not arguable.*”

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<sup>9</sup> CD 94 Stroud District Council v SSCLG [2015] EWHC 488 (Admin)

<sup>10</sup> CD61 APP/X2419/W/15/3028159 and APP/X2419/W/15/3028161

<sup>11</sup> ID27 paragraph 37 in particular

<sup>12</sup> CD92

27. If that were not conclusive enough, I would add that the appellant's submission that paragraph 109 is somehow absolute and more severe than policies aimed at protecting for example AONBs or Green Belts, because they have internal tests allowing for other factors to be weighed against that aim seems to me flawed. First, paragraph 109 in any event uses the words "protecting and enhancing" not "preserve or enhance"<sup>13</sup> with the claimed consequence of fatality to anything that fails to do one or the other. Secondly, and in any event, the whole of paragraph 14 of the Framework, which includes Footnote 9, is subject to Footnote 10 – "*unless material considerations indicate otherwise*".
28. It seems to me that there simply are no absolutes as claimed and that the intentions of paragraph 109 are no exception to that principle. It is not necessarily a bar to development. It is, moreover a central, statutory, pillar of the planning system that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Again, even if the Framework paragraph 14 is disapplied by reason of the landscape being properly regarded as "valued", that would not necessarily require the appeal to be dismissed. It would simply require a straightforward application of the statutory position. In short, I am not persuaded that this aspect of the appellant's submissions leads anywhere at all other than a potentially erroneous application of the 'tilted balance'.
29. Policy C2 of the Local Plan simply seeks to protect landscape character and taken literally would be prohibitive of development unless restoration of the landscape, where necessary, were a consequence. Insofar as it could be construed as somewhat absolute in effect it is not entirely consistent with the Framework and merits reduced weight accordingly. However, policy C9 is more directly relevant in this case. This policy seeks to give long term protection to the high quality of landscape encompassed by defined SLAs including (f) Pine Woods and Valley Gardens and (g) Oak Beck Valley to the West of Harrogate including Birk Crag and Cardale Wood. It is common ground that the appeal site falls within the latter<sup>14</sup> and I am in no doubt that it is influential in views from and to the former, which is a contiguous tract of landscape, the common boundary being defined by the Cinder Path. Indeed, whilst the justification of the policy notes that the Birk Crag escarpment with its significant woodland is a significant feature in the SLA(g) it also makes it very clear that SLA (g) together with the SLA(f) forms an important link extending from the town centre to the countryside beyond.
30. It is clear what this means from the explanation to SLA(f) which states, amongst other things, that... "*the area, which includes Harlow Carr Gardens, Pine Woods and Valley Gardens, is particularly important because it extends from open countryside into the heart of the town.*" Thus, although there is a descriptive distinction between SLA(g) and SLA(f), the former clearly has an importance conferred by its direct association with the particularly important specific functionality of the latter. Although different and distinctive in character the two SLAs in this instance read together in terms of the relationship between town and country. I have seen nothing on site to suggest that the descriptive analysis in the local plan is anything other than apposite.

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<sup>13</sup> ID27 paragraph 37

<sup>14</sup> Landscape SoCG paragraph 7

31. In its own terms policy C9 is not prohibitive of development, by virtue of requirement ii), which calls for high standards of design and mitigation of impact where appropriate in those instances where development is permitted. Requirement i) is nevertheless clear, inter alia, that major extensions to existing development which would have an adverse impact on the character of the landscape or the landscape setting of Harrogate will not be permitted. I am in no doubt that the appeal proposal represents a major extension of the type anticipated but in any event the policy applies with equal force to more modest proposals.
32. Whether a development proposal in a SLA is major or modest, the statutory position regarding the primacy of the development plan, referred to in paragraphs 196 and 210 of the Framework, is such that the intention of Requirement i) of policy C9 to avoid damage to the SLA around Harrogate, is capable, always, of being overridden by other material considerations, a characteristic shared by policy intentions to protect even landscapes of national importance, as is clear from the Framework. Whether or not it should be in any particular case is the very essence of planning judgement and central to the planning balance to be considered in this case.
33. Against that background, I have no reason, on the evidence, to consider policy C9 to be anything other than robust and fit for purpose<sup>15</sup> and it seems to me that the policy, despite its age, remains sufficiently consistent with the Framework to carry the weight due to adopted development plan policy. A core principle of the Framework is to recognise the intrinsic character and beauty of the countryside and paragraph 109 advocates contribution to and enhancement of the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. I consider the local objects of policy C9 to be indistinguishable in effect from relevant policy in the Framework concerning protection and enhancement of valued landscapes and for the above reasons the appellant's submissions regarding the supposedly absolute nature of paragraph 109, whether legally sound or not, are ultimately of no substantive consequence to my decision in this case.
34. By way of local context it is clear enough, irrespective of its decision in this case, that the Council itself does not consider SLA designation to be prohibitive of major development as a matter of principle. This is very evident from the schedule of commitments and draft allocations to the west of Harrogate prepared by the appellant<sup>16</sup> (to which I return in more detail below). Of itself, given the wording of policy C9, the mere fact that development is committed and contemplated by the Council elsewhere in the SLA lends no weight to the proposition that it should have followed suit in this instance or that my decision on this appeal should necessarily take that fact on board in the way of precedent. The consequences of that approach would be to effectively overturn the principle that applications should be considered on their individual merits (having regard to the development plan and other material considerations) and, ultimately, the comprehensive loss of open land subject to the designation.

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<sup>15</sup> Explicitly accepted as such in any event by appellant's landscape witness

<sup>16</sup> ID5



*Landscape character and the settlement edge (substantive effects)*

35. I turn now to the substance of the main issue in the context of the development plan and the question of whether the appeal site itself is appropriately classified as “valued landscape”, as the Council contends, in the sense intended by the Framework.
36. Prima facie, the simple fact of SLA designation is evidence of value having been placed on its qualities in a formal, documented and spatially defined sense. Otherwise the SLA designation and the associated policy expression of intent would be wholly pointless and, clearly, in the case of the Local Plan for Harrogate it is not pointless. The visual qualities and attributes of the landscape generally to the west of the town are very evident to even the most casual observer. Nor, in general terms, is the designation unjustified. The justification to policy C9 is explicit and detailed.
37. That said, not least in the light of relevant case law<sup>17</sup>, it has to be recognised that SLA designations (or equivalents), such as are deployed by Harrogate BC, essentially represent a planning tool to distinguish in the development plan (usually) defined tracts of land from what is sometimes referred to as mere “ordinary countryside”. As such they are inevitably prone to a degree of generalisation and are hence “broad brush” to varying degrees.
38. Policy C9, however, is notable for its relative precision in identifying locally distinct SLAs such as SLA(f) and SLA (g). Moreover, there is nothing to suggest that the appeal site, although comprising what might be regarded as “ordinary fields” when viewed in isolation (or “within its four corners” as the term was used at the inquiry) does not make a significant contribution to the SLA. On the contrary, the evidence of its description in the local plan suggests otherwise in that reference is made to the Birk Crag escarpment and although the steep and wooded (scarp) slope immediately to the north of the site is singled out the unusually inclined appeal site which descends towards it is integral and important in landscape terms to the prominence of that feature; its pastoral management, rendered practical by the lesser incline, contrasting with the woodland so as to set it off as a significant and very identifiable element of the characteristically beautiful prospect of land to the west of the town. The appeal site and the Birk Crag escarpment are in my estimation indivisible in their contribution to the SLA(g). The character and the quality of the landscape derives not just from the woodland on the face of the escarpment and elsewhere but also from the prospect of pastures, including the appeal site, intermingled with that woodland.
39. These qualities are very evident in the prospect across the site from Cornwall Road, from the prospect across the site from the Cinder Path and from the more elevated viewing point in the Pine Woods. In all of these the appeal site features prominently in the near view as integral to the broader view across the open countryside to the north and west and the higher ground in the far distance beyond, as previously described. Moreover, owing to the slope of the site it features prominently in views towards the town and the Pine Woods at Harlow Hill between Oakdale from viewpoints to the north west, notably along Penny Pot Lane where it is elevated between Oakdale and the Hildebrand Barracks.

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<sup>17</sup> CD94 *Stroud District Council v SSLG* [2015] EWHC 488

40. Clearly, the broad prospect across the site from the south and the east is not wholly unintruded upon by urban development as the Hildebrand and Uniacke Barracks are conspicuous on elevated ground in the middle distance and substantially more housing is to be developed at Oakdale to the north of Penny Pot Lane to the west of the Oakdale Golf Course.<sup>18</sup> In the latter case the flattening of the slope on the north side of Penny Pot Lane will significantly assist in reducing the impact of that housing in the prospect I have described, which will remain for the most part rural in appearance.
41. From Penny Pot Lane, where elevated, and on approach along the Cinder Path west of the appeal site the prospect of the edge of The Duchy, an area described in the context of heritage value as having a "picturesque and sylvan image" (see below) is one of glimpsed views of individual houses amongst trees on the developed eastern side of Cornwall Road.
42. The limited expansion of the bottling plant and the prospective redevelopment of the Guiding centre do not in my view significantly affect the overall integrity of the scene to which the appeal site is central within the landscape at the western fringe of Harrogate. The Council's reference to the scene at this location as "spectacular"<sup>19</sup> is not so much an exaggeration, in my view, as an imprecise use of language - if impressively dramatic rock formations, cliffs, mountains and the like are taken to represent a commonly recognised benchmark for such a term in the context of landscape. Semantics aside, the scene possesses, as a consequence of its topography and land management, a rural beauty that is relatively rare in such close proximity to an urban area.
43. The appeal site, which lies hard against the settlement edge is, by virtue of the physical attributes I have described, integral to that scene and cannot be dismissively valued in isolation simply as "ordinary fields" taken out of essential context. The equipped viewing point at the edge of the Pine Woods bears testimony to the value evidently placed on the broad prospect to the north and west, whilst the fact of long established benches on the Cinder Path looking out across the appeal site at the same prospect from a lower level serve to reinforce that perception of value.
44. Taking all of the above into account, the SLA designation, the physical attributes of the site in context, together with the fact that physical devices have been put in place to facilitate appreciation of the prospect which forms that context lead me unequivocally to the view that the appeal site in its surrounds, contrary to the assertions of the appellant, is indeed 'valued landscape' in the sense intended by paragraph 109 of the Framework. On that basis, the national policy embodied therein must be applied in this instance.
45. It remains therefore to consider the effect of the development proposed on that valued landscape and by way of context it is pertinent to consider the proposition that the appeal site is at the centre of a "pincer" movement of development to the west of Harrogate in the SLA which in some way renders it more appropriate as a development site. That proposition does not withstand scrutiny. First it departs from the principle of proposals being considered on their individual merits. Secondly the logical inference would be that much if not all of the land between the extremities of the "pincers", formed by site H50 (Penny Pot Lane as committed) and H49 (Windmill Farm as proposed to be

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<sup>18</sup> Site H50 on ID5

<sup>19</sup> Council's planning witness



allocated) should be considered for development. Thirdly, it embodies the simplistic notion that the world is experienced, as on a plan, in two dimensions. That is patently not the case, least of all in an area such as this where topography, vegetation and the interaction between those two important contributors to landscape quality and capacity to absorb development play such an important role.

46. In the course of my site visit I was able to view amongst other features of the area, the committed sites of Penny Pot Lane and Crag Lane (H74) and the site proposed to be allocated at Windmill Farm. I have already observed that the Penny Pot Lane site has features that would significantly reduce its impact on the broad prospect in which it can be viewed. Its circumstances are distinctly different from those of the appeal site and this is very evident at close quarters as well as in the broader view. Crag Lane was allowed on appeal in December 2014.<sup>20</sup> Again it is very evident that the circumstances of this site are distinctly different from those of the appeal site. It is quite visually enclosed, by housing development, by topography, by woodland, and by the car parking and other paraphernalia and buildings associated with Harlow Carr Gardens. I have read carefully the Inspector's assessment of its landscape impact and I am entirely satisfied that it is simply not comparable to the appeal site in this case. The Windmill Farm site, again, despite its magnitude, cannot be compared directly in terms of its potential impact on the SLA. Its visibility and topographic circumstances are quite distinct from those prevailing at the appeal site.
47. In short, given the self-evident acceptance by the Council that SLA designation per se is not preclusive of major development to meet the Borough's needs, the fact that these sites and others referred to by the appellant are in SLAs is of very limited relevance to the determination of this appeal. It stands to be considered on its specific merits.
48. The LVIA submitted with the application, authored by the appellant's landscape witness, assesses the local landscape/townscape character of the site and its surroundings to be of high value. Given my own assessment I find this unsurprising, as was the concession that the openness of the fields was integral to the scenic value of views across them. The LVIA does not depart substantially from my own assessment of the site in preceding paragraphs; a point reinforced by the paragraphs highlighted in the Council's closing submissions.<sup>21</sup>
49. In my estimation the appeal site in its present open condition and its immediate surrounds, including the clearly defined western edge of The Duchy along Cornwall Road, where glimpsed views of individual houses subtly signal arrival at the edge of the town, is of central importance to the high quality landscape of the two SLAs it exerts an influence upon and to the landscape setting of Harrogate itself insofar as the SLAs in question, which contain important recreational and self-evidently well-used routes from which this can be appreciated, are definitive of that setting. This importance is apparent in close view from the Cinder Path, from the Pine Woods panoramic viewpoint and from elevated ground to the west of the town along Penny Pot Lane.
50. In principle, development of the site would undoubtedly have the potential to inflict unacceptable harm on the qualities which the SLAs are intended to

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<sup>20</sup> CD60 Ref APP/E2734/A/14/2222633

<sup>21</sup> CD26 paragraph 11

- protect. But that of course is not the end of the matter, because requirement ii) of policy C9 contemplates mitigation of harmful impact, so as to bring proposed developments in SLAs within the bounds of acceptability.
51. Whilst the application is in outline, and so is essentially concerned with the principle of development on the site, it must be acknowledged that the appellant has gone to considerable lengths to conceive of a scheme of appropriate density to reflect the characteristic residential amenity of The Duchy itself whilst maintaining a reasonable efficiency of land use. It is proposed to adhere to a design code and a parameters plan which would include the re-location of the school playing fields to the southern corner of the appeal site. Two influences on design and layout are anticipated – that of The Duchy and that of the Garden City Movement, the latter being predominant in the central area of the site. Substantial tree planting is proposed especially in The Duchy influenced area and around the margins but I am not persuaded that the tree planting in the central Garden City inspired area would ever be practically capable of achieving the perception of more or less continuous canopy cover now evident in views of the original Duchy.
52. Not least this would be hampered by the sloping topography combined with the elevated viewpoints to the north and south of the site. Moreover, the characteristic and highly attractive perception of a clear and sudden change at the urban edge from a distinctively pleasant leafy suburb to very attractive countryside would not be replicated, despite the best of design intentions, but rather would be diluted and blurred by reason of development projecting into the countryside between the Birk Crag escarpment and the Cinder Path and, at a higher level, the Pine Woods. Whilst over a considerable period of time the maturation of trees in The Duchy inspired area in particular might give the appearance, especially in summer, of a wooded landscape, I am conscious that the quality of the landscape hereabouts derives from the mixture of open pasture and woodland in the rolling topography to the west of Harrogate, as I have previously described it. More extensive woodland cover is not necessarily an enhancement of landscape and in this case I am clear it would not be.
53. In short, the measures to mitigate the impact of the development would in themselves tend to erode the current qualities of the SLA featuring the Birk Crag escarpment in which the site is situated as complemented by the neighbouring SLA centred on the Pine Woods. In my assessment, despite the very best efforts of the appellant, the 'valued landscape' which this undoubtedly is would not be protected and enhanced in the terms of the Framework paragraph 109, nor would the impact of the proposed development be effectively mitigated so as to afford long term protection to the high quality landscape of the SLA as required by policy C9.
54. On that basis there would be harmful conflict not only with the general intentions of national policy concerning landscape but also the specific intentions of the development plan itself. For the reasons I have given I do not consider the harm caused would be relatively slight or inconsequential but rather, in this instance, it would be serious in real terms and would as a consequence fundamentally undermine the intentions of local and national policy concerning landscape protection and enhancement.
55. In development plan terms, the harm would be acute when measured against the policy C9 intentions for SLAs to which I accord the weight due to adopted

development plan policy, but weight may also be accorded to C2, albeit limited by reason of inconsistency with the Framework, and Local Plan policy HD20 requires, inter alia, that new buildings should make a positive contribution to the spatial quality of the area which, in principle, in the light of the foregoing analysis, this proposal would not. There is no incompatibility between that policy intention and equivalent intentions of the Framework. Core Strategy policies SG4 and EQ2 pull in the same direction in material respects concerning landscape quality and the setting of Harrogate and it follows that there would be harmful conflict with the relevant intentions of those policies also, which are again sufficiently consistent with the Framework to merit weight.

56. To conclude on this issue, I am in no doubt that the effect of the proposed development on the character and appearance of the area, having particular regard to landscape character and the settlement edge, would, in principle and in practice, be seriously harmful and correspondingly so in terms of relevant policy objectives as articulated in the development plan and the Framework.

#### *Harrogate Conservation Area and its setting*

57. In terms of the physical consequences of the proposed development there is inevitably a degree of overlap between this issue and the previous issue and, indeed, the third issue I have identified. The policy context and perspective, on the other hand, lends itself to more discrete analyses.
58. The Duchy, described in the relevant appraisal<sup>22</sup> (at paragraph 10.28) as having a picturesque and sylvan image, is a distinctive part of the very extensive Harrogate Conservation Area, the overall size of which reflects the nature of the town. The conservation area appraisal accords the Duchy status as a defined sub-area. Under the 'Setting' sub-title in the 'Location & landscape setting' section of the appraisal it notes that... "*there are areas of special landscape value around the settlement*" and also that... "*The conservation area only impinges directly onto open country on its western side in the vicinity of the Duchy estate*".<sup>23</sup> It is clear on the ground and from the maps and text that this is in the vicinity of the appeal site along Cornwall Road and Harlow Moor Road where the latter rises past the spa water bottling plant and through Pine Woods. It is noted that... "*To the south-west of the Duchy Estate beyond Cornwall road, the land consists of a regular pattern of small and medium sized fields*".<sup>24</sup> The appeal site is part of that tract of land and the first part of it is apparent from the conservation area. Moreover, an indicative symbol on the Duchy sub-area map entitled "Map 8. Analysis, Concepts & Landscape in Character Area C", representing one of only a few 'important views' in the sub-area, is directly out across the appeal site.
59. To my mind, these observations in the appraisal amount to clear evidence that, even bearing in mind the overall extent of the conservation area as a whole, not only is the appeal site and associated land considered be included within the setting of the conservation area but that the direct conjunction of the Duchy with open countryside at Cornwall Road is a rare if not unique feature worthy of mention. The appeal site occupies the whole of the Cornwall Road frontage with the open countryside, from Penny Pot Lane to Harlow Moor Road.

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<sup>22</sup> CD43 Harrogate Conservation Area Character Appraisal

<sup>23</sup> Ibid. Paragraph 4.5

<sup>24</sup> Ibid. Paragraph 4.9

60. The sense of a rural setting to the western margin of the conservation area is very apparent not only along this frontage but also on approach up Cornwall Road (where it is a radial route to and from the town centre) past the new housing on the former reservoir site towards its junction with Harlow Moor Road and the beginning of the Cinder Path. There is a striking sense here of imminent passage out of the town into the wide open countryside beyond, a sense that is fulfilled on arrival at the corner of the appeal site by the prospect across it to the north and west that I have described in relation to the previous issue. I am in no doubt that the experience of that prospect is part and parcel of the pleasurable appreciation of the conservation area and the manner in which the Duchy sub-area has, subject to the influence of the underlying topography, been laid out in relation to the open countryside to the west. That setting is in my estimation a material contributor of some significance to the character and quality of the Duchy both as a residential area of the type it represents and a heritage asset for appreciation by all.
61. The Framework, at paragraph 132 advises that the significance of a heritage asset can be harmed through development in its setting and in view of the above I consider that would be the case as the Council maintains. I have no credible, systematic, evidence to gainsay that proposition which itself is borne out on its face by the relevant content of the conservation area appraisal in any event. Paragraph 128 of the Framework is clear as to what is required of applicants in respect of the significance of heritage assets including any contribution made by their setting and, whilst such analysis should be proportionate, it is clear that the Duchy area draws some significance from its setting and itself contributes significantly to the wider Harrogate Conservation Area which taken as a whole is undoubtedly very significant indeed and in any event accepted as such by the relevant witness for the appellant. It is pertinent, moreover, that the conservation area appraisal, inter alia, aims to identify the special character and distinctiveness of its setting<sup>25</sup> which, it is clear from the document, has a distinctive rural character in the vicinity of the appeal site.
62. Whilst in this case it is common ground<sup>26</sup> that the harm that would be caused by the proposed development to the conservation area would be, in Framework policy terms, 'less than substantial', it became clear on the evidence that the approach advocated by paragraph 128 of the Framework had been given inadequate attention at best in the formulation of the application, as the relevant witness for the appellant accepted. The consequence is that, whilst it is clear that the concept of 'substantial harm' to the significance of a heritage asset is a relatively high threshold, there is no authoritative measure in this instance to counter the position of the Council's witness on the harm within the broad category of less than substantial harm, albeit the Framework indicates at paragraph 132 that the more important a heritage asset is the greater is the weight that should be accorded to its conservation, an objective, following the logic of paragraph 126 also, that is clearly indivisible from its significance.
63. Bearing in mind all of the above, I have no reason to disagree with the broad thrust of the Council's case that the very openness of the appeal site and the immediate rural area of which it is part and parcel is of importance to the character, appearance and significance of the Harrogate Conservation Area; by

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<sup>25</sup> CD43 Harrogate Conservation Area Character Appraisal: paragraph 1.5

<sup>26</sup> Heritage SoCG paragraph 4

reason of its proximity to the Duchy and its influence on the manner in which the character and appearance of that important area is experienced. It follows that the harm arising from its loss to development, whilst potentially reduced to some degree by design, could not, in fundamental terms, be mitigated.

64. In conclusion the effect of the proposed development on the character, appearance and significance of the Harrogate Conservation Area, bearing in mind in particular, the contribution of the appeal site to its setting would be significant and in my view serious, notwithstanding that the harm to its significance would be less than substantial. The Framework emphasises that any harm of this nature requires clear and convincing justification which, in the case of less than substantial harm, engages the approach set out in paragraph 134.
65. The development plan is not silent on the issue: Policy SG4 of the HCS requires that development should be appropriate to the form and character of a settlement and clearly, in the light of the above, development on the appeal site would not be. Policy EQ2, amongst other things, seeks to accord the District's exceptionally high quality built environment a level of protection appropriate to its importance and the harm to the Harrogate Conservation Area that has been identified would conflict with that intention. Policy HD3 of the Local Plan is primarily concerned with development within conservation areas whilst HD20 is primarily concerned with the design of new development, albeit I do not consider the proposed development, owing to its inescapable impact on openness identified as important, would make a positive contribution to the spatial quality of the area as required by criterion A).

*Effect on public rights of way*

66. Paragraph 14 of the Landscape SoCG refers to a map showing the public rights of way from which intermittent or filtered views of the proposed development would be obtained and those from which views would be uninterrupted. The map was finally agreed for submission at the inquiry itself.<sup>27</sup>
67. From the high ground more or less due west of the site containing the public right of way referenced 15.65/20/1, which I visited unaccompanied, I am content that the distance, topography and vegetation would significantly reduce the impact of the proposed development in the vicinity of Pot Bridge Farm and The Oatlands. The site's contribution to the quality of the landscape in its present undeveloped state is negligible from the vantage point of that public right of way and the harm to its amenity would be correspondingly so.
68. Of more concern would be the perception of the development from a nearer series of vantage points a little to the north west along 15.65/17/1 where its role in the landscape is more evident and more akin to the prospect from much of Penny Pot Lane as I have described it in relation to the first issue. However, it is less elevated relative to intervening features than Penny Pot Lane and in the summer months at least I consider that assimilation into what from here appears to be a mainly wooded landscape from the path would over time be likely. The effect on the amenity of the footpath itself, insofar as this is dependent on the quality of the scenery through which it passes, would be very limited.

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<sup>27</sup> ID20



69. The stretch of the Harrogate Ringway (15.54/29/1) immediately to the north of the side is unlikely to be affected, certainly in the summer months, by more than the most fleeting of glimpses owing to the path being set well down the scarp slope of Birk Crag. Although to the extent that amenity is affected by consciousness of the presence of development in the context of a rural environment with a remote feel to it, the presence of the redeveloped Guiding centre is likely to be more influential at this point.
70. The Harrogate Link (15.54/33/1) leads out from Valley Gardens to traverse the northern margin of the Pine Woods where they are elevated above the site. The evident importance and level of utilisation of this route leading to Harlow Carr is reflected in the fact that the footpath is finished with a tarmac surface along this stretch and the main impact of the proposed development on the amenity of the footpath itself would be in the landscape prospect I have previously described from the vicinity of the viewing point. Even on the weekday of my site visit the path was well populated by what I took to be a mixture of local residents and visitors to the town venturing out beyond Valley Gardens, or inwards from Harlow Carr.
71. The Cinder Path (15.54/31/1) is also subject to a regular passage of walkers, dog-walkers and joggers as I observed on my preliminary visit in the late afternoon before the inquiry opened and during the course of my formal accompanied visit. This is unsurprising as it is a central option of intermediate challenge in the network of public rights of way encircling the site comprised of Harrogate Link, part of Crag Lane, Harrogate Ringway and The Cinder Path itself.
72. I am in no doubt as to the value of the Cinder Path as an amenity to be appreciated by locals and visitors alike. It is effectively a continuation of the walk up Cornwall Road to the corner with Harwell Moor Road where the sense of imminent passage out of the town into the wide open countryside is fulfilled on arrival at the corner of the appeal site and where the prospect across the landscape setting of the town the north and west can best be appreciated from, whether actively whilst walking or passively by use of one the benches. Moreover, on the western approach along the Cinder Path from Harlow Carr and Crag Lane, it is the Cinder Path which best reveals the outer fringe of the 'picturesque and sylvan' Duchy. It is undoubtedly a very pleasant and rewarding route in either direction, largely due to both the open prospect to the north and west of the SLA containing The Birk Crag escarpment and the countryside beyond in one direction and the prospect to the nearby Duchy at the boundary of the Harrogate Conservation Area along Cornwall Road between Harwell Moor Road and the beginning of Penny Pot Lane.
73. Even allowing for the sensitive location of the re-located playing fields as proposed and the principles embodied in the appellant's parameters plan, these key qualities which imbue the Cinder Path with a high level of amenity value for numerous users would be lost as a consequence of the proposed development. I do not accept that the pleasantness of the urban edge would simply be moved westwards and that this would in some way diminish the harm to the amenity of this path. Rather the spatial qualities of the area that can be so well appreciated from it would be irreversibly altered for the worse. Openness per se is not always a quality worthy of retention, but for all the preceding reasons in respect of landscape quality and heritage value, the amenity of the Cinder Path over a distance of around 750m would be significantly diminished,



the effects being most acute along the south eastern boundary of the appeal site itself, where the important prospect towards the Birk Crag escarpment and beyond would be lost, in addition to the view towards the edge of the Duchy along Cornwall Road.

74. For these reasons I am in no doubt that the amenity of certain public rights of way, notably those parts of the network that would command uninterrupted views of the proposed development, would be diminished but that this would apply with significantly harmful effect along the considerable relevant length of the Cinder Path. Because the pleasantness here is derived particularly from the openness of prospect enabling appreciation of the landscape and the edge of the Duchy within it, the harm would not be effectively mitigated by planting and greenspace along the site boundary to the Cinder Path as indicated on the parameter plans. The footpath would be fundamentally changed in nature and, whilst a relatively enclosed path through greenery would doubtless be pleasant enough in its own terms, the special qualities of the Cinder Path as a highly accessible means of appreciating the broader surroundings and the setting of the town, including The Duchy itself, would be lost.
75. Policy R11 of the Local Plan seeks to maintain the character or recreational and amenity value of existing rights of way but allows for satisfactory diversion of such routes, albeit in this case the affected rights of way are outside the site boundary in any event. The basic object of this policy is consistent with the Framework advice that planning policies should protect and enhance public rights of way together with the core principle of securing a good standard of amenity. In view of the role of the Cinder Path that would be lost, there would be significant conflict with the intentions of the policy in that specific instance. Elsewhere, the amenity of the public footpaths per se would not be significantly compromised, and in some cases not at all, insofar as enclosure and obstruction of view by reason of proximity to the proposed development would not be a consequence of its implementation, albeit the harm to the landscape previously identified would nevertheless be apparent from those routes to varying degrees.

*Other matters, the planning balance and the overall conclusion*

76. It is relevant to note the recent judicial comment that... "*planning decision-making is far from being a mechanical, or quasi-mathematical activity. It is essentially a flexible process, not rigid or formulaic. It involves, largely, an exercise of planning judgement.....*"<sup>28</sup> This was put another way by the appellant in closing submissions, namely that "*broad judgements must be made against simple objectives and requirements which pursue clearly stated public policy ambitions.*" I would add that such objectives, requirements and ambitions are multifarious and, however important individually, cannot be pursued singly to the exclusion of all others. In any particular case the balance to be ultimately struck as a matter of planning judgement is unique and this case is no exception to that principle.
77. Under the three main issues I have identified significantly harmful consequences that would in principle arise if the appeal site were to be developed. The care that has been exercised in conceiving of a design concept, defined by parameters and controlled by a design code, would not in my assessment effectively mitigate that harm in practice.

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<sup>28</sup> *Barwood Strategic Land II LLP v East Staffordshire Borough Council and SSCLG* [2017] EWCA Civ 893 para. 50

78. Although the main issues fall to be considered under the three specific heads of landscape impact, heritage impact and amenity impact in respect of public rights of way, the circumstances of the site and hence the specific scope of the issues arising in this case cause the harm I have identified to be mutually reinforcing, both in terms of actuality and consequential conflict with relevant policy objectives. So whilst the harm to the significance of the Harrogate Conservation Area would be 'less than substantial in national policy terms' (albeit not, in my estimation insignificant or inconsequential, especially in view of the acknowledged importance of this conservation area) it adds weight to the damage to the valued landscape and the qualities for which it has been included in SLAs, qualities that can generally be appreciated from the well-used network of footpaths and highways to which the site is central within the western fringe of the town at the edge of The Duchy.
79. The consequences would be particularly adverse in terms of public appreciation of these qualities for users of the Cinder Path as far as primarily walking routes are concerned. Of course, appreciation of the landscape and other qualities of the area, including heritage, is not confined simply to dedicated public footpaths. The public domain also includes highways with a variety of user types including pedestrians. The environmental qualities that would be lost to the development proposed can be particularly well appreciated from Cornwall Road itself and the elevated section of Penny Pot Lane as I have indicated.
80. All in all, the aesthetic environmental harm would in my assessment be unusually severe for even a greenfield development of the type that is plainly necessary if the Borough of Harrogate is to meet its housing needs. Enjoyment of the area by its many users, both resident and visiting, would be very substantially diminished and in this instance I therefore accord very substantial weight to the environmental harm that I have identified.
81. Nevertheless, social and economic factors must also be weighed in the balance and the inability of the Council to demonstrate a five year housing supply of deliverable housing sites undermines the national imperative to significantly boost housing supply and, following paragraph 49 of the Framework, means that relevant policies for the supply of housing cannot be considered up-to-date. That is important policy context for the main issues I have identified.
82. The material consideration of Framework policy as expressed at paragraph 49 leads in many such cases to the application of the 'tilted balance' set out in paragraph 14 of the Framework but in this case I am persuaded of the veracity of the Council's position that, because the landscape of which the appeal site forms an integral part is valued in the sense intended by paragraph 109 of the Framework, the tilted balance is in fact disappplied by virtue of Footnote 9. As indicated above, that is a position supported by current case law.
83. Notwithstanding the undoubted importance of the national housing policy context for the main issues, that in turn leads back to the longstanding statutory balance that is explained at paragraph 196 of the Framework. Moreover, the full range of relevant policy in the Framework is also material and it is very clear that housing supply shortage cannot and is not intended to automatically override other considerations in any particular case. That is clear from the specificity embodied in Footnote 9 and also the general principle embodied in Footnote 10.

84. In this case there would be environmental harm as a consequence of the proposed development and harmful conflict with several policies of the development plan intended to prevent or reduce such harm. This harm, and the harm to the significance of the conservation area, must be weighed against the potential public benefits of the proposal. These, it cannot be doubted, are real enough.
85. First and foremost, there is no doubt that the Council currently lacks adequate opportunity to achieve its housing requirement including, importantly, the significant proportion of affordable housing that major sites have the potential to deliver. That lack of opportunity has real consequences for the quality of life and life chances of individuals and rectifying the deficiency has significant social and economic benefits. The proposal at issue would make a significant contribution towards that necessary rectification.
86. Bearing in mind the economic and social benefits of new housing development, the degree of shortfall in housing land supply is plainly a factor to be weighed in the balance. At around 80% of what it should be, the supply of deliverable housing sites is, without doubt, inadequate, albeit I would not describe it as chronically severe in the sense that progress towards overcoming it does not appear to be an altogether hopeless prospect, as things now stand.
87. Whatever may have been the case previously, it appears to me that the Council, very evidently, is pro-actively addressing the situation through grants of planning permission and by active forward allocation of sites through the (inevitably, in this area, given its recent history,<sup>29</sup>) protracted local planning process. The supply has also been supplemented on occasion by allowed appeals, both within and outside the SLAs.<sup>30</sup> The fact that circa 3,800 houses are committed or planned on land included in SLAs<sup>31</sup> is to my mind symptomatic of the very real difficulties faced by the Council in urgently balancing housing needs against environmental quality, the latter being an attribute for which the town is justifiably renowned.
88. That degree of commitment to housing development in SLAs cannot, of itself, be a powerful argument in favour of the principle of development on the appeal site. Although rightly subject to periodic review and justification in detail, the SLAs are clearly an enduring feature of the environs of Harrogate and I do not consider the weight accorded to the relevant policies of the development plan should necessarily be reduced by reason of longevity. Nor, following the recent judgement of the Supreme Court<sup>32</sup>, is policy C9 properly considered as a relevant policy for the supply of housing for the purposes of paragraph 49 of the Framework. In any event it is patently not an in-principle bar to housing development. It is the circumstances and merits of any individual proposal affecting an SLA that must be considered in each and every case.
89. If commitment to develop in SLAs in the Borough elsewhere has any force as a justification to override their protection and enhancement in any particular case, then the policy would be rendered devoid of purpose and the ultimate consequences for the rather special environment of the town could be

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<sup>29</sup> Abandonment of previous emerging Sites and Policies Development Plan Document in June 2014 (explained in Planning SoCG at paragraph 21)

<sup>30</sup> For example Crag Lane, Harrogate (CD60 Ref APP/E2734/A/14/2222633) and Boroughbridge Road, Knaresborough (CD59 ref APP/E2734/A/13/2207338)

<sup>31</sup> ID27 Appellant's closing submissions - paragraph 39

<sup>32</sup> CD27 [2017] UKSC 37

unfortunate. It is therefore, to my mind of the utmost importance that each such case is carefully considered on its merits taking account of the qualities of sites and their attributes as contributors to that environment. It is, moreover, no part of Framework policy that housing need, notwithstanding the imperative to successfully address it, must always override other considerations.

90. This case brings that principle into sharp focus. There is a pressing need to release land for housing, to which I of course accord substantial weight. The social consequences of an inadequate housing supply, especially of affordable housing, are of particular concern. However, there is also a very important need to effectively protect the environment and heritage of the town.
91. Owing to the qualities and circumstances of the site I consider, in this instance, bearing in mind the very harmful consequences of the loss of the site to development that I have identified, that such harm, of itself and in terms of consequential conflict with the development plan, merits very substantial weight. Whilst housing development can and must take place elsewhere in the town, including on greenfield sites within the SLA, to address the need for housing over time, the permanent and irreversible loss of the appeal site to such development is a seriously harmful prospect that weighs very heavily against the additional housing land supply proposed in this case, notwithstanding its social and economic benefits.
92. The overall adverse impact of the proposal on landscape interests is very far from being "minimal" as the appellant suggests.<sup>33</sup> Nor would I consider the harm to the setting of the Harrogate Conservation Area to be "at the most marginal end of the spectrum recognised by national policy".<sup>34</sup> On the evidence of its published appraisal it would be significant, even though 'less than substantial' for the purposes of paragraph 134 of the Framework. Moreover, it is very apparent on-site that the amenity of the Cinder Path, certainly, is not simply a "makeweight" consideration as the appellant submits. In the context of each of the main issues, there would, for the reasons I have given, be significant harm of a type that relevant national policy seeks to avoid. Those harms, in the particular circumstances of the appeal site, are not only cumulative but mutually reinforcing.
93. There are of course other benefits claimed in this particular case, but these are in my estimation relatively inconsequential in the balance. The prospect of enhanced playing fields for the nearby school, more systematically and safely accessed, would of course be beneficial but there is no really compelling evidence of a substantive problem at present in that regard, or that the prospect of their community use at times should be a major consideration.
94. The prospect, potentially, of improved highway access to a redeveloped Guiding centre would, again, be a potential benefit if carried out, but permission has been granted for that redevelopment on the basis of the existing access. The planning obligation in support of the proposed development is primarily concerned with the mitigation of its impact and the improvement of its accessibility and is therefore of limited weight in this context.

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<sup>33</sup> Ibid. paragraph 27

<sup>34</sup> Ibid. paragraph 34

95. Absent the restricting effect of paragraph 109 of the Framework in this case, I am firmly of the view that notwithstanding the priority in the balance that must be accorded to the benefits of additional housing opportunity specifically, these and other benefits, when assessed against the policies in the Framework taken as a whole, would be significantly and demonstrably outweighed by the adverse impacts I have identified. For the reasons I have given, the balance is not, in my assessment, a fine one, even when the care the appellant has taken in attempting to predestine a detailed design of quality is taken into account.
96. But I am clear on the evidence in any event that the appeal site is properly regarded as 'valued landscape', that the 'tilted balance' does not therefore apply, and that the harmful conflict with the development plan that I have identified is not outweighed by other material considerations including the national imperative to boost housing supply and the local need to do likewise. Quite apart from the development plan, other material considerations articulated in Framework policy also strongly militate in favour of retaining the site undeveloped.
97. I have taken all other matters raised into account but none are sufficient to alter my clear view that, in this case, for all the above reasons, the balance of planning advantage is firmly in favour of rejection of the proposal. I therefore conclude that the appeal must be dismissed.

*Keith Manning*

Inspector

## APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Sarah Reid of Counsel

She called

Ann Johnson BA Dip Arch RIBA IHBC	MJF Architects Ltd/Consultancy Team Leader, Harrogate BC
Barrie Gannon Dip UD MA CMLI	Principal Landscape Architect, Harrogate BC
Michael Parkes BA (Hons) MRTPI	Principal Planning Officer, Harrogate BC

FOR THE APPELLANT: Anthony Crean QC

He called

Michael Wildblood MBE MA (Cantab) RIBA	Wildblood Macdonald Architects Ltd
Paul Butler MA MPhil PG Cert Arch Hist RTPI IHBC FRSA	Consultant to Paul Butler Associates
Toby Jones BA Hons CMLI	Toby Jones Associates Ltd
Neil Hall BA (Hons) BTP MRTPI	Duchy of Lancaster

INTERESTED PERSONS:

Patrick Turner	Duchy Residents' Association
Richard Thomas	Chairman, Duchy Residents' Association
Rosemary Carnaghan	Duchy Residents' Association
Helen McDevitt	Soroptomists International (Harrogate & District)
Sarah Hart	Harrogate Affordable Homes

INQUIRY DOCUMENTS (ID)

- 1 *Creating successful masterplans; a guide for clients* CABE
- 2 *Outdoor Sports Strategy April 2013* Harrogate BC
- 3 The Town and Country Planning (Development Management Procedure) (England) Order 2010
- 4 The Town and Country Planning (Development Management Procedure) (England) Order 2015
- 5 Schedule of Committed and Proposed Development Sites West of Harrogate with Current Landscape Designation - July 2017 Update
- 6 Barwood Strategic Land II LLP v East Staffordshire BC and SSCLG [2017] EWCA Civ 93



- 7 HA/LPA Email trail culminating 22 June 2017 @ 15:36 re: footway along Cornwall Road site boundary
- 8 (Number omitted)
- 9 Internal LPA Email trail culminating 06 July 2017 @ 15:54 re: trees along Cornwall Road site boundary
- 10 Appendix 5 to evidence of Mr Wildblood with manuscript addition
- 11 Opening submissions on behalf of Harrogate BC
- 12 Draft Sustainability Appraisal: Harrogate District Local Plan
- 13 'Before and after' – photo series: Duchy Residents' Association
- 14 'Before and after' – photo series with commentary: Duchy Residents' Association
- 15 Copy of letter to Harrogate BC from Duchy Residents' Association dated 31 December 2015
- 16 Statement by Sarah Hart, Co-Chair of Harrogate Affordable Homes
- 17 Statement by Patrick Turner, Duchy Residents' Association
- 18 Statement by Dr Rosemary Carnaghan , Duchy Residents' Association
- 19 Draft conditions
- 20 Agreed plan of potentially affected Public Rights of Way
- 21 Assessment of Appellant's LVIA Visual Receptors 1-14 and Additional HBC receptors 15-17
- 22 Agricultural land classification of site
- 23 Route map for site visit
- 24 CIL compliance statement Harrogate BC
- 25 CIL compliance statement North Yorkshire CC
- 26 Closing submissions on behalf of Harrogate BC
- 27 Closing submissions on behalf of appellant

#### CORE DOCUMENTS (CD)

CD1	National Planning Policy Framework (NPPF) 2012
CD2	Emerging Local Plan
CD3	Core Strategy 2009
CD4	Local Plan 2001
CD5	Inspector's Report on Local Plan 2001
CD6	Community Infrastructure Levy (CIL) Regulations as Amended 2010
CD7	HBC Annual Monitoring Report (AMR) 2014
CD8	HBC Annual Monitoring Report (AMR) 2015
CD9	HBC Annual Monitoring Report (AMR) 2016
CD10	HBC Housing Land Supply Update January 2017

CD11	HBC Local Development Scheme 2014
CD12	HBC Local Development Scheme Update 2016
CD13	Interim SHMA 2015
CD14	SHMA Update 2016
CD15	SHELAA 2016
CD16	Nidd House Farm Killinghall 12 Oct 2016 Appeal Decision notice APP/E2734/W/16/3153512
CD17	Heritage Management Guidance
CD18	Provision for Open Space SPD (October 2016)
CD19	Harrogate District Green Infrastructure SPD 2014
CD20	Harrogate Landscape Design Guide SPD
CD21	Final SHMA 2015
CD22	Harrogate Core Strategy Inspector's Report 2009
CD23	Core Strategy Schedule of Changes
CD24	Sport England Cost Calculator 2016
CD25	Grand Union Investments Limited - and - Dacorum Borough Council before Mr Justice Lindblom Neutral Citation Number: [2014] EWHC 1894 (Admin)
CD26	Wychavon District Council - and - Secretary of State for Communities and Local Government and Crown House Developments Ltd before Hon Mr Justice Coulson Neutral Citation Number: [2016] EWHC 592 (Admin)
CD27	Suffolk Coastal District Council (Appellant) v Hopkins Homes Limited and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) before Lord Neuberger, President, Lord Clarke, Lord Carnwarth, Lord Hodge and Lord Gill [2017] UKSC 37
CD28	Barnwell Manor Wind Energy Limited – and – East Northamptonshire District Council – and – English Heritage – and – National Trust – and – Secretary of State for Communities and Local Government

	before Lord Justice Maurice Kay, Lord Justice Sullivan and Lady Justice Rafferty Neutral Citation Number: [2014] EWCA Civ 137
CD29	The Queen (on the application of (1) The Forge Field Society, (2) Martin Barraud (3) Robert Rees) – and – Sevenoaks District Council – and – (1) West Kent Housing Association (2) The Right Honourable Philip John Algernon Viscount De L’Isle before Mr Justice Lindblom Neutral Citation Number: [2014] EWHC 1895 (Admin)
CD30	Five Year Land Supply at 31 March 2017
CD31	The Queen on the Application of Thomas Edward Egerton v Taunton Deane Borough Council and Mr and Mrs Mears before Mr Justice Sullivan Neutral Citation Number: [2008] EWHC 2752 (Admin)
CD32	Historic England Good Practice Advice in Planning’. Note 3 ‘The Setting of Heritage Assets
CD33	Historic England - Managing Significance in Decision-Taking in the Historic Environment. Historic Environment Good Practice Advice in Planning: 2, 2015
CD34	Planning Practice Guidance Conserving and enhancing the historic environment
CD35	Planning Practice Guidance - Design
CD36	Planning Practice Guidance - Determining a planning application
CD37	Planning Practice Guidance - Health and wellbeing
CD38	Planning Practice Guidance - Light pollution
CD39	Planning Practice Guidance -- Natural Environment
CD40	Planning Practice Guidance - - Open space, sports and recreation facilities, public rights of way and local green space
CD41	Planning Practice Guidance - - Planning obligations
CD42	Planning Practice Guidance - - Use of planning conditions
CD43	Harrogate Conservation Area Appraisal SPG
CD44	Guidance Note on Changes to Affordable Housing and Planning Obligations Aug 2016
CD45	Provision of Open Space in connection with New Housing Development (2015)

CD46	August 2007 Harrogate & Knaresborough Urban Extension Study
CD47	June 2008 Harrogate & Knaresborough Urban main study
CD48	Letter from Brandon Lewis, dated 27th March 2015 addressed to the Planning Inspectorate
CD49	Brandon Lewis 2 March 2015 re Starter Homes
CD50	Feb 2017 Housing White Paper
CD51	Resolution of Planning Committee 6 Dec 2016
CD52	Resolution of Planning Committee 17 Jan 2017
CD53	NYCC Education consultation response
CD54	EHO consultation response
CD55	NYCC Highways consultation response
CD56	Ecologist consultation response
CD57	Open Space consultation response
CD58	Girl Guides application (drainage plan)
CD59	Boroughbridge Rd, Knaresborough 9 July 2014 appeal decision notice APP/E2734/A/13/2207338
CD60	Crag Lane Harrogate 8 Jan 2015 appeal decision notice APP/E2734/A/14/2222633
CD61	Land at Nanpantan Road, Loughborough 16 Jan 2017 appeal decision notice APP/X2410/W/15/3028159 & 3028161
CD62	Bath Road Leonard Stanley 22 February 2017 appeal decision notice APP/C1625/W/16/3150621
CD63	Rossett Green Lane, Harrogate 28 April 2017 appeal decision notice APP/E2734/W/16/3164715
CD64	South of Bar Lane Knaresborough 28 April 2017 appeal decision notice APP/E2734/W/16/3155389
CD65	Location Plan (redline boundary) reference: (PL) 106
CD66	Access location Plan reference: (PL) 101
CD67	Revised Application Parameters Plan reference (PL) 105A
CD68	Site Access Plan reference: 33269-5502-004A
CD69	Illustrative masterplan (PL100 D)
CD70	Design and Access Statement

CD71	Draft Design Code
CD72	Dwelling Types Plan (PL112)
CD73	Dwelling Gap Analysis Plan PL113
CD74	Dwelling Gap Analysis Plan PL114
CD75	Dwelling Gap Analysis Plan PL115
CD76	Tree Planting Strategy (36722-Lea37a)
CD77	Illustrative Off-Site Highway Works Composite Plan reference 33269-5502-005B
CD78	X12 Timetable
CD79	Planning Permission 6.500.7.W.EIAMAJ (15/00798/EIAMAJ) and Location Plan
CD80	PRoW Plan
CD81	Harrogate Landscape Character Assessment Feb 2004
CD82	North Yorkshire and York Landscape Character Assessment
CD83	2008 Review of Local Landscape Designations
CD84	2011 Review of Spatial Landscape Areas
CD85	Review of Landscape Character Designations: Special Landscape Areas 2011: Updated 2016
CD86	Landscape Appraisal of Harrogate District Vol1 (Extracts)
CD87	Guidelines of Landscape and Visual Assessment (Edition 3 2013)
CD88	National Character Area Profile 22 Pennine Dales Fringe
CD89	Landscape Character Assessment Guidance for England and Scotland Topic Paper 6: Techniques and Criteria for judging Capacity and Sensitivity
CD90	An Approach to Landscape Character Assessment October 2014
CD91	Borough of Telford and Wrekin v SSCLG [2016] EWHC 3037
CD92	Appeal decision. Land at Kidnappers Lane, Leckhampton Cheltenham APP/B1605/W/14/3001717 and High Court subsequent refusal of permission to apply for judicial review (CO/3029/2016)

CD93	Land off St Thomas A Beckett Walk Hampsthwaite Appeal Decision APP/E2734/W/15/3141066
CD94	Stroud District Council v SSLG [2015] EWHC 488
CD95	Guideline distances from development to trees March 2011 (web version)
CD96	Forest of Dean District Council – and- SSCLG –and - Gladman Developments Ltd before The Hon Mr Justice Coulson  Neutral Citation Number:[2016] EWHC 421 (Admin)
CD97	Pugh v Secretary of State for Communities and Local Government [2015] EWHC 3 (Admin)