

## Anca Seaton

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**From:** Catherine O'Toole <[REDACTED]>  
**Sent:** 16 October 2023 09:15  
**To:** Planning Policy  
**Cc:** Katherine Lovsey-Barton; Keith Fenwick  
**Subject:** Borough Plan Review - Publication Stage Representation  
**Attachments:** R001v0 PL BPR Reg 19 Reps 13.10.23 - FINAL.pdf; F001\_v1\_LP\_BIR\_P22-2884\_Reg19\_Form\_A\_and\_B.pdf

**Categories:** Processed

Good morning

Please find attached duly completed forms and accompanying representation document regarding the above consultation, submitted on behalf of Seven Homes.

I trust the attached is in order however should you have any queries please do not hesitate to contact my colleagues Katherine and Keith (both cc'd). I would be grateful if you could acknowledge receipt of this submission.

Kind regards

Cathy.

**Catherine O'Toole**  
Associate Planner

[REDACTED]  
5th Floor, 1 Newhall Street | Birmingham | B3 3NH




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**Please exercise extreme caution with attachments and website links or instructions to undertake financial transactions.**

 <p><b>Nuneaton &amp; Bedworth</b> United to Achieve</p>	<p><b>Borough Plan Review</b> Publication Stage Representation Form</p>	<p>Ref:</p> <p>(For official use only)</p>
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**Name of the Local Plan to which this representation relates:**

Borough Plan Review Regulation 19 Publication Stage

**Please return to Nuneaton and Bedworth Borough Council by 16<sup>th</sup> October 2023 via:**

**Email: [planning.policy@nuneatonandbedworth.gov.uk](mailto:planning.policy@nuneatonandbedworth.gov.uk)**

**Post: Planning Policy, Nuneaton and Bedworth Borough Council, Town Hall, Coton Road, NUNEATON, CV11 5AA**

This form has two parts –

Part A – Personal details.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

### Part A

	<b>1. Personal details*</b> * If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.	<b>2. Agent's details (if applicable)</b>
Title		<b>Mr</b>
First name		<b>Keith</b>
Last name		<b>Fenwick</b>
Job title (where relevant)	<b>C/o Agent</b>	<b>Executive Director</b>
Organisation (where relevant)	<b>SevenHomes</b>	<b>Pegasus Group</b>
House no. and street		<b>Floor 5, 1 Newhall Street</b>
Town		<b>Birmingham</b>
Postcode		<b>B3 3NH</b>
Telephone number		
Email address (where relevant)	<b>C/o Agent</b>	



## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS1 – Sustainable development
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Borough Plan legally compliant or sound, having regard to the matter you have identified in part 5 above, where this relates to soundness (Please note that any non-compliance with the Duty to Cooperate is incapable of modification at examination). You will need to say why this modification will make the Borough Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

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7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?


<b>No</b> , I do not wish to participate at the oral examination	
<b>Yes</b> , I wish to participate at the oral examination	X

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

SevenHomes' Site at North Warwickshire and South Leicestershire College, Hinckley Road, Nuneaton provides an opportunity for a further housing allocation on previously developed land within a highly sustainable location.

**Please note** the Inspector will determine the most appropriate procedure to adopt, to hear those who have indicated that they wish to participate at the oral part of the examination.

9.

<p>Signature: (Please sign the box if you are filling in a paper copy. If you are filling in an electronic copy, the box can be left blank)</p>	
<p>Date:</p>	<p>16/10/2023</p>

**Part B – Please use a separate sheet for each representation**

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**Name or Organisation: SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS4 – Residential Allocation
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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<b>No</b> , I do not wish to participate at the oral examination	
<b>Yes</b> , I wish to participate at the oral examination	X

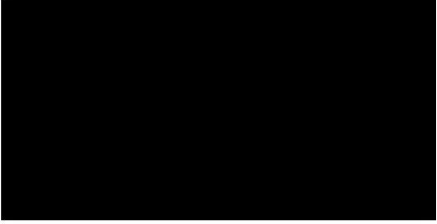
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## Part B – Please use a separate sheet for each representation

Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H1 – Range and Mix of Housing
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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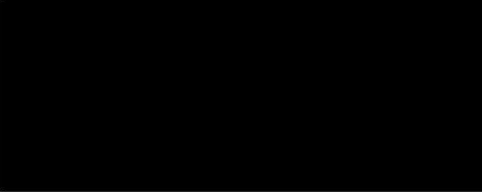
No, I do not wish to participate at the oral examination	
Yes, I wish to participate at the oral examination	X

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## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H2 – Affordable Housing
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	X
No	

4.(2) Sound?

Yes	
No	X

4.(3) Complies with the Duty to Cooperate?

Yes	
No	

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

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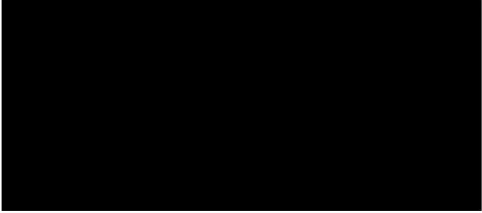
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<b>Yes</b> , I wish to participate at the oral examination	X

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## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H4 – Nationally Described Space Standards
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H5 – Accessible and Adaptable Homes
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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<p>Date:</p>	<p>16/10/2023</p>

## Part B – Please use a separate sheet for each representation

Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy HS4 – Retaining and expanding community facilities
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy HS5 – Health
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy HS6 – Sport and exercise
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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## Part B – Please use a separate sheet for each representation

Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy NE3 – Biodiversity and Geodiversity
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Borough Plan legally compliant or sound, having regard to the matter you have identified in part 5 above, where this relates to soundness (Please note that any non-compliance with the Duty to Cooperate is incapable of modification at examination). You will need to say why this modification will make the Borough Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at the publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

<b>No</b> , I do not wish to participate at the oral examination	
<b>Yes</b> , I wish to participate at the oral examination	X


8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

SevenHomes' Site at North Warwickshire and South Leicestershire College, Hinckley Road, Nuneaton provides an opportunity for a further housing allocation on previously developed land within a highly sustainable location.

**Please note** the Inspector will determine the most appropriate procedure to adopt, to hear those who have indicated that they wish to participate at the oral part of the examination.



9.

<p>Signature: (Please sign the box if you are filling in a paper copy. If you are filling in an electronic copy, the box can be left blank)</p>	
<p>Date:</p>	<p>16/10/2023</p>

## Part B – Please use a separate sheet for each representation

---

Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy NE2 Open space and playing fields
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

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(Continue on a separate sheet / expand box if necessary)

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<b>No</b> , I do not wish to participate at the oral examination	
<b>Yes</b> , I wish to participate at the oral examination	X

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<p>Date:</p>	<p>16/10/2023</p>

## Part B – Please use a separate sheet for each representation

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Name or Organisation: **SevenHomes**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy BE3 – Sustainable design and construction
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

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<p>Signature: (Please sign the box if you are filling in a paper copy. If you are filling in an electronic copy, the box can be left blank)</p>	
<p>Date:</p>	<p>16/10/2023</p>

**Borough Plan Review 2021–2039**

**Nuneaton and Bedworth Borough Council**

**Regulation 19 – Publication Draft Plan  
Consultation (September – October 2023)**

Representations on behalf of SevenHomes

Date: 12 October 2023 | Pegasus Ref: P22–2884 FINAL

Author: KLB

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## Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
O1	12.10.23	KLB		-
FINAL	13.10.23	KLB	KF	ISSUE



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# 1. Introduction

- 1.1. These representations are made by Pegasus Group on behalf of SevenHomes in response to Nuneaton and Bedworth Borough Council's ('NBBB') Borough Plan Review 2021–2039 Publication Draft Plan Regulation 19 Consultation ('the BPR Reg 19'). The consultation runs between the 4th September and 16th October 2023. These representations respond to the emerging policies contained within the BPR Reg19 Plan, having regard to the national and local policy context.
- 1.2. SevenHomes are an established regional housebuilder based locally in the Midlands who are focused on creating affordable, quality places to live for modern families and first time buyers.

## SevenHomes Land Interests

- 1.3. SevenHomes have land interests at North Warwickshire and South Leicestershire College, Hinckley Road, Nuneaton ('the Site'), located to the northeast of Nuneaton. A Site Location Plan is enclosed at **Appendix 1**.
- 1.4. Outline planning consent for the '*development of up to 195 dwellings together with the provision of a 3G sports pitch, associated public open space, and other green infrastructure, and landscaping*' was allowed at appeal (APP/W3710/W/20/3251042) on 9 November 2020. The appeal decision is attached at **Appendix 2**. Further to the outline consent the site is actively being brought forward for residential development with the preparation of a Reserved Matters submission for 147 new homes in addition to the delivery of a 3G Sports Pitch, enabling the delivery of a range of much-needed high quality housing within Nuneaton alongside the provision of enhanced sports pitch provision for the College and the wider community.
- 1.5. The Site for proposed residential development comprises of land within the existing College grounds, including two playing fields to the north and southeast and an area of car parking to the north of the College grounds, whilst a 3G Sports Pitch facility will be delivered simultaneously within the College grounds to the north adjoining the proposed housing development. The Site is accessed via a driveway off Hinckley Road with a vehicular access maintained onto Higham Lane for traffic leaving the site along with pedestrian access in association with the continued College use at the remainder of the site.

## The Borough Plan Review Process

- 1.6. The NBBP was adopted in June 2019 and covers the period up to 2031. The Borough Plan Review is intended to replace the adopted NBBP and extend the timeframe covered by the NBBP until 2039. NBBB committed to undertaking an immediate review of the adopted NBBP following the publication of the updated NPPF in July 2021. The Council's decision to review the NBBP is fully supported by SevenHomes to ensure planning policies and proposals are consistent with the updated NPPF; the housing development requirements and needs are aligned to the most up-to-date information; and the local plan is up to date, reflecting Government guidance that plans should be regularly reviewed and the evidence base renewed to respond to changing needs.
- 1.7. The Council consulted on a Regulation 18 Preferred Options version of the Plan (the "BPR PO") in June and July 2022. The Council are now consulting on the BPR Reg 19. This plan will be the version submitted to the Secretary of State and examined by an independent Inspector.



## Representations

- 1.8. These representations respond to the emerging policies contained within the BPR Reg19 Consultation, having regard to the national and local policy context. The representations also provide comment in respect of the evidence base that underpins the Borough Plan Review.
- 1.9. The representations are framed in the context of the requirements of local plans and spatial development strategies to be legally compliant and sound. The tests of soundness are set out in the National Planning Policy Framework (September 2023) (“NPPF”), paragraph 35. For a development plan to be sound it must be:
- Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
  - Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
  - Effective – deliverable over the plan period, and based on effective and joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
  - Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF and other statements of national planning policy, where relevant.
- 1.10. These representations have regard to the NPPF’s emphasis on the role of development plans in providing a framework for addressing housing needs (including affordable) alongside other economic, social and environmental priorities and in supporting the Government’s objective of significantly boosting the supply of homes, through ensuring that a sufficient amount and variety of land can come forward where it is needed.
- 1.11. In light of the specific circumstances relating to the Site, with the principle of the site’s redevelopment for new homes and delivery of 3G Sports Pitch previously established as part of an extant outline planning consent, the focus of these representations is on the provisions set out in the policy provisions contained within Chapters 8.0 (Housing), 11.0 (Healthy, Safe and Inclusive Communities), 12.0 (Natural Environment) and 13 (Built Environment) which focus on Development Management policies. Representations are however also provided in respect of Development Strategy Policies DS1 (Sustainable Development) and DS4 (Residential Allocations) given the opportunity this previously developed site brings in the delivery of much needed quality homes within a highly sustainable location within Nuneaton, alongside the provision of wider community benefits.

## 2. Representations on the Content of the Regulation 19 Borough Plan

### Section 06: Strategic Development Strategy

#### Policy DS1: Sustainable Development

- 2.1. With regards to Policy DS1: Sustainable Development, the wording of the policy is considered to be unclear with numerous requirements incoherently set out across a number of paragraphs, with the inclusion of generic statements, making it particularly unclear and providing no clear direction or certainty for the reader.
- 2.2. The result is an inconsistent approach with national policy, and a failure to meet with the tests of soundness. Indeed, each of the matters raised are dealt with elsewhere in the Plan and therefore it is considered that the first three paragraphs, which are particularly confused should be deleted. NPPF Para 16 (d) is clear that *'plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposal'* whilst NPPF paragraph 16(f) continues that plans should *"serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)"*.
- 2.3. SevenHomes objects to the reference in the second paragraph of Policy DS1 to bring new developments in line with water resource efficiency of 110 litres/person/day, the inclusion of this specific element in a strategic level policy is not justified and unsound. Further commentary in relation to water efficiency under the provisions of Policy BE3 Sustainable Construction. is addressed further within these representations.
- 2.4. Furthermore, with regards to the delivery of net zero homes there is no evidence to substantiate that in Nuneaton and Bedworth all development should be zero carbon and this has not been appropriately assessed as part of a robust viability assessment. The failures of the Viability Assessment prepared to support the Borough Plan Review are addressed at length in the HBBF's representations to the BPR Reg 19 Consultation, identifying the numerous omissions and anomalies and concluding *'HBF have some concerns about the Whole Plan Viability Assessment. We do not believe that it fully considers all the issues that can impact viability, and some of the assumptions and values used are incorrect'*.
- 2.5. The policy is therefore considered to be unsound as it is not effective, justified or consistent with national policy.

#### Policy DS4 – Residential Allocation

- 2.6. SevenHomes supports the allocation of a range of residential development sites from larger allocations of more than 1000 homes to small sites of 10 or less homes. The strategic residential allocations proposed in the BPR Reg19 add up to a total of 4,769 of the minimum 9,810 homes identified as being required to meet Nuneaton and Bedworth's own needs according to the Sub-Regional HEDNA. SevenHomes' Site at North Warwickshire and South Leicestershire College provides an opportunity for a further housing allocation on previously developed land within a highly sustainable location, where most importantly the principle of residential development has previously been established via the appeals process.



- 2.7. Despite the Site currently benefitting from an extant outline planning consent for up to 195 new homes, and presumably counted as part of the committed supply side therefore, (see attached appeal decision at **Appendix 2**) the end stop date for Reserved Matters submission of 9 November 2023 presents a limited timeframe for their submission.
- 2.8. Whilst the Reserved Matters and associated discharge of conditions on the outline consent is actively being prepared for submission in the immediate weeks to follow these representations, there may be circumstances out of the control of SevenHomes either prior to submission of or during the course of the application process, including design specific related matters, which could impede the delivery of the site under the mechanism of the current extant outline consent.
- 2.9. It would be remiss therefore, not to put forward the site as an appropriate strategic housing allocation, contributing positively to the range of strategic housing sites identified to meet Nuneaton and Bedworth's housing needs across the Plan Period. The Site not only offers the opportunity to deliver much needed homes (including high quality affordable homes) to meet local need within an established and sustainable residential area of Nuneaton, but the construction of a new 3G Sports Pitch within the existing College grounds also enables the delivery of an enhanced local community facility for the benefit of the immediate area and wider Borough.

## Section 08: Housing

### Policy H1 – Range and Mix of Housing

- 2.10. SevenHomes support the requirement for a range and mix of housing that meets identified and evidenced needs and demands to be delivered through development. Policy H1 sets out that development should deliver a mix of housing reflective of the needs identified within an up-to-date HEDNA which is welcomed to inform the requirements of the BPR Reg19 Plan. However, greater flexibility is required to allow for site specific considerations to be taken into account, and to allow for departure from a specific mix recommended across the wider Borough, where justification can be provided for an alternative mix.
- 2.11. The policy text at paragraph 8.8 which supports Policy H1 also creates uncertainty with conflicting messaging regarding the delivery of housing mix when read alongside the provisions of Policy H1, setting out that *'Developers will also need to consider the character of the local area, surrounding the site, in terms of the types and sizes of new housing'*.
- 2.12. There is a clear balance to be struck between meeting need whilst also having regard to local context through the delivery of a mix of homes as part of a carefully considered high quality sustainable housing development. However, this should be more clearly reflected within the main body of the policy itself under 'General Market Housing' to ensure the flexibility for site specific considerations to be taken into account and to allow for a balanced approach to be adopted which considers both need and local character.
- 2.13. As currently written Policy H1 is not consistent with the requirements of national policy and should be revisited to ensure it meets with the requirements of NPPF paragraph 16(d).

### Policy H2 – Affordable Housing

- 2.14. SevenHomes supports the delivery of an appropriate amount of affordable housing delivery at residential development sites.
- 2.15. In line with Government guidance identified in the Planning Practice Guidance (Ref. ID: 70-001-20210524) the policy sets out that 25% of the total affordable housing requirement will need to be provided as First Homes.
- 2.16. As with the application of the housing mix for market housing, it is important that Policy H2 allows for flexibility to allow for departures from size and tenure mix of affordable housing sought by the Council. The allowance within Policy H2 for the delivery of an alternative mix where justified (whether this be within a suitable supporting statement or through a viability exercise) in order that an alternative mix can be delivered which meets local specific needs is therefore supported.
- 2.17. Policy H2 seeks to apply requirements that 95% of affordable housing must meet M4(2) and 5% M4(3) Building Regulations standards. The current requirements of the adopted Plan are 35% homes to be delivered as M4(2) compliant and therefore the onerous requirements in relation to M4(2) and M4(3) compliancy could result in implications for overall delivery of much needed homes, including the delivery of homes at the NW&SL College, Hinckley Road.
- 2.18. The BPR Reg 19 Plan and associated evidence base, fails to provide robust evidence to justify the proposed approach to new homes in order to comply with the tests of soundness and

be supported by appropriate viability evidence which is able to demonstrate that the policy requirements being sought are viable and deliverable, and the issue of viability has been fully considered. As highlighted above, the HBF in their representations to the BPR Reg 19 consultation have raised clear concerns in relation to the overall adequacy and accuracy of Viability Assessment prepared as part of the BPR Reg 19 evidence base, these are concerns which are shared by SevenHomes.

- 2.19. Policy H1 is not therefore considered to meet the tests of soundness given it is neither justified or effective and in turn does not meet with the provisions of national policy identified within the NPPF.

#### **Policy H4 – Nationally Described Space Standards**

- 2.20. SevenHomes object to the requirement for all housing to comply with NDSS which is not considered to be sound as it is not justified, effective or consistent with national policy.
- 2.21. The introduction of the optional nationally described space standard (NDSS) to all new homes should accord with the provisions of the NPPF (para 130f and Footnote 49) which sets out that *'policies may also make use of the NDSS where the need for an internal space standard can be justified'*. Furthermore, as stipulated within NPPF para 31 *'the preparation and review of all policies should be underpinned by relevant and up to date evidence, which should be adequate, proportionate and focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals'*. Currently, there is no evidence to justify the mandatory requirement of this national 'optional' standard. Robust and evidenced justification, addressing matters of need, viability and timing (as identified within the PPG), is therefore required in order to be found sound.
- 2.22. It is not considered sufficient that NBBC simply refer to the existing Sustainable Design and Construction SPD and therefore reference to the SPD should simply be removed from the policy – whilst the SPD refers to the NDSS standards this does not specifically require 'all homes' to achieve NDSS standards.
- 2.23. It is neither appropriate nor 'positively prepared' to treat the content of SPDs as equivalent to development plan policies which have been tested through an examination process. Referring to up to date SPDs as material considerations in planning decisions, in line with Planning Practice Guidance (Ref. ID: 61-008-20190315) would be considered more appropriate. NBBC are effectively seeking to give local plan policy status to SPDs, however planning policy must be made through the local plan process and be subject to mandatory requirements for public consultation and independent scrutiny through the examination process.
- 2.24. Furthermore, the existing SPDs which NBBC seek to incorporate and give equivalent local plan policy status, have been prepared against the policies of the currently adopted local plan which will be replaced. SevenHomes objects to the inclusion of existing SPDs within local plan policy through the Borough Plan Review process. Such an approach is clearly unsound and contrary to national policy.
- 2.25. The implementation of the optional standard, where justified, should continue to allow for flexibility given the implications that the introduction of NDSS has on the delivery of a range of homes. High quality smaller homes can be achieved through careful internal design solutions, whilst ensuring the delivery of affordable Open Market homes can be achieved to meet local needs is important and shouldn't be unnecessarily restrained by the mandatory





introduction of NDSS for all new homes, particularly where specific site constraints may present limitations to the siting and layout of homes.

- 2.26. The HBF in their representations to the BPR Reg 19 Plan consultation advocate the need for transitional requirements should the proposed NDSS requirements be introduced, with greater flexibility given to reserved matters submissions, outline and full planning applications, where new onerous standards should not be applied immediately, and sites delivered through the planning system before any proposed policy requirements are enforced. This approach is supported.

#### **Policy H5 Accessible and Adaptable Homes**

- 2.27. The policy requires 95% of new developments to meet M4(2) standards and 5% to meet M4(3) standards. Specific evidence is required to justify imposing such requirements. NPPF footnote 49 allows for these optional technical standards for accessible and adaptable housing to be introduced through planning policy '*where this would address an identified need for such properties*'. Planning Practice Guidance (ref. ID: 56-007-20150327) sets out the evidence that can be used by local planning authorities to demonstrate a requirement to set higher accessibility, adaptability and wheelchair housing standards.
- 2.28. NBBC have failed to provide adequate and proportionate evidence base which supports and justifies the requirements of Policy H5. The HBF's representations to the BPR Reg 19 consultation highlights the failings in the Viability Assessment 2023 prepared to support the Borough Plan Review which does not differentiate between the delivery of M4(2) and M4(3) compliancy requirements and the implications for the delivery of new development. Such evidence has not been provided to date through the Borough Plan Review process, and this policy would therefore fail to meet the tests in NPPF paragraph 31 requiring the preparation of policies to be underpinned by relevant, up-to-date, adequate and proportionate evidence base.
- 2.29. Policy H5 is therefore considered to be unsound given it is neither justified or in accordance with national policy.

## Section 11: Healthy, Safe and Inclusive Communities

### Policy HS4 – Retaining and expanding community facilities

- 2.30. Whilst the provisions of Policy HS4 allows for site specific circumstances and a degree of flexibility in delivering replacement facilities and enabling the loss of community facilities to be supported by justification where an alternative use may deliver greater benefits to the local area, it is suggested that greater clarity should be provided in setting out the ability to deliver physical works either on or off site but also via financial developer contributions towards identified schemes within the IDP or other schemes which meet an identified local need and relate directly to the proposed development.
- 2.31. The supporting text also specifies that the provision of new facilities will primarily be delivered through the IDP despite no mechanism within the Policy itself for developer contributions to be provided which are proportionate and reasonably related to the proposed development and associated loss of community facility.
- 2.32. In addition, although the Policy itself allows for a degree of flexibility to take account of site-specific considerations, the supporting policy text at 11.40 is conflicts with the policy itself, setting out a far more stringent approach which indicates that *'the loss of community facilities will be resisted to ensure that suitable provision remains spread across the Borough'*. This fails to take account of the provisions set out with the Policy for enhanced replacement facilities/that a proposed use could bring greater benefits to the area than the existing community use.
- 2.33. The policy is considered unsound without such flexibility, which is necessary to reflect the guidance of the NPPF.

### Policy HS5 – Health

- 2.34. The policy is not considered to meet the tests of soundness as it is neither justified, effective or consistent with the provisions of the NPPF, with Local Plan status given again to an existing SPD, with Health Impact Assessments to be undertaken in accordance with the Council's adopted Health Impact Assessment SPD.
- 2.35. As identified above, it is not appropriate that the content of SPDs is considered equivalent to development plan policies. Planning policy must be made through the local plan examination process and be subject to mandatory requirements for public consultation and independent scrutiny. Incorporating SPDs within local plan policy that have been prepared against the policies of the currently adopted local plan is considered wholly unsound and contrary to national policy.

### Policy HS6 – Sport and exercise

- 2.36. Policy HS6 sets out that *'existing local sports pitches and playing fields should be retained unless justification can be provided as to why they are no longer required or that proves alternative suitable provisions can be provided'*. This is addressed under the provisions of Policy HS4 (with sports pitches and playing fields identified as 'community facilities' within supporting text 11.40). It is therefore suggested that this paragraph of the policy is deleted given it is repetitive and potentially open to interpretation/ambiguity.



2.37. It continues that 'where justified' housing sites will need to provide land for sports, leisure and recreation facilities on-site at no cost, or an off-site contribution to fund the facility and the land for the facility. Although the appropriateness of providing a justified and proportionate contribution to sports, leisure and recreation where viable is not questioned, it is recommended that the circumstances in which delivery will be considered justified are set out clearly within the policy to avoid any ambiguity with the interpretation of the policy requirements at the decision-making stages. As currently written the policy is contrary to the provisions of NPPF paragraph 16(d).

## Section 12: Natural Environment

### Policy NE3– Biodiversity and Geodiversity

- 2.38. Policy NE3 as currently written is not considered to be sound as it is not justified, effective or consistent with national policy. The Policy is not accurately reflective of the Environment Act which requires 10% BNG or the emerging policy, guidance and Best Practice on how Mandatory BNG will be implemented.
- 2.39. The Environment Act is clear that BNG requirements can be met on-site, off-site or through statutory credits and whilst it is recognised that on-site provision should be explored first there are numerous reasons specific to individual sites why on-site BNG may not be deliverable.

### Policy NE2– Open Space and playing fields

- 2.40. Policy NE2 presents yet further uncertainty through the plan in relation to the loss and retention of playing fields with conflicting policy objectives and outcomes when read alongside Policies H4 and H6. As with other policy areas through the Plan, there is an unnecessary duplication of policies which address the requirements for the loss and retention of open space, sports facilities and playing fields with no clear direction on outcome or delivery.
- 2.41. Similar to other policies in the Plan that require the delivery of new facilities and infrastructure, Policy NE2 sets out a list of objectives but fails to identify how these objectives should be met, with seemingly very little flexibility, with a 'catch all' approach. The policy sets out that new development 'must' demonstrate how it will improve the green network of publicly accessible and linked open spaces to support growth without adequate justification through proportionate evidence base in accordance with the tests of soundness.
- 2.42. Furthermore, there is no clarity provided on how the requirements of the policy will be delivered, whether on site through the inclusion of the listed types of open space and other green networks or through off site financial contributions.
- 2.43. The policy provides no flexibility or differentiation between sites of different size thresholds or previously developed or greenfield sites, with no consideration given to site specific constraints or viability.
- 2.44. The policy conflicts with the provisions of national policy. It is left vague providing the reader with no clear direction and open to unhelpful interpretation which could hinder the delivery of new development and in turn prevent the delivery of much needed open space, sports and greenspace infrastructure.



## Section 13: Built Environment

### Policy BE3 – Sustainable design and construction

- 2.45. Similarly with other draft policies identified above, Policy BE3 seeks to apply standards to all development proposals without adequate justification through proportionate evidence base in accordance with the tests of soundness.
- 2.46. Policy BE3 again seeks to apply Nationally Described Space Standards to all development proposals. As stated above with regard to Policy H4, the application of the Nationally Described Space Standards to all residential development would require clear justification in line with Paragraph 130f and Footnote 49 of the NPPF and Government's Planning Practice Guidance (ref. ID: 56-020-20150327).
- 2.47. Policy BE3 point 3 requires all development proposals to meet the standard in regard to water of 110 litres per person per day. Planning Practice Guidance allows for local planning authorities to set out Local Plan policies requiring new dwellings to meet the tighter Building Regulations optional requirement of 110 litre/person/day *'where there is a clear local need'* (Ref. ID: 56-014-20150327) and confirms that *'it will be for a local planning authority to establish a clear need'* based on existing evidence, consultations with the local water and sewerage company, the Environment Agency and catchment partnerships, and consideration of the impact on viability and housing supply of such a requirement (Ref. ID: 56-015-20150327). This evidence has not been produced in support of the Borough Plan Review to date.
- 2.48. Policy BE3 applying to residential development seeks to apply requirements that 95% of market housing must meet M4(2) and 5% M4(3) Building Regulations standards. As set out under representations to Policy H2, SevenHomes object to the unreasonably onerous nature of the proposed requirement. As per NPPF footnote 49, these are optional technical standards for accessible and adaptable housing and should be delivered via planning policy *'where this would address an identified need for such properties'*. Evidence (as per Planning Practice Guidance ref. ID: 56-007-20150327) has not been provided as part of the evidence base to support the Borough Plan Review process and does not therefore meet the tests in NPPF paragraph 31 which requires policies in the preparation and review of Plans to be underpinned by relevant, up-to-date, adequate and proportionate evidence.
- 2.49. Policy BE3 point 1 seeks to impose a requirement on all development proposals to be designed to meet the requirements of 'any future Concept Plan SPD'. As set out earlier within these representations it is not appropriate to treat the content of SPDs as equivalent to development plan policies which have been tested through the examination process, and certainly not appropriate to require compliance with a 'future' design SPD which is yet to be published, again raising uncertainty and ambiguity contrary to the provisions for local plan making set out within the NPPF.

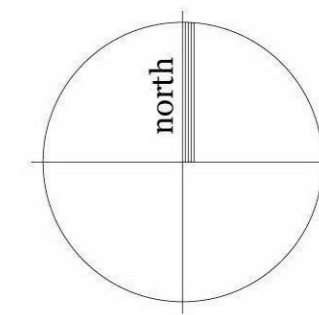
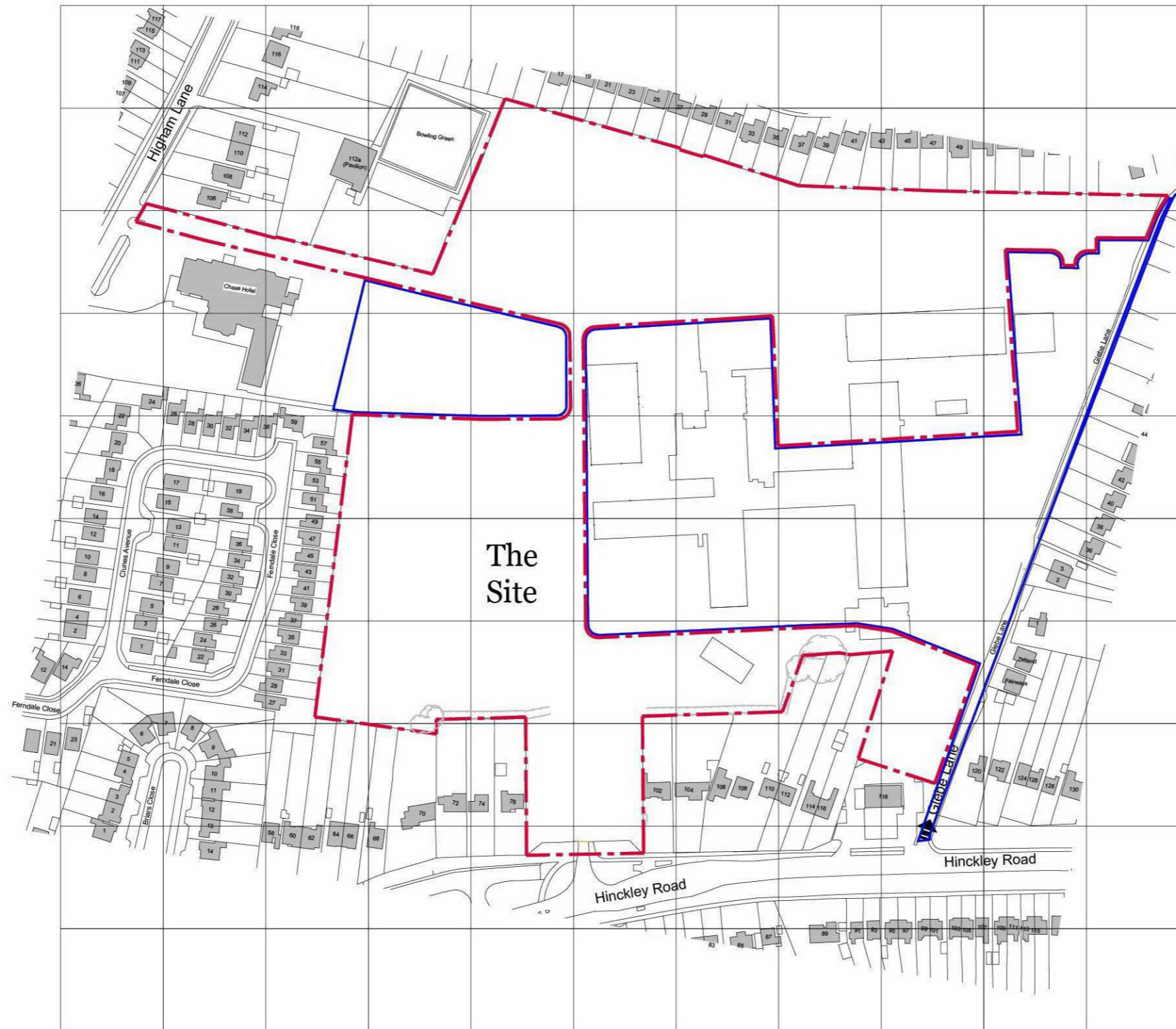


### 3. Conclusions

- 3.1. These representations have been prepared by Pegasus Group on behalf of SevenHomes.
- 3.2. SevenHomes have land interests at North Warwickshire and South Leicestershire College, Hinckley Road, Nuneaton, which has the benefit of an extant outline planning consent for housing development along with the delivery of a 3G Sports Pitch within the College grounds.
- 3.3. Although representations have not previously been made through the Borough Plan Review consultation process, given the timeframes associated with the extant Outline planning consent SevenHomes felt it important that the Site remain open to consideration as additional strategic housing allocation through the Borough Plan examination process particularly given its excellent credentials in relation to its overall suitability and deliverability.
- 3.4. The principle of housing development has previously been accepted via the appeals process, whilst a suite of technical reports and architectural plans have been prepared to support the Reserved Matters submission demonstrating that a high-quality housing development delivering a range of homes to meet local need (including both family and smaller open market and affordable homes) can be delivered at the Site. The development of the site also offers wider community benefits with the delivery of a 3G Sports Pitch within the College grounds accessible to the College but also the wider community.
- 3.5. The Council's decision to review the NBBP is supported by SevenHomes however there are clear objections to the detailed policy content in particular that relating to the key development principles set out in the BPR Reg 19 Consultation document including requirements of development in relation to accessibility standards, internal space standards and water use standards, for example, as well as the policies relating to the loss of playing fields and replacement facilities. These policies are not yet justified by evidence and are written with lack of flexibility and clarity for the reader with policy duplication throughout the Plan.
- 3.6. There is a clear and inappropriate use/reliance on the content of existing and future Supplementary Planning Documents within the draft policies, which must be addressed. The detail of policy, including both the objectives and delivery of policies must be clearly and concisely addressed within the main body of the policy itself to ensure clarity, certainty and consistency across the Plan, enabling the delivery of development to meet the future needs of the Borough. It is not appropriate to seek to provide a 'back door' route to giving SPD policy Development Plan status. If the LPA wish SPD to have that status, its content should be contained within the Plan itself.
- 3.7. As currently drafted the policies of the BPR Reg 19 therefore fail to meet the tests of soundness which need to be amended in order to make the Development Plan overall sound in accordance with the requirements of NPPF paragraph 35.



## Appendix 1 – Site Location Plan



Rev.A. Amended following Clients comments.

DS. 15.01.19

**David Somerville Design Ltd**  
Residential Design & Planning

Glebe Cottage, Vicarage Lane, EAST HADDON, Northamptonshire, NN6 8DA.

SITE:  
**Land at Hinckley Road,  
Nuneaton,  
Warwickshire.**

SCALES	1:1250 @ A3
DATE	25.10.18
DRAWN	ds

DRAWING <b>Site Location Plan.</b>	
DRAWING No. <b>1025 / 006 / 102</b>	REVISION <b>A</b>





## **Appendix 2 – Appeal Decision (APP/W3710/W/20/3251042)**



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## Appeal Decision

Hearing Held on 28 September 2020

Site visit made on 29 September 2020

**by Mr JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 November 2020**

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**Appeal Ref: APP/W3710/W/20/3251042**

**North Warwickshire & South Leicestershire College, Hinckley Road,  
Nuneaton CV11 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
  - The appeal is made by North Warwickshire & South Leicestershire College against the decision of Nuneaton & Bedworth Borough Council.
  - The application Ref 036050, dated 23 November 2018, was refused by notice dated 24 October 2019.
  - The development proposed is the development of up to 195 dwellings together with the provision of a 3G sports pitch, associated public open space, and other green infrastructure, and landscaping.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the development of up to 195 dwellings together with the provision of a 3G sports pitch, associated public open space, and other green infrastructure, and landscaping at North Warwickshire & South Leicestershire College, Hinckley Road, Nuneaton CV11 6LS in accordance with the terms of the application, Ref 036050, dated 28 November 2018, subject to the conditions in the Conditions Schedule below.

### Procedural matters

2. A Master Plan was submitted with the application showing a possible layout on the site for 195 dwellings (comprising a mix of houses and flats), along with the intended sports pitch. However, this is an outline application with all matters except access being reserved for later consideration at the reserved matters stage. As such, whilst the Master Plan has been informative, I am nonetheless treating it as illustrative only, other than where it specifically addresses access to and from the site.
3. As submitted, the description of the development included reference to the provision of '*car parking of up to 400 spaces, including disabled parking*', to serve the college. However, at the Hearing it was confirmed this was all to be on land owned by the college outside of the red line of the application site, so it has now been omitted from the description. This does not mean it no longer needs to be provided alongside this scheme, but rather that it need not be accommodated within the red line area. This reflects what was on the Master Plan and so I consider no party has been prejudiced by this change.
4. At the Hearing it was confirmed both the application and the appeal were made by North Warwickshire & South Leicestershire College, with Mr Joshi and

Mr Poole being contacts within the organisation. I have determined the appeal accordingly

5. An application for costs was made by the appellant against the Borough Council and that is the subject of a separate decision.
6. After the Hearing a legal agreement under section 106 of the Act was submitted in the form of 2 separate signed counterparts. I have taken this into account on the assumption the 2 separate counterparts will be kept together. Its various component parts are discussed below.

### **Main Issue**

7. The main issue in this case is whether these additional 195 dwellings are acceptable, given the housing land supply situation in the Borough.

### **Reasons**

8. The appeal site is now a sizeable portion of the college grounds, and includes some of its buildings and parking areas. In the *Nuneaton & Bedworth Borough Council Borough Plan* (the Borough Plan) the land is not allocated for any use or purpose.
9. The Council maintained it has a 5-year supply of deliverable housing sites following the adoption of the Borough Plan last year. As such, it contended that, because the site is not specifically allocated for housing, the extra dwellings now proposed were not required to meet local need.
10. In accordance with national legislation and guidance, the planning system should be genuinely plan-led and, unless material considerations indicate otherwise, proposals should be determined in accordance with the development plan. Borough Plan Policy DS4 says that between 2011 and 2031 there will be provided within the Borough '*at least 14,060 homes*' (my emphasis) and so it clearly views that figure as being a minimum to be achieved rather than a ceiling not to be exceeded. Similarly, Borough Plan Policy DS3 does not resist the principle of further housing on unallocated sites in settlement boundaries.
11. Therefore, even if the Council is correct in saying it has a 5 year supply of deliverable housing sites and so a shortfall does not offer an imperative for agreeing the scheme, I see nothing in the Borough Plan stating the figure in Policy DS4 should be a maximum or that, in principle, the increase in numbers resulting from these additional 195 dwellings would be harmful. Furthermore, if current methodology means fewer housing sites are needed in the Borough, that still offers no basis for me to reach a different view.
12. In the report on the examination of the Borough Plan, the Examining Inspector expressed concern about additional housing development to the north of Nuneaton. However, this is in a section headed '*The role of Nuneaton and whether the extent of non-Green Belt land to the north of the town supports an alternative spatial strategy*', and at the start of paragraph 39 he explains the '*land north of Nuneaton*' he is considering in that part of the report is '*the principal undeveloped area of the Borough that is not Green Belt*'. He goes on to say such sites would be peripheral, unsustainable and further removed from existing jobs and services in Nuneaton. I consider these are terms that cannot be applied to this site in the heart of Nuneaton, close to services and within easy walking distance of its town centre.

13. In paragraph 41 he then adds that there needs to be realism *'about what can be delivered in one sizeable direction of growth'* and *'releasing additional non-Green Belt land to the north of the town, beyond that already identified, would not be a reasonable alternative to significantly boost delivery than what is proposed in the [Borough] plan'*. Again, from such phrases it is clear his comments were focussed on specific areas at the extreme northern edge of the Borough near the A5 around the very large allocated housing site known as HSG1, rather than just sites in the northern half of the Borough generally or, more particularly, the appeal site near the centre of the town. Consequently, the views expressed by the Examining Inspector cannot be taken to be discouraging housing here.
14. I was referred to nothing in the *National Planning Policy Framework* (the Framework) that says housing over-and-above that stated in the development plan should be resisted in principle. Indeed, the Framework identifies the strategic policies as being to determine the *'minimum'* number of homes needed, and says Councils should identify sites sufficient to provide a *'minimum'* of 5 years' worth of housing. Again, this does not resist housing beyond those policies and housing numbers.
15. Accordingly, while the development would lie outside any designated strategic housing site, I find that the Borough Plan does not provide a defensible reason for its refusal, even if a 5-year supply of housing sites exists. Instead, I conclude that the provision of up to 195 additional dwellings would be acceptable as it would not, in principle, be contrary to the housing land supply situation in the Borough, and would not conflict with Borough Plan Policies DS3 or DS4, or national guidance in the Framework.

### **Other matters**

#### *Education provision*

16. Through the legal agreement a suitable and justified financial contribution is secured to cover the scheme's educational needs, and I have received no comments from an education-provider to imply that because of some Borough-wide deficiency this money will not be spent appropriately or could not be used to address the needs that would arise. Moreover, I had no firm evidence to show that bringing forward this scheme would unacceptably hold back the development of Borough Plan strategic site HSG1, which is to provide school facilities alongside its housing. Accordingly, I conclude this scheme would not have an adverse effect on education provision, and it has not been shown suitable educational needs could not be accommodated.

#### *The effect on the college*

17. There is an emphasis in the Framework on promoting and safeguarding educational facilities. In this regard the college has consistently said that relinquishing an extensive part of its grounds for this development would not fetter any future expansion, as its buildings are, at the moment, appreciably underused. There is no specific evidence to support or refute this position, but I have no reason to doubt its accuracy. Therefore, I have no grounds to find that this scheme would prevent the college from delivering educational opportunities into the future and, if necessary and appropriate, growing and expanding.

18. Two grass sports pitches would be lost because of the scheme, but a 3G pitch is to be formed on the site as a replacement facility. Sport England raises no objections to this, subject to the contribution of some further reasonable payments to be spent enhancing existing nearby facilities. In my opinion the 3G pitch could be used more intensively than the grass pitches and it would not be affected to the same degree by inclement weather. Therefore, while there would be one pitch less, to my mind the benefit of this replacement facility on the site would clearly outweigh the loss of the 2 existing grass pitches.
19. A condition was suggested requiring the agreement of a scheme to ensure access to changing rooms. Such a condition would be reasonable as they lie outside of the site. That condition though also sought to secure public access to sports halls, a gym and a studio. I see no reason why accessing those elements is necessary to make the development acceptable in planning terms.
20. The pleasing college grounds, no doubt, play a wider role on the well-being of staff and students. That though could be said of any such open area and, of itself, does not offer a basis to resist the scheme.
21. Therefore, I conclude that the scheme does not conflict with Policy HS4 in the Borough Plan or paragraph 97 of the Framework, which broadly allow the loss of playing fields only in limited circumstances.

*Highway safety*

22. I arrived on site at 0800h on 29 September, and this gave me opportunity to see the traffic on Hinckley Road and the gyratory during the morning rush, students and staff arriving at the college, and pupils walking to school along Higham Lane. Whilst I accept that what I saw was a snapshot of events on a single day, I have no reason to suppose it was not broadly representative of the general pattern of such activities.
23. At peak times there is clearly heavy traffic around the roundabout at the Hinckley Road/Higham Lane junction, and on into the gyratory on the edge of the town centre. This scheme would be introducing more cars into that situation, as movements associated with the housing would be in addition to the existing college traffic.
24. Local residents and Councillors doubted the ability of the road network to accommodate this additional flow, but the highways authority has nonetheless accepted the scheme. Whilst I was told this was only a marginal acceptance, I have little firm evidence to support that view or to contradict the technical information before me. Accordingly, even taking account of other housing development around the town, it has not been demonstrated that the residual cumulative impacts on the highway network would be severe.
25. The site's Hinckley Road junction, once altered, would no longer be just an access, but would also be an exit as well. Again, the traffic data and the intentions for the carriageway all appear to show this could operate safely and reasonably. The access to Higham Lane would continue to be one-way only and so would not be unacceptably narrow. As it would no longer be the sole exit for the site it is by no means certain that there would be an appreciable increase in its use because of the scheme, although I accept there may be greater usage at certain times of day. In these circumstances, and mindful of

- national guidance, although a tree is within the sight splay to one side, that does not offer grounds to refuse the scheme.
26. Glebe Lane is shown as a third point of access to the site. Currently, as well as serving some neighbouring houses it provides servicing for the college and access to a training block called Glebegate. The servicing arrangements would be unaltered by the scheme, but given its narrowness the lane it would be suited only to serve properties resulting from any redevelopment of Glebegate, itself and should not allow wider general access into the site.
27. Pedestrians and cars using the link to Higham Lane could be suitably segregated, while the numbers of schoolchildren walking along Higham Lane across the junction with this exit was not great. Therefore, even if there is to be some increase in the use of this junction because of the scheme I have no basis to consider an unacceptable conflict would occur. It would also be possible to separate students at the college from traffic on the estate roads by suitable pedestrian walkways.
28. Finally, alongside the development it is proposed to provide '*up to 400 car parking spaces*' to serve the college. I was told this could be achieved by surface parking within the remaining parts of the college campus that were outside the appeal site, with no need for a multi-storey development. This figure appears to be based on a survey that showed a maximum of just under 400 parking spaces taken on the college site at any one time. The appellant contended that once it had initiated its travel plan then this figure could go down, and so it sought the flexibility to provide fewer than the 400 spaces. However, whilst the travel plan may have that effect, I am aware that the survey was undertaken at a time when the college charged for parking and so would have encouraged some to park off-site. With that no longer being the case those staff and students who parked on surrounding roads could now be parking on the campus, and this should be balanced against the reductions caused by the travel plan. There is the possibility of expanding the college's operations in the years ahead, which could be done without needing further planning permissions. However, I do not know when, how or if it would happen, so it would therefore be unreasonable to seek parking for such growth at this stage. On balance, I therefore consider 400 spaces should be provided alongside the housing before me.
29. It was said that there was parking associated with the college in the layby next to the Hinckley Road entrance, on Tavistock Way and Tiverton Drive to the south, and on Ennerdale Close to the east. I had little specific data about the scale, regularity or safety implications of such parking, but the Council sought the establishing of a Residential Parking Zone (RPZ) so it would be prevented. I saw only a few cars parked in the layby and on Ennerdale Close that might have been associated with the college, but these did not impede the use of those roads. No kerbside parking was apparent on Tavistock Way or Tiverton Drive. The limited off-site parking was, no doubt, in part because there is now no charging on the campus, and I have no reason to consider that situation is to change. Therefore, in the absence of any further evidence to show otherwise, there is no justification for imposing a control that could result in an RPZ being established.
30. Accordingly, I conclude that the development would not have an unacceptable impact on highway safety, and its residual cumulative impacts on the highway

network would not be severe. As such, it would not conflict with the Framework in this regard.

*Living conditions*

31. Rear gardens of existing houses back onto much of the site. The outlook from these properties would change as instead of looking over playing fields dwellings would be seen, but that alone is not a basis to resist this proposal.
32. The back gardens of the neighbouring Hinckley Road properties are of significant length and so the privacy of those residents should be protected. There are shorter gardens behind the houses on Ambleside Way and, in particular, Ferndale Close. However, there is no reason why adequate interface distances cannot be maintained to respect the privacy and living conditions of neighbours when the siting, design and floor levels of the houses are considered at reserved matters stage. The design and light spillage of floodlights could also be considered then. Consequently, the scheme need not harm the living conditions of neighbours.
33. As explained in their written submissions, a resident on Ferndale Close uses their garden for emotional support in the face of their health needs and so requires privacy and tranquillity there. Whilst I have had due regard to these needs and have treated them as a primary consideration, to my mind there would be opportunity to take them into account as part of the reserved matters considerations, and of themselves they do not offer grounds to resist the development.
34. Representations were made to the effect that the rights of an adjoining occupier, under Article 8 and Article 1 of the First Protocol of the *Human Rights Act 1998*, would be violated if the appeal were to be allowed. However, as I have found that the proposal need not cause unacceptable harm to the living conditions of either the resident who raised that concern or other residents, the degree of interference that would be caused would be insufficient to give rise to a violation of rights under these Articles. Any rights of access residents might enjoy over the appeal site should be considered under other legislation.
35. Although the college buildings are tall, the tallest sections are away from the application site with lower buildings and open space closer. As such, the development should not be overwhelmed by the college complex. Moreover, there is no reason why residents of the scheme should experience undue noise from pupils walking to and from the college if this matter is taken into account at the design stage, while it has not been shown that the level of green space would be insufficient.
36. Accordingly, I conclude the proposal need not result in unsatisfactory living conditions for future residents or adjacent occupiers, and so it could be a well-designed and attractive development. As such, in this regard it would not conflict with the Framework.

*Air quality*

37. There are air quality issues near the appeal site, caused principally by traffic. I note the appellant's *Air Quality Assessment* is based on the college activity reducing by 20%, but I am unclear how this has been established given the other evidence before me. However, even assuming there was to be a slight increase in college traffic and a slight reduction in vehicle speeds, given the

role of the gyratory in the town's road network I am not satisfied that the contribution of this scheme's vehicle movements, even if taken with other developments across Nuneaton, would have a material effect on air quality in the vicinity.

*Any further matters*

38. Based on the information before me adequate drainage measures are possible, both to tackle any current flooding of neighbouring gardens and to ensure the run off is comparable to the current situation. Suitable measures can also be put in place at reserved matters stage to ensure tree protection and wildlife mitigation where possible and justified.
39. I am aware of no other matters that would support dismissing the appeal.

**Legal agreement**

40. I have considered the legal agreement against advice in the Framework and the tests in Regulation 122 of *The Community Infrastructure Levy Regulations 2010*, as well as the requirements of the development plan.
41. In the light of Borough Plan Policies H1, H2, HS1 and HS5, and having regard to the evidence before me, I have no grounds to find the intended affordable housing, and contributions to education, healthcare, primary care and policing would not be necessary, related to the development or proportionate. Using the agreement to secure the provision and management of the sustainable drainage scheme and the public open space is also appropriate.
42. Having regard to Regulation 122, the improvement of sustainable transport links and the highways contribution (on the understanding that the contribution is to be spent in the manner stated in the appeal submissions) are both justified in the light of Borough Plan Policy HS2.
43. The open space, sports and recreation contributions are in line with Borough Plan Policies HS6 and NE2, the Infrastructure Delivery Plan and guidance from Sport England. Given the increase in population and the decrease in the number of sports pitches these are justified and in line with Regulation 122.
44. I therefore find the above are directly related to the development and fairly and reasonably relate to the development in scale and kind.
45. However, based on what is before me it has not been shown the improvements to public rights of way or the library contributions satisfy the CIL Regulations and so those elements have been given no weight in my decision.

**Conditions**

46. Conditions should be imposed requiring the submission of the reserved matters, the timetable for their submission, and a period for compliance. The scheme should also be in accordance with the access plan in the *Nuneaton Campus Planning Application Transport Assessment October 2018*.
47. Given the scale of the site a construction method statement is reasonable, but the precise terms of that need not be stipulated at this stage. Having regard to the site's ecology, a Construction Ecological Management Plan and a Biodiversity and Ecology Management Plan should also be sought. To safeguard future residents a contaminated land assessment is needed, though



I have no reason to consider unexpected contamination would become apparent or, if it did, it would not be suitably addressed under other legislation. To ensure the sports pitch is to a necessary standard its specification should be agreed, as should a detailed drainage scheme to ensure the site can be suitably drained. To make sure there is adequate separation between pedestrians and cars, and also make clear it is to be one-way only, details should be submitted of the signage and segregation for the Higham Lane access, while to ensure delivery of the road network, sports pitch and open space a phasing plan should be confirmed. Finally, in order to support sustainable travel options for those who work at and use the college, a travel plan should be submitted. All the details identified in this paragraph should be submitted with the reserved matters, to ensure the scheme is considered in totality.

48. In addition, in the interests of highway safety the use of Glebe Lane should be restricted to serve just the Glebegate building and its redevelopment, but otherwise should provide only access for emergency vehicles to the rest of the scheme. For this reason too the access to Hinckley Road should be improved before the first occupation of any dwellings, and the location of the 400 parking spaces should be agreed and delivered before any existing parking is taken out of use. To ensure suitable facilities are available, a scheme should be in place to provide access to and use of changing facilities for those using the sports pitch, and having regard to fire precautions the positions of fire hydrants should also be agreed.
49. The Council suggested a Parking Management Strategy be agreed but to my mind that is unnecessary if parking is provided. As stated above there is no justification for a condition that would lead to an RPZ.
50. Other conditions were suggested concerning landscaping, tree protection, materials, levels, floodlighting, gas boilers, charging points and boundary treatments but I consider that, if justified, they should be attached to any reserved matters approval that may follow.

### **Conclusions**

51. Accordingly, for the reasons given above I conclude that planning permission should be granted.

~~*JP Sargent*~~

INSPECTOR

## Conditions schedule

### *Application details*

- 1) Details of the appearance, landscaping, layout, and scale, (the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans: 03347/02/P2 in *Nuneaton Campus Planning Application Transport Assessment October 2018* & Drawing number 1025/006/102A.

### *Construction details*

- 5) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of the phasing of the 3G sports pitch, the access roads and the open space in relation to the development as a whole. Once these details have been approved, these elements shall then be delivered in accordance with the approved phasing details.
- 6) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of a Construction Method Statement. Once these details have been approved the development shall then be undertaken in accordance with the approved Construction Method Statement.
- 7) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of a Construction Ecological Management Plan, together with a timetable for its implementation. Once these details have been approved the approved Construction Ecological Management Plan shall then be implemented in accordance with the approved timetable.
- 8) Accompanying the details submitted under Condition 1 there shall be a contaminated land assessment and associated remedial strategy submitted to the local planning authority for approval, together with a timetable for their implementation. Once this assessment and strategy have been approved the approved contaminated land assessment and any associated remedial strategy shall then be implemented in accordance with the approved timetable.

### *Highway safety*

- 9) Before the first occupation of any dwelling, the Hinckley Road carriageway and the Hinckley Road access to/from the site shall be modified in accordance with the drawing 03347/02/P2 in *Nuneaton Campus Planning Application Transport Assessment October 2018* and its accompanying details and thereafter retained.

- 10) Accompanying the details submitted under Condition 1 shall be submitted to the local planning authority for approval a scheme (comprising details of signage and, if necessary, other means) to ensure the link to Higham Lane carries motorised traffic in one direction only, together with a timetable for its implementation. Once it has been approved the approved scheme shall then be implemented in accordance with the approved timetable and thereafter retained.
- 11) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of the layout and arrangement of the link to Higham Lane to ensure a clear separation between pedestrians and motorised transport, together with a timetable for its implementation. Once these details have been approved the approved layout and arrangement of the link shall then be implemented in accordance with the approved timetable and thereafter retained.
- 12) With the exception of the Glebegate building or any residential development that results from its redevelopment, no motorised traffic (other than emergency vehicles) associated with the residential development hereby approved shall have access to or from Glebe Lane.

*Parking and sustainable travel*

- 13) Before the use of any existing area of parking provision on the site ceases in connection with this development, provision for the parking of 400 vehicles on the campus for use in association with the college and the sports pitch, together with any pick up and drop off facilities and parking for coaches and minibuses, shall be laid out and surfaced in accordance with details that have first been submitted to and approved in writing by the local planning authority, and that parking and pick up/drop off provision shall thereafter be retained for those purposes.
- 14) Accompanying the details submitted under Condition 1 there shall be a Travel Plan submitted to the local planning authority for approval, showing how users of the college and sports facilities will be encouraged towards sustainable transport methods, together with a timetable for its adoption and implementation. Once it has been approved the approved Travel Plan shall then be adopted and implemented in accordance with the approved timetable.

*3G sports pitch*

- 15) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of the method of constructing the 3G sports pitch. Once these details have been approved the 3G sports pitch shall then be constructed in accordance with the approved details.
- 16) No development shall commence until a scheme has been submitted to and approved in writing by the local planning authority, to ensure changing rooms would be available for the users of the 3G sports pitch. On completion of the 3G sports pitch, the changing rooms shall be available for users of the 3G sports pitch in accordance with the approved scheme and thereafter retained at all times as changing rooms available for use by the users of the 3G sports pitch.

*Sundry other conditions*

- 17) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of a Biodiversity and Ecology Management Plan, together with a timetable for its implementation. Once these details have been approved the approved Biodiversity and Ecology Management Plan shall then be implemented in accordance with the approved timetable and thereafter retained.
- 18) Accompanying the details submitted under Condition 1 there shall be details submitted to the local planning authority for approval of the location of fire hydrants and the provision of their water supplies, and the development shall not be occupied until provision has been made in accordance with the approved details.
- 19) Accompanying the details submitted under Condition 1 there shall be a scheme submitted to the local planning authority for approval of the detailed surface water drainage for the site, together with a timetable for its implementation and subsequent maintenance regime. Once it has been approved the approved scheme shall be implemented in accordance with the approved details and timetable, and thereafter maintained in accordance with the approved maintenance regime

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr M Bagshaw	Agent
Mr N Bignall	Housing consultant
Mr R Humphreys QC	Barrister
Mr C Stack	Highways consultant
Mr S Stanion	Legal adviser

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr A James	Principal Planning Officer with the Council
Ms J Padbury	Planning Officer with the Council

### **INTERESTED PERSONS:**

Councillor K Kondakor	County Councillor for Weddington Ward, Borough Councillor for Weddington Ward
Ms M Kondakor	Local resident
Councillor R Tromans	Borough Councillor for St Nicholas Ward

## **DOCUMENTS**

### **SUBMITTED BY THE APPELLANT:**

App1	Email to PINS dated 6 October responding to suggested conditions
App2	Email to PINS dated 6 October concerning the legal agreement
App3	Email to PINS dated 15 October with the legal agreement attached
App4	Email to PINS dated 20 October with its air quality assessment attached
App5	Email to PINS dated 22 October concerning suggested conditions

### **SUBMITTED BY THE COUNCIL:**

LPA1	Email to PINS dated 29 September with paragraph 41 from the report by the Examining Inspector
LPA2	Email to PINS dated 30 September with Appendices 23 – 39 attached
LPA3	Email to PINS dated 21 October concerning suggested conditions
LPA4	Email to PINS dated 23 October concerning suggested conditions

### **SUBMITTED BY COUNCILLOR KONDAKOR:**

KK1	Email to PINS dated 20 October with the air quality report for Top Farm attached
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Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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