

Mr Tony Bateman
Pegasus Planning Group
5 The Priory
Old London Road
Canwell
Sutton Coldfield
B75 5SH

Our Ref: APP/F1610/A/10/2130320

12 April 2011

Dear Mr Bateman,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY CALA MANAGEMENT LIMITED. APPLICATION REF: 09/04214/OUT
LAND AT TODENHAM ROAD, MORETON IN MARSH, GLOUCESTERSHIRE GL54
9NL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jessica Graham BA(Hons) PgDipL, who held a public local inquiry which opened on 26 October 2010, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Cotswold District Council to refuse outline planning permission for the erection of up to 300 dwellings, open space and associated infrastructure, on land at Todenham Road, Moreton in Marsh, Gloucestershire, GL56 9NL, in accordance with planning application ref: 09/04214/OUT, dated 8 December 2009.

2. The appeal was recovered for the Secretary of State's determination on 24 August 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given in this letter, the Secretary of State agrees with the Inspector recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

Representations received after the close of the inquiry

4. Following the close of the inquiry the Secretary of State received a written representation from Pegasus Planning Group dated 28 March on behalf of the appellant, which he has carefully considered. This raised the matter of the Written Ministerial Statement (WMS) of The Rt Hon Greg Clark MP, dated 23 March 2011, and in particular that account should be taken of this statement in reaching a decision on this application.

Richard Watson, Decision Officer
Department for Communities and Local Government
Zone 1/H1, Eland House
Bressenden Place
London SW1E 5DU

Tel 0303 444 1627
Email: PCC@communities.gov.uk

The Secretary of State wishes to clarify that he has taken the principles in the WMS into account in determining this appeal and has given significant weight to the need to secure economic growth and employment. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching a decision. This is because he has already addressed economic growth and employment issues (see, for example, his consideration of Moreton in Marsh's designation as a "Most Sustainable Principal Settlement" (paragraph 15 below)). Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

Policy Considerations

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises Regional Planning Guidance for the South West 2001 (RSS), the saved policies of the Gloucestershire Structure Plan Second Review (1999), and the saved policies of the Cotswold District Local Plan 2001 – 2011 (2006). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR14-28.

6. Other material considerations which the Secretary of State has taken into account include those national policy documents at IR30; the Cotswold District Council Affordable Housing Supplementary Planning Document; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and, the Community Infrastructure Levy (CIL) Regulations 2010.

7. The Secretary of State has also taken into account the Cotswold District Core Strategy (CDCS). He notes that since the inquiry closed a CDCS Second Issues and Options document has gone out to consultation. However, whilst the CDCS is a material consideration, it is still some way from adoption, and so he has afforded it little weight.

8. The decision of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin) resulted in the reinstatement of Regional Strategies (RSSs), including the reinstatement of the Regional Spatial Strategy for the South West (RSS) as part of the development plan for the area. The Inspector therefore consulted the parties on whether this would have any implications for the way in which the appeal should be determined.

9. The Secretary of State has also made it clear, following the judgment on 10 November 2010, that it is the Government's intention to revoke RSSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration. However, while the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.

10. As to the weight to be afforded to the emerging RSS, work on this has now stopped, given that it is the Government's intention to revoke RSSs as a whole. However, the Chief Planning Officer's letter of 6 July makes it clear that the evidence that informed the

preparation of the RSSs may also be a material consideration. It is also the case that, notwithstanding the status of the emerging RSS, the Inspector considers that there is anyway a lack of five year housing supply, and the Secretary of State has determined this appeal on this basis (see paragraph 12 below).

Main Issues

The Policy context

11. The Secretary of State agrees with the Inspector's assessment of the policy context as set out in IR168-170. His assessment of the RSS is set out in paragraphs 8-10 above.

Housing requirement and supply

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing requirement and supply as set out in IR173-186. He agrees with the Inspector's assessment that, as at 1 April 2010, the Cotswold district supply of housing land was around 1,532 dwellings (IR178-180). With regard to the district's housing requirement, he agrees that the Council's interim district housing requirement is not a particularly accurate reflection of the district's current housing requirement (IR173) and notes that a number of alternative calculations were put forward (IR182). He agrees that a useful starting point in this process is to project forward the Structure Plan requirement and that this should include a residual figure (IR174). On that basis he notes that there would only be 4.3 years housing supply, and that any shortfall would be much higher using more up-to-date data (IR182), suggesting that this requirement is likely to increase rather than decrease (IR185). Whilst accepting that the Council's interim district housing requirement can carry some weight – principally on the grounds that it was adopted for development control purposes by the Council (IR184) – he agrees with the Inspector that more weight should be attached to the lack of sufficient land to meet the current Structure Plan requirement (including the residual figure) over the next 5 years (IR185). This lack of 5 year housing supply is a factor which weighs significantly in favour of development.

The considerations in paragraph 69 of PPS3

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the considerations in paragraph 69 of PPS3 as set out in IR187-189. He agrees that there is no reason why the proposed development should not be capable of delivering a good mix of high quality housing, including affordable dwellings and appropriate provision of open space; that the proposed development would appear as a natural extension of the town's built environment; and, that the density of residential development proposed would constitute an efficient use of land (IR188). Whether the proposal would "ensure the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives" is considered below.

The District development strategy

14. The Secretary of State has carefully considered the Inspector's assessment of the District development strategy as set out in IR190-198. He agrees that the proposal would be in conflict with Policy 19 in being outside the development boundary (IR194).

15. With regard to suitable locations for development, and the requirement that development be at a scale consistent with the character and function of a settlement (IR195-197), the Secretary of State notes that Moreton in Marsh is identified as a "Most Sustainable Principal Settlement" in the District. He also notes that though it lacks some facilities, such as a secondary school and leisure centre, it has a good level of services - the Local Plan states, for example, that it has "a good level of services and facilities, including the District Council's Area Centre, primary school, a library, banks, doctor and dental surgeries, a hospital, a sizeable supermarket and a good range of shops and other services", and that it is "one of the District's main employment areas".

16. On the matter of the scale (IR198), the effect of the proposal before the Secretary of State would be to increase the population by 20%, but the cumulative effect with the FSC would be to increase the population of the town by 40%, an unplanned amount which he agrees would fundamentally alter the existing character of Moreton in Marsh.

Prematurity

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on prematurity as set out in IR199-202. He agrees that in the context of the current development strategy, to construct more than a quarter of planned growth at one of the nine candidate settlements, in advance of any comparative (and consultative) assessment of their respective economic and social needs, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents (IR202).

Affordable housing

18. For the reasons given in IR203-205 the Secretary of State agrees with the Inspector that the 150 affordable housing units would go some way to meeting an acknowledged need and that this can be seen as a benefit (IR206). The Secretary of State agrees that this benefit would be diluted by the lack of employment opportunities in Moreton in Marsh and the need to travel out of the area (IR206). However, given that Moreton in Marsh is one of the District's main employment areas, he considers that the benefits are still significant.

Transport

19. The Secretary of State agrees with the Inspector's reasoning and conclusions as set out in IR207-210. He agrees that future occupiers would have the choice of a range of possible transport without necessarily having to rely on the use of a private car, and this would accord with national and local policies aimed at encouraging more sustainable modes of travel (IR207). He also agrees with the Inspector's overall assessment that the proposal would occupy an eminently sustainable location in terms of its accessibility by a range of modes of transport (IR230).

20. As for mitigation measures, the Secretary of State agrees with the Inspector that until the details and cost of a mitigation scheme are established it is not possible to say whether the sum secured by the s106 Agreement would be fair and reasonable (IR210). The Secretary of State cannot therefore give any weight to this aspect of the s106 Agreement, nor can he be satisfied that any mitigation strategy would be adequate. Furthermore, he considers that the resulting absence of assurances over the adequacy

considerations weighing in its favour, these are not of sufficient weight to outweigh this conflict.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses outline planning permission for the erection of up to 300 dwellings, open space and associated infrastructure, on land at Todenham Road, Moreton in Marsh, Gloucestershire, GL56 9NL, in accordance with planning application ref: 09/04214/OUT, dated 8 December 2009.

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

31. A copy of this letter has been sent to Cotswold District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

Richard Watson
Authorised by the Secretary of State to sign in that behalf

of the mitigation strategy is a material consideration which weighs significantly against the proposal – a matter which he affords more weight than the Inspector.

21. On the matter of a comprehensive traffic strategy for Moreton in Marsh set out in IR211, the Secretary of State takes the view that there is nothing, in principle, to suggest that a traffic strategy which sought to mitigate the impacts of this proposal on its own would not be acceptable.

Other matters

22. The Secretary of State agrees with the Inspector's reasoning and conclusions on those other matters set out in IR212-213. Like the Inspector, he is satisfied that the proposal would not increase the risk of flooding at the appeal site or elsewhere (IR212).

Matters about which the Secretary of State wished to be informed

23. These matters have been addressed above (IR214). On the matter of planning conditions (IR226), the Secretary of State agrees with the Inspector's assessment of these as set out in IR157-166. He does not consider that they overcome his reasons for dismissing the appeal.

Overall conclusions

24. The Secretary of State has carefully considered each of the relevant factors in this application, including setting out where he differs from the Inspector in terms of the weight to be given to certain matters. In reaching his conclusion he has taken into account development plan policies regarding the spatial vision for the area, and the need to consider those matters in PPS3, which seek to ensure that consideration is given to planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

25. He considers that there are a number of factors weighing in favour of the proposal, such as; the lack of 5 year housing supply; the expectation that the proposal would provide a good mix of high quality housing (including affordable housing) and appropriate provision of open space; that it is located close to a sustainable settlement; that it would provide much needed affordable housing; and, that the density would constitute an efficient use of land.

26. There are also a number of factors weighing against the proposal. It would conflict with the development plan in being located outside the development boundary; it would predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents and so would conflict with PPS1 in that respect; it would alter detrimentally the character of Moreton in Marsh; the town lacks some facilities; and, he cannot be satisfied that any mitigation strategy would be adequate.

27. Other material factors include that the Secretary of State is satisfied that the proposal would incorporate adequate flood mitigation measures.

28. Overall, having weighed up all of the relevant considerations, the Secretary of State considers that the proposal conflicts with the development plan and national plan policies in a number of respects, and though there are also a number of material



Report to the Secretary of State for Communities and Local Government

by Jessica Graham BA(Hons) PgDipL

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

Date: 26 January 2011

Town and Country Planning Act 1990

Cotswold District Council

Appeal by

CALA Management Limited

Inquiry opened on 26 October 2010

Land at Todenham Road, Moreton in Marsh, Gloucestershire GL56 9NL

File Ref: APP/F1610/A/10/2130320

Conclusions

167. The following conclusions are based on my report of the oral and written evidence given to the inquiry, and the accompanied and unaccompanied inspections I made of the site and its surroundings. The Secretary of State's letter of 26 August 2010 records the matters about which he particularly wishes to be informed. I refer to those individually at the end of these conclusions. The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.

The Policy context

168. The current policy position is that RPG 10, as the extant Regional Strategy, is (for the time being at a least) once again part of the statutory development plan for the site. Policy HO 1 provides that levels of net additional housing in Gloucestershire for the period 1996–2016 should be based on an average annual rate of 2,400 [14], but does not set out figures for each district.
169. The Gloucestershire Structure Plan, which was adopted in 1999, two years before the adoption of RPG10, states at Policy H2 that provision should be made for about 6,150 new dwellings to be provided in the Cotswold district between 1991 and 2011 [18]. This equates to 307.5 dwellings per year, and as it constitutes the housing requirement figure set out in the development plan for the site, must form the starting point for any consideration of housing land supply [50, 76]. It is material to note that given the length of time that has passed since its adoption, and given the emergence of more recent national policies, such as those set out in PPS 3, the Structure Plan is becoming increasingly out-of-date.
170. The Council drew my attention to the Third Alteration of the Gloucestershire Structure Plan, which had achieved an advanced stage of preparation by early 2005, and which would have set housing figures for each individual district, in line with RPG 10 [51, 68]. However, this revised version of the Structure Plan did not proceed to adoption and the evidence suggests it is unlikely ever to do so. I therefore afford it very little weight.
171. Similarly, despite the revised version of the South West Regional Strategy having reached an advanced stage of preparation, with the (then) Secretary of State's Proposed Changes having been published in 2008, this replacement RS did not proceed to adoption [120]. I understand that concerns about the adequacy of its Strategic Environmental Assessment (SEA) mean that it is unlikely now to do so, at least in its current form, and so I afford it very little weight. My view is reinforced by the fact that given changes in administrative arrangements, there is no reasonable prospect of adoption irrespective of SEA considerations. I note that the Localism Bill contains provision for the abolition of Regional Strategies. The materiality of this intention is currently subject to legal proceedings [33].
172. However, that is not to say that the evidence base which informed the preparation of these two intended replacement plans should simply be disregarded. Paragraph 33 of PPS 3 makes it clear that in determining levels of housing provision, local planning authorities should take into account evidence of current and future levels of need and demand for housing, based on the

government's latest published household projections, and other relevant information [49, 79].

Housing requirement

173. It seems that a consideration of this type of up-to-date evidence was not one of the key factors that informed the Council's decision, in advance of determining the application that now forms the subject of this appeal, to agree an 'interim' district housing requirement figure of 300 dwellings per year. The report to the Cabinet dated 3 June 2010 (CD 3.8) indicates that the figure of 300 was based on a district housing requirement proposed at an early stage in the preparation of the (then) emerging replacement RS, and makes no allowance for subsequent changes, or the latest available data and evidence. On that basis, I do not consider it a particularly accurate reflection of the district's current housing requirement.
174. In the absence of any more recent development plan housing figure, then, a useful starting point is to project forward the Structure Plan requirement for 307.5 dwellings in the period 1991 to 2011 [50, 78]. Based on figures taken from the local planning authority's document *Five Year Housing Land Supply at June 2010 – Interim Position* (CD 3.5A), the appellant calculated a requirement of 356 dwellings per year for the period 2010 to 2015. The Council contested the inclusion of the residual figure for dwellings required but not yet provided; it took the view that this residual figure ought to be spread across the whole of the next plan period [50]. Neither party was able to adduce any extant guidance to support its preferred methodology, but on the basis that any shortfall in housing provision ought to be addressed promptly rather than be allowed to run on for potentially twenty years, I prefer the appellant's approach of including the residual figure in the requirement for the next five years' provision.
175. The latest household projection figures available to the inquiry were the 2006 household projections, published in March 2009 by the ONS. After adding in allowances for unmet need, second homes and vacancies, the appellant calculated that the projection would equate to a dwelling requirement for 510 per year for the period 2006 to 2026.
176. In June 2010, the County Council produced a population projection (the GLP 2010) based on locally derived population evidence. After making allowances on the same basis as for the ONS 2006 figures in terms of unmet need, second homes and vacancies, the appellant calculated that the housing requirement derived from these projections would be 410 dwellings per year for the period 2006 to 2026 [52]. The Council's witness was unhappy with the basis for this calculation in that it artificially truncated the period addressed by the projection, and preferred a figure calculated (during re-examination) to be closer to 366 dwellings per year.
177. The Council maintains that planning judgment should be exercised to reduce these trend-based requirements, given that the Cotswolds is an area of development restraint. In the absence of any more closely-reasoned evidence, I am not convinced that a 25 – 50% reduction to the trend-based requirements can be justified simply on the basis that this is what has happened in the past [55]. I am mindful of the appellant's point that reductions to housing provision in the Cotswold district have at least in part depended on a consequent increase

to provision within other districts, and there can be no guarantee that this will necessarily continue as part of the LDF process [77,78].

Housing supply

178. In terms of the supply of housing land, there are some key differences between the parties. I agree with the appellant that a 10% deduction should be made in respect of rural exception sites and large sites with planning permission, as has been done for small sites with planning permission, to allow for some non-delivery [104]. Other than this, I see no real reason to doubt the Council's contention that the figures for building out these large permissions can be regarded as reasonably robust; development need not be limited to 50 dpa, particularly where there is more than one developer involved, or the provision of an element of affordable housing [64].
179. As to the SHLAA sites, the appellant has suggested that in a number of cases, active existing uses indicate the sites are not available for development. However, each of these sites has been through the comprehensive SHLAA process, where considerably more evidence concerning each of them would have been presented than is currently before this inquiry, and where it was concluded that each would be deliverable in 0-5 years. Since planning permission has recently been granted for the development at the Fire Service College site, I consider that this also needs to be taken into account in any assessment of housing supply [65].
180. On that basis, and with reference to the parties' comparative calculations (set out at Table 2 of CD 5.1, p 61) I find that as at 1 April 2010, the Cotswold district supply of housing land was around 1,532 dwellings.

Whether there is a five year supply of deliverable sites

181. I concluded above [174] that projecting forward the current Structure Plan housing requirement, and taking into account the residual requirement, would produce a housing requirement of 356 per annum. Comparison with the housing land supply figure of 1,532 dwellings reveals that there is only sufficient for 4.3 years.
182. Performing the same calculation with the housing requirement derived from the ONS 2006 data set (510 dwellings per year) produces a figure of 3.0 years, while that derived from the GLP 2010 data set produces 3.7 years (per the appellant's figure of 410) or 4.18 years (per the Council's figure of 366).
183. The appellant has also conducted similar calculations based on affordable housing need figures derived from the SHMA of January 2009 and the HNA of November 2009, all of which fall short of 5 years. I attach little weight to these because, as the appellant accepts, their accuracy as to housing requirement is limited.
184. The 'interim' district housing requirement figure of 300 dwellings per year, propounded by the Council in June 2010, produces a figure of 5.1 years. For the reasons set out above [173], I do not consider this to be a particularly accurate representation of the housing requirement for the district. Nevertheless, as a direct result of the announcement of the government's intention to abolish Regional Strategies, it was the figure that was adopted for development control purposes by the Council following a vote by its elected

Committee Members [60]. For this reason, in view of the government's clear and continuing intention to revoke Regional Strategies, and notwithstanding the legal challenges to the materiality of that intention as a consideration in other decisions, some weight may be attached to this 'interim' figure.

185. In my judgment, more weight should be attached to the lack of sufficient land to meet the current Structure Plan housing requirement over the next five years. The Structure Plan requirement of 307.5 dwellings per year is somewhat out of date, but the evidence of the more recently published projections discussed above suggests that this requirement is likely to increase rather than decrease, and this would worsen the shortfall in housing provision.
186. The provision set out in paragraph 71 of PPS 3 is therefore relevant to this case. It states that where local planning authorities cannot demonstrate a five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the considerations in paragraph 69.

The considerations in paragraph 69

187. The first four of these considerations relate to achieving high quality housing; ensuring developments achieve a good mix of housing; the suitability of a site for housing, including its environmental sustainability; and using land effectively and efficiently.
188. The application was made in outline, with matters of layout and appearance among those reserved for future determination, but there is no reason why the proposed development should not be capable of delivering a good mix of high quality housing, including affordable dwellings and appropriate provision of open space. As to its suitability for housing, the site lies tight against the existing settlement, within easy walking distance of the town centre and public transport. The SOCG records the main parties' agreement that the proposed development would appear as a natural extension of the town's built environment [90], and I consider that a fair assessment. The density of residential development proposed by the appellant would constitute an efficient use of land.
189. The fifth and final consideration in paragraph 69 is the matter with which the Council takes issue. It concerns ensuring that the development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

The District Development Strategy

190. The Cotswold District Development Strategy is set out at Section 3 of the Local Plan [23]. It explains that the spatial strategies set out in RPG10 and the Structure Plan, together with the small residual housing and employment requirements, dictate that development should be focused on the district's larger, more sustainable settlements, especially Cirencester. In terms of its scale and function as a service centre, Cirencester is described as head and shoulders above all other settlements in the district.
191. The second tier centres in the district are the market towns, which have been designated Principal Settlements in accordance with Structure Plan requirements. The Local Plan notes that the relatively even geographic

distribution of the Principal Settlements throughout the district reinforces their role as service centres for the surrounding rural areas.

192. The overall strategy is to apply restraint on additional development, with about 63% of the district's planned growth between the end of March 2004 and mid-2011 focused on Cirencester. The remainder of the district's growth will be allocated at Principal Settlements commensurate with local economic and social needs.
193. The Local Plan defines development boundaries around the district's ten most sustainable settlements (Cirencester, and the nine Principal Settlements) in order, among other things, to prevent development from needlessly encroaching into the surrounding countryside, and to help maintain a sustainable strategy within the context of development restraint. Policy 18 allows for development of an appropriate scale to the respective settlements within their development boundaries, but Policy 19 makes it clear that construction of unrestricted open-market dwellings outside the development boundaries will not be permissible.
194. The appeal site lies outside the Moreton in Marsh development boundary, and so the proposed development would conflict with Policy 19 of the Local Plan and, accordingly, with the district Development Strategy to which Policies 18 and 19 are integral. In that respect, while the proposal would meet an existing need for housing in the district, it would not accord with the district strategy for development, or the spatial vision incorporated in that strategy.
195. The appellant pointed out that Policy S2 of the Structure Plan, which deals with the identification of Principal Settlements, requires them to be the focal points for development that takes into account the social and economic needs of all rural areas, and their location relative to other centres and environmental considerations [81,82]. It is fair to note that as a Principal Settlement, Moreton in Marsh is expected to meet the needs of the outlying settlements and rural areas that depend upon it as a local service centre, in addition to those of its own population.
196. However, it does not necessarily follow that because the other eight Principal Settlements, as candidates for residential development, are constrained either by environmental considerations (AONB coverage), or by their distance from Moreton in Marsh and the north Cotswolds, then the scale of development currently proposed for Moreton in Marsh must therefore be consistent with Policy S2 of the Structure Plan.
197. That policy requires development to be at a scale consistent with the character, as well as the function, of the respective Principal Settlements. Moreton in Marsh is a thriving market town, and although it benefits from a railway station and a hospital, it lacks other features commonly associated with large settlements; it has no secondary school, for example, and no leisure centre. While there are employment opportunities, there is no imminently planned (or even envisaged) expansion of these that would be commensurate with the proposed increase in residential accommodation, and so a large proportion of future occupiers could be obliged to commute outward to work.
198. The cumulative effect of the housing development permitted at the Fire Service College Site, and that currently proposed, would be to increase the population of the town itself by some 40%, and I share the concern of local residents that

this significant and unplanned population increase would fundamentally alter the existing character of Moreton in Marsh [132].

Prematurity

199. It may well be that taken exponentially, and alongside programmed improvements to infrastructure, community facilities and employment opportunities, such growth could be achieved in an acceptable manner. It may also be that the issues and constraints affecting the district's other Principal Settlements are of sufficient weight to steer a large proportion of future residential development toward Moreton in Marsh, and if that is so, the appeal site would be well situated to accommodate some of it.
200. However, the context of the current appeal is not the place to make such decisions. I have only general and limited evidence as to the suitability of the other Principal Settlements for accommodating new housing, and insufficient and incomplete information concerning other important and relevant factors, such as the current and potential availability of previously developed sites at or adjacent to them or Cirencester. The collation, assessment and testing of such evidence, in order to determine the location of the residential development and associated infrastructure necessary to meet the district's needs, is clearly a fundamental function of the Local Development Framework process.
201. I appreciate that the Cotswold District Core Strategy, a key component of the LDF process, is not particularly well advanced and is unlikely to be adopted before the end of 2012 [29, 93]. But granting permission for the current proposal, in addition to the residential development recently permitted on the adjacent Fire Service College Site, would mean that 10% of the development required in the plan period 2006 – 2026 would already be committed to Moreton in Marsh.
202. The current Development Strategy directs 63% of the district's planned growth to Cirencester, with the remaining 37% to be allocated between the nine Principal Settlements. In this context it seems to me that to construct more than a quarter of this planned growth at one of the nine candidate settlements, in advance of any comparative (and consultative) assessment of their respective economic and social needs, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents.

Affordable housing

203. The proposed development would incorporate 50% affordable housing; that is, it would deliver 150 affordable dwellings. This would accord with LP Policy 21, which provides that a proportion of affordable housing of up to 50% will be sought to meet demonstrated needs. The S.106 Agreement entered into by the appellant and the Council meets the tests set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010, and would ensure that the relevant units were used to accommodate local persons in housing need.
204. The SOCG records the main parties' agreement that there is currently a clear need for a large amount of affordable housing in Moreton in Marsh, and the extent of the provision to be made at the appeal site was also agreed by the Council; had it considered that there was insufficient need to justify 150

affordable dwellings on the appeal site, it was open to it to agree provision of a lower proportion [112].

205. While the Council's evidence was that the Housing Register showed just 26 households in urgent need of social rented housing in Moreton in Marsh, the HNA indicates an annual net need of 35 affordable dwellings per annum for Moreton in Marsh and the surrounding area [41]. This reflects the district-wide problem; there is an acknowledged shortage of affordable housing in the Cotswold district, exacerbated by lack of employment opportunities and a high proportion of second home ownership.
206. The fact that the 150 affordable housing units to be provided as part of the proposed development would go some way toward meeting this acknowledged need can, therefore, be seen as a benefit. But it would not be an unalloyed benefit. The concerns that I have outlined above, as to whether residential development at this scale would be consistent with the character and function of the settlement, apply also to the provision of a large quantity of affordable housing (300 units, when counted cumulatively with those to be provided at the Fire Service College site) at this market town. In the absence of any attendant and commensurate increase in employment opportunities in Moreton in Marsh or the local area, it is likely that future occupiers would need to travel out of the area to work.

Transport

207. The proposed development would incorporate a number of pedestrian and cycle routes to provide access to the town, and the new houses would be located within easy walking distance of the town centre, railway station and bus stops. Future occupiers would consequently have the choice of a range of possible transport without necessarily having to rely on the use of a private car, and this would accord with national and local policies aimed at encouraging more sustainable modes of travel. The S.106 Agreement entered into by the appellant and GCC makes provision for financial contributions to offset the increased demand upon public transport services and facilities that would be generated by the proposed development, and I am satisfied that these are necessary, and fairly and directly related to the proposal.
208. It is clear that the development of 300 houses would nevertheless give rise to some increase in the number of vehicular movements in the area, and the appellant commissioned a Transport Assessment to consider the impact this would have on Moreton in Marsh. I can understand residents' concerns that having been carried out on a Wednesday in October, rather than on a market day or during the much busier summer season, the traffic surveys conducted as part of this Assessment do not present a full picture of traffic conditions in Moreton in Marsh [145,146]. But it is apparent that the Assessment was carried out in consultation with GCC, which agreed its scope in advance, and in its capacity as Highway Authority for the area, is able to apply its professional expertise and local knowledge to the conclusions.
209. Those conclusions prompted GCC to seek a financial contribution to mitigate the impact that the proposed development would have upon traffic conditions in Moreton in Marsh. The contribution agreed between GCC and the appellant, and secured by a S.106 Agreement, has two components: a 'Moreton Traffic Strategy Development Contribution' and a 'Moreton Traffic Strategy

Implementation Contribution'. I am told that this is because the Highway Authority has not yet decided upon the best means of addressing problems caused by queuing at and between the two mini-roundabouts in the town, which would be increased by the proposed development, and wishes to undertake public consultation in order to inform its strategy. It would therefore use the first component of the contribution to part-fund this strategy development, and the second component to part-fund whatever mitigation scheme might be decided upon.

210. I understand the logic of this approach, but it is not one that lends itself to funding by contributions from individual developments. Regulation 122 of the Community Infrastructure Levy Regulations 2010 provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Until the details and cost of a mitigation scheme are established (and that, of course, carries the proviso that an acceptable form of mitigation proves possible) it is impossible to say whether the sum secured by the S.106 Agreement (£301,694) would be fair and reasonable.

211. In its response to CDC as a statutory consultee on the original planning application, the Highway Authority expressed the view that a comprehensive Traffic Strategy for Moreton in Marsh should be developed to take into account the effect of potential growth in the area, rather than agreeing limited packages of work to mitigate the impact of individual development sites. That seems to me a sensible approach, and one which lends weight to the view that it would be appropriate for residential development of the scale currently proposed to be planned through the LDF process, rather than determined on a case by case basis.

Other matters

212. Local residents, many of whom have had recent experience of flooding in Moreton in Marsh, are understandably concerned about the impact of building on the appeal site [138]. However, the appellant has carried out a thorough flood risk assessment and, as a result, proposed that a number of mitigation measures be incorporated in the development. The extent of the flood risk, and the means by which it might be addressed, have been the subject of extensive discussion with the Environment Agency, which has now confirmed that subject to conditions securing the proposed mitigation measures, the development would be acceptable. On that basis, I am satisfied that the proposal would not increase the risk of flooding at the appeal site or elsewhere. An ecological survey of the site, provided with the application, also indicates that adequate measures can be imposed to mitigate the adverse effect of the development upon local wildlife.

213. My attention was drawn to a number of other appeal decisions, but none of them reflect the precise circumstances of this proposal. The Upper Rissington case, for example, concerned previously developed land, whereas the current proposal concerns undeveloped greenfield land, such that a different planning balance applies. My consideration of this particular appeal is based on its own site-specific merits.

Matters about which the Secretary of State wished to be informed

214. These matters are addressed in full in the context of my conclusions above, but for ease of reference, are presented here in summary form.
215. *(i) The extent to which the proposed development would be in accordance with the development plan for the area.*
216. The proposed development would accord with many policies of the development plan, for example, those seeking to promote sustainable modes of transport. However, there would be a fundamental conflict with Policy 19 of the Local Plan, which seeks to prevent, other than in certain specified circumstances, the development of open-market housing outside the defined development boundaries of the Principal Settlements. I consider that the proposal would also conflict with the District Development Strategy set out in the Local Plan.
217. *(ii) The extent to which the proposed development is consistent with Government policies in Planning Policy Statement (PPS) 1: Delivering Sustainable Development, and accompanying guidance The Planning System: General Principles.*
218. PPS 1 sets out the Government's Objectives for the planning system, and paragraph 7 explains that a plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. I consider that granting planning permission for this proposal now could prejudice decisions about the scale and location of development within the district that ought to be taken in the context of the LDF plan-making process.
219. *(iii) The extent to which the proposed development is consistent with Government planning for housing policy objectives in PPS 3: Housing*
220. Since the local planning authority cannot demonstrate a five year supply of deliverable sites, paragraph 71 of PPS 3 provides that planning applications should be considered favourably, having regard to other policies in that document, and the considerations set out at paragraph 69. The considerations set out at paragraph 69 include ensuring that the proposed development is in line with the spatial vision for the area, and does not undermine wider policy objectives. I consider that the proposal conflicts with the spatial vision for the area as contained within the district Development Strategy, and could prejudice policy to be determined within emerging Development Plan Documents.
221. *(iv) the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note (PPG) 13: Transport, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car; and whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG 13.*
222. The proposed development would be within easy walking distance of a railway station and bus stops, and so would be well located in terms of accessibility by a range of modes of transport. This, together with the implementation of a Travel Plan that has been secured by a S.106 Agreement, would help to promote more sustainable transport choices. The application was made in outline, with layout

reserved for future determination, but there is no reason why that layout could not incorporate adequate parking facilities in line with local standards and the requirements of paragraphs 52 to 56 (now 51 to 55) of PPG 13.

223. *(v) the matters raised in the Council's Decision Notice dated 4 June 2010.*

224. These concern conflict with the development plan, which I have addressed above [216].

225. *(vi) whether any permission should be subject to any conditions and, if so, the form these should take.*

226. Should the Secretary of State be minded to grant permission for the proposed development, I suggest that it be made subject to a number of conditions. These are discussed at paragraphs 156 to 165 above, and listed in full at Appendix 1 to this report.

227. *(vii) whether any planning permission granted should be accompanied by any planning obligations under Section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.*

228. The S.106 Agreement made between the appellant and CDC, which secures the provision of 50% of the constructed dwellings as units of affordable housing, is necessary and acceptable. The S.106 Agreement made between the appellant and GCC which secures financial contributions toward improving local library and educational facilities is necessary and acceptable. The other S.106 Agreement made between the appellant and GCC is necessary and acceptable to the extent that it secures financial contributions toward public transport services and facilities and the implementation of the Travel Plan, but I consider that little weight can be placed on the payment of financial contributions toward a traffic mitigation scheme whose nature, extent, cost and impact are as yet unknown.

The balance of planning considerations

229. The proposed development would conflict with Policy 19 of the Local Plan, which seeks to prevent, other than in certain specified circumstances, the development of open-market housing outside the defined development boundaries of the Principal Settlements. It would also conflict, in these terms, with the District Development Strategy set out in the Local Plan.

230. The proposed housing would occupy an eminently sustainable location in terms of its accessibility by a range of modes of transport. But there are serious concerns that Moreton in Marsh is not necessarily the right place for residential development at this scale. Together with the development recently permitted at the adjacent Fire Service College site, the current proposal would introduce 600 new dwellings to a market town that has only limited existing community facilities, without any imminent commensurate increase in employment opportunities. A population increase of this extent would not be consistent with the character of Moreton in Marsh. Further, on the basis of the information currently provided, there can be no certainty that the financial contribution secured by the S.106 Agreement would ensure adequate mitigation for the impact that the associated additional vehicle movements would have upon existing traffic problems in the town.

231. Granting permission for 300 new dwellings, in addition to the 300 recently approved at the Fire Service College site, would commit around 10% of the

residential development likely to be required in the plan period 2006 – 2026 to Moreton in Marsh. Given that the current District Development Strategy directs 63% of the district's planned growth to Cirencester, I consider that effectively to allocate more than a quarter of the remaining 37% to only one of 9 potential candidate Principal Settlements, in advance of any comparative assessment of their respective economic and social needs and suitability for expansion, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed as part of the LDF process. For that reason, I consider that granting permission for the current proposal could prejudice emerging Development Plan Document policies, and so would conflict with national guidance set out in PPS 1 and its companion document, *The Planning System: General Principles*.

232. I place considerable weight on the fact that the proposed development would go some way toward addressing the identified shortfall in the district's housing provision, given that the local planning authority is not currently able to demonstrate a five year supply of housing land, and I note that this would include an element of affordable housing. But in my judgment, the benefits of the proposal are greatly outweighed by the harm that I have identified above.
233. I find that there are no material considerations in this case of sufficient weight to justify granting permission for a proposal that conflicts with development plan policy.

Recommendation

234. I recommend that the appeal is dismissed. If the Secretary of State is minded to disagree with my recommendation, a schedule of conditions which I consider should be imposed on any permission granted is attached to the end of this report.

Jessica Graham

INSPECTOR