

HUTCHINSONS

Application by Bloor Homes Ltd and Others

**Land East of Station Road,
Elsenham**

**Representations of
HENHAM PARISH COUNCIL**

PINs Ref: S62A/2022/0012

LPA Ref: UTT/22/2760/PINS

November 2022

HUTCHINSONS
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1 SUMMARY

- 1.1 This Statement sets out Henham Parish Council's **Objections** to the current application (S62A/2022/0012) on the following grounds.
- 1.2 Planning Policy – the Parish Council considers that the development is contrary to the following Policies
- S7 – The Countryside
 - GEN1 – Access
 - GEN6 - Infrastructure Provision to Support Development
 - ENV2 – Development affecting Listed Buildings
 - ENV7 – The Protection of the Environment – Designated Sites
- 1.3 Heritage: the proposal will have an unacceptable impact on the setting of the Grade II listed Waiting Room at Elsenham Station
- 1.4 Landscape and Visual Impact: the proposal has an unacceptable impact on the countryside and will be visually prominent from views to the north of Elsenham including from Footpath15 and from Old Mead Road.
- 1.5 Transport: The impact of additional traffic is unacceptable particularly on Grove Hill and Chapel Hill in Stansted Mountfitchet. The continuing reliance on modelling does not reflect the actual effects of development. In addition, there is limited accessibility to facilities for future residents including those who are mobile impaired and the development will create a greater reliance and use of the motor car
- 1.6 Impact upon Local Infrastructure: Appropriate mitigation is required. The local primary schools are full and the Parish Council considers that the Applicant should provide the school that was advanced at the Fairfield inquiry in 2020, the land for which is set aside on the land to the south. In addition, a contribution should be provided towards the new Community Hall in Elsenham as required by Elsenham Parish Council.
- 1.7 The Parish Council applies a Planning balance and considers that many of the

benefits put forward by the Applicant are not public benefits and are required to make the application acceptable.

- 1.8 The Parish Council carries out a balancing exercise in relation to heritage assets and applies great weight to the asset's conservation and considers that the application should be refused on heritage grounds.
- 1.9 However, even if the Inspector does not agree with the Parish Council's assessment the Parish Council maintains that the current proposals do not provide a justification for a departure from the policies of the Local Plan, or that they are of such a scale and significance that they outweigh the harm to the character and appearance of the area, the acknowledged harm to an important heritage asset to which is attached great weight and the locational unsustainability of the development which does not provide adequately for all future occupiers. If no suitable s.106 is produced then the Parish Council considers that the harm would be considerably greater, and the outcome the same.
- 1.10 The Parish Council therefore requests that planning permission for the application is refused.

2 INTRODUCTION

- 2.1 These representations are submitted by Alison Hutchinson of Hutchinsons on behalf of Henham Parish Council in respect of the application submitted by Bloor Homes Ltd and Gillian Smith, John Robert Carmichael Smith, Robert Giles Russell Smith and Andrew James Smith for outline planning permission with all matters reserved except for the primary means of access for the development of up to 200 residential dwellings along with landscaping, public open space and associated infrastructure works on land to the east of Station Road, Elsenham, Essex.
- 2.2 Although the site is located adjacent to Station Road in Elsenham, it lies within the parish of Henham. Henham Parish Council therefore considered the application at its meeting on the 6 October 2022 and resolved to **Object** to the application. This document sets out the Objections of the Parish Council. The objections are set out in the following sections:
- Planning Policy
 - Heritage
 - Landscape and Visual Impact
 - Transport
 - Impact upon Local Infrastructure
- 2.3 The Representations conclude with a Planning Balance.
- 2.4 Before explaining the objections, these representations set out the background to recent applications and development in Elsenham and Henham over the last 10 years.

3 BACKGROUND

- 3.1 The village of Elsenham has been the subject of numerous planning applications and development over the last 10 years. As a consequence, it has grown in population but not in the facilities that the village provides. Below is a summary of the planning history of the village in the last 10 years which informs some of the concerns that the Parish Council now has to the current application.
- 3.2 Elsenham was identified in the 2014 draft Local Plan for strategic housing growth of some 2100 new homes as a new linked settlement to the north of the village. The proposed allocation of some 131ha included the current application site together with the land currently being developed for 350 dwellings by Bloor Homes Ltd to the south (the southern site). The allocation also included 4 hectares of employment land and supporting infrastructure including a primary school, shops, community buildings and a new transport interchange and other transport improvements. Land was also to be safeguarded for a secondary school should it have been needed.
- 3.3 The draft Local Plan was subject to an Examination in Public in December 2014 but was stopped by the Examining Inspector on the basis that he considered the allocation to be unacceptable and the Plan unsound on two counts. Firstly in relation to the housing projection for the district and secondly that the sustainability of the allocation at Elsenham had not been demonstrated based upon the locational/accessibility issues of the settlement. His initial letter dated 3 December 2014 set out his initial concerns. He stated:

From all the material produced on this issue by the Council, by the promoters of the site, and by opponents of the allocation, I have severe concerns about the justification for this proposal and thus the soundness of the plan as a whole.

On the basis of its size and level of services the plan regards Elsenham as one of 7 'key villages', the function of which is 'to act as a major focus for development in the rural area, suitable for a scale of development that would reinforce its role as a provider of services to a wide rural area'.

There is no reason in principle why the plan should not propose a step change in the size and status of a key village if this is justified as a sustainable way to meet the district's needs. However, Elsenham is

embedded within a rural road network and the areas of the existing and proposed new parts of Elsenham are substantially divided by the railway line, a situation which could become worse if the crossing is closed.

At Elsenham the opportunity to use trains is a definite benefit but this will only affect a small minority of journeys. The current infrequent bus services will be improved but will still only be modest. Designed opportunities for safe walking and cycling on site will be good, but beyond that effectively no better than they are at present. Most travel will be on rural roads heading mainly west towards Stansted Mountfitchet through roads clearly unsuited for the purpose, or south through the Countryside Protection Zone via the longer route of Hall Road to the airport and destinations along the A120.

It is unclear that any of these routes are fit for purpose to the extent that Elsenham would be able to overcome its overall connectivity disadvantages and be regarded as a sustainable location for growth on this scale.

- 3.4 The Examining Inspector subsequently expanded on his summary letter in respect of then proposed Policy ELS1 in his Full Conclusions dated 19 December 2014. He commented that the ULP effectively proposed a major village expansion and that:

Looking at the present context of Elsenham, other ULP proposals (Elsenham 3-6) are already mostly commitments. These will add about 550 homes to a village which in 2001 (according to EX117) had 922 households. Adding a further 2,100 homes to a village of perhaps about 1,500 existing and committed homes (on the basis of the above figures) would bring Elsenham to a total of about 3,600 homes. Potential future extension of the allocation to 3,500 homes after 2031 would increase the overall size of the village to as much as 5,000 homes. Expansion on either of these scales would bring major change in Elsenham's place in the hierarchy of Uttlesford's settlements. Before embarking upon any part of the Elsenham policy 1 proposals it is therefore crucial to ensure that this is an appropriate location for such expansion. (Para 2.3)

- 3.5 The Inspector thereafter considered the proposed connections of the village and concluded that it was not sustainable. He concluded at paragraph 2.16 that:

It is therefore a major disadvantage of the plan's policy for Elsenham that

the village lies at some distance from the strategic network in a location embedded within a network of rural roads acknowledged as currently unfit to serve expansion on the scale proposed. Public transport is available and can be improved to some degree and the planned growth of local facilities would help to reduce transport demands. Benefits of the latter point would increase with the scale of the planned development. Nonetheless, the development would place substantial increased pressures upon existing unsuitable rural routes. Various proposed mitigation measures and solutions have been proposed for overcoming this disadvantage but these have not been shown either to be clearly able to secure their objectives or to be deliverable. My overall conclusion on the evidence is that there are severe doubts that Elsenham could overcome the connectivity disadvantages of its location sufficiently to be regarded as consistent with national policy or effective in being able to secure sustainable development.

- 3.6 The Plan was subsequently withdrawn by the Council in 2015 and a new plan embarked upon.
- 3.7 In his Conclusions, the Examining Inspector also referred to the planning application for 800 dwellings which had been submitted on part of the proposed allocation site (ELS1) by Fairfield (Elsenham) Ltd in 2013 under reference UTT/13/0808/OP (the 2014 Fairfield Appeal). The plan for that appeal is enclosed at Appendix 1. The current application site together with the land to the south currently being developed for 350 dwellings were included within that appeal site.
- 3.8 The Fairfield appeal proposal was for up to 800 dwellings together with up to 0.5ha of class B1a and B1c employment uses, retail uses (up to 1,400sqm), a primary school, a Health Centre and community buildings and changing rooms. Access was proposed from Henham Road and from Old Mead Road to the north of the village and the railway station. A link road was also proposed at Elsenham Cross which would connect the B1051 Henham Road and Hall Road. The inquiry took place in 2014 and was conjoined with another appeal for 650 dwellings on land to the west of Great Dunmow. Both appeals were subsequent dismissed by the Secretary of State on 25 August 2016¹. The Secretary of State's decision for Elsenham is appended to this representation (Appendix 2).

¹ APP/C1570/A/14/2219018

3.9 In his decision letter the Secretary of State agreed with his Inspector's findings and recommendation that the appeal should be dismissed. He concluded that, at the time, the Council had (just) a five year supply of housing land but that the tilted balance was engaged in any case because of out of date policies. The Secretary of State gave limited weight to harm through the loss of BMV agricultural land and to conflict with LP Policy ENV5 as there were no substantial areas of lower grade land close to existing settlements in Uttlesford. He also concluded that the scheme would bring significant volumes of additional traffic to a village at a significant distance from employment and services and also that it was unlikely that traffic could be accommodated on the surrounding roads which weighed heavily against the scheme.

3.10 In his overall balance and conclusions the Secretary of State considered that:

50. In deciding this appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Secretary of State agrees with the Inspector's conclusions on the development plan at IR 15.107. Having regard to these and to all other relevant matters, the Secretary of State concludes that the proposal does not comply with the development plan as a whole because of the identified conflict with LP policies S7 and ENV5. The Secretary of State has then gone on to consider whether there are any material considerations that would justify deciding the case other than in accordance with the development plan.

51. The Secretary of State agrees with the Inspector that the LP housing policies written to apply until 2011 are now out of date (IR 15.108). He agrees with the Inspector that the LP policies which refer to development limits and boundaries, such as policies S1 and S3, are in conflict with the Framework and should be given limited weight (IR 15.108). He agrees with the Inspector that other saved LP policies should be afforded weight in line with Paragraph 215 Framework (IR 15.108), and he affords them moderate weight given their partial consistency with the Framework.

52. The Secretary of State has carefully considered the Inspector's overall conclusions (IR 15.108-15.112.) He agrees with the Inspector and gives

substantial weight to the provision of affordable housing (IR15.110). He agrees with the Inspector that the provision of market housing would have attracted significant weight, but he reduces this to modest weight as he has concluded that the Council have established a 5 year HLS, and because only a proportion of the housing will be completed in the first five years (IR 15.110). He agrees with the Inspector and attaches moderate weight to the economic benefits offered by the proposal and limited weight to the potential for good design (IR15.108). Against this, the Secretary of State weighs the harm to the character and appearance of the countryside, to which he attributes limited weight. He agrees with the Inspector and gives limited weight to the loss of BMV agricultural land (IR 15.110). The Secretary of State agrees with the Inspector that the substantial impact on the surrounding road network weighs heavily against the proposal (IR15.111). He gives significant weight to the conflict with Policy S7, and further limited weight to the conflict with Policy ENV5.

53. The Secretary of State concludes, in agreement with the Inspector (IR15.111) that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (IR 15.111) and as such the proposal does not amount to sustainable development. The Secretary of State therefore concludes that the appeal should fail.

Subsequent Planning Permissions

3.11 The 2014 Draft Local Plan also identified three other major development sites:

- Land west of Station Road – 155 dwellings
- Land west of Hall Road – 130 dwellings
- Land south of Stansted Road – 165 dwellings

3.12 Planning Applications were submitted in 2014 for all three sites and planning permissions granted. Land west of Station Rd (which effectively relates to land to the north of Stansted Road) and South of Stansted Rd have been developed. Land west of Hall Road has been the subject of various revised applications with the latest being granted recently subject to a Section 106 (UTT/19/0462/FUL). The site has not yet been developed. The three sites were to fund a new Community Hall to be located on land adjacent to the current village playing field.

3.13 Further applications have been approved on appeal in 2020 –

- 350 dwellings on land to the north of Henham Road²
- 99 dwellings on Land off Isabel Drive and Land off Stansted Road ³
- 40 dwellings on land at Rush Lane⁴

3.14 In addition to the above, 45 dwellings have been permitted on appeal in Henham⁵.

3.15 Henham Parish Council is also aware of a further S62A application by Countryside Partnership PLC for 130 dwellings⁶ on the land to the south of Henham Road and east of Hall Road.

3.16 As a consequence, and despite the Examining Inspector's concerns regarding the location of Elsenham embedded within a network of rural roads acknowledged as currently unfit to serve expansion on the scale proposed and despite the 2014 S78 appeal Inspector and Secretary of State in 2016 finding that the location of Elsenham for 800 houses was unacceptable and unsustainable, subsequent applications and appeals have now increased the numbers of housing in Elsenham past the 800 dwellings refused by Secretary of State. However, few highway improvements or improved community facilities have been provided to accommodate the increased population of the village, particularly when compared with the proposals for 800 dwelling which included employment land and proposed retail uses etc. These matters are discussed in more detail later in these representations.

3.17 The table below sets out the numbers of dwellings now approved in Elsenham since 2012:

Reference	Date of Approval	Description	Number	Status
Committed as at Dec 2014 ⁷				
UTT/2166/11/DFO	15 Aug 2012	Orchard Crescent	53	Complete
UTT/12/6116/FUL	7 Feb 2014 (appeal)	Old Goods Yard	10	Complete

² Appeal Ref: APP/C1570/W/19/3243744

³ Appeal ref: APP/C1570/W/20/3256109

⁴ Appeal Ref: APP/C1570/W/19/3242550

⁵ Appeal Ref: APP/C1570/W/21/3272403

⁶ S62A/22/0007

⁷ Date of end of Fairfield Inquiry in 2014

UTT/13/2917/FUL	23 July 2014	Hailes Wood	32	Complete
UTT/15/1121/FUL	9 Dec 2015	Hailes Wood, additional	3	Complete
UTT/14/3279/DFO	1 May 2015	North of Stansted Road	155	Complete
UTT/15/2632/DFO	5 Feb 2016	South of Stansted Road	165	Complete
UTT/17/0335/DFO	6 July 2017	Elsenham Nurseries	42	Complete
UTT/17/2542/DFO	22 Dec 2017	North of Leigh Drive	20	Complete
UTT/13/0177/OP UTT/19/0462/FUL	19 Dec 2013 6 Nov 2019	West of Hall Road	130	Planning permission granted July 2022
Total			601	
Commitments Post 2016				
UTT/19/0437/OP	4 Sep 2020 (granted on appeal)	Rush Lane	40	Detailed application awaited
UTT/21/3269/DFO	1 June 2022 (granted on appeal)	North-west of Henham Road	350	Commenced
UTT/19/2470/OP	31 Dec 2020 (granted on appeal)	West of Isabel Drive	99	Detailed application lodged
Total Post 2016			498	
Small schemes	Various	Various	36	
TOTAL			1,135	
Current Proposals				
S62A/22/0007	Outstanding	Land south of Henham Road	130	
S62A/2022/0012	Outstanding	Land east of Station Road	200	

Source: Elsenham Parish Council.

- 3.18 Henham Parish Council fails to understand how 800 dwellings on the Fairfield Site was considered to be unacceptable and unsustainable, even when he applied the tilted balance but that piecemeal developments of smaller (but still very large developments) are considered sustainable by later Inspectors. If the current proposal for 200 dwellings is approved it will bring the total of dwellings approved after the date of the Secretary of State's finding to 698 dwellings. If the additional

130 dwellings on the land to the south of Henham Road is also approved the total will be 819 dwellings, thereby exceeding the total that the Secretary of State considered to be unacceptable partly because of the rural road network serving Elsenham.

4 RELEVANT PLANNING POLICIES

4.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. It follows therefore that where proposals are contrary to policies of the Development Plan, then development should be refused unless there are material considerations that indicate otherwise.

4.2 The development plan comprises the Uttlesford Local Plan 2005 and the Essex Minerals Local Plan 2014.

4.3 The Parish Council considers that the proposals are contrary to policies of the development plan and specifically to the following Policies for the reasons set out below:

- S7 – The Countryside
- GEN1 – Access
- GEN6 - Infrastructure Provision to Support Development
- ENV2 – Development affecting Listed Buildings
- ENV7 – The Protection of the Environment – Designated Sites

4.4 Elsenham is one of five settlements that were identified in Policy S3 (Other Development Limits) of the 2005 Local Plan as Key Rural Settlements where development compatible with the settlement's character and countryside setting would be permitted within the boundaries of the settlement. Henham is a smaller settlement and not one of the settlements identified for development in the Local Plan.

4.5 The application site is located within open countryside outside the identified development limits of the settlement of Elsenham and some distance from those of Henham. The development limits of both settlements are identified by the Proposals Maps contained in the 2005 Local Plan.

4.6 Development within the countryside is subject to Policy S7 – The Countryside - which seeks to protect the countryside for its own sake and confirms that planning permission will only be given for development that needs to take place there or is

appropriate to a rural area. The policy also states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed should take place there.

- 4.7 The application site is located to the east of Elsenham beyond the development limits of the settlement and within the open countryside which extends around the village. The proposals involve the development of 200 dwellings and is proposed to extend the large new modern housing estate currently under construction to the south. Its location beyond the settlement boundary together with the harm it causes to the character and appearance of this part of the countryside is such that it does not accord with the requirements of Policy S7 and it is therefore contrary to Policy S7.
- 4.8 Policy GEN1 – Access requires development to meet the criteria set out in that policy which includes that traffic generated by the development must be capable of being accommodated on the surrounding transport network, that the design of the site must not compromise road safety and take account of the needs of cyclists, pedestrians, public transport users horse riders and people whose mobility is impaired, and that the development encourages movement by means other than a car.
- 4.9 However, the location of the site and its means of access is such that access to key facilities, shops, employment and leisure opportunities is limited and for the vast majority of journeys the only practical option will be the car. The proposal will, in conjunction with committed development in the area, lead to an unacceptable cumulative impact on the surrounding highway network, contrary to the requirements of Policy GEN1 and the NPPF.
- 4.10 Local Plan Policy GEN6 requires that development makes provision at the appropriate time for infrastructure that is necessary for the development. The NPPF also requires such facilities to be provided to enhance the sustainability of communities and residential environments. The application as submitted fails to make adequate provision for the necessary mitigation for infrastructure. Henham Parish Council consider that it is necessary for contributions should be provided as part of this application towards a village Community Hall in Elsenham. Furthermore, although the applicants advise that they will provide affordable housing, there is no

mechanism to ensure that these requirements are provided in accordance with Policy GEN6 (and Policy H9 – Affordable Housing). The Parish Council accepts however, that if an appropriate legal agreement which brings forward the necessary mitigation and provision, then the development would not be contrary to these policies and the Parish Council's objections on this matter would be overcome.

- 4.1 Policy ENV2 seeks to ensure that development affecting listed buildings is in keeping with their scale, character and surroundings. In this case, the proposed development would result in the loss of the countryside views which contribute to the setting and therefore towards the significance of a Grade II Listed Building. The applicants accept that there would be an adverse effect on this designated heritage asset and consider that the harm would be less than substantial harm. As the proposal would harm heritage assets it is considered that the application is contrary to Policy ENV2.
- 4.2 Policy ENV7 also relates to the protection of designated sites and refers specifically to SSSI's and local nature reserves. It also places a presumption against development proposals that adversely affect nationally important sites such as Sites of Special Scientific Interest unless the need for the development outweighs the particular importance of the nature conservation value of site or reserve.
- 4.3 The site is within 6 miles of the Hatfield Forest SSSI (owned by The National Trust) providing future residents access to the Forest and SSSI. Natural England and the National Trust have prepared a Strategic Access Management and Monitoring Measures (SAMMs) document aimed at helping to facilitate the management of visitor pressure on the SSSI. In such situations, and as required by development on the land immediately to the south of the application site, it is considered that both off-site mitigation through contributions to the SSSI and also on-site mitigation is required. The application does not make provision for either any contribution towards the SSSI and provides limited on-site mitigation such that it is unlikely to deter future residents from driving to Hatfield Forest for recreational activities including dog walking. In this situation, Henham Parish Council considers that the proposed development fails to provide adequate mitigation for Hatfield Forest SSSI and therefore the proposal is contrary to Policy GEN7 of the Local Plan.

5 HERITAGE

5.1 The Parish Council considers that the proposal has a harmful impact on the adjacent listed building and is contrary to Policy ENV2 and to the NPPF.

5.2 The site is located adjacent to the Grade II listed Waiting Room, which is located on the eastern (south bound platform) side of the line at Elsenham station. The Historic England listing states:

Small mid C19 timber-framed and weather-boarded station building, now a waiting room, with a timber canopy with ornamental shaped fascia supported on cast iron columns with ornamental arched braces. One storey. Double-hung sash windows with glazing bars in the upper sashes. Roof tiled, with a central chimney stack.

5.3 The Parish Council notes that the application is accompanied by a Built Heritage Statement which assesses this heritage asset and considers that the proposed development would result in a low level of less than substantial harm to the significance of the listed building. The statement suggests that this harm arises from an erosion of the historic rural setting of the listed building, which allows for an understanding of its historic context. The Applicant considers this level of harm to be low as the proposals would develop an area of its historic rural context, but only form the backdrop of views to the listed building.

5.4 The Historic Environment Team from Place Services' consultation response (dated 7 November 2022) for the application refers to the fact that the development site forms part of the historic, open agrarian setting of the listed building which has been its backdrop since the mid-nineteenth century. The setting helps to reveal the historic context and location of the listed station building away from the main areas of local settlement, contributing to its historic interest. Place Services agrees with the submitted Heritage Statement that the proposal to introduce a large housing development on this site will, with regards to the National Planning Policy Framework (NPPF, 2021), lead to less than substantial harm, making Paragraph 202 relevant. However, Place Services consider that harm would be in the middle of the spectrum of less than substantial harm and that the proposal fails to preserve the special interest of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5.5 The Parish Council agrees with that conclusion. As there is clear identified harm to the adjacent Listed Building, NPPF Paragraph 202 is applicable as is Section 66 of the Planning (LB & CA) Act 1990. Paragraph 202 requires the harm to the heritage asset to be weighed against the public benefits of the proposed development and the Parish Council does that exercise later in these representations. Paragraph 199 of the NPPF requires that great weight should be given to the asset's conservation, irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance.

6 LANDSCAPE AND VISUAL IMPACT

- 6.1 The Parish Council considers that the proposal will have a harmful impact on the visual character and amenities of the area. The location of the site, its size, scale in relationship with Elsenham and Henham including the sloping nature of the site means that the application proposal would result in a harmful form of development and would fail to protect or enhance the character of the countryside contrary to Policy S7 of the Uttlesford Local Plan and the NPPF.
- 6.2 Elsenham is now a large village which has been extended in all directions but was until recently, effectively hemmed in by the M11 motorway to the west and by the mainline East Coast railway to the east. Development has been allowed more recently on appeal to fill in the few remaining green spaces between those two transport arteries which had provided landscape and footpath buffers for the village (eg. Rush Lane and Isabel Close). The land to the south of the current application site, currently being developed by the Applicants for 350 dwellings, was also allowed on appeal and is now extending the village considerably to the east into the open countryside beyond the railway. The limited previous development that had been allowed prior to these appeals did not extend eastwards of Hall Road which forms a clear eastern limit of development to Elsenham. Development at Hailes Wood for 32 dwellings to the southwest of the Bloor Homes site was seen as enabling the provision of a car park to serve the primary school opposite and to relieve pressure on The Crown Public House car park which was being used.
- 6.3 Vehicular, cycle and pedestrian access to the village for future residents of the southern development and also from the current application site will be via the new south-eastern access that has been constructed onto Henham Road, some 250m away from existing development within Elsenham. The southern development will include a pedestrian and cycle link northwards alongside the railway line and will give access to the railway station to the north of the station at the level crossing. There are no other public access routes for the development into Elsenham from the site.
- 6.4 The Applicants have submitted a parameter plans showing proposed land uses and building heights together with an illustrative layout plan to show how the site is likely to be developed. Whilst it is accepted that these plans are illustrative, they nevertheless represent the basis of the Applicants' supporting information including

that contained in the Landscape and Visual Impact Assessment. As a consequence, they represent a reasonable assessment of the likely future development of this site, especially as this is developer led and would be similar in character and design to the development taking place to the south. The parameter plan shows a developable area of 7.10ha and public open space around the perimeter of the current application site of 2.7ha.

- 6.5 Consideration of the development of the application site was included in the appeal for 800 dwellings considered by the Inspector at the original Fairfield Inquiry in 2014. Both he and the Secretary of State considered that the development would cause harm to both the landscape and the views across it and would so over a lengthy construction period. The Secretary of State agreed with his Inspector on this matter and that the proposal conflicted with Policy S7. He also agreed that limited weight should be given to the conflict with Policies S1 and S3.
- 6.6 The 2020 Fairfield Inspector⁸ considered the impacts of the development to the south in respect of the 350 dwellings. He also accepted that there would be harm created by the smaller development but considered that a submitted Green Infrastructure Strategy gave comfort for mitigation. He considered that it meant ‘*that the effects on the site would be mitigated, at least to some degree, by the retention and enhancement of much of the boundary vegetation, hedgerows and other features, along with open space provision within the site and new hedgerow and tree planting along the site’s northern boundary.*’ (paragraph 35)
- 6.7 When considering the relationship of the appeal scheme to Elsenham, he concluded that as some 162 dwellings had been allowed on the eastern side of the railway, including that at Hailes Wood referred to above, then there was no ‘in principle’ objection to development east of the railway line and another 350 (on top of 162) was acceptable as it would abut existing development. That development abuts only a small area of built development in the south west corner.
- 6.8 Reserved Matters has been approved for the 350 dwellings. The dwellings are predominantly 2 storey with some three storey facing onto the railway line and single storey adjacent to Hailes Wood. The current proposal shows 3 and 2.5 storey development in the area adjacent to the countryside. This is considered to be unacceptable and visually intrusive.

⁸ APP/C1570/W/19/3243744

- 6.9 The LVIA for the current application, repeats most of the information submitted to the 2020 inquiry and again argues that there will be limited impact on receptors and on the landscape generally. The Parish Council remains concerned however, and bearing in mind the development that is now taking place, that the current site is located on ground which rises in a north-easterly direction, towards Henham which sits at a higher level. Footpath 15 is a well walked footpath, linking the villages and currently affords clear views of the site and views towards Elsenham. These views form part of the attraction of the footpath.
- 6.10 The 2020 Inspector considered however, that these views should be closed and the gaps in the hedge are therefore required to be filled by Condition 23 of the 2020 planning permission. Details have not yet been submitted to show what is intended and how the future maintenance of this hedge will be secured. Viewpoint 4 of the submitted LVIA shows the clear views towards Elsenham and the lack of prominence of any built development from these views. However, the wireframe (Figure 22) shows the current application sitting prominently above the horizon particularly in the north-eastern corner. These dwellings would only be approximately 250m away from the viewpoint and it is considered that they will be very prominent in the landscape. The Applicant is relying on the gapping up of the hedge to provide the visual mitigation of these dwellings. However, the Parish Council is concerned that such measures will take a long time to get established (if they can be) and will also require careful maintenance in future years to ensure that any specimens that fail will be replaced (and not just in the standard 5 year period) and also that the hedge is properly maintained and cared for so that it provides the visual mitigation that is required. It is considered that the details of this gapping up should form part of the current application to show how (or if) these views can be mitigated.
- 6.11 The approved development site was generally screened from views from the west by the vegetation along the railway and by the properties along Station Road. The northern boundary of the approved scheme was arbitrary as is the current application boundary.
- 6.12 The LVIA states that the current gateway into the village of Elsenham in this direction is broadly at the station car park and station crossing along Station Road/Old Mead Road and that the development will not advance this gateway any

further north. (paragraph 7.2.4). It claims that attenuation basins at the bottom of the slope within the site will set built form away from Station Road and the station and that this will create a wide green corridor for pedestrian and cycle access associated with the approved as well as the proposed development.

- 6.13 However, the parish Council considers that this gateway into the village will fundamentally change. The current views of open countryside will be lost and the rural backdrop to the station and the setting of the village will be fundamentally altered and lost. These now form some of the only rural views in the northern part of the village as the rest of the land is constrained by the railway and the motorway embankment to the west. The construction of the footbridge over the railway dominates views but is clearly necessary for safety reasons.
- 6.14 Even though planting is being suggested around the site it is not considered that this would adequately screen the site nor would it mitigate the dominance and height of the dwellings which are intended to be up to 2.5 or 3 storey. The Parish Council considers that these dwellings, combined with the need for lighting etc. will be visually intrusive and unacceptable in both daytime and night time views.
- 6.15 The Council are also concerned that the current application is a second phase of development and that it is the precursor to a third (or fourth) application which will effectively seek to develop in a piecemeal way, the land formerly refused planning permission by Secretary of State in 2016. The boundaries are purely arbitrary as are those in the application on the land to the south. The hedgerow and landscape planting that is proposed to form the boundary of the development, together with the details of the gapping up of the hedge should be conditioned to be put in place before any dwelling is commenced to allow the planting to get established and grow before the houses are occupied and to provide some earlier mitigation. However, the Council remains concerned that a constant push of development further north is proposed and will result in the landscaping not being implemented as suggested.
- 6.16 The Parish Council considers that the impact of the development is unacceptable. It does not protect or enhance the particular character of this part of the countryside and is contrary to Policy S7 of the Local Plan. Furthermore, it does not recognise the intrinsic character and beauty of the countryside as required by Paragraph 174 b) of the NPPF.

7 HIGHWAY AND ACCESSIBILITY CONSIDERATIONS

- 7.1 Policy GEN1 requires that development should comply with the criteria set out in that policy which includes confirmation that the highway network is capable of dealing with the traffic generated (criteria a and b), that the development should not compromise highway safety and that it takes account of the needs of other users including cyclists, pedestrians and public transport users (criterion c) and encourages movement by means other than the motor car (criterion e). The NPPF also requires that developments should ensure appropriate opportunities to promote sustainable transport modes and safe and suitable access for all users (paragraph 110) and goes further than Policy GEN1 in requiring development to give priority to pedestrian and cycle movements and (so far as possible) to facilitate high quality public transport (paragraph 112).
- 7.2 The Transport Objections by SW Transport Planning Ltd that accompany this Statement reviews the applicant's Transport Assessment report (TA) and the associated VISSIM Modelling Technical Note. The Transport Objection Statement finds two key areas of concern:
1. Traffic Impacts - the cumulative impact of incremental traffic growth from this and other development proposals on the surrounding road network and the adverse impacts this creates, particularly in Stansted Mountfitchet
 2. Transport Sustainability - the lack of adequate services and facilities and limited public transport accessibility within Elsenham, meaning that the proposed development is reliant on car journeys and fails to comply with sustainable transport objectives.
- 7.3 With regard to Traffic Impacts, the report highlights some inconsistencies or omissions from the assessment of traffic impact in terms of the omission of the approved development of 45 dwellings at Vernons Close, Henham.
- 7.4 The 130 dwellings on the land to the south of Henham Road, Elsenham, the access for which is proposed near to the access serving the current application site is also application for 130 dwellings is also a S62A application⁹ and was submitted prior to the current application.

⁹ S62A/22/0007

- 7.5 The Transport Objection Statement highlights the ongoing problems of congestion that is experienced in Stansted Mountfitchet, particularly along the single file sections at Grove Hill and along Chapel Hill. It is a constant problem for existing residents but is consistently underplayed in the Transport Assessments that accompany planning applications and appeals.
- 7.6 The photographs contained in the Appendices to the Transport Objection Statement show the problems that residents of the area have to constantly contend with. However, as explained in the Statement, applicants and appellants use modelling that show consistently different results and forecasts. The modelling does not appear to build in driver behaviour or the fact that some vehicles take longer to go through these sections of road than the model allows for, but instead apply standard averages from multiple simulations. Unfortunately, those do not seem to apply in Stansted Mountfitchet.
- 7.7 However, it appears that decision makers rely heavily on these models and assessments and one site visit may not show the actual problems that are experienced but they are a factor of daily life for residents in Elsenham, Henham and Stansted Mountfitchet and one which they are being made to experience more regularly as more development is permitted. Residents also find it difficult to understand how applicants can be allowed to use different ways of modelling which are done in such a way that it shows the impact of that development to be acceptable. The residents of Elsenham, Henham and Stansted Mountfitchet can vouch for the fact that they experience significantly different results compared to those put forward in the models that the various Transport Assessments have modelled to support the various applications over the last 3 years.
- 7.8 The Inspector for the 2020 appeal for the 350 dwellings¹⁰ largely dismissed the Parish Council's concerns and considered that it was unreasonable to include outstanding planning applications in the modelling – even though Rush Lane was permitted before the Fairfield appeal was determined – and also that it is normal (and therefore presumably reasonable) to rely on a traffic survey that takes place on one day '*provided that it was a 'neutral month' with no untoward circumstances*' (Appeal decision, Paragraph 100).

¹⁰ APP/C1570/W/19/3243744

- 7.9 The Parish Council remains concerned at the apparent acceptance that a second days' survey results should be ignored because of an unexpected event that took place during the survey. Whilst that event may not be something that modelling can cope with, residents who use the roads (and do have to cope with it) would have been able to explain that 'unexpected events' take place virtually on a daily basis and therefore any modelling should be capable of building this in to its forecasting. If it cannot, then it will not provide an accurate picture as a base line and therefore cannot provide an accurate forecast of future traffic impact.
- 7.10 The 2020 Appeal decision is therefore based on modelled predictions which have little bearing on actual life. Indeed it is noted that there was extensive discussion in the appeal decision regarding the improvements to the traffic signalling on Grove Hill and that *' traffic impact from the proposed development on Grove Hill could be satisfactorily mitigated, and indeed that the mitigation offered by the appeal proposal would provide significant benefit to all users of the road network in Stansted Mountfitchet'*. (paragraph 94)
- 7.11 However, the Highway Authority had already implemented the necessary works in Spring 2019 and the Inspector noted that: *'Those improvement works have reduced queuing and delay at the Grove Hill traffic signals, and the appellant's VISSIM model has confirmed that the ECC improvements provide a similar level of performance as would the appellant's proposed mitigation measures. Because of this, ECC considers that the mitigation works proposed by the appellant are no longer necessary.'* (paragraph 95)
- 7.12 The residents have seen no improvement as a result of the works undertaken by the Highway Authority. There is still extensive queueing and it is still exacerbated by large and/or slow vehicles trying to get through as shown in the recent pictures contained in the Transport Objection Statement. It appears however, that more mitigation is now forecast to be needed by the modelling - the introduction of a second vehicle queue detector at the top of Grove Hill. Bearing in mind that the forecasts for the 350 dwellings considered that, based on the modelling, the improvement works were adequate but have not made any actual significant difference for residents, it is difficult to believe how further modelled mitigation will improve matters.
- 7.13 The Transport Objection highlights the discrepancies that can and do occur by

different authors looking at the same traffic conditions for the same location, using similar forecasts of future development and using the same model – VISSIM. The difference in queue lengths and times in two different Transport Assessments for two different planning applications which are both being considered under S62A, simply highlights the fact that there can be no reliance on their findings and as the Transport Objection Statement advises,

‘the outputs from the models must be treated with great caution and cannot be relied upon to give a true and full evaluation of future traffic impacts. In view of this the VISSIM model results should be afforded very little weight’

- 7.14 Alternative routes: Elsenham is restricted in its access being reliant upon Grove Hill and a road network that is predominantly small rural roads. The other route in and out of the village that allows access to the A120 and Stansted Airport is via Hall Road to the south of the application site. That road wraps around the airport and connects to Parsonage Road as it leads into Takeley. There is an access into the airport via the roundabout at Coopers End but that access is privately owned by the airport and has been known to be closed at times, preventing access therefore to the A120 and into the airport and requiring motorists to go through Takeley and access the A120 or the airport via Junction 8 or at Great Dunmow.
- 7.15 Turning to transport sustainability, the Transport Objection concludes that because of the limited facilities in Elsenham and the limited sustainable travel options serving the site, the use of the private car is likely to remain the main mode of travel for the vast majority journeys necessary to meet the daily needs of future occupants of the proposed development. The statement considers that this heavy reliance on private car journeys brings the proposals into conflict with the aims of promoting sustainable development as set out in the National Planning Policy Framework.
- 7.16 Furthermore, the development will not encourage movement by means other than the car as future residents will be largely reliant on the private motorcar due to the limited facilities in Elsenham and public transport.
- 7.17 Even within the village, the development does not provide direct linkages for pedestrians. The proposals do not have a direct link into the village of Elsenham. Pedestrians will have to either walk to the main entrance to the southern site from Henham Road and then walk into the village or, if they want to access the northern

part of the village, they will have to use the footbridge or the level crossing to get to Station Road and beyond. The Applicants do not control any other land which would provide a quicker and more direct link to the services in the centre of the village. The Parish Council does not consider that the needs of people whose mobility is impaired as required by Policy GEN1 has been properly considered. There is no disabled access for the footbridge and the level crossing is not a desirable crossing for people with impaired mobility. The isolation of the site for people with impaired mobility, including parents with pushchairs will simply encourage more use by the motor car.

- 7.18 It is considered therefore that the proposal is contrary to Policy GEN1 of the Local Plan and also the NPPF.

8 BEST AND MOST VERSATILE LAND

8.1 It is noted at paragraphs 5.52 to 5.54 of the Applicant's Planning Statement that 36% of the application site is Grade 1 agricultural land with the remainder (64%) being Grade 2. This follows an inspection of the site by the Applicants.

8.2 The Statement confirms that the application is accompanied by an agricultural land classification report. No such report has been seen by the Parish Council and it cannot be found on the PINs website. The Parish Council would wish to be provided with a copy and may wish to comment further.

8.3 The Planning Statement acknowledges that the application site is classified in the Provisional Agricultural Land Classification for England and Wales (MAFF 1986) as grades 2 and 3. Evidence to previous inquiries including the one for the 350 dwellings relied on this classification. In his consideration of the 2014 appeal, the first Fairfield Inspector commented at paragraph 8.18 that:

The Appeal B site comprises 41% Grade 2 and 58% Grade 3 land, although not all is in production. However, the district is predominantly rural, with limited areas of brownfield land²²¹, so greenfield land must be used. The loss of 33-43ha of BMV agricultural land would only amount to some 0.053-0.069% of the total in Uttlesford²²² and there is no lower grade land close to existing settlements. It is not a differentiating factor and there would be no conflict with the policy objectives. The officers' report reached the same conclusion

8.4 And at paragraph 15.71 that

There are no substantial areas of lower grade land close to existing settlements in Uttlesford. Regardless of whether some of the land is grade 3a or 3b, and so its definition under the NPPF, the weight to be given to harm through the loss of BMV agricultural land, and to conflict with LP policy ENV5, would be comparable with that for Appeal A.

8.5 The Secretary of State agreed with his inspector that the loss of BMV land caused by the development would be contrary to LP policy ENV5 and that this weighed against the proposal. He gave limited weight to harm through the loss of BMV agricultural land and to conflict with LP Policy ENV5 on the basis that there are no substantial areas of lower grade land close to existing settlements in Uttlesford.

- 8.6 In the 2020 appeal, the Inspector stated that the submitted ES recorded that all of the appeal site, with the exception of the access and access road up to the main part of the site, is Grade 3a agricultural land, thereby falling into the BMV category. He relied on the Secretary of State's reasoning and decision and also gave it limited weight.
- 8.7 The Inspectors and the Secretary of State clearly based their previous decisions on an understanding that the former appeal sites were Grade 2 and 3a and it is fully accepted by the Parish Council that that classification is prevalent throughout Uttlesford including around the settlements. However, the current application shows that that understanding was incorrect and that part of the 2014 appeal site included Grade 1 land and therefore the information that the Secretary of State made his judgement on was wrong.
- 8.8 The Council considers that there is far less Grade 1 land in the district and, in a time when climate crisis is creating the need to produce more food locally, the Parish Council considers that it is irresponsible to develop the best land in the country for housing and development would be targeted towards the lower grades. It is considered that the information before the Secretary of State and the 2020 Inspector was incorrect and led to an erroneous assessment and weight to the loss of BMV land. The parish Council considers that the loss of Grade 1 land should attract greater weight in the planning balance.

9 IMPACT UPON LOCAL INFRASTRUCTURE

- 9.1 Adopted Uttlesford Local Plan Policy GEN6 requires the provision of infrastructure to support development. The Applicants have confirmed in their Planning Statement that they expect to enter into a Section 106 to ensure the provision of appropriate infrastructure and mitigation and have included suggested Heads of Terms at Paragraph 5.90 of their statement. The suggested heads of terms relate only to contributions towards education, health care, community facilities, Public Transport and towards the Hatfield Forest and Elsenham Woods SSSI.
- 9.2 The Parish Council considers that mitigation for these matters are all necessary for this development and that greater detail needs to be provided on what the S106 is to contain.
- 9.3 The application site is located on the eastern edge of Elsenham and it is considered that future residents will look primarily towards that village for services and facilities rather than the smaller village of Henham. However, it is noted that because the vehicular access is located to the southeast of Elsenham, Henham is made more accessible for the future residents by car and potentially will add increased demand on the limited facilities provided in the village. As a consequence, Henham Parish Council considers that whilst the majority of the mitigation that is required is likely to be required by Elsenham, the Council remains concerned about any impacts that may arise in Henham and particularly in relation to the school as explained below.
- 9.4 The village of Henham contains the Henham and Ugley Primary School which is a single form of entry school. At the appeal for 45 dwellings at Vernon's Close, the Education Authority's consultation response advised that the school was expected to accommodate the extra pupils generated by that development. However, the education Authority also advised:

The school is, however, part of Uttlesford Primary Planning Group 3 (Stansted) which is under some pressure from other housing development proposals. Of particular relevance is the 220 home proposal, north of Bedwell Road and east of Old Mead Road (UTT/19/2266), which is within Henham & Ugley Primary School's Priority Admissions Area. Should this application, or others within the Group be granted, then developer contributions could be necessary to provide additional primary school places.

- 9.5 The Bedwell Road appeal was dismissed on appeal but the current application proposes a similar number of dwellings and the Council remains concerned that because of the pressure currently experienced on the schools in Elsenham and Stansted Mountfitchet, that pupils will be expected to be accommodated in the Henham School. There is no safe walking or cycling route to the school from this site and therefore pupils will need to be driven to school, contributing to the existing difficulties at the school and further contributing towards additional car use.
- 9.6 The Appellant made great issue at the Fairfield inquiry in 2020 that they were making provision for a primary school. The land is shown on the current submitted plans but it is noted that there are no proposals to provide the school with the current application. It is also noted that the S106 for the 350 dwellings specifically excludes the provision of the school site and this is the subject to a Unilateral Undertaking, the Inspector being informed by the Appellant that the reason was because Essex County Council has been unable to obtain instructions to enter into an agreement in the available timescale.
- 9.7 However, whilst the Education Authority acknowledged that the Applicants for the 350 dwellings had provided land for education use in their consultation response in 2018, the Authority had given no indication during the processing of the application or the negotiations into the Section 106 agreement that it required the school land. Instead, the Education Authority stated in its consultation response dated 2 February 2018¹¹ that:

The development sits within the priority admissions area of Elsenham CE Primary School. The School currently has accommodation for 240 pupils but, due to the level of development already permitted in the area, it is to be expanded to 420 places. Forecasts suggest that, even with expansion, the School will have just one unfilled Reception place for the academic year commencing September 2021. The School cannot be expanded further and could not thereby be expected to accommodate extra demand from this development. The applicant has correctly identified primary school capacity as an issue and has included land for education use as part of their proposal.

Unfortunately the number of dwellings would only generate around half a form

¹¹ UTT/17/3573/OP

of entry of demand, which is not sufficient to justify or sustain a new school. The impact of this proposal, if approved, would thus be felt and have to be managed across a wider area.

Elsenham forms part of 'Stansted' group (Uttlesford primary group 3) for school place planning purposes. As set out in Essex County Council's '10 Year Plan' to meet the demand for school places (2018-2027), the group is forecast to require 38 additional Reception places per year by the end of the Plan period. Thirty of these will be provided by the expansion of Elsenham Primary School, which is alluded to above, but there would remain a deficit without further action. The only current option is to expand Magna Carta Primary Academy in Stansted Mountfitchet. This could potentially provide for the forecast deficit and the level of additional demand a development of 350 homes would generate.

The application site would, however, be in excess of two miles via a safe walking route from the Academy, generating both school run traffic and a need for school transport for pupils under the age of eight years. When considering the planning balance this will, thereby, weigh against the proposal in terms of sustainability.

- 9.8 There was clearly no requirement stated in the consultation response that the Education Authority considered a school was either necessary or desirable on that appeal site and the S106 for the 350 dwellings therefore provided the necessary contribution towards primary education purposes as required by the Education Authority. It allows for the design (including feasibility work) and or delivery and or provision of facilities on the land or at Magna Carta Primary Academy in Stansted Mountfitchet along with the required contribution towards primary school transport.
- 9.9 The Magna Carta School was redeveloped in 2016 to allow two forms of entry. Henham Parish Council is concerned therefore that, as accommodation for the pupils from the 350 dwellings has been managed elsewhere, there is very little likelihood that the extra 200 dwellings will be able to justify the building of a school on the southern site. Indeed, Essex County Council's 10 Year Plan for School Places (2022 to 2031) confirms that there are no expansion projects currently in the pipeline. As a consequence, pupils from the application site will also be expected to travel to school. As Elsenham Primary school is full, that means that pupils will

need to travel to Stansted Mountfitchet (via Grove Hill) or to Henham, contributing further to the need to travel outside the village and potentially increasing the use of the motorcar.

- 9.10 Turning to community facilities, Henham Parish Council is aware that Elsenham Parish Council has been trying to build a new Community Hall in the village to cater for the increased population generated by recent development. Elsenham currently contains two community halls; the Village Hall and the Memorial Hall, each of which currently offer a range of facilities and services to the village and its community. The existing Village Hall was built in 1984/85 and forms part of the Elsenham Church of England Primary School. The hall is a joint-use hall and the facilities are shared by three parties; the Primary School, the Elsenham Village Hall Charity (the Village Hall Management Committee, VHMC) and the Incumbent and Church Wardens of Elsenham (Elsenham Church). Because of this sharing arrangement, each of the parties has exclusive access to and use of the hall at different times of the week and/or day but is predominantly used by the primary school during school hours.
- 9.11 The second hall is the Memorial Hall which is located on the Elsenham Playing Field. That building was built in 1987 and although of a limited size, offers rooms and facilities to a wide range of local organisations and businesses. It has a maximum capacity of 80 people in the main hall.
- 9.12 Both halls were built to serve Elsenham prior to its expansion post 2012. The 2014 draft local Plan proposed three sites for development in the village as set out in Paragraph 2.11 above. Those three developments were also intended to make provision for a new Community Hall to serve the additional population generated by the 450 dwellings in the proposed allocations through the provision of land and financial contributions. Although the Local Plan was withdrawn, planning permissions were granted for the three developments, two of which have taken place and been completed. Land has been provided for the new Community Hall and contributions towards its construction have been received by the District Council on behalf of the Parish Council. The third development on land west of Hall Road has not yet taken place although a planning permission for a revised application has recently been granted and includes a Section 106 which includes the necessary contribution.

- 9.13 However, Elsenham has seen considerably greater growth than was anticipated when proposals for the Community Hall were first drawn up and contributions calculated. As demonstrated in Table 1 above some 685 more dwellings have been permitted, none of which have made contributions towards the Community Hall. Furthermore, due to the time that has also lapsed, the cost of the Community Hall has increased so that the previously agreed funding can no longer finance the construction of the hall. The additional population is also placing pressure on the existing village halls and it is becoming more pressing that a new Community Hall comes forward.
- 9.14 Previous appeal decisions have not considered the impact on this aspect of Elsenham's infrastructure and no further contributions have been forthcoming for the Community Hall. Elsenham Parish Council is therefore in a position whereby it is faced with a constantly increasing village population but without the funding to make provision for a necessary Community Hall. Neither the second Fairfield appeal (350 dwellings) nor the Isabel Drive appeal (99 dwellings) made provision for any contribution towards the Community Hall. In contrast the more recent Gladman appeal for Bedwell Road did make provision by way of a S106 but the appeal was dismissed.
- 9.15 Both Henham and Elsenham Parish Councils consider that the current application site will place further additional pressures on the current village community infrastructure and that a contribution towards the construction of the new Community Hall is required. Costings for the Community Hall have been obtained and it is considered that a proportionate contribution based on the contribution agreed for the land to the west of Hall Road should also be applied to the current application site and would be both justified and necessary to mitigate the impact of this development. That amount was £130,000 for the 130 dwellings which provides a pro rata amount of £2,385 per dwelling.¹² The Parish Councils consider that a similar pro rata figure applied to the current application would be reasonable.
- 9.16 The attached Business Plan at Appendix 3 sets out the justification for the need for a contribution. Without this contribution, the Parish Councils consider that the proposal for 200 dwellings will have an unacceptable impact on infrastructure, contrary to Policy GEN6 of the adopted Local Plan and the NPPF.

¹² UTT/19/0462/FUL

- 9.17 Henham Parish Council has noted the contents of the Uttlesford District Council Officer's report to Committee which confirms that Elsenham Parish Council does require a contribution for the current application. Henham Parish Council fully supports its neighbour's request for the funding to help mitigate the additional demand from the residents of these 200 dwellings.

10 THE PLANNING BALANCE

10.1 As has been set out above, the Parish Council considers that the application conflicts with policies of the adopted Local Plan and the development plan taken as a whole. Within that, the Parish Council attaches moderate weight to Policy S7, significant weight to GEN1, ENV2 and ENV7 and full weight to Policy GEN6 (and H9 – Affordable Housing). The weight to be attached to these policies has been the subject of extensive consideration at appeals and the policies have been found to be either fully consistent (Policies GEN1, GEN6) or partially consistent (Policies S7, ENV2 and ENV7) and due weight attached to them. This is on the basis of the 3.52 year supply of housing land.

10.2 As such, conflict with the development plan means that, unless material considerations indicate otherwise, a refusal of permission should follow.

Material considerations

10.3 Henham Parish Council acknowledges that Uttlesford District Council cannot demonstrate a 5 year supply of housing but it should be noted that the Parish Council has had a recent meeting with the Head of Planning of Uttlesford District Council and been informed that the Council's five year supply is now at 4.89 years. The Council's Supply Statement has not been published but a recent officer's report for a development of 3 dwellings on a site at Elsenham¹³ stated:

As the Council can only demonstrate a 3.52 year housing land supply position (now updated to 4.89 years (November 2022) , those policies that are most important for determining the application are to be considered out-of-date.

10.4 The Parish Council accepts that with either a 3.52 or 4.89 year supply, the policies that are most important to the determination of this application may be deemed to be out of date and therefore the 'tilted balance' within the presumption in favour of sustainable development set out in paragraph 11 of the NPPF, is engaged. The Secretary of State in his 2016 Fairfield appeal decision also applied the tilted balance. However, the tilted balance requires the grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a

¹³ UTT/22/2536/OP - Land Adj Brook House, Tye Green Road, Elsenham

whole; or specific policies in the NPPF indicate development should be restricted. This is a case where other policies of the Framework indicate that development should be restricted (Footnote 7) and great weight is required to be given to the protection of designated heritage assets. The Applicants and Place Services have both concluded that the harm to the Listed Wating Room falls within the less than substantial harm category and Paragraph 202 therefore requires that harm to be weighed against the public benefits of the proposal. The Applicant has advanced a number of benefits of the proposed development at page 33 of their Planning Statement which are summarised below:

- a) The provision of market housing.
- b) The provision of affordable housing
- c) Located in Flood Zone 1
- d) Economic benefits.
- e) A new cycle/pedestrian link to Elsenham Station/Old Mead road
- f) Pedestrian improvements at Elsenham Cross
- g) Financial contribution to ECC to support the improvement of local bus services in Elsenham
- h) Residential Travel Plan (RTP) to seek to deliver a 10% reduction in the single occupancy car driver mode share for the 200 dwellings and a (single?) car club vehicle will also be delivered on site.
- i) Deliver a net gain in biodiversity in excess of 10% and will mitigate views of rooftops from Henham to the northeast.
- j) Increased open space and public access to the application site.
- k) S106 contributions towards education, primary health care, community facilities and sustainable transport

10.5 The applicant states that the proposal will deliver important public benefits. The Parish Council does not disagree that the development will provide market and affordable housing and that the latter, in particular, is, in common with most local authorities, much needed in Uttlesford. However, the Parish Council does not agree that many of the other claimed benefits are public benefits or that they should be given weight in this application.

10.6 The improvement in the housing land supply position, which it is acknowledged is still to be officially published, means that the provision of the 200 dwellings may be regarded as being of moderate weight rather than significant weight.

- 10.7 However, many of the above 'benefits' such as c), f), h), i), j) and k) are all required to make the application proposal acceptable and to mitigate the impacts of the development. In addition, the cycle/pedestrian link forms part of the proposals to be delivered by the 350 houses on the land to the south and cannot therefore be claimed as a benefit of this development. The Parish Council considers that the provision of a cycle way and pedestrian link that only serves the Bloor development cannot be termed benefits as they are essential to provide some form of linkage for future residents to the rest of the village. They do not provide any benefit for existing residents.
- 10.8 The Parish Council accepts that an increase in Ecological Net Gain is to be welcomed but considers that much of this is needed to mitigate the harmful effects of the scheme and the Applicant does not refer to the impact of the development on the nearby Hatfield Forest SSSI and Elsenham Wood SSSI in their assessment of weight to be attached to Ecological Net Gain. Similarly, the Economic benefits of new housing development are well recorded and the Council does not take issue with that. There is likely to be some increased spending in the area but it is also partly offset by the need for the District Council and Parish Council to increase their spending and services for the additional residents.

Balancing exercise in relation to heritage assets

- 10.9 S66 of the planning (LB & CA) Act 1990 requires that decision makers shall have special regard to the desirability of preserving Listed Buildings or their settings and for preserving features of special architectural or historic interest. The NPPF requires that 'great weight' should be attached to the asset's conservation. In this case, there is identified harm to the setting of the Grade II Waiting Room. That harm is less than substantial harm and Place Services who provide specialist heritage advice to Uttlesford District Council have assessed that harm to be at the middle of the spectrum.
- 10.10 The Applicants do not appear to have applied the Paragraph 202 test correctly and have not given great weight to the asset's conservation as required by Paragraph 199. On the contrary they do not appear to have taken paragraph 199 into account

when they state at their paragraph 5.57¹⁴;

It would engage paragraph 202 of the NPPF, which states the low level of harm will need to be weighed against the public benefits of the scheme in the planning balance.

- 10.11 The Parish Council considers that the correct approach was applied by the Inspector in the recent Warish Farm Hall appeal decision¹⁵ dated 9 August 2022. That appeal decision is appended to these representations (Appendix 4). In that case, and against a similar background as here where Uttlesford could demonstrate no more than a 3.52 year housing supply (prior to any update being published), the site was located nearby at Takeley within countryside and therefore also subject to Policy S7. The proposal for some 190 dwellings was also offered with a greater number of 'public benefits'. The Inspector concluded that:

In this case, taking account of the extent of the shortfall in the five-year housing land supply, how long the deficit is likely to persist, what steps the local planning authority is taking to reduce it, and how much of it the proposed development would meet, and giving significant weight in terms of the extent of that shortfall and how much of it would be met by the proposed development, in addition to significant weight to the public benefits identified above, I do not consider these considerations collectively to be sufficiently powerful to outweigh the considerable importance and great weight I give to paying special regard to the desirability of preserving the settings of the listed buildings and the conservation of all of the identified designated heritage assets. (paragraph 97)

- 10.12 The Parish Council considers that, when applying similar great weight to the S66 requirement of paying special regard to the desirability of preserving the setting of the listed building in the current application, then the application should be refused on heritage grounds.
- 10.13 However, even if the Inspector does not agree with the Parish Council's assessment and considers that the benefits in this application do outweigh the harm, the heritage harm has still to be weighed in the overall planning balance and should

¹⁴ Page 29 of submitted Planning Statement

¹⁵ APP/C1570/W/22/3291524 – Land at Warish Hall Farm, Smiths Green, Takeley

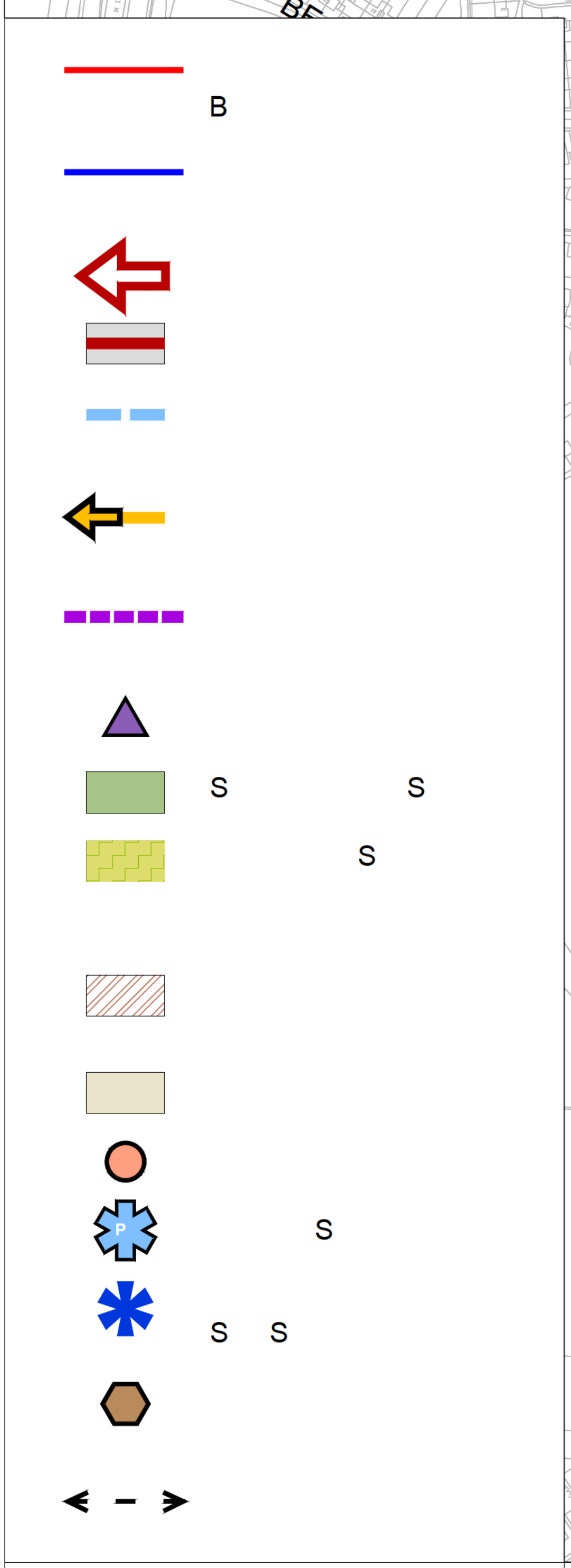
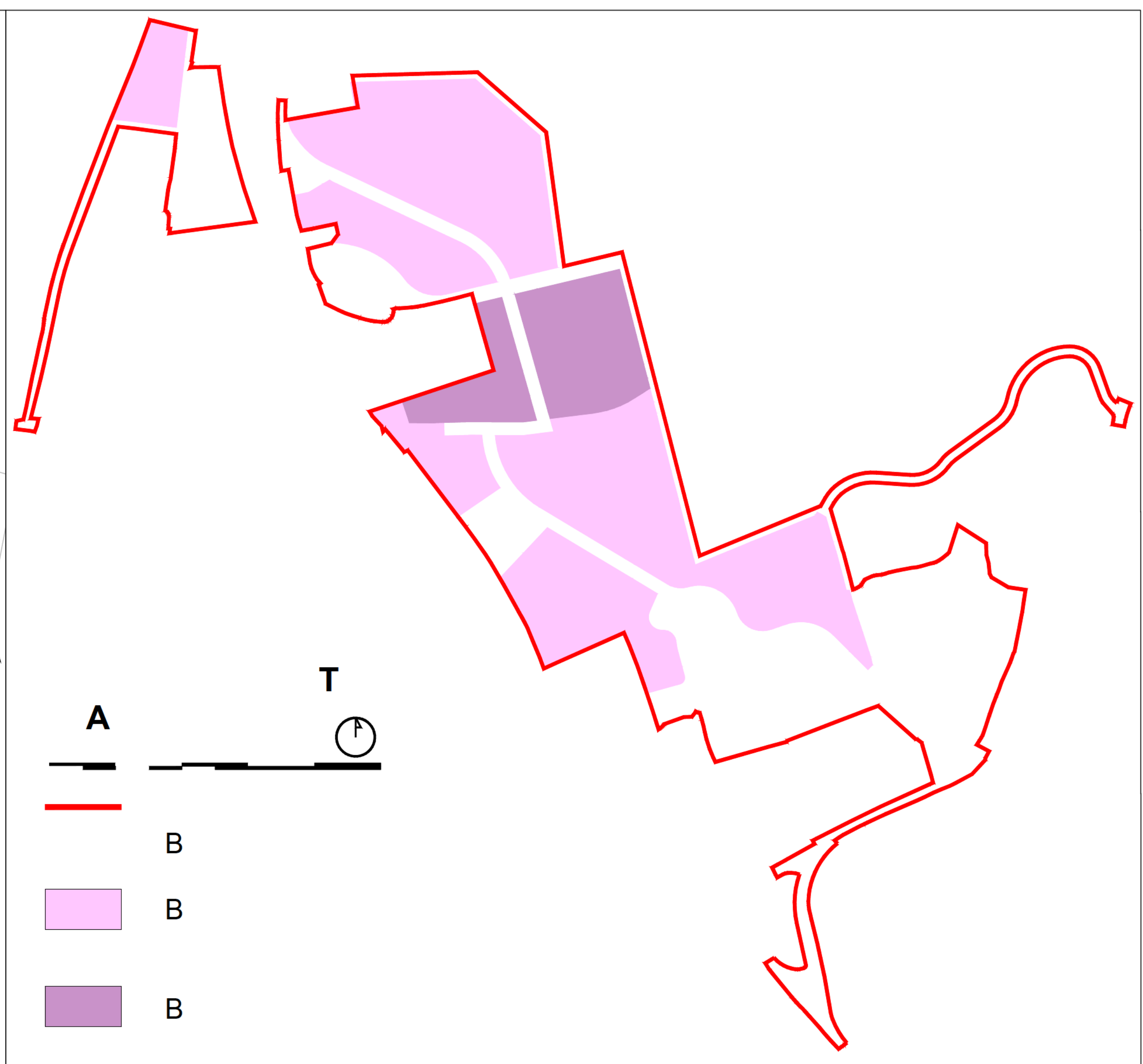
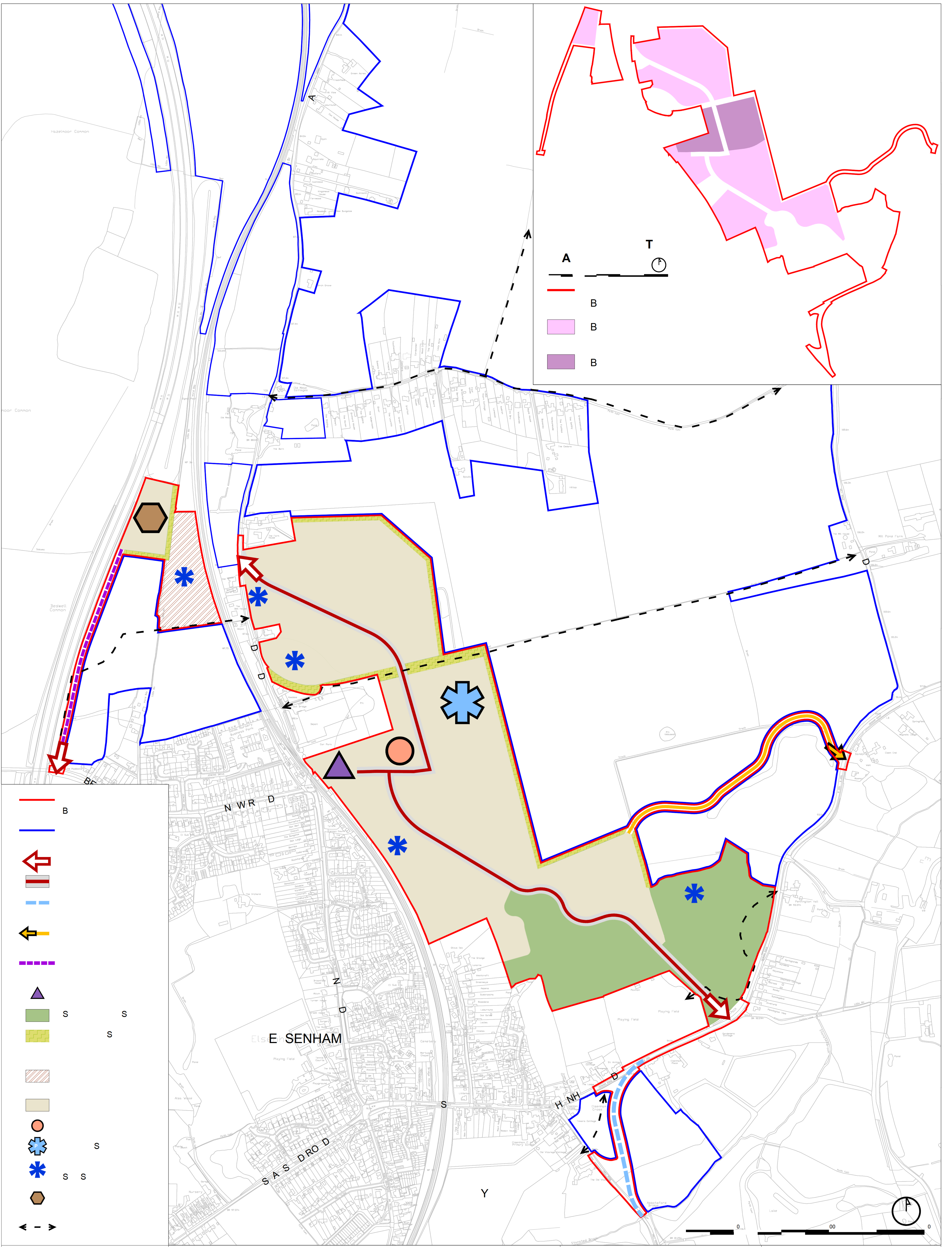
continue to be afforded great weight.

- 10.14 The Parish Council does not consider that the current proposals provide a justification for a departure from the policies of the Local Plan, or that they are of such a scale and significance that they outweigh the harm to the character and appearance of the area, the acknowledged harm to an important heritage asset to which is attached great weight and the locational unsustainability of the development which does not provide adequately for all future occupiers. If no suitable s.106 is produced then the Parish Council considers that the harm would be considerably greater, and the outcome the same.
- 10.15 The Parish Council therefore requests that planning permission for the application is refused.

APPENDIX 1

Location plan of 2014 Fairfield Appeal site

APP/C1570/A/14/2219018



Land North-East of Elsenham
PARAMETER PLAN



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APPENDIX 2

Secretary of State Decision dated 25 August 2016

Fairfield Appeal

APP/C1570/A/14/2219018



Department for
Communities and
Local Government

Mr Philip Copsey
David Lock Associates Ltd
50 North Thirteenth Street
Central Milton Keynes
MK9 3BP

Our Ref: APP/C1570/A/14/2219018
Your Ref: ffp014/hj

25 August 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY FAIRFIELD (ELSENHAM) LIMITED ON LAND NORTH EAST OF
ELSENHAM, ESSEX APPLICATION REFERENCE UTT/13/0808/OP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr David Nicholson RIBA IHBC, who held an inquiry on 23-6, 30 September, 1-2, 7-10 and 21-22 October and 23 November 2014 into your client's appeal against a decision of Uttlesford District Council ('the Council') on 26 November 2013 to refuse outline planning permission for application ref: UTT/13/0808/OP, dated 27 March 2013.
2. The development proposed is outline planning permission up to 800 dwellings including uses in Class C3; up to 0.5ha of Class B employment floorspace within Use Class B1a office and B1c light industry; up to 1,400 sq m of retail uses (Class A1/A2/A4/A5); one primary school incorporating early years provision (Class D1); up to 640 sq m of health centre use (Class D1); up to 600 sq m of community buildings (Class D1); up to 150 sq m changing rooms (Class D2); provision of interchange facilities including bus stop, taxi waiting area and drop-off area; open spaces and landscaping (including play areas, playing fields, wildlife habitat areas and mitigation measures, nature park, allotments, reinstated hedgerows, formal/informal open space, ancillary maintenance sheds); access roads including access points to B1051 Henham Road and Old Mead Road, a construction access and haul route from B1051 Henham Road, a waste water treatment works access from Bedwell Road, and provision of link road at Elsenham Cross between the B1051 Henham Road and Hall Road with associated street lighting and street furniture; pedestrian, cycle, vehicle and bus routes including streets, squares, lanes and footpaths along with bus stops with associated street lighting and street furniture; provision and/or upgrade/diversion of services including water, sewerage, telecommunications, electricity and gas and related service media, and apparatus including pumping stations, substations and pressure regulators; on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps; drainage works including a waste water treatment works, sustainable urban drainage systems and ground and surface water attenuation

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features; demolition of all existing buildings; associated ground works; and boundary treatments including construction hoardings on land north east of Elsenham, Essex, in accordance with application ref: UTT/13/0808/OP, dated 27 March 2013.

3. On 19 February 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of 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

4. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

5. After the Inquiry, the Inspector, at the emerging Local Plan examination in public ("LP Inspector"), issued a summary on 3 December 2014 followed by a more detailed statement dated 19 December 2014. The Inspector drew the parties' attention to this and asked for any further representations (IR 1.9). The Inspector summarises the LP Inspector's conclusions at IR 3.8-3.21 and the parties' additional representations are summarised by the Inspector at the end of each of their cases. The Secretary of State has carefully considered the LP's Inspector's conclusions and the parties' representations in reaching his decision. As the letter, and the Council's responses, were copied to the parties, the Secretary of State does not consider it necessary to circulate the correspondence, or reproduce it here.
6. The Inspector records at IR 1.10 that he asked for further representations from the parties following the publication of the 2012- based Household Projections: England, 2012-2037 on 27 February 2015 and summarised the parties' responses at the end of each party's case. The Secretary of State has taken into account these matters in reaching his decision.
7. The Secretary of State notes that the Council elected not to present evidence relating to its reasons for refusing the application (IR1.7). The Secretary of State has had regard to this, but agrees with the Inspector that it does not alter the merits or otherwise of this appeal. The Secretary of State agrees with the Inspector that the Council's answers to the questions raised by LS provide background information but have not contributed to his decision (IR 1.7).
8. Following the close of the inquiry, on 19 October 2015, the Secretary of State wrote to the Council seeking further information for the purposes of his consideration of the appeal. This matter was: the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project, or provide for the funding or provision of that type of infrastructure for which the Council is seeking an obligation in relation to these appeal proposals. The Council responded on 5 November 2015. Thereafter, the Secretary of State sought further clarification from the Council on whether the s106 agreements were in draft; and why it is considered that the education contributions amount to self-contained infrastructure projects. The

Council responded on 8 December 2015. In reaching his decision on this appeal, the Secretary of State has taken account on this correspondence.

9. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of the appeal (IR1.11). The Secretary of State notes that the ES was the subject of full consultation, that no objections or concerns were raised with regard to its adequacy at the opening of the inquiry, but that questions were later raised by the Joint Parish Councils Steering Group that there could be flaws in its methodology (IR10.24). The Secretary of State agrees with the Inspector at IR15.1, and is satisfied that the ES and the further information submitted at the inquiry complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.
10. On 9 May 2016 the Secretary of State wrote to the parties seeking their views on the implications, if any, of the Court of appeal judgment in the cases of *Suffolk District Council v Hopkins Homes Ltd* and *Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government* [2016] EWCA Civ 168.
11. Comments were also invited on :
 - i. Any changes since the inquiry in respect of the development plan;
 - ii. Any changes since the inquiry in respect of the emerging Local Plan and emerging Neighbourhood Plan;
 - iii. The current position regarding the 5 year supply of deliverable housing sites in the area; and
 - iv. Any other material change in circumstances, fact or policy, that may have arisen since the inquiry and which the parties consider to be material to the Secretary of State's consideration of the appeal.
12. Responses were received from the Council, Barton Wilmore (on behalf of Land Securities, David Lock Associates (on behalf of Fairfield, (Elsenham), Great Dunmow Town Council and Gardner Planning on behalf of the Joint Parish Council Steering Group. They were then copied to the parties for further comment. Further comment was received from David Lock Associates, the Council, Great Dunmow Town Council and Gardner Planning. The Secretary of State has taken the representations into account in reaching his decision. As the above correspondence was copied to the parties, the Secretary of State does not consider it necessary to re-circulate the correspondence, or reproduce it here.
13. Correspondence received following the close of the inquiry is set out at Annex A. Copies of this correspondence are available on written request to the address at the foot of the first page of this letter.

Policy considerations

14. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the saved policies of the Uttlesford Local Plan 2005 (LP); the Waste Local Plan; and the Essex Minerals Local Plan 2014.

15. The Council submitted its new local plan, the Uttlesford Local Plan, on 4 July 2014 for independent examination. At the Hearing session on 3 December 2014, the LP Inspector summarised the conclusions that he had reached about the soundness of the emerging LP and cancelled further hearings. On 19 December 2014, the LP Inspector published his further conclusions. Following consideration of these conclusions, the Council withdrew the emerging draft LP on 21 January 2015 and work has commenced on a revised LP. The emerging Local Plan is currently at its Regulation 18 Research and Consultation Stage, and is due to be adopted in December 2017. The Council is currently preparing its Strategic Land Availability Assessment and has published its draft assessment of sites. The Secretary of State notes that the developer has stated that an area of search included land north east of Elsenham.
16. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (“the Framework”), the associated planning practice guidance (“the Guidance”) and the Community Infrastructure Levy (“CIL”) regulations 2010 as amended.

Main considerations

17. The Secretary of State agrees that the main material considerations in this case are those set out by the Inspector at IR15.2 and 15.4.

Five year housing land supply

Objectively Assessed Needs (OAN)

18. Having given very careful consideration to the Inspector’s analysis of OAN and housing requirement Housing Land Supply (HLS) at IR 15.5-11, the Secretary of State agrees with the Inspector that the figure of 523 dwellings per annum (dpa), which was for the period until 2011, is now out of date (IR 15.6).
19. The emerging LP inspector concluded that it would be reasonable and proportionate to make an upward adjustment to the OAN for housing in the draft LP by around 10% to about 580 dpa. The Secretary of State notes that the Strategic Housing Market Assessment (SHMA) dated September 2015 found an OAN of 568 dpa. However, he notes that this has not been tested, and that objections have been raised to its approach. He also notes representations on the issue of unmet need in the wider Housing Market Area (HMA) needing to be accommodated in Uttlesford; on the impact of London migration, and on the impact of employment at Stansted Airport. However, he considers that these issues were dealt with adequately by the Local Plan Inspector. He agrees for the reasons given by the Inspector that there is no reason to find that the LP Inspector’s assessment of OAN and housing requirement HLS is not reasonable or robust and the best available (IR 15.10-11). Although the figure of 580 dpa has not been tested at a Local Plan Examination and further work needs to be undertaken by the Council in respect of the appropriate increase to be applied, the Secretary of State considers that the LP Inspector had before him evidence from the Council and other interested parties on OAN, on which he was able to base his conclusions on this matter. As such, despite the appellants’ concerns, the Secretary of State considers that, for the time being, it would be reasonable to accept that the figure of 580 dpa is representative of the OAN in the District and he has accepted it as the best available for the purposes of determining this appeal. He considers that this is proportionate and would reflect market signals. He therefore does not consider that the 675 dpa

proposed by Barton Wilmore, or the 704 figure proposed by Land Securities, are necessary or realistically deliverable.

Backlog/shortfall

20. The Secretary of State has carefully considered the Inspector's analysis of the shortfall at IR 15.12-15.14, the representations received following the close on the inquiry and the LP Inspector's conclusions on the issue in the statement dated 19 December 2014. The Secretary of State agrees for the reasons given by the Inspector that the shortfall should be made up over the next 5 years (IR 15.14) and that there is no reason to depart from the LP Inspector's conclusion on the extent of any shortfall, namely that there is no requirement to add to the OAN to cater for any shortfall calculated against years preceding the 2011 base-year of the plan.

Buffer

21. Having carefully considered the Inspector's analysis of the appropriate buffer at IR 15.15-15.18, and the representations received following the closure of the inquiry, the Secretary of State agrees with the LP Inspector's conclusions in his statement dated 19 December 2014 that housing delivery performance over the past 13 years has not fallen significantly below appropriate targets for the years and, therefore, the buffer does not need to be increased beyond the 'standard' 5%. He has noted the representations stating that a 20% buffer is appropriate. While noting the representations that the adopted LP targets are the correct target figures to adopt, he considers that the appropriate benchmark is the annual figure contained in the Regional Spatial Strategy (RSS) (2008), as before that there were global figures. He considers that while there has been some underdelivery in recent years, delivery has not fallen significantly below appropriate targets for the years in question. He notes that cumulatively targets have been missed only in the last two years. He notes that 554 dwellings have been delivered, and considers that a shortfall of 36 dwellings does not demonstrate underdelivery to the extent that a 20% buffer is necessary, in particular considering the peaks and troughs of the housing market cycle. As he does not find consistent underdelivery, the Secretary of State concludes that a 5% buffer is appropriate.

Affordable housing

22. The Secretary of State agrees with the Inspector, for the reasons given at IR15.19-20 that a shortfall in affordable housing should not mean that a substantially greater target should be set for overall housing need or for establishing whether or not the Council has a 5 year HLS. He concludes that neither the Framework nor the PPG suggest that the affordable housing needs need to be met in full in the OAN, on the grounds that this may produce a figure which has not prospect of being delivered in practice. However, he further agrees with the Inspector at IR15.21 that the benefits of affordable housing weigh heavily regardless of whether or not the Council can demonstrate a 5 year HLS.

Employment

23. For the reasons given by the Inspector at IR15.22 the Secretary of State agrees that employment should carry limited weight in assessing the housing requirement.

Windfalls

24. The LP inspector concluded that the Council's evidence on windfall allowance, at 50dpa, was reliably based upon well-evidenced research and consistent with paragraph 48 of the Framework. The Secretary of State agrees with the Inspector for the reasons given at IR15.23, that the LP Inspector's figure of 50 dpa is as reliable as any.

Lapse rate

25. The appellants consider that a lapse rate of 10% should be applied. The LP Inspector concluded that there was no local or contemporary evidence which would justify the application of a standard lapse rate. The Secretary of State has considered the representations received following the close of the inquiry, and concludes that the position has not changed. The Secretary of State agrees with the Inspector at IR15.24, and considers that there is no evidence to justify a general allowance, or lapse rate, for non delivery.

Class C2 Uses

26. The Secretary of State concludes that 103 class C2 units should be deleted from the supply side when assessing HLS, for the reasons given by the Inspector at IR15.26, and noting the developments at land west of Station Road, Elsenham Land south of Radwinter Road, Saffron Walden, and Former Willis and Gambier, Saffron Walden.

Delivery

27. The LP Inspector concluded that the Council's housing trajectory provides a generally sound view of the years during which deliverable land can be brought forward over the plan period, while the high level of potential completions shown in years 3-5 reflects a generally healthy current land-supply situation, with deliverable sites of various sizes controlled by a wide range of house builders across a good range of locations. The Secretary of State agrees with the Inspector for the reasons given at IR 15.26 that there is no reason to take a different view on delivery from the LP Inspector.

Conclusions on five year HLS

28. For the reasons given at IR15.27, and in paragraphs 18-27 above, the Secretary of State agrees with the Inspector that an OAN of 523 dpa is reasonable, and a balanced uplift of 10% to 580 dpa produces a robust figure. He finds no record of persistent underdelivery, and thus agrees with the Inspector that a buffer of 5% is adequate, and that there is no reason to increase this figure just to meet aspirations for affordable housing, for the reasons given at paragraph 22. He agrees with the Inspector that the level of 50 set for windfalls is appropriate and that there is no need for a lapse rate. He agrees with the Inspector that Class C2 Uses should not have been excluded and an allowance should be made for these, and thus deletes 103 dwellings from the supply figure. The Secretary of State notes that 2015 Housing Trajectory and 5-Year Land Supply republished in November 2015 sets out the most up to date figures relating to the supply of housing in the district, and that this shows a total supply of some 3530, prior to the deletion of C2 uses. The Secretary of State has carefully considered representations on behalf of Fairfield (Elsenham) Ltd stating that in an oral officer report of 9 June 2016 to the Council's Planning Policy Working Group a HLS figure of 4.96 years was given. However, the Secretary of State concludes that as the five year land supply statement figure has not been finalised, the Uttlesford District Council Housing Trajectory and Statement of 5 year Land Supply November 15 is the latest

finalised position. He thus concludes that, the Council can demonstrate a 5 year HLS. He further agrees with the Inspector that taking account of the 2012 household projections adds more weight to the robustness of this figure.

29. As such the Secretary of State agrees with the Inspector that the LP Inspector's conclusion that the Council could demonstrate a generally healthy current land supply situation is consistent with the conclusion that the Council can demonstrate a 5 year HLS (IR 15.28). He further notes the Inspector's comments at IR15.29 that it is unlikely that allowing this appeal would deliver many houses within 5 years and that the Council now prefers smaller sites on account of their faster delivery.

Conclusions on NPPF14

30. The Secretary of State agrees with the Inspector that the presumption in paragraph 14, second bullet point, second strand, of the Framework applies to any relevant policies which are out of date (IR 15.30). For the reasons given at IR15.30, the Secretary of State agrees with the Inspector that LP policies H1 and H2 are out of date. The Secretary of State agrees with the Inspector, for the reasons given at IR15.31 that LP policies S1 and S3 are out of date, and limited weight should be given to conflict with the development limits in these policies.
31. The Secretary of State agrees with the Inspector for the reasons given that only limited weight should be given to LP policies H1, H3, S1 and S3 (IR15.35). The Secretary of State has considered the Inspector's conclusions on Policy S7 at IR15.32. However, he disagrees, as he considers that the policy aim of LP Policy S7, to protect the countryside, is consistent with the fifth bullet of Paragraph 17 of the Framework, that indicates the intrinsic character and beauty of the countryside should be recognised, while supporting thriving communities within it. He therefore attaches significant weight to this.

The effect of the proposals on:

(a) Prematurity

32. The Secretary of State agrees with the Inspector at IR15.66, that as the emerging LP has been withdrawn it can no longer be considered as at an advanced stage and so there is no justification for dismissing the appeal on the grounds of prematurity.

(b) Character and appearance

33. For the reasons set out by the Inspector at IR15.67-68, the Secretary of State concludes, in agreement with the Inspector at IR15.69, that the development would cause harm to both the landscape and to views across it, and would do so over a lengthy construction period contrary to LP Policy S7. He also agrees with the Inspector that limited weight should be given to the conflict with policies S1 and S3 (IR 15.69).

(c) Best and Most Versatile (BMV) agricultural land

34. The Secretary of State agrees with the Inspector for the reasons given at IR 15.70 that the loss of BMV land caused by the development would be contrary to LP policy ENV5 and this weighs against the proposal. He gives limited weight to harm through the loss of BMV agricultural land and to conflict with LP Policy ENV5 as there are no substantial areas of lower grade land close to existing settlements in Uttlesford.

(d) Transport sustainability/accessibility

35. The Secretary of State has carefully considered the Inspector's analysis at IR15.71-76, and conclusion at IR 15.94 and agrees with the Inspector for the reasons given that even a 10% modal shift, if achieved, would still involve a significant increase in traffic on local roads (IR 15.94).

(e) Traffic impacts/free flow of traffic

36. The Secretary of State has carefully considered the Inspector's analysis of traffic impacts/free flow of traffic (IR 15.78-15.92), conclusions on journey times (IR 15.93) and conclusions on highways strategy (IR 15.94-15.99). The Secretary of State agrees with the Inspector for the reasons given that while the impact on Stansted Mountfitchet would be significantly less than the LP Inspector anticipated, for similar reasons, it would still be substantial (IR15.96).

37. The Secretary of State has carefully considered the Inspector's analysis of the benefits of public transport improvements (IR15.97-98). The Secretary of State agrees with the Inspector that the likely extent of shift in traffic from Stansted Road to Hall Road does not show that significant impact on Stansted Mountfitchet would be averted. He agrees with the Inspector that the probability is that this would amount to substantial harm. However, he agrees with the Inspector that as there would probably be a useful modal shift and as there is limited evidence of increased risk to highway safety that the residual cumulative impacts on sustainable transport modes, highway safety, and the transport network when taken as a whole would not reach the threshold of severe such that the development should be prevented on transport grounds alone (IR15.98).

38. The Secretary of State agrees with the Inspector at IR15.99 that even if the increase in congestion would not amount to a severe impact, it remains the case that the scheme would bring significant volumes of additional traffic to a village at a significant distance from employment and services. The Secretary of State further agrees with the Inspector that it is unlikely that traffic could be accommodated on the surrounding roads, contrary to LP Policy GEN1, and that this weighs heavily against the scheme (IR 15.99).

(f) Countryside Protection Zone (CPZ)

39. The Secretary of State agrees with the Inspector, for the reasons given (IR15.100), that there is no evidence that the scheme would result in harm to the characteristics of the CPZ, and that thus there would be no conflict with LP Policy S8.

Design

40. The Secretary of State has carefully considered the Inspector's analysis of design at IR15.101-102. The Secretary of State agrees with the Inspector for the reasons given that overall and bearing in mind the outline nature of the proposals only modest weight should attach to the benefits of good design, which would accord with LP policy GEN2 and paragraphs 56, 59 and 61 of the Framework.

Benefits

41. The Secretary of State has given careful consideration to the Inspector's analysis of benefits at IR15.103. The Secretary of State concludes, in agreement with the

Inspector, that the provision of affordable housing would be of substantial benefit, even though he concludes that the Council can demonstrate a 5 year HLS. He agrees with the Inspector that the weight to be attached to the benefit of the provision of market housing should be reduced, given the 5 year HLS, and further reduced because the benefits to increased housing within 5 years will be less, for the reasons given by the Inspector at IR15.103. He also attaches moderate weight to the economic benefits of the scheme, through both construction and by increasing the number of residents of the area.

Sustainable development

42. The Secretary of State agrees with the Inspector's analysis of the three dimensions of sustainable development in Paragraph 7 of the Framework at IR15.105-6.

Conditions and Obligations

43. The Secretary of State has considered the Inspector's comments at IR13 and IR13.5-6 on planning conditions and the schedule of conditions he recommends at Appendix C of his report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal.

44. The Secretary of State has carefully considered the s106 agreement, the Inspector's analysis at IR14.1-14.2 and IR 14.6-14.7, national policy set out at paragraphs 203-205 of the Framework, the relevant PPG, and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

45. The Secretary of State agrees with the Inspector for the reasons given that the covenants and obligations within the s106 agreement comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.

46. The Secretary of State observes that the date of the planning obligation and the date of the Inspector's Report both pre-date the commencement of CIL regulation 123 (as amended). On 19 October 2015 the Secretary of State wrote to the Council to clarify that the proposed planning obligations conform with the CIL Regulations 2010, Regulation 123(3) as amended, concerning limitations on the use of planning obligations in the determination of planning applications and appeals.

47. Regulation 123(3) falls to be considered in relation to primary education provision at Elsenham. The Council advise that the scheme provides for a site on the development site for a primary school and to provide a financial contribution which will ensure that a new primary school is constructed. Therefore, the Council consider that this is a standalone infrastructure project and confirm that the use of pooled contributions would not be required with other contributions already secured for the area being used to deliver an extension to the existing primary school which is not on the appeal site. Having carefully considered the evidence and the Council's responses on this issue, the Secretary of State agrees with the Council for the reasons given in their responses and considers that they are contributions for site specific projects.

48. However, the Secretary of State does not consider that the s106 agreement overcomes his reasons for deciding that the appeal should be dismissed for reasons which are unrelated to the adequacy of the section 106 obligations, as set out in this decision letter.

Balance

49. The Secretary of State agrees with the Inspector's analysis of the planning balance at IR 15.104.

Overall Balance and Conclusions

50. In deciding this appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Secretary of State agrees with the Inspector's conclusions on the development plan at IR 15.107. Having regard to these and to all other relevant matters, the Secretary of State concludes that the proposal does not comply with the development plan as a whole because of the identified conflict with LP policies S7 and ENV5. The Secretary of State has then gone on to consider whether there are any material considerations that would justify deciding the case other than in accordance with the development plan.

51. The Secretary of State agrees with the Inspector that the LP housing policies written to apply until 2011 are now out of date (IR 15.108). He agrees with the Inspector that the LP policies which refer to development limits and boundaries, such as policies S1 and S3, are in conflict with the Framework and should be given limited weight (IR 15.108). He agrees with the Inspector that other saved LP policies should be afforded weight in line with Paragraph 215 Framework (IR 15.108), and he affords them moderate weight given their partial consistency with the Framework.

52. The Secretary of State has carefully considered the Inspector's overall conclusions (IR 15.108-15.112.) He agrees with the Inspector and gives substantial weight to the provision of affordable housing (IR15.110). He agrees with the Inspector that the provision of market housing would have attracted significant weight, but he reduces this to modest weight as he has concluded that the Council have established a 5 year HLS, and because only a proportion of the housing will be completed in the first five years (IR 15.110). He agrees with the Inspector and attaches moderate weight to the economic benefits offered by the proposal and limited weight to the potential for good design (IR15.108). Against this, the Secretary of State weighs the harm to the character and appearance of the countryside, to which he attributes limited weight. He agrees with the Inspector and gives limited weight to the loss of BMV agricultural land (IR 15.110). The Secretary of State agrees with the Inspector that the substantial impact on the surrounding road network weighs heavily against the proposal (IR15.111). He gives significant weight to the conflict with Policy S7, and further limited weight to the conflict with Policy ENV5.

53. The Secretary of State concludes, in agreement with the Inspector (IR15.111) that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (IR 15.111) and as such the proposal does not amount to sustainable development. The Secretary of State therefore concludes that the appeal should fail.

Formal Decision

54. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses the appeal and refuses planning permission for up to 800 dwellings including uses in Class C3; up to 0.5ha of Class B employment floorspace within Use Class B1a office and B1c light industry; up to 1,400

sq m of retail uses (Class A1/A2/A4/A5); one primary school incorporating early years provision (Class D1); up to 640 sq m of health centre use (Class D1); up to 600 sq m of community buildings (Class D1); up to 150 sq m changing rooms (Class D2); provision of interchange facilities including bus stop, taxi waiting area and drop-off area; open spaces and landscaping (including play areas, playing fields, wildlife habitat areas and mitigation measures, nature park, allotments, reinstated hedgerows, formal/informal open space, ancillary maintenance sheds); access roads including access points to B1051 Henham Road and Old Mead Road, a construction access and haul route from B1051 Henham Road, a waste water treatment works access from Bedwell Road, and provision of link road at Elsenham Cross between the B1051 Henham Road and Hall Road with associated street lighting and street furniture; pedestrian, cycle, vehicle and bus routes including streets, squares, lanes and footpaths along with bus stops with associated street lighting and street furniture; provision and/or upgrade/diversion of services including water, sewerage, telecommunications, electricity and gas and related service media, and apparatus including pumping stations, substations and pressure regulators; on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps; drainage works including a waste water treatment works, sustainable urban drainage systems and ground and surface water attenuation features; demolition of all existing buildings; associated ground works; and boundary treatments including construction hoardings on land north east of Elsenham, Essex.

Right to challenge the decision

55. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

56. A copy of this letter has been sent to Uttlesford District Council. Notification has been sent to all other parties who asked to be informed of the appeal decision.

Yours faithfully

Philip Barber

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A

Correspondent	Date
Sir Alan Haselhurst MP	17 November 14
David Lock Associates	12 December 14
David Lock Associates	16 January 15
Barton Willmore	13 March 15
David Lock Associates	23 March 15
Andrew Taylor Uttlesford DC	5 November 15
Harry Jones, David Lock Associates	16 May 16
Hutchinson's on behalf of UDC	June 16
Geoff Gardner, Gardner Planning	20 June 16
Robin Meakins, Barton Willmore	21 June 16
Philip Copsey, David Lock Associates	21 June 16
David Wood, Hogan Lovells	22 June 16
Clerk to Great Dunmow Town Council	27 June 16
Geoff Gardner, Gardner Planning	30 June 16
Philip Copsey, David Lock Associates	1 July 16
Caroline Fuller, Great Dunmow Town Council	1 July 16

Report to the Secretary of State for Communities and Local Government

by David Nicholson RIBA IHBC

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

Date: 18 May 2015

TOWN AND COUNTRY PLANNING ACT 1990

UTTLESFORD DISTRICT COUNCIL

APPEALS MADE BY

L S EASTON PARK INVESTMENTS LIMITED

FAIRFIELD (ELSENHAM) LIMITED

Inquiry held on 23-26, 30 September, 1-2, 7-10 and 21-22 October and 23 November 2014

Land west of Great Dunmow, Essex
Land north east of Elsenham, Essex

File Refs: APP/C1570/A/14/2213025 and APP/C1570/A/14/2219018

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GLOSSARY

BMV	best and most versatile (agricultural land)
CD	Core document
DAS	Design and Access Statement
CLG	Communities and Local Government
dpa	dwellings per annum
EIA	Environmental Impact Assessment
EiP	Examination in Public
ES	Environmental Statements
ECC	Essex County Council
HA	Highways Agency
HLS	Housing Land Supply
IC	Examination in chief
LP	Uttlesford Local Plan
LPA	Local Planning Authority
LS	Land Securities – L S Easton Park Investments Limited (Appeal A appellant)
LVIA	landscape and visual impact assessment
MEMP	Mitigation, Enhancement and Management Plan
NPPF	National Planning Policy Framework
ONS	Office for National Statistics
POS	Public open space
RfR	Reason for Refusal
ReX	Re-examination
RS	Regional Strategy
S106	Section 106 of the Town and Country Planning Act 1990
S278	Section 278 of the Highways Act 1980
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SP	2001 Essex Structure Plan
SPG	Supplementary Planning Guidance
TFP	Fairfield (Elsenham) Limited – The Fairfield Partnership
UDC	Uttlesford District Council
XX	cross-examination

Appeal A: APP/C1570/A/14/2213025

Land west of Great Dunmow, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by L S Easton Park Investments Limited against the decision of Uttlesford District Council.
- The application Ref UTT/13/1043/OP, dated 19 April 2013, was refused by notice dated 1 August 2013.
- The development proposed is outline planning application with the details of access within the site, appearance, landscaping, layout, and scale reserved for later determination, and with details of the access external to the site submitted for approval. Development to comprise: between 600 and 700 dwellings (Use Class C3); up to 19,300 sq m gross of additional development (including the change of use of existing buildings on site where these are retained) for Use Classes: A1, A2, A3, A4, A5 (retail); B1(a)(offices); C2 (residential institutions – care home); D1, D2 (leisure and community uses); car parking; energy centre; and for the laying out of the buildings, routes, open spaces and public realm and landscaping within the development; and all associated works and operations including but not limited to: demolition; earthworks; and engineering operations. All development, works and operations to be in accordance with the Development Parameters.

Summary of Recommendation: the appeal should be dismissed

Appeal B: APP/C1570/A/14/2219018

Land north east of Elsenham, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Fairfield (Elsenham) Ltd against the decision of Uttlesford District Council.
- The application Ref UTT/13/0808/OP, dated 27 March 2013, was refused by notice dated 26 November 2013.
- The development proposed is outline planning permission for: up to 800 dwellings including uses in Class C3; up to 0.5ha of Class B employment floorspace within Use Class B1a office and B1c light industry; up to 1,400 sq m of retail uses (Class A1/A2/A4/A5); one primary school incorporating early years provision (Class D1); up to 640 sq m of health centre use (Class D1); up to 600 sq m of community buildings (Class D1); up to 150 sq m changing rooms (Class D2); provision of interchange facilities including bus stop, taxi waiting area and drop-off area; open spaces and landscaping (including play areas, playing fields, wildlife habitat areas and mitigation measures, nature park, allotments, reinstated hedgerows, formal/informal open space, ancillary maintenance sheds); access roads including access points to B1051 Henham Road and Old Mead Road, a construction access and haul route from B1051 Henham Road, a waste water treatment works access from Bedwell Road, and provision of link road at Elsenham Cross between the B1051 Henham Road and Hall Road with associated street lighting and street furniture; pedestrian, cycle, vehicle and bus routes including streets, squares, lanes and footpaths along with bus stops with associated street lighting and street furniture; provision and/or upgrade/diversion of services including water, sewerage, telecommunications, electricity and gas and related service media, and apparatus including pumping stations, substations and pressure regulators; on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps; drainage works including a waste water treatment works, sustainable urban drainage systems and ground and surface water attenuation features; demolition of all existing buildings; associated ground works; and boundary treatments including construction hoardings.

Summary of Recommendation: the appeal should be dismissed

1. Procedural Matters

- 1.1 The Inquiry sat for 14 days on 23-26 and 30 September, 1-2, 7-10 and 21-22 October and 23 November 2014. I conducted extensive accompanied site visits on 3 and 22 October 2014 and carried out unaccompanied site visits before, during and after the Inquiry.
- 1.2 Determination of the appeals was recovered by the Secretary of State by way of directions¹. The reasons given for the recovery were that the appeals involve proposals for residential development of over 150 units or on sites of over 5 hectares (ha), which would significantly impact on the Government's objectives to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
- 1.3 As well as the appellants, Land Securities (LS) and The Fairfield Partnership (TFP), and Uttlesford District Council (UDC), Rule 6(6) status was granted to the Parish Councils of Great Dunmow Town Council, Little Easton Parish Council, Great Easton & Tilty Parish Council, and Broxted Parish Council with regard to Appeal A (PCsA); and to the Joint Parish Councils Steering Group (Henham, Elsenham, Ugley and Stansted Parish Councils) for Appeal B (PCsB).
- 1.4 The applications to which both appeals A and B relate were made in outline form except for access. All other matters (appearance, landscaping, layout and scale) were reserved. Design and Access Statements (DASs) were also submitted.
- 1.5 The application to which Appeal A relates was refused by the Council for nine reasons². UDC withdrew its objections with regard to ecology, contributions, the adequacy of the Environmental Statement (ES), highway safety and capacity. Following the amended scheme, it also withdrew objections regarding impact on Park Road; the evidence relating to access by non-car modes was altered but not removed.
- 1.6 Amended drawings were submitted for Appeal A showing an additional access to the east of the site onto Woodside Way. The Council and PCsA objected to them being accepted. I sent out a ruling prior to the Inquiry³ having regard to PINS Procedural Guide, Annexe M, and the judgments in *Wheatcroft* and *Breckland*. I found that the amendment would not be for a materially different proposal and that, subject to the Inquiry programme, none of the parties would be prejudiced by its consideration as part of the proposals. I have reached my recommendations on the basis of the amended scheme.
- 1.7 The application which led to Appeal B was refused by the Council for one composite reason. This refers to the development limits in the adopted local plan (LP), the countryside protection zone (CPZ), the character and appearance of this area of the countryside, the loss of a large area of best and most versatile (BMV) agricultural land and traditional open spaces. However, UDC elected not to present any evidence. LS invited the SoS to have regard to

¹ made under Section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990

² See Decision Notices, main files for each appeal

³ Attachment to email dated 13 September 2014

this. I am therefore drawing attention to this matter but make no further comment as it does not alter the merits or otherwise of Appeal B. Accordingly, I did not allow evidence or cross-examination (XX) on this matter but invited LS to submit questions in relation to the Council's decision not to defend Appeal B⁴. The answers provide background information but have not contributed to my recommendations.

- 1.8 Some reasons for refusal for each appeal could be overcome through mitigation measures. Relevant agreements were subsequently reached between each of the appellants, UDC and ECC. The mitigation measures would be secured through conditions and planning obligations by agreement pursuant to section 106 of the Town and Country Planning Act 1990 (s106). Subject to their completion, ECC confirmed that its objections would be withdrawn. The agreements have now been completed, that for Appeal A at the Inquiry⁵, that for Appeal B, with a completed version dated 5 December 2014 received after the close of the inquiry. I deal with the contents of these below.
- 1.9 After the Inquiry, the Inspector at the emerging Local Plan examination in public (EiP) issued a summary followed by a more detailed statement⁶. I drew the parties' attention to this and asked for any further representations. I summarise the LP Inspector's conclusions in s3 below and the additional comments for each party at the end of each of their cases.
- 1.10 I also asked for comments⁷ following the government's 2012-based Household Projections: England 2012-2037 published on 27 February 2015. I summarise the responses at the end of each party's case.
- 1.11 Appeal proposals A and B are both developments which require an Environmental Impact Assessment (EIA). An ES was submitted with each application in accordance with the Town and Country Planning (EIA) (England and Wales) Regulations 1999 (The Regulations). Correspondence with UDC confirms the scoping and publicity. Both include a non-technical summary. Under The Regulations, planning permission cannot be granted for EIA development unless the environmental information has been taken into account. This includes not only the ES but also the written and oral evidence to the Inquiry. An ES for the recently amended Appeal A was the subject of full consultation. In response to my question in opening, there were no objections or concerns raised with regard to the adequacy of the ESs although there were later claims (see below) that there could be flaws.

2. The Sites and Surroundings

General

- 2.1 Uttlesford is a large rural district⁸. Most of it is higher grade agricultural land⁹. The M11 motorway runs north-south along its western side and close to its

⁴ at ID1, ID14a, b and c

⁵ ID57 dated 20 November 2014

⁶ ID68 and ID69

⁷ See ID71

⁸ For location plans see bundles of drawings at ID10 and ID 32

⁹ Hutchinson in XX by Warren and Meakins p47 para 5.43

largest employer by far, Stansted Airport¹⁰. Its houses are some of the most expensive in the country¹¹. Uttlesford has a higher than the average household car ownership¹².

Appeal A

- 2.2 Great Dunmow, together with Saffron Walden are the two major towns in Uttlesford. The A120 runs east-west from Braintree, past the southern edge of Great Dunmow, to the M11 and Bishop's Stortford. Little Easton lies to the north west of Great Dunmow and contains a number of historic buildings including the Grade I listed church on Park Road.
- 2.3 The appeal site lies west of the recently completed Woodside Way, built to bypass the west of the town. To the north stands Little Easton and the site runs alongside Park Road, from which the original access was proposed. To the west is the mineral extraction site of Highwood Quarry. In the south east corner, within the site, is Hoglands Wood; to the south west, beyond the site, is High Wood. Both are ancient woodlands and Sites of Special Scientific Interest (SSSI). Between the two woods, a narrow hedge along the southern boundary adjoins the Great Dunmow Policy Area 1 development site submitted by Barratt Homes Ltd (Eastern Counties) and referred to at the Inquiry as the Barratt's site. Also to the west of Woodlands Way, this enjoys a resolution to permit residential development subject to completion of an s106 agreement.
- 2.4 Most of the appeal site lies within the Central Essex Farmlands, with a small area being within the Chelmer Valley. As such, it straddles the river valley and farmland plateau landscapes and exhibits characteristics of both the irregular field pattern and tranquil character identified in County level and the gently undulating farmland and large open landscape identified at district level¹³. There are good panoramic views from the north and west of the site, including from Easton Lodge gardens, Bigods Hill and around. Most of the land is in agricultural use, comprising medium sized arable fields in an irregular pattern and mature trees stand within the hedges. Some 40ha of the site is classified as Grade 2 or 3a land¹⁴, which counts as best and most versatile (BMV) under the NPPF.
- 2.5 The site contains one group of buildings at Ravens Farm. The site rises steadily from east to west by about 30m Above Ordnance Datum (AOD) to a ridge line north of High Wood to the west of the site. A bridleway runs down the western side of the site from Little Easton to High Wood and on alongside the Barratt's site to the road. The site is crossed by a number of public rights of way including that running east-west from Great Dunmow via Ravens Farm to Little Easton and one running north-south between the Barratt's site and

¹⁰ CDB3 para 4.4.

¹¹ Inquiry Doc 69 paragraph 1.6: Uttlesford is within the top 10% least affordable local authorities, significantly above the ratios for Essex and England

¹² CDE15 page 2 paragraph 1.1: Nationally 26% of households have no car, in Essex 18% have no car, while in Uttlesford only 10% of households are without a car. The number of cars per household is also higher than nationally, with the average number of vehicles per household being 1.2 nationally, 1.4 in Essex and 1.6 in Uttlesford.

¹³ Toyne p7 paras 1.14, 3.36, 3.41 and 6.65, and LVIA submitted with the application

¹⁴ Meakins p47 para 5.44: 40ha BMV out of a total site area of 141ha

High Wood and along the western edge of the site from the B1256 Stortford Road to Little Easton¹⁵. Walking from Great Dunmow to a little below Raven's Farm, I noted that the footpath crosses a stream on the edge of Hoglands Wood, just outside the appeal site, and along the north side of Woodlands Park sectors 1-3 before reaching the entrance to the Helena Romanes School.

- 2.6 The site analysis¹⁶ identifies constraints to development including ecology, flooding and drainage, existing buildings (including listed buildings beyond the site boundary in Little Easton), various utilities, and the proximity to Stansted Airport.

Appeal B

- 2.7 Elsenham is a large village less than 2 miles from the small town of Stansted Mountfitchet and a little further from Stansted Airport. Bishop's Stortford, on the eastern side of East Hertfordshire, is beyond these. The village of Ugley Green lies to the north-west while Henham lies on higher ground to the north east. Elsenham has a railway station. The appeal site adjoins the village directly east of the railway line¹⁷. The connecting points are along Henham Road, reached by the road bridge on the High Street, and Old Mead Road, via the level crossing and a high footbridge. The site mostly comprises large open fields to the east of the railway line extending to some 47ha¹⁸. A smaller area of about 4ha lies to the west. It is currently mostly in agricultural use, for arable and pasture, with paddocks, a former poultry unit, some low level employment and storage use, and part of a former sand pit. It is crossed by four public rights of way¹⁹.
- 2.8 The *Landscape Character of Uttlesford District*²⁰ identifies the appeal site as within the 'Broxted Farmland Plateau' character area of gently undulating farmland on glacial till plateau. The site rises gently from Elsenham in the direction of Henham²¹. It has no existing landscape designation or Tree Preservation Orders. There are public rights of way over footpaths, including the route of an old single track railway called the 'Farmer's Line'²². The appeal site comprises a mix of Grade 2 and Grade 3 land²³ of which the proportion of Grade 3a land, which counts as BMV agricultural land in the Glossary to the NPPF, is uncertain.
- 2.9 As well as Stansted Airport, there are employment opportunities further afield, in London, Harlow and Cambridge, which can be reached by train. There are small shops in Elsenham, near the junction of Station Road, Stansted Road and the High Street. Major shops, including foodstores, are located in Bishop's Stortford and there are secondary schools at Bishop's Stortford and Forest Hall

¹⁵ Toyne see Fig 7.1A: Site Context Plan drawing no 15576/L103 rev C

¹⁶ Revised DAS s3 p40

¹⁷ ES appendix 1.2

¹⁸ See site plan and other bundle of drawings at ID32

¹⁹ See SoCG at ID46 and drawing FFP012-044-800revJ

²⁰ CDD1

²¹ The site and landscape context are extensively described and illustrated in ES chapter 7 and attached drawings (within CDF19-20) and as revised in CDF31-33

²² Ibid LVIA paras 7.4.59-7.4.63 and fig 7.5 to app 7.1

²³ Copsey para 7.45 and appendix PDC/2

School, Stansted Mountfitchet. The latter has existing capacity and would be accessible by a school bus service from Elsenham provided by ECC. There are secondary school provisions at Bishop's Stortford High School and Bishop's Stortford College.

- 2.10 A small part of the site at Elsenham Cross is within the Countryside Protection Zone (CPZ) identified around Stansted Airport. Otherwise the site area is not subject to landscape or nature conservation designations, there are no significant biodiversity or ecological issues, no tree preservation orders, or any heritage or known archaeological remains. There are no listed buildings on the site but is adjacent to listed buildings at Elsenham Station and at Elsenham Cross.
- 2.11 The application indicates that 41% of the agricultural land on the site is grade 2 while the remainder is grade 3. This has not been sub-graded and so the true extent of BMV agricultural land, as defined in the NPPF, is unknown.
- 2.12 The road from Elsenham to Bishop's Stortford is convoluted and restricted by traffic lights and congestion in Stansted Mountfitchet. Hall Road runs south from Elsenham and includes a sharp bend at which a number of accidents have been recorded²⁴ before it loops round Stansted Airport to the A120. Tye Green Road runs directly from Elsenham to the north side of Stansted Airport. The road to Saffron Walden goes via the so called 'toot toot bridge' under the railway. Within the Airport boundary, the private road from Cooper's End roundabout along Thremhall Avenue provides a shortcut from Hall Road to the M11 avoiding Takeley.

3. Planning Policy

- 3.1 The policies of the National Planning Policy Framework (NPPF) and the advice in the government's Planning Practice Guidance (PPG) are particularly relevant.
- 3.2 The Uttlesford Local Plan²⁵ (LP) was adopted in January 2005. Many of its policies were saved²⁶ in December 2007. Of the strategic policies, S1 limits development of the three main urban areas, including Great Dunmow, to the limits defined on the Proposals Map. LP Policy S3 identifies Key Rural Settlements including Elsenham and limits development to their boundaries. The countryside is defined by policy S7 as all those parts beyond the Green Belt which are not within the settlement boundary. It expects the countryside to be protected for its own sake only allowing development which needs to take place there or is appropriate to a rural area. Policy S8 defines the Countryside Protection Zone (CPZ) around Stansted Airport, adding additional control to that in policy S7 if development would promote coalescence or harm its open characteristics.
- 3.3 LP Policy H1 proposes the development of 5052 dwellings for the period 2000 to 2011. Policy H2 - Reserve Housing Provision – identifies an urban extension site to be fully developed before 2011 only if monitoring of housing supply indicates that the total proposed provision of 5052 dwellings between 2000

²⁴ See TA fig 5.3

²⁵ CDA1

²⁶ CDA2

and 2011 is unlikely to be achieved. Policy H3 sets out criteria to be met for new houses within settlement limits. LP paragraph 6.2 notes that the structure plan (SP) requirement for the period 1996 to 2011 was 5,600 homes; that between 1996 and 2000, 980 homes were completed; and that accordingly the LP needed to show how at least 4,620 homes would be provided over the period 2000 to 2011.

- 3.4 The housing targets²⁷ from the regional strategy (RS) were 430 dwellings per annum (dpa) from 2006-2011 and 523 dpa from 2011-2014. The current supply position is set out in the UDC Housing Trajectory and 5 Year Land Supply, dated 1 April 2014²⁸. This listed actual, committed and proposed sites and indicates a higher rate of completions towards the end of the next 5 years than the start.
- 3.5 LP policy GEN1 requires access to the main road network to be capable of safely carrying the traffic generated and that development should encourage movement other than by the private car. Policy GEN2 deals with some aspects of design, delegating others to supplementary planning documents and to the adopted Essex Design Guide. It is silent on other matters now covered in the NPPF.
- 3.6 LP Policy ENV3 does not permit the loss of groups of traditional open spaces, other visually important spaces, trees and fine individual tree specimens unless the need for development would outweigh their amenity value. In aiming to protect agricultural land, policy ENV5 only permits development of the best and most versatile (BMV) agricultural land where previously developed sites, or those within existing development limits, have been assessed, even then expecting developers to use areas of poorer quality unless sustainability considerations suggest otherwise. Policy ENV8 only permits development that would not harm certain landscape elements, including hedgerows and linear tree belts, unless its need would outweigh the importance of such elements to fauna and flora, and mitigation measures would compensate for such harm.
- 3.7 The Council has set out its position with regard to whether saved LP policies are consistent with the NPPF²⁹. With regard to its housing strategy, UDC commissioned work from Edge Analytics³⁰. The Essex Minerals Local Plan was adopted in July 2014; Policy S8 of this seeks to prevent proposals which would unnecessarily sterilise mineral resources or conflict with the effective workings of permitted minerals development.

Draft Local Plan

- 3.8 At the time of my Inquiry, the LPA was preparing a new local plan and a draft of this was submitted to the Secretary of State (SoS) for examination on 4 July 2014. The draft Uttlesford Local Plan – Pre-Submission Consultation document April 2014 (the “draft Local Plan”) included updated policies including a

²⁷ See Hutchinson rebuttal revised table at para 2.32

²⁸ CDC12

²⁹ See CDA4

³⁰ CD14-CD17

presumption in favour of sustainable development and policies directed to meeting housing needs.

- 3.9 Of relevance to these appeals, in his conclusions dated 19 December 2014³¹, the Inspector for the emerging LP made the following observations. First he looked at the requirement that local plans should meet the full objectively assessed needs (OAN) for market and affordable housing in the Housing Market Area as far as consistent with the NPPF. The Phase 6 demographic work by Edge Analytics (Phase 6), while acknowledging the unpredictable nature of migration, saw no need to depart from the current approach by the Office for National Statistics (ONS)³². From the average figures in the Phase 6 work, the requirement for 529 dwellings per annum (dpa) is an appropriately modelled projection.
- 3.10 Next, taking advice from PPG 2a-020, the market signals, including the median price of housing and rental levels, put Uttlesford in the top 10% least affordable local authorities. Homelessness is modest if rising. PPG 2a-029 deals with provision where it could help to deliver affordable housing. This could not be achieved through current policies (even disregarding viability issues). Taking a reasonable and proportionate view, the LP Inspector concluded that it would be appropriate to examine an overall increase of around 10% to about 580 dpa.
- 3.11 Considering economic factors and employment, the evidence did not show that this level of housing provision would hinder economic aspirations. In-migration from London is already reflected in the current assumptions and, pending wider consideration of this, should not be given much weight in assessing Uttlesford's OAN.
- 3.12 Elsenham was regarded in the plan as one of 7 key villages to act as a focus for development in the rural area. Policy 1 allocated 2,100 dwellings on land to its north east. There is no reason in principle why the draft LP should not propose a step change in the size of such a village providing that it would deliver sustainable development. Existing commitments are expected to add some 550 homes to an existing village of around 920 households. Noting the scale of such a development, the EiP therefore examined whether this would be an appropriate location for such expansion.
- 3.13 With regard to sustainable transport modes, Elsenham benefits from its railway station. This offers half-hourly services at peak periods to London and Cambridge with stops including Harlow and Bishop's Stortford. However, passenger use has fallen since the introduction of the Stansted Airport Express and travel by train only accounts for a small minority of total trips. The other aspect of this is that the railway line forms a barrier between the existing village and the allocation site with links limited to the bridge on the High Street towards the south of the village and the level crossing at the northern end. The proposed transport interchange, just east of the crossing, would be constrained by its being closed for oncoming trains for roughly 20 minutes in every hour at peak times and having been the site of fatalities.

³¹ ID69

³² See also ID5 and ID5a

- 3.14 The policy 1 allocation would increase movements considerably while the approach of Network Rail towards the crossing is uncertain. Alternatives include closing the crossing, requiring vehicles to detour via High Street and Henham Road and along the proposed spine road but giving pedestrians and cyclists the option of the challenging footbridge; providing lifts which would have safety concerns especially after dark; or some other solution. However, other possibilities would not be possible if the fixed areas of development in the early phase around the interchange and local centre prevented the opportunity for satisfactory integration.
- 3.15 There is scope to improve the current infrequent bus routes and some local services could be provided viably within the allocation site, albeit that they would only meet a limited range of needs. The advantages of on-site walking and cycling would be reduced by increased traffic on the wider network. However, Elsenham residents have above average car ownership levels so that traffic would be likely to increase significantly on the local road network despite the railway station and potential bus improvements.
- 3.16 The local road network includes the bends and on-street parking on the route to and through Stansted Mountfitchet which cannot be rendered suitable for the level of traffic that would arise from the allocation site. A bypass would be possible, if expensive, and its environmental impacts have not been assessed. Measures to discourage travelling through Stansted Mountfitchet in favour of Hall Road would benefit from a more detailed study. The SoCG agreed before the Hearing Sessions noted that *satisfactory alternatives to reducing congestion between Elsenham and Stansted Mountfitchet and discourage use of more minor routes have yet to be identified.*
- 3.17 The promoter's strategy is to encourage use of the longer route via Hall Road. This has variable widths and a number of tight bends including one accident cluster. It is not clear how feasible a plan to widen this within present highway limits would be. Having travelled the length of the road on several occasions in both directions (at different times of day and in a range of weather conditions) the LP Inspector was not at all convinced that reliance on Hall Road was a sound basis for large scale expansion of the village. The fact that Elsenham lies at some distance from the strategic network embedded within a network of rural roads is a major disadvantage of the policy. While the benefits of public transport improvements would increase with the scale of development, there are severe doubts that Elsenham could overcome its connectivity disadvantages sufficiently for its location to be regarded as able to secure sustainable development.
- 3.18 The conclusions on the wider transport implications of Elsenham policy 1 are of limited relevance other than insofar as Appeal B might be the first phase of the allocation. Concerns included the capacity of J8 M11 and that the plan was not effective with regard to the transport impacts and the capacity of the road network. On the duty to co-operate, UDC had fulfilled its obligations, albeit narrowly. He did not discuss the sustainability appraisal process in any detail other than to note that the requirements should be built into the process transparently from the outset.
- 3.19 With regard to 5 year HLS, the conclusion that there should be an increased OAN would affect any future assessment. The LP Inspector concluded that:

- 3.19.1 housing delivery performance over the past 13 years had not fallen significantly below appropriate targets and that the NPPF buffer need not be increased beyond 5%;
- 3.19.2 there is no evidence to justify a 'lapse rate' for outstanding permissions;
- 3.19.3 the windfall allowance of 50pa is based on well-evidenced research and consistent with NPPF 48;
- 3.19.4 there is no requirement to add any backlog to the OAN against years preceding the 2011 base year³³;
- 3.19.5 the Council's housing trajectory³⁴ *provides a generally sound view of [when] land can be brought forward over the plan period and the high level of completions ... in years 3-5 reflects a generally healthy current land supply situation, even without completions on land to the north east of Elsenham.*
- 3.20 With regard to the employment strategy, there was little if any discernible link between the quantity of housing allocated in the plan period and the number of jobs likely to be created. Turning to the settlement classifications, based broadly on the level of services available at each settlement, in general these were soundly set out.
- 3.21 Overall, the LP Inspector's concerns over the OAN and Elsenham policy 1 led him to be unable to recommend adoption of the plan. The scale of work which the Council would need to undertake to deal with these matters meant that suspension would not be appropriate. He concluded by giving the Council the rather limited choice between continuing the examination, but with the inevitable conclusion that he would not be able to recommend changes which would make the plan sound, or withdrawing it.

4. Planning History

- 4.1 There is no significant relevant planning history for either site. With regard to Appeal A, existing commitments in the area include the Barratt's site with which, in landscape terms the appeal site has many similarities³⁵. The illustrative masterplan for the Barratt's site shows four blocks of housing around a primary school and central hub and open spaces, and accesses to the south and east. This proposal was found to be sustainable development with regard to the three principles in the NPPF³⁶. The Appeal A site is adjacent to an active quarry with extant consent for further extraction. An emerging Neighbourhood Plan is at an early stage and only applies to a narrow margin of the Appeal A site.
- 4.2 The Appeal B site adjoins Elsenham. Of particular relevance are a number of existing permissions for housing development adjoining other parts of the village. These include 51 dwellings at The Orchards, Station Road, up to 130

³³ See *Zurich Assurance Ltd v Winchester City Council & South Downs National Park Authority* [2014] EWHC 758 Admin, particularly paras 69 and 92-104

³⁴ ID69. The LP Inspector referred to figures in document H108 to the LP EiP which, I was told, had the same figures as Hutchinson Table 1 p15

³⁵ Hutchinson in XX

³⁶ See CDG1 paras 10.10-10.14

dwellings on Land West of Hall Road, 155 dwellings on land at Stansted Road, redevelopment for 32 dwellings at Hailes Wood, and up to 165 homes on Land South of Stansted Road, Elsenham³⁷. Overall, existing commitments would add around 550 homes to an existing village of some 920 households. Other proposals include works at Elsenham Quarry, offices and mixed retail at Trisail Gaunt's End³⁸, Elsenham and planning permission for Stansted Airport allowing the operation of the existing runway for up to 35 million passengers per annum (mppa).

- 4.3 The proposals in Appeal B were also identified as an early phase towards the policy 1 allocation in the draft Local Plan. As above, the draft Local Plan has now been withdrawn.

5. The Appeal Proposals

Appeal A

- 5.1 The description for the proposed development is set out in the bullet points above. The scheme would focus on a new local centre, and possible school, and only part of the site area would be used for built development, the remainder to include agriculture and tree planting. A revised Design and Access Statement (DAS) was submitted in July 2014. An Agreed Statement on Transport Issues was reached between Essex County Council as Highways Authority (ECC) and LS³⁹.
- 5.2 The Revised DAS identifies site opportunities⁴⁰ as including the existing landscape containment, the opportunity to enhance this, and the chance to 'round off' the western edge of the town. There would be space for an extensive new tree buffer roughly along the higher contours towards Little Easton. There would be increased possibilities for vehicular and pedestrian movement through the site, including the two proposed accesses, a network of streets and cycle routes linked to existing footpaths, and a potential link to the Barratt's site. The latter is outside LS's control but was argued to be within UDC's control as the s106 agreement required for the Barratt's site had not been finalised and, at the time of the Inquiry, permission had not yet been granted.
- 5.3 Walking distances from the centre of the appeal site to the Tesco foodstore and the town centre are both over 2km. The distance to the Helena Romanes School secondary school would be less than 2km using an existing footpath which passes through a wood and across a stream outside the appeal site. Funding would be available for ECC to upgrade the surface and provide lighting. Further information on possibilities for this footpath were submitted late in the Inquiry⁴¹ with indications of how the path might be surfaced and lit and a potential new route through the consented development at Woodlands

³⁷ Planning Permissions refs. UTT/09/1500/OP, UTT/13/0177/OP, UTT/12/0142/OP, and UTT/12/0177/OP. See locations on Copsey appendix PDC4

³⁸ Planning Permission ref UTT/11/1473/FUL

³⁹ See the SoCG on highways ID23

⁴⁰ Revised DAS s3.2 and fig 3.2 pp42-43

⁴¹ ID 62 dated November 2014

Park sectors 1-3 to the south of the school. This route would then be 1.78km long compared with a distance of 2.34km via Woodside Way⁴².

- 5.4 The design concept features a sequence of spaces including a core with open areas⁴³. Land to the north of the site would remain in agricultural use or be thickly planted to provide a buffer between built development and Park Road on the southern edge of Little Easton. Subject to reserved matters, chapters in the DAS on the built form, character, landscape, and public realm, indicate the broad principles of how the scheme might be developed in practice.
- 5.5 Subject to conditions, common ground on ecological matters was reached between LS and UDC who agreed to withdraw its objections concerning wildlife. With regard to a link to the Barratt's site, UDC anticipated that ecological mitigation might be acceptable but advised that the assessment had yet to be done.
- 5.6 An agreed Statement between ECC and LS on Transport Issues (with the Woodside Way Access) was submitted on 29 September 2014⁴⁴. A late note was submitted by LS in response to Technical Note 01 on behalf of the Highways Agency (HA)⁴⁵. This examined the likely cumulative effects on major road junctions in the area and found none would be severe, making an exception for J8 on the M11⁴⁶. It noted that it would probably not be reasonable for the HA to pursue this developer alone for an increase in flow at this junction. However, a later letter from the HA⁴⁷ sought a condition requiring a contribution.
- 5.7 Proposals for a new bus service, and other provisions in the s106 Agreement, are set out s14, for obligations, below.
- 5.8 The Woodside Way access was confirmed as safe with a minor change to the proposed crossing through a s278 agreement⁴⁸. The late representation by the HA raises two points dealt with in the note submitted⁴⁹ which indicates that there is nothing of substance outstanding and that a final response would be sent to the SoS.

Appeal B

- 5.9 The bullet points above set out the description for the proposed development. The parameter plan envisages a primary route between the two accesses comprising streets, squares, lanes and footpaths⁵⁰. All existing hedgerows would be retained. Green infrastructure would include planting within the scheme and on its boundaries. The scheme would focus on a new local centre, with significant areas for retail and employment, and transport interchange and not all of the site area would be used for built development. The

⁴² Ls closing para 67

⁴³ Ibid figure 2.28 p34

⁴⁴ ID23

⁴⁵ ID61

⁴⁶ Ibid para 8.16

⁴⁷ ID52

⁴⁸ Bird IC which removed Wilkinson's concerns (paragraphs 5.7 and 6.2) as confirmed in XX.

⁴⁹ By Bird, ID61

⁵⁰ See document and drawing list in the SoCG ID46

Illustrative Master Plan shows how landscaping could reduce the visual impacts and how some landscaping elements would bring benefits, including the proposed allotments, sports pitches and the areas of open space.

- 5.10 There would be relatively straightforward new accesses off Old Mead Road and Henham Road at each end of the site. At the south end of the village there would also be a new link road between Henham Road and Hall Road and a junction to get back to the village. Part of Henham Road would become bus access only. The link road would affect the journey times from the new southern access through the village.
- 5.11 There would be measures to encourage walking and cycling. Enhancements at Elsenham Station, an extended bus service and travel planning would be secured by conditions and the s106 Agreement. The proposed transport interchange would be subject to reserved matters but would include: bus stopping facilities; taxi facilities comprising space for up to 5 taxis to wait; cycle parking; so called 'kiss and ride' space for cars to pick up and drop off passengers; and disabled car parking.
- 5.12 With regard to transport, the TFP approach comprises a number of strands. An explanation of the strategy is summarised in s8 of this report, below, and is set out in full in the Transport Assessment (TA)⁵¹. Following the issues raised, and the clarifications sought, by ECC⁵² and the HA, this was supplemented by a Transport Assessment Addendum (TAA)⁵³ and a further update⁵⁴, all to be read in conjunction with the TA.
- 5.13 The TA identifies the primary employment destinations as Stansted Mountfitchet, Bishop's Stortford, Stansted Airport and those reached via Junction 8 of the M11 (J8 M11). Currently the more direct and most well used route to these destinations is via Stansted Mountfitchet. This route is congested during peak periods and the historic nature of the village centre streets means that there is limited scope or aspiration to increase its capacity. There are traffic lights as one enters Stansted Mountfitchet from the east, along the B1051 Stansted Road from Elsenham, just before it joins Lower Street. Lower Street then continues until it reaches the junction of Chapel Street and Church Road close to Stansted Mountfitchet railway station.
- 5.14 The TA, and TAA, summarise the proposals for pedestrians and cyclists, a bus service, and travel plan (TP) initiatives to reduce the number of vehicle trips generated. Acknowledging that there would still be a number of peak hour car trips, a strategy was established that routed traffic away from Stansted Road. The strategy proposes a new junction and link to Henham Road, together with the widening of Hall Road to 6.5m and other improvements, where possible, to deliver a faster journey time from the site to Bishop's Stortford using Hall Road. Simultaneously, a 20mph zone with supporting traffic calming through

⁵¹ See TA, March 2013, s10, as required by the NPPF para 32

⁵² Essex County Council as Highways Authority

⁵³ TAA, July 2013, s20 and TAA

⁵⁴ TAA updates September 2013, including revision of the alignment of the proposed new link road connecting Hall Road and Henham Road with changes to the reported journey times in Appendix K

Elsenham village, and the new junction, would increase the length of time from the site using Stansted Road.

5.15 The strategy analysed a number of routes from the southern end of the appeal site to Bishop's Stortford⁵⁵. Of particular importance, are:

- Route 2 through Stansted Mountfitchet via Chapel Hill to Bishop's Stortford (ABKHG) 5.2 miles;
- Route 3 via Hall Road, Coopers End Roundabout and Thremhall Avenue (a privately owned road in the control of the airport operator⁵⁶) to Stansted Airport, J8 M11 and Bishop's Stortford (ACEFG) 8.5 miles; and
- Route 4 via Hall Rd, Parsonage Road and Takeley (avoiding Thremhall Avenue) to J8 M11 and Bishop's Stortford (ACFG) 9.6 miles;

5.16 Essentially, the strategy aims to persuade drivers away from the congested Route 2 through Stansted Mountfitchet onto Hall Road via Takeley (Route 4) or Thremhall Avenue (Route 3). The latter is quicker but uses a private road within the grounds of Stansted Airport which is currently unrestricted. It assumes that, for traffic from the north of the site, the level crossing would be a significant deterrent.

5.17 Suggested conditions and the s106 Agreement would secure the delivery and funding of works outside the appeal site. ECC and the HA initially raised a considerable number of concerns with this strategy. These are listed in, and addressed by, the TAA. They included: the percentage of traffic assigned to Hall Road; the cumulative impact with other approved developments; details of the measures on routes 3 and 4; clarification of how increased/decreased average speeds were calculated; the journey time intervention methodology; assignment to Hall Road for more distant trips; the methodology for background traffic growth; measures to be taken in the event that the bus service is not viable; commitments in the Travel Plan (TP).

5.18 ECC also queried the likely number of internal trips, that is to say how many of the estimated trips based on National Travel Survey data might in fact be to destinations within the site such as to the proposed shops. The TAA therefore revised these figures to reduce the number of internal trips⁵⁷. A sensitivity test⁵⁸ was requested in relation to the vehicular trip assignment. This considered the scenario of traffic choosing to use Stansted Road rather than Hall Road for destinations to the south and the west. The TAA emphasises that the sensitivity test and its assignment is supplementary to the previous assignment and does not supersede it.

5.19 The journey time intervention methodology⁵⁹ includes an analysis of changes in speeds, lengths of routes, delays at junctions, and engineering judgement with reference to past examples. The TA and TAA assume traffic growth of 1% per annum from 2012 to 2018 which would take it back to levels in 2008. The

⁵⁵ Shown on ID35

⁵⁶ See TA paras 5.2.16-18

⁵⁷ TAA Table 2-9 page 15

⁵⁸ TAA s12.3

⁵⁹ TAA s20

background growth therefore took account of some of the existing committed developments⁶⁰. The proposed highway works would be subject to further details controlled by conditions and funded through the s106 Agreement. A list of possible TP measures was submitted⁶¹, up to a maximum of £120,000 or the equivalent of £800 per dwelling.

- 5.20 The amended SoCG on highways matters⁶² sets out the agreed position on a number of matters and the different positions on the effect of the proposed journey time interventions. TFP and ECC agreed the revised total external trips; TFP and the PCsB agreed the peak hour vehicle trip generation rates (residential) per dwelling but not per person⁶³.

I summarise the gist of each party's case as follows.

6. The Case for UTTLESFORD DISTRICT COUNCIL

- 6.1 The Council acknowledges that HLS is central to this appeal. If UDC does not have a 5 year supply it must look beyond the land allocated in the LP and probably to the countryside. Objections about the effect on the landscape and concerns about sustainability would then carry less weight, but not be removed. The Council accepts that the site is near to Great Dunmow, where new housing is appropriate in the wider sense, even if it is poorly connected. However, if the Council does have a 5 year HLS, then the many shortcomings of the proposals take centre stage.
- 6.2 The appellant relies heavily on matters beyond its control, including a link through the Barratt's site for which it offers no realistic proposals for its realisation. It does not explain how the Council could require this, how a reworked ES could be achieved or paid for, or why Barratt's would agree. Yet it relies on this link for a viable bus service extension. It relies on improvements to an unsuitable footpath across third party land to achieve acceptable walking distances with no reason why the landowner or highway authority would pay for them. No details have been supplied for achieving a safe new crossing to Woodside Way where average speeds are greater than 50mph. It is not certain that Uttlesford needs new housing sites or whether they could be delivered within 5 years. The agreed conditions would not require commencement less than 3 years from the decision.
- 6.3 It is common ground that the NPPF cannot override the statutory test⁶⁴ with regard to the development plan, even if the presumption in favour of sustainable development in the NPPF is a weighty material consideration. The

⁶⁰ TA 12.4.1-12.4.2 and TAA 4.1.2

⁶¹ in ID54

⁶² Amended Agreed Statement on Highways Matters ID59, between Horsfall for TFP and Bamber for the PCsB, supersedes ID33

⁶³ TAA appendix B; Id59 Table 1 p2

⁶⁴ Planning and Compulsory Purchase Act 2004 ch5 pt3 s38(6)

definition of sustainable development is in paragraphs 18-219 as a whole and summarised in the three dimensions of paragraph 7 (NPPF 7). Whether or not a development would be sustainable is a matter of planning judgement⁶⁵. It follows that the presumption in paragraph 14 means that sustainable proposals should be granted permission, but otherwise they should be refused. The presumption is not a higher test, such as seen for Green Belt cases, and cannot be applied equally to sustainable and non-sustainable development⁶⁶. If the planning balance in NPPF 6 comes out against a scheme, the presumption is of no assistance.

- 6.4 Housing development should also be considered in that context and, if policies are out-of-date, proposals should be tested against the policies in the NPPF. NPPF 215 allows due weight to development plan policies according to their degree of conformity with the NPPF and to emerging policies depending on their progress. So, even if NPPF 14 applies, policy conflict can weigh against permission.

Application to this appeal

- 6.5 The LPA and LS agree that the LP housing policies are out-of-date regardless of a 5 year HLS as they were only to apply to 2011. NPPF 14 is therefore engaged. The appeal should be determined against the NPPF with appropriate weight to the LP and emerging LP subject to the degree of conformity and progress towards adoption. This will determine whether or not the scheme amounts to sustainable development.
- 6.6 Part of LP policy S7 seeks to protect the countryside from development. It is in line with the NPPF⁶⁷ and is worthy of considerable weight. Where there is a 5 year HLS, and no need to breach the development boundaries in the emerging LP, that counts heavily against granting permission.
- 6.7 Although policies may be technically out-of-date, the fact that UDC does have a 5 year HLS is highly material as it means that there is no immediate shortage to address⁶⁸ and no need to breach settlement boundaries. The matter of 'significant and demonstrable' weight in NPPF 14 is not an additional question but part of the planning balance. Harm which is insignificant or cannot be demonstrated would not justify refusal. This was acknowledged⁶⁹ with regard to Appeal B when it was argued that this should be refused permission because it would be unsustainable development. There is no additional threshold. As NPPF 14 applies in any event, the trigger in NPPF 49 adds nothing. If there is a shortfall, weight should be given to that need. It follows that the greater the severity of the shortfall, the greater the weight to the need. The significance of the 5 year trigger is no more than as benchmark for how far to look into the future.

⁶⁵ *Dartford BC v SoSCLG* [2014] EWHC 2636

⁶⁶ *Ibid* paragraph 54

⁶⁷ Paragraph 17: recognising the intrinsic character and beauty of the countryside

⁶⁸ Compare this with Wigley's closing paragraphs 10-12

⁶⁹ Meakins in XX by HW

- 6.8 The proposals would deliver some 175-190⁷⁰ dwellings within 5 years. If there is a 5 year HLS, additional housing is of less value. With the possible exception of affordable housing, providing something which is not urgently needed should be given limited weight.

Objectively assessed need (OAN)

- 6.9 An assessment of OAN should arise from the LP. If no plan is in place, the evidence base should be looked at as it is likely to be the most up-to-date. An untested figure should be investigated for robustness. The process is one of forecasting and so is theoretical. The test is for it to be robust not correct. UDC has identified 523 new dwellings per annum (dpa) from the official SNPP-2010 ONS projections which, at the time, were the most up-to-date. They have now been superseded but the question is still whether the figure is robust against more recent projections.
- 6.10 The Edge Analytics work seeks to test whether the official ONS projections (SNPP-2010 and SNPP-2012) are robust. The software used is called POPGROUP and the most up-to-date version is POPGROUPv4, released in January 2014. This corrects an earlier methodology with regard to assumptions as to predicted changes in population migration within the UK⁷¹. SNPP-2010 and SNPP-2012 are the base projections for these reports. They are presented in two ways, first using the post-2011 Census household headship rates and second using pre-2011 rates. The post-2011 rates are lower due to the recession. Edge Analytics Phase 6 uses an average of these and recognises that the baseline changed with the 2011 Census. It shows that the 523 figure is robust.
- 6.11 The criticism that the number should have been based on an assessment of the wider housing market⁷² provides no evidence that this has produced a lower figure than it ought to be. UDC accepts that it does not have an up-to-date SHMA; that is why it has commissioned a new one. The NPPF recommends an analysis based on wider market housing as focussing on arbitrary local authority boundaries can be misleading. UDC recognises this principle in its approach as did the 2008 SHMA; it was updated on that basis. The Edge Analytics works recognises this and so its projections extrapolate past patterns of population growth and movement. Consequently, they avoid the trap of looking at Uttlesford in isolation. The wider view of population growth is captured in the projections and the UDC figure of 523. LS criticisms are technical, rather than matters of substance, and provide no evidence that a different approach would produce a higher figure or that 523 is not robust. The criticism that the SNPP-2010 figures are out-of-date⁷³ is correct in the broadest sense, as it has been superseded, but lacks substance as up-to-date projections would be of the same order and so the figure is robust.

⁷⁰ Meakins IC, his evidence says 125-210

⁷¹ Report paragraphs 1-13-1.15 and ID21

⁷² Meakins proof 3.18(i)

⁷³ Meakins proof 3.18(ii)

Alternative modelling exercise

- 6.12 LS commissioned its own modelling⁷⁴, using the same base data and the same software but was unable to confirm which version was used⁷⁵. This produced an annual figure of 690, more in line with Edge Analytics Phase 5. Edge Analytics themselves have identified a flaw in the Phase 5 methodology and corrected it in Phase 6. No adequate explanation was given for why one modelling should be seen as more reliable than the other. If, as is likely, the difference stems from the changes between phases 5 and 6, then serious doubt must be cast on LS's modelling. The corrected figures in ID5 do nothing to undermine the reliability or robustness of the historical data in Edge Analytics Phase 6⁷⁶.
- 6.13 The projection achieved by looking at future employment⁷⁷ is unlikely to be accurate or robust given the level of commuting in the district. It is but one projection and has not, and should not, be used by UDC as a forecast of housing need.

Affordable housing

- 6.14 The SHMA identifies a need for 6,200 affordable housing units over the period of the emerging plan and a policy of requiring 40%. However, to extrapolate from this, to argue that the overall LP figure of 10,460 is too low, is to assume an independent relationship between affordable and overall housing numbers. The 40% policy figure is a compromise between viability and shortage. To calculate backwards in this way would be to make an overall provision far in excess of what is needed.
- 6.15 To grant permissions on this basis would be in no-one's interest. It would depress house prices (ultimately) and be anathema to housebuilders. History has shown that there have never been more than 540 houses built in Uttlesford in one year. A policy of 40% is unlikely to achieve that number in practice. It should not be seen as a constrained approach⁷⁸ but a criticism of the 40% policy.

Conclusion on OAN

- 6.16 Any criticisms of UDC's figure of 523 falls away following Edge Analytics Phase 6. The sensible inference is that 523 dpa is a robust assessment of need.

Shortfall/backlog

- 6.17 UDC accepts that the shortfall against 523 should be recovered in order to make the calculations robust. An addition of 133 from 2013/14 is a robust approach. Any alleged backlog from prior to the current plan period is a step too far. Those whose need went unmet then are either still there, and part of

⁷⁴ by Barton Willmore

⁷⁵ Meakins in XX

⁷⁶ A corrected table for ID5 was circulated later. Comparing ID5 with table at p68 of Edge phase 6 shows similar, if not identical historical periods

⁷⁷ Entitled 'Jobs' in phase 6

⁷⁸ In the sense of *St Albans CC v Hunston Properties Ltd and Anor [2013] EWCA Civ 1610*

the current need, have moved away, or had their needs met, albeit later than hoped. There is no rule or principle establishing how far back one should go. Going back to the start of the previous plan period in 2001 would have no justifiable explanation. The further back one goes, the less likely it is that any unmet need would still apply. The arguments about need in *Hunston* do not apply to historical undersupply.

6.18 The Regional Strategy (RS) figures were the best available at that time. The target from 2006 onwards should be the figure of 430, leaving a shortfall of only 15 units⁷⁹. Any assessment against the LP should use the annual figure of 420⁸⁰ rather than 459⁸¹. Any shortfall should look at what the plan assessed as the need without any buffer. The plan required 5,052 for flexibility so some could fail to come forward and still meet 4,620. The full 5,052 would be more than needed⁸². The reserve land referred to in Policy H2 does not undermine the target as it was only a buffer. The relevant target was always 4,620⁸³. In short, if any backlog arises it should be added to the latest OAN and calculated from no further back than 2006, either according to the RS assessment of need at that time or the LP target figure of 420, not the figure of 459.

Lapse rate

6.19 UDC accepts this in principle but it must be justified by evidence. Here there is nothing to support a lapse rate let alone the appellant's figure of 10%⁸⁴.

Buffer

6.20 The test in the NPPF must refer to performance against targets. It does not say how far back one should go and is a matter of judgement. It is a buffer against future performance and should be assessed against why there may have been past under-performance. Here the significant undersupply in the early years of the plan was on account of houses on four large sites coming forward more slowly than hoped. This is unlikely to recur. In more recent years, UDC has only under-supplied in 2 out of the 6 years between 2006 and 2011 and only by 207 houses. Three Inspectors have recently considered UDC to only require a 5% buffer and none found that more was required⁸⁵.

*Use Class C2: residential institutions*⁸⁶

6.21 These should be accounted for when assessing need⁸⁷. The argument that C2 units should be discounted on the supply side was based on a failure to

⁷⁹ See calculations at footnote 7 in UDC closing taken from Hutchinson's revised table at para 2.32 in her rebuttal

⁸⁰ Arrived at by taking the total requirement of 4,620 (5,600 from the SP of which 980 were built between 1996 and 2000) and dividing it by the 11 years of the plan period

⁸¹ 5,052 divided by 11 years

⁸² Meakins in XX

⁸³ Table in LP Appendix 2 – performance indicators and targets, p84

⁸⁴ This seems to come from case in Gloucestershire but ignores the local decision at Sunnybrook Farm

⁸⁵ *Thaxted, Flitch Green and Bentfield Green*

⁸⁶ Under The Town and Country Planning (Use Classes) Order 1987

⁸⁷ PPG refs 2a-021-20140306 and 03-37-21020140306

identify where they were included on the need side. It may be a valid criticism that the Council has not yet identified the quantum of need that relates to C2 accommodation. However, that does not mean that it has not been included. The 356 units⁸⁸ should remain on the supply side.

Windfalls

6.22 An allowance for this is justified, in line with the average of 46 per year.

Conclusion on HLS

6.23 The figure of 523 units per annum is a robust and reliable OAN. This falls safely within the range of 10 outcomes in the Edge Analytics Phase 6 report. None of the arguments against this figure undermine the methodology or conclusions. The figure includes any shortfall and any backlog is non-existent or minimal.

Highways

6.24 The LPA now agrees that safety and capacity are acceptable. However, reasons for refusal 1 and 3 touch concerns with regard to highway accessibility and sustainability. The designer's description of the accesses as a country house drive and a country lane are inconsistent with this being an integral, connected part of Great Dunmow. Indeed, the length of the only pedestrian route to key attractors⁸⁹ had not even been walked or taken into account⁹⁰. This is unsurprising given that connectivity is so poor. All relevant policies steer away from use of the private car and towards sustainable transport modes. There was no disagreement that the implication of this is that the more attractive the alternatives, the more likely they are to be taken up.

6.25 The key variables affecting attractiveness are distance, convenience and deterrents. The IHT guidelines are not a pass/fail test but do provide the best objective indicator of where the thresholds lie. Of the three main attractors: - the school, Tesco, and the town centre - only the school via the footpath, and Tesco via the Barratt's site, are within 2km of the centre of the site. However, as above, there is no provision within this scheme for a link with the Barratt's site. The footpath is currently unsuitable, with the difficult stretch outside the appellant's ownership, and the Highway Authority was sceptical about any improvements. Finally, as above, the footpath requires a new Woodside Way crossing where it cannot be shown to be safely achievable. Given these doubts, there is no responsible or safe basis for granting planning permission. The viability of the proposed retail units is also uncertain⁹¹.

6.26 Arguments over consistency with the resolution to grant planning permission to the Barratt's site do not stand up. When the key distances from that site to the main attractors are considered⁹² there is no comparison. The Barratt's scheme would be sustainable as the site is close to the town centre and there are bus services. Cycling possibilities for the Appeal A site are agreed but the

⁸⁸ Identified at Meakins table 6 p26

⁸⁹ Footpath 36-15, according to Bird

⁹⁰ Anderson in answer to IQ

⁹¹ Hutchinson to IQ

⁹² All within 2 km except for the town centre which is only 20m beyond

attractiveness of commuting 8km by bicycle to Stansted should not be overestimated and few would undertake it. The upshot would be a large housing development which would be poorly connected and from which almost all journeys would be by private car. Consequently, the impact on accessibility would be severe⁹³.

Buses

6.27 A new bus service is an important element of the future sustainability of a new development. Initially, such a service is unlikely to be viable and will need to be subsidised. The question is whether such a service would ever be viable without subsidy. Here, without the link through the Barratt's site, it is unlikely that it would ever be viable. It is unknown when or even if the link would be built and is not necessary for the proper functioning of that site. Even with the link, a diverted bus route would only be viable once all the units on the appeal site were occupied⁹⁴. Even then the service would only be hourly or require a 700m walk through the Barratt's site, well beyond the ideal distance⁹⁵. The intended bus service would depend on factors outside the appellant's control and its viability would be precarious at best.

Landscape

6.28 The appellant's evidence⁹⁶ acknowledges that there would be a significant change in character from open agricultural fields to a 700 unit housing development and significant harm in both landscape and visual terms. The likely duration of construction means that these effects would be material. The assessments involve a degree of judgement so it cannot be right⁹⁷ that another landscape architect, following the same methodology, would inevitably reach the same outcomes. It was accepted that the degree of harm would be more than minor during the construction phase, including grassland, district level landscape character area, properties on Park Road, and the public rights of way (PRoW), and at Year 25 for the PRoWs. It was acknowledged that there would be a loss of open fields, harm to public views including from footpaths and impact from Woodside Way⁹⁸. However, the approach to assessing harm was questionable and some radical and adverse changes were described as sympathetic, underestimating the overall harm.

6.29 Much of the appellant's analysis depends on the suggestion that its proximity to Great Dunmow urbanises its character⁹⁹. Any sensible inspection of the site shows that the site is rural in character and so the conclusions materially underestimate the overall effect. The claimed sense of containment of the site which is provided by Hoglands Wood is the same feature which negates any urbanising influence from the town. The effect of the access road would be a major adverse one. The claim that the development would be restricted to the lower slopes ignores the reality that it would extend into the upper contours

⁹³ Wilkinson in ReX

⁹⁴ A sensible reading of ID8 is that both would need to be fully occupied

⁹⁵ Of 400m in ID13b p11

⁹⁶ Toyne in XX re proof paragraph 17

⁹⁷ As argued by Toyne in XX by Storah

⁹⁸ Toyne IC

⁹⁹ Toyne proof 3.64, 3.101, 6.12 and 6.77-6.80

within the site. The irregular field pattern and tranquil character identified in County level landscape character assessments would not be retained¹⁰⁰. The gently undulating farmland and large open landscape identified at district level¹⁰¹ would not be conserved. The suggestion that retaining and managing a similar area of land to that which would be lost does nothing to mitigate the harm. Overall, the appellant's judgements significantly underestimate the adverse and highly perceptible impact on the character and appearance of the area and the significant visual harm which would be caused during construction and after mitigation is in place.

BMV agricultural land

6.30 If there is no need for housing then taking BMV agricultural land would be contrary to policy. The only justification could be the need for housing. The percentage argument only results in death by a thousand cuts.

Conclusions and planning balance

6.31 The proposals threaten significant harm against which only the affordable housing would be policy compliant and a real benefit. Other claims amount to no more than mitigation. The harms identified would demonstrably outweigh the benefits such that the scheme would not be sustainable and so the appeal should be dismissed.

Further comments

Following the LP Inspector's letter, the Council added the following comments.

6.32 The LP Inspector's conclusions have a bearing on evidence relating to 5 year HLS. The evidence for the appeals Inquiry, including the issues of OAN and 5 year HLS and the evidence from LS, were submitted at the Examination in public (EiP) to the Local Plan. The EiP was halted after 6 sitting days when the Inspector summarised his conclusion that he found the Plan to be unsound as the Council's OAN did not reflect market signals and as the proposed housing allocation for Elsenham would not be sustainable. The Inspector's full conclusions, which superseded his summary, resolve most of the issues relating to the OAN and 5 year HLS. As the Council did not defend its refusal of the Elsenham appeal, it does not address this. In effect, the Inspector confirms the Council's position with regard to its 5 year HLS and his conclusions are very relevant to the appeals Inquiry.

6.33 With regard to OAN, the LP Inspector first looked at the average figure of 529 from the Edge Analytics Phase 6 report and found this was appropriate as the baseline. However, when taking market signals into account, he concluded that there should be an upward adjustment to the OAN of around 10%. This compares with much higher projections put forward by LS and TFP but rejected by the LP Inspector. He did so as the migration component can be dynamic and unpredictable and saw no reason to depart from the current ONS approach to a national control total.

¹⁰⁰ Toyne paragraph 3.28

¹⁰¹ Ibid 3.36, 3.41 and 6.65

- 6.34 The Council has already accepted criticisms of the SHMAs, and the Inspector did not place reliance on them other than with regard to affordable housing. He did not dispute the evidence on median house prices, affordability or homelessness but did not accept the scale of adjustments suggested by the appellants. PPG 2a-020 advises that the upward adjustment due to market signals should be set at a level that is reasonable and in scale with the strength of the indicators. The LP Inspector confirmed that precision is not to be attempted adding that any uplift is likely to improve affordability, in line with PPG 2a-029, and refers to the guidance in NPPF 159 that the OAN should include the full need of both market and affordable housing.
- 6.35 While the appellants suggested that the affordable need should increase the figure to between 670 and 710 dpa¹⁰², the LP Inspector found a much lower figure is appropriate and explains why with regard to the 2012 SHMA, current policies and a lack of convincing evidence to support an increase on that substantial scale. He accepted that the objective of improving affordability could be difficult to achieve within one local authority and that it is affected by more factors than just HLS. He also found that a higher OAN was need for employment and unmet needs in the HMA and in London.
- 6.36 With regard to the LS scenario, he found that much of the expected employment growth would be focused on the airport where over 80% of employees are from outside Uttlesford, but found no evidence that housing provision would hinder economic aspirations. He found that Uttlesford has consistently received in-migration from London, and that this will already be reflected in the SNPP 2012 projections, but that other matters surrounding London's unmet needs were too uncertain to be given much weight. The Inspector therefore addressed all the appellant's objections and concluded that, based on current evidence and interpretation of the NPPF and PPG, an OAN of 580 was appropriate and reasonable. The Council now accepts that the OAN should be 580 and accepts the Inspector's conclusion that it has a 5 year HLS¹⁰³.
- 6.37 LS and TFP challenged the Council's record of under-delivery, but the LP Inspector accepted the delivery calculations¹⁰⁴ and that the Council should be judged as a 5% authority. He rejected the argument that any backlog calculated against the years preceding the 2011 base year of the plan, referring to the *Zurich* case. The Council accepts a shortfall since 2011 but has carried this forward into the 5 year period¹⁰⁵.
- 6.38 The overall supply was not challenged other than the scale of windfalls, the inclusion of C2 provision and the lapse rate. Again, the Inspector found the windfall allowance of 50 dpa was reliably based. He did not remove C2 permissions from the calculations but found that the Council's trajectory was generally sound. Since then, some of the Year 6 sites have been granted planning permission so that even if some of the C2 sites are not delivered the estimate is realistic. The C2 sites should therefore be included.

¹⁰² Meakins proof 3.20

¹⁰³ See Table 1 calculation

¹⁰⁴ Table 2A to ID70

¹⁰⁵ See NPPF, PPG and Table 1

6.39 The Council therefore maintains that, while it should be reduced from 6.2 years to 5.4 years based on an OAN of 580, the Council still has a 5 year HLS. This has now been accepted by the LP Inspector, based on substantial and wide ranging evidence including the appellant's representations, and should not be set aside.

Following publication of the 2012-based household projections, the Council added the following comments.

6.40 These projections would result in a revised average annual housing requirement of 506 dwellings. However, following withdrawal of its draft LP, the Council has accepted the LP Inspector's recommendation and that 580 dpa is a sound figure for calculating a 5 year HLS.

6.41 UDC has carried out an initial appraisal of these projections and notes that they provide a lower estimate than the Edge Analytics Phase 6 report and calculated that this would result in an annual housing figure of 557. Nevertheless, until the latest version of the Edge Analytics reports and SHMA are published, UDC will continue to use the figure of 580 but the latest figures are a clear demonstration that the Council's 5 year HLS is robust.

7. The Case for Land Securities

Appeal A

7.1 Although the proposals breach the development plan, as this is out-of-date the Council acknowledged in opening¹⁰⁶ that the presumption in favour of sustainable development in NPPF 14 applies.

Formalities

7.2 The appeal is for the amended scheme with access via Woodside Way. The only other potential changes would come as a result of agreed conditions limiting the extent of built development to that on the revised Development Parameters Plan, drawing 15576-302 rev E (see suggested condition 4)¹⁰⁷. The s106 Agreement is agreed with a CIL compliance statement.

Decision-making structure

7.3 The priority of the development plan is unaffected by the NPPF but the weight to be given to relevant policies can be. Here the Council accepts that the development plan is out-of-date and so compliance with the NPPF is more important than non-compliance with the saved plan. The NPPF contains guidance on this which can arise in three ways. First, where due weight can be given according to the degree of conformity. Second, where the entire plan has expired in the sense that the underpinning judgements are out-of-date, e.g. where they were based on assumptions up to a date which has passed. This applies in this case and while issue-specific policies may survive, spatial ones have become irrelevant or superseded. Third, NPPF 49 means that

¹⁰⁶ Council's opening paras 6 and 10

¹⁰⁷ The ID10 set contains Development Parameters Plan 15576/302C and the Illustrative Masterplan 15576/170

relevant policies for the supply of housing are out-of-date where there is no 5 year HLS. Here this is a matter of dispute. For these appeals, the 2005 LP is out-of-date in all 3 approaches.

Presumption in favour of sustainable development

- 7.4 The LP need only be out-of-date for one of these three reasons for the NPPF 14 presumption to apply. The Council's witness¹⁰⁸ suggested that the proposal would be unsustainable, and so perhaps not benefit from NPPF 14. It argued that the exercise in that paragraph should be treated simply as a straightforward balance of the pros and cons so that a negative result, however marginal, would mean that NPPF 14 does not apply¹⁰⁹.
- 7.5 If one were to consider a highly unsustainable development, with much more serious adverse impacts than benefits, that would not sit happily with the presumption which the *Dartford* case found cannot apply equally to sustainable and non-sustainable development¹¹⁰. The Council's submission, that unsustainable means having more relevant adverse impact than benefit, is incorrect. Rather, NPPF 14 says that, where the plan is out-of-date, sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In other words, where the plan is out-of-date, it is sustainable development to grant permission even where the adverse effect would outweigh the benefits to some degree. The suggestion that one needs to ask whether a proposal is sustainable, and reach an interim conclusion that it is – on a sustainability balance – has also been dismissed¹¹¹, as has the misinterpretation of *Davis*¹¹² as requiring a formulaic approach¹¹³.
- 7.6 From this, is it obviously wrong to apply a definition of sustainable to NPPF 14 which equates to a 51% positive sustainability balance. Until the plan is up-to-date *and* there is a 5 year HLS, it is only proposals which are *markedly* (significantly) unsustainable overall which should not be granted permission. To argue whether *significant* means any more than *not insignificant* does not accord with the plain meaning of the NPPF. *Significant* means *largely* or by a wide margin as in *significantly overdrawn at the bank*. There would be no point in NPPF 14 if it did not add to the normal planning balance. It is part of a pro-development policy to radically tilt the balance in favour of granting permission.
- 7.7 Of course, a view is needed of the pros and cons of proposals, but this is the same as the exercise of assessing whether development is sustainable by reference to NPPF 18-219. The difference when the plan is out-of-date is that the presumption operates in favour of granting permission. That is why NPPF 14 is relevant. Here the benefits would outweigh the harm but even if the Inspector and SoS gave more weight to the adverse effects, the balance

¹⁰⁸ Hutchinson

¹⁰⁹ This case has now been confirmed in the Council's closing

¹¹⁰ [2014] EWHC 2636

¹¹¹ *Ibid*

¹¹² [2013] EWHC 3058 (Admin) paragraph 37

¹¹³ *Dartford* paragraphs 52 and 54

would still indicate granting permission. The emerging LP can be afforded very little weight.

Out-of-date

- 7.8 The adopted LP is out-of-date because it covers the period to 2011, it is inconsistent in many regards, and there is no 5 year HLS. One purpose of the Saving Direction¹¹⁴ was to ensure a continual supply of land. The restrictive policies must be seen in this light. The report leading to the resolution to grant permission for the Barratt's site identifies that the LP is out-of-date¹¹⁵ and that meeting housing needs outweighs any non-compliance. Consequently, a string of policies¹¹⁶ and relevant spatial policies such as those for settlement boundaries are out-of-date. Even the Council acknowledges¹¹⁷ that policies H1, H2 and, to some degree, H3 are inconsistent. Although disputed, policies S1, S2 and S3 are out-of-date because they identify 2005 settlement boundaries.
- 7.9 Policy S7 is a classic pre-NPPF countryside restraint policy which refers to settlement boundaries and so does not accord with the NPPF. The principle in PPS7¹¹⁸ that the countryside should be *protected for its own sake* has been replaced by a core planning principle that involves *recognising the intrinsic character and beauty of the countryside*¹¹⁹. The Council's compatibility assessment¹²⁰ misses this. There is no substantial evidence that the Appeal A site is a landscape which merits the label *valued* for the purposes of NPPF 109. If there is no 5 year HLS then reference to building only if necessary would be met, but in any event policy S7 does not accord with the balanced approach in the NPPF and should be given reduced weight.
- 7.10 The other reason that the LP is out-of-date is the lack of a 5 year HLS. The consequence of this is that housing policies should be treated as out-of-date as set out in the *South Northants* case¹²¹. Although the proposals do not accord with some LP and emerging LP policies, the former are out-of-date and the latter should be given only limited weight. There is no Neighbourhood Plan that applies to more than a sliver of the site and in any event this has not reached a stage at which it can be given any weight¹²². To conclude on this issue, NPPF 14 applies as the LP is out-of-date and there is no 5 year HLS. The presumption applies because the proposals would amount to sustainable development, bearing in mind the approach to reaching that conclusion in NPPF 14.

Character and appearance

¹¹⁴ CDA2 page 1

¹¹⁵ Within CDG1 – para 10.3 finds that policy S7 is partly consistent with the NPPF. Para 11A concludes that the NPPF should take precedence over policy S7.

¹¹⁶ Identified by Meakins as H1, H2, H3, S1, S2, S3 and S7

¹¹⁷ CDA4 NPPF compatibility assessment

¹¹⁸ Planning Policy Statement 7: Sustainable Development in Rural Areas (3 August 2004) revoked and replaced by the NPPF Annex 3

¹¹⁹ NPPF 17.5

¹²⁰ CDA4 pp8-9

¹²¹ [2014] EWHC 573 (Admin) paragraphs 46-47

¹²² Acknowledged by Storah for PCsA in XX by Warren

- 7.11 There is no design objection to the scheme, the Council did not call an expert landscape witness to substantiate this reason for refusal, no LVIA was carried out and no reference made to GLVIA version 3. Its witness acknowledged that the site is not of exceptional landscape quality and has no landscape designation¹²³. While her general planning experience merits some weight, her conclusions need to be treated with care as she was also the case officer. Visual harm is inevitable in a scheme of this size but the degree would be relatively small. The site is not designated and cannot claim to be valued for the purposes of the NPPF. Its rights of way would be affected but would not suffer serious damage due to the proposed landform and vegetation.
- 7.12 The Council took no issue with the baseline judgements¹²⁴ and did not dispute that the site is in an undesignated area of countryside with some ancient woodland (Hoglands Wood) within the site and some just outside (High Wood). It contains no trees subject to a Tree Preservation Order (TPO), no listed buildings, scheduled ancient monuments or parts of any registered park. It took no issue with the loss of quarry land¹²⁵. It is generally of medium landscape sensitivity, being within the Central Essex Farmlands, with only a sliver being of high sensitivity where it lies within the Chelmer Valley¹²⁶. As a local landscape, it is moderate to high, again with a much smaller area of high sensitivity associated with the valley¹²⁷. There are relatively few features of importance for these character areas, principally the higher land and ancient woodland features.
- 7.13 In landscape terms, the effect of the scheme would be limited to the loss of an expanse of commercially-farmed arable field and some lesser hedgerow. Otherwise, these would be retained and strengthened and there would be fencing and buffering to the ancient woodland¹²⁸. The structural planting would bring landscape benefits and sit well with other blocks of woodland, especially High Wood. The tenuous woodland block reaching north from here would benefit from additional connectivity to its north resulting in a wooded boundary. This would wrap around the higher part of the site creating a defensible boundary from the south west to Woodside Way. The depth of this screen would allow for a variety of spaces and routes within it and so create both a natural addition, integrating it into the countryside, and a screen from Little Easton. Reference to the Appeal Decision for Sector 4, Woodlands Park¹²⁹ is of limited relevance as it refers to an area north of Great Dunmow and to the east of the bypass¹³⁰.

¹²³ Hutchinson para 6.32

¹²⁴ Toyne's LVIA, confirmed by Hutchinson in XX

¹²⁵ Hutchinson IC re ID2

¹²⁶ Toyne paragraphs 3.30 p39 and 3.34 p40; figure LT3 and Masterplan drawing 170 in ID10

¹²⁷ Ibid paragraph 6.19 p88

¹²⁸ All important hedgerow (under the Hedgerow Regulations 1997) would be retained;

Toyne paragraph 6.19 p88

¹²⁹ ID11

¹³⁰ Toyne fig LT6, para 22 of Decision and Storah in XX by Warren

- 7.14 Despite a marked adverse effect for about 500m along the footpaths past Ravens Farm¹³¹, in the scheme of things the effect would be limited, and close to the existing settlements, while the footpaths form part of an extensive network¹³². With regard to the footpaths along the west of the site¹³³, parts of these have limited views anyway. The effect of the Barratt's scheme should also be taken into account. It would be almost impossible to screen this from the appeal site in any event. That scheme will extend Great Dunmow into the same landscape compartment as the appeal scheme and the relevant rights of way. Consequently, objections on the grounds of visual impact sound a little hollow.
- 7.15 With regard to the access, much of this already exists, there would be no new features on the skyline, and the visual effect would be relatively limited. Although the greater effect in the early years is relevant, more weight should be given to the long term position once landscaping has taken effect.

Design

- 7.16 The Masterplan and the evidence¹³⁴ illustrate how a well-thought out scheme could be brought forward. The enclosure and character provided by the woodland blocks are natural advantages, the entry would add local distinctiveness, and there would be space for multi-functional landscape envelopes of woods, arable fields, ponds, recreation areas, segregated ecological areas, recreational routes and meadows. A condition can secure a Design Code and there is every reason to suppose this would lead to a high quality outcome.
- 7.17 The objection that the scheme would be piecemeal is somewhat ironic given the Council's decision to approve the rather more piecemeal Barratt's scheme. This makes the Council's approach to the proposed link even more regrettable when it would resolve some of the problems with the Barratt's scheme. There would also be transportation and accessibility benefits if the two schemes came forward together.

BMV agricultural land

- 7.18 A certain amount of BMV agricultural land would be lost depending on the final disposition of buildings at reserved matters stage and the agreed table of areas¹³⁵. This shows between 47.6ha and 55ha would be developed, of which 40ha would be built on. At worst, this would represent 0.06% of the BMV land in Uttlesford. Additional land proposed for sports and recreation would not be permanently lost given that it could be put back into agriculture if necessary. There is no in-principle objection to the loss of BMV. That chimes with NPPF 112 which has no such policy but expects account to be taken of the economic or other benefits of BMV. There is no suggestion that the BMV is of any other importance, only that it is unnecessary. That presupposes that the

¹³¹ Footpaths 36_15/6 between Little Easton and the north of Great Dunmow adjacent to the Helena Romanes School, see Site Context Plan no. 15576/L103C

¹³² Toyne in XX by Cannon and Storah

¹³³ Footpaths 36_23 and 36_24, see Site Context Plan as above

¹³⁴ Anderson IC and IQ

¹³⁵ ID27A

landscaping benefits are unjustified and that there is a 5 year HLS. On the first point, the quality of the scheme¹³⁶ justifies the land take. The second falls away if there is no 5 year HLS, and the Council accepted¹³⁷ that BMV would be lost to meet Uttlesford's housing needs. Finally, the weight to be given to the loss in the NPPF 14 balance is small given the tiny fraction of Uttlesford's supply which this represents.

Minerals

7.19 The objection is that there is insufficient information to show that mineral resources would not be sterilised or Highwood Quarry affected. The quarry company does not object¹³⁸ or think that there would be any conflict. The residential amenity point has not been pursued by the Council or the Mineral Authority¹³⁹. The position is that 6.1ha overlaps but only 4.57ha would be sterilised. This equates to some 450,000 tonnes of sand and gravel¹⁴⁰ or 0.6% of the provision identified up until 2029. This represents under 1/30 of the margin of error within the Minerals Plan. Consequently, there is no sustainable reason for refusal and the loss of minerals should carry only very limited weight in the planning balance. Pointing out that it did not have a chance to question the Authority at the Inquiry, as it was not present, LS reserved the right to write further to the SoS after the close of the Inquiry.

Ecology

7.20 The Council's reason for refusal was withdrawn in opening¹⁴¹ following agreement confirmed in the SoCG¹⁴². The appellant's evidence with regard to High Wood was not challenged¹⁴³. The evidence given on behalf of the Parishes¹⁴⁴ was seriously flawed and should be given no weight. In short, it was largely based on unattributed but altered passages from NE publications; it was generic and not based on direct experience. While it would have benefitted from discussion, the witness was instructed not to¹⁴⁵. The appellant's ecological evidence was unchallenged¹⁴⁶, including the important baseline assessment that the vast majority of the site is an ecological wasteland. In fact, the scheme would bring significant ecological benefits from the management and improvement of important hedgerows, the Ancient Woodlands, the creation of an ecologically-focussed area without public access, and the removal of fringe effects of agriculture. Ecology should weigh as a benefit in the planning balance.

Highway safety

¹³⁶ The evidence of Toyne and Anderson

¹³⁷ Hutchinson proof paragraph 6.37 p31 of UDC1

¹³⁸ Meakins appendix 2 p21

¹³⁹ Hutchinson XX and Meakins appendix 2 p2-7

¹⁴⁰ Meakins appendix 1 p9 paragraph 5.3

¹⁴¹ Paragraph 3

¹⁴² ID49

¹⁴³ Fleming proof s15

¹⁴⁴ By Dr Gordon

¹⁴⁵ The restrained XX of Dr Gordon was effective in exposing the genesis of the evidence which was not hers and should be given no weight. In answer to IQ, the witness, who has a PhD, accepted that in academic circles the evidence would be regarded as plagiarism

¹⁴⁶ Following Dr Gordon's XX, Mr Storah asked no questions on behalf of the Parishes

7.21 This objection was withdrawn¹⁴⁷ and the Woodside Way access was confirmed as safe with a minor change to the proposed crossing through a s278 agreement¹⁴⁸. The late representation by the HA raises two points dealt with in the note submitted on 20 November 2014¹⁴⁹ which indicates that there is nothing of substance outstanding. The final response will be sent to the SoS.

Accessibility and sustainability

7.22 Great Dunmow is one of the two most sustainable locations in a largely rural district¹⁵⁰. The Appeal A site is on the fringe of Great Dunmow near the strategic road network. Car journeys to the Helena Romanes School, Tesco and the town centre take only a few minutes. It is not isolated. On-site facilities will assist in sustainability. Objections with regard to walking, cycling and bus connectivity arose before the Woodside Way access proposal, and the objection to the use of Park Road no longer stands. The starting point for policy, to maximise opportunities for travel by non-car modes, must be seen in the context of the site and wider area¹⁵¹. The guidance on maximum walking or cycling distances is just that and the test of 'severe' in the NPPF¹⁵² applies to transportation and accessibility issues as much as to highway safety.

7.23 Of the walking distances, journeys to the Tesco supermarket are likely to involve car-borne trips anyway and the town centre is too far for many existing residents and for future residents of the Barratt's site as well. The school is the key distance: via the footpath it is 1.8km. This can be upgraded and will be the route of choice in drier, lighter times of the year. However, using Woodside Way is only a little further at 2.3km, even if this is just outside the guidelines. As well as the town centre and its attractors, there would be a dedicated cycle route to the Flitch Way with opportunities for recreation and commuting to Stansted airport at a distance of only 8km. There is no good objection to the cycling provision. A sum of £200,000 would underwrite the TP initiatives.

7.24 The agreed bus position is in the Transport SoCG¹⁵³. The s106 obligations now contain a robust bus package, regardless of the link to the Barratt's site, including:

7.24.1 a 30 minute frequency service to Great Dunmow town centre between 0700 and 1900 Monday to Friday and 0900 and 1900 on Saturday;

7.24.2 a contribution of around £2.275m¹⁵⁴ towards its procurement and operation;

7.24.3 a requirement that the scheme would be subjected to ECC approval;

¹⁴⁷ Wilkinson's evidence and XX

¹⁴⁸ Bird IC which removed Wilkinson's concerns (paragraphs 5.7 and 6.2) as confirmed in XX. See also the SoCG on highways ID23

¹⁴⁹ By Bird, ID61

¹⁵⁰ CDA1 p6 para 2.2.1; CDB3 p22 paras 4.1, 7.4 and 7.8; Wilkinson XX

¹⁵¹ NPPF 29 and 32

¹⁵² Ibid para 32.3

¹⁵³ Paras 1.22-1.25

¹⁵⁴ Corrected orally in closing

- 7.24.4 implementation for the earlier of: 15 years, 5 years after the last occupation, or until the full amount has been spent;
 - 7.24.5 annual reviews;
 - 7.24.6 an optional alternative bus diversion, at a cost of around £2.85m;
 - 7.24.7 the option for LS to elect to provide the bus diversion, in which case the requirement would fall away with similar obligations for the diversion, again subject to reviews.
- 7.25 Consequently, there would be an adequate bus provision whichever course of action is followed and whether the Barrett's link transpires or not. Although desirable, so that it is almost bound to come about, it not necessary in public transport terms. ECC would welcome it¹⁵⁵; the Council has the ability to require it. There is no bar to re-configuring the ecological buffer¹⁵⁶ even if Barratt's would have to re-consider that part of its ES. The likelihood is that the two schemes will be linked together and the SoS can be updated before reaching his decision.

Housing land supply (HLS)

- 7.26 It is for the Council to show that it has a 5 year HLS, although the degree of shortfall is also relevant. The extent of difference¹⁵⁷ is between the Council's claim of 6.2 years and the appellant's 2.8 to 3.1 years. The main issues on housing numbers are:
- 7.26.1 the difference between UDC's 523 dpa and LS's 670 or 704. The components are: relevant guidance, reliance on Edge Analytics Phase 6¹⁵⁸, and whether other data confirm a higher figure;
 - 7.26.2 whether a shortfall should be included;
 - 7.26.3 whether the buffer should be 5% or 20%;
 - 7.26.4 whether a lapse rate should be applied;
 - 7.26.5 whether C2 uses should be included in the supply side.
- 7.27 The need for a 5 year HLS in NPPF 49 applies where there is no up-to-date plan. The PPG expands on this and sets out the approach to establishing a full OAN, including the latest CLG projections, reliability issues, and any adjustments¹⁵⁹. The figure of 523 from the Edge Analytics report is not a full OAN. This has now been exposed to scrutiny at the EiP and the Council's witness¹⁶⁰ was not the policy officer or from the Edge Analytics consultants. The EiP findings on Edge Analytics 6 will be reported in due course (see below)¹⁶¹.

¹⁵⁵ ID23 para 1.20; ID09 and Wilkinson in XX

¹⁵⁶ Ecological SoCG ID50 para 38

¹⁵⁷ See the Agreed statement on housing numbers ID6

¹⁵⁸ The Phase 6 report by Edge Analytics

¹⁵⁹ At paras 3-030 and 2a-015

¹⁶⁰ Hutchinson

¹⁶¹ With this in mind, I do not summarise closing paragraphs 88-97

- 7.28 As well as a shortfall from the plan period itself, the Council makes no provision for the 500 unit difference which already existed in 2011. The PPG now provides guidance on past under-supply¹⁶² and the *Cotswold* case¹⁶³ clarifies that a judgement needs to be reached over a period of years to determine the appropriate buffer. The fallback Policy H2 demonstrates that this should be measured against the target of 5,052 dwellings. Contrary to the dissimilar cases cited by the Council¹⁶⁴, that at *Droitwich*¹⁶⁵ shows that a lapse rate should also be provided. Conversely, Class C2 uses should not be included unless they are identified on the demand side.
- 7.29 Overall, to conclude that the Council can demonstrate a 5 year HLS would depend on accepting most of the Council's points. However, there is no up-to-date full OAN. The Edge Analytics work, whichever phase, only provides projections, does not address the points required by the PPG, and is at odds with the evidence on migration, employment and affordable housing. The shortfall should be taken into account in the first 5 years and there should be a 10% lapse rate and a 20% buffer.

Scheme benefits

- 7.30 Substantial weight should be given to the benefits of affordable housing; it is not just a policy requirement. In the absence of a 5 year HLS, the market housing should also be given substantial weight. Other benefits include the ecological and landscape benefits, the financial benefits to the Council through the new homes bonus and Council Tax receipts, and the new cycle and crossing infrastructure. The s106 package covers agreed contributions towards education, healthcare, and recreation.

Balancing exercise

- 7.31 The NPPF 14 balance should weigh the substantial benefits against the limited cumulative adverse impacts of landscape and visual harm, loss of BMV agricultural land, and minerals. In the context of s38(6), the scheme would breach certain policies but compliance with the NPPF heavily outweighs non-compliance with an out-of-date plan. No other considerations, including the emerging plan and the neighbourhood plan, could outweigh compliance with the NPPF.

Appeal B

- 7.32 The decision by the Council to support a new settlement at Elsenham was driven by party political considerations¹⁶⁶ but what matters here are the serious shortcomings of that scheme. Unlike Great Dunmow, Elsenham is not a hub or service centre but only one of the key villages¹⁶⁷. The emerging LP adopts a similar approach¹⁶⁸. Appeal B should be dismissed on transport, sustainability and prematurity grounds. Its merits are irrelevant to Appeal A.

¹⁶² Para 3-035

¹⁶³ *Cotswold DC v SSCLG* [2013] EWHC 3719 (Admin)

¹⁶⁴ Flitch Green, Bentfield Green and Thaxted, CDG18, CDG19 and CDG17

¹⁶⁵ CDG9 DL14 and IR8.55

¹⁶⁶ Meakins IC

¹⁶⁷ CDA1 paras 2.2.1, 13.1 and Policy S1

¹⁶⁸ The closing says more about the emerging LP which no longer carries any weight

- 7.33 The highway access to the site is a major flaw in the scheme. The shortcomings are obvious and the strategy to address them has been utterly discredited. Reliance on the railway station and other transport modes is no defence given the significant number of vehicles that would use the sensitive routes¹⁶⁹. Whether considering the sensitivity test or not, the estimated increase in traffic using Stansted Road would be significant. Even using TFP's figures, and regardless of its assessment of what might be significant¹⁷⁰, the number of additional trips through Stansted Mountfitchet would probably have a severe cumulative impact on the local roads.
- 7.34 The Highways Impact Assessment of the draft Local Plan is relevant and identified: limited options to reduce traffic impact; the distance from the strategic network; the limitations in Stansted Mountfitchet; and the likely impact of education trips, there being no secondary school in Elsenham.
- 7.35 ECC found that the distribution of traffic would be vital to the success of the transport element¹⁷¹. Stansted Road is unsuitable, as highlighted by the Parish Council and the public consultation event¹⁷². Elsenham already has a significant amount of committed development¹⁷³ and the strategy has not been carefully thought through or shown to be capable.
- 7.36 In particular, as set out in the PCsB's case:
- 7.36.1 the original 50:50 split between Stansted Road and Hall Road is unrealistic;
 - 7.36.2 there would be approximately a 40% increase in traffic using Stansted Mountfitchet in the TAA sensitivity test¹⁷⁴;
 - 7.36.3 the need for the strategy to slow down the route through Stansted Mountfitchet takes no account of those who have no choice but to use this route;
 - 7.36.4 the strategy ignores the safety implications for Hall Road;
 - 7.36.5 the necessary orders would require public consultation;
 - 7.36.6 despite the need to understand existing traffic patterns, the survey data is shambolic with errors in some figures relied upon and a lack of comprehensive data for the peak times.
- 7.37 Consequently, ECC might well have been misled into not objecting. The evidence is persuasive that in fact route 4 would be much slower than route 2 during the a.m. peak journey. The disputed figures¹⁷⁵ should not be excluded as outliers as corroborated by the other witnesses' own journey times¹⁷⁶. Moreover, route 2 is, and would be, much shorter. Route 3 should not be

¹⁶⁹ PCsB in closing

¹⁷⁰ TAA paras 2.2.10-16 p14-15, Bamber IC and Table 2A, TFP closing para 124

¹⁷¹ TAA s5 p20

¹⁷² ID41 and the DAS, September 2013 para 3.10 p49

¹⁷³ Plan TFP/RT/1

¹⁷⁴ Table 12.4 p35

¹⁷⁵ Table 5 of the Highways SoCG; Bird's Tables 8.1 & 8.2; TA Tables 10.5 & 10.6; TAA Table 20.1 and ID42a

¹⁷⁶ Bamber and Dean

relied upon as it uses a private road. All in all, TFP has not shown that the strategy would make the development acceptable; rather it would cause severe transport impacts. Moreover, the environmental impacts of the additional traffic have not been taken into account¹⁷⁷.

7.38 With regard to sustainability, Elsenham has serious difficulties given its position in the settlement hierarchy for the district. The station will not address the severe road shortcomings or assist with shopping or school trips, the proposed bus service would make little difference and its viability is uncertain. Existing facilities in Elsenham are limited so that main food shopping would require a trip to Bishop's Stortford. There are no nearby cycle routes and Hall Road would become even less suitable with faster traffic speeds.

7.39 The form of development would be arbitrary, rather than based on any existing feature, and depend on new planting. Finally, LS raised the matter of prematurity but, given subsequent events, I do not summarise this here.

Further comments

Following the Local Plan Inspector's letter, LS added the following comments.

7.40 The Inspector's findings reinforce the inability of UDC to demonstrate a 5 year HLS and the unsuitability of the Elsenham for development. His finding that the emerging LP is unsound because of its inadequate supply means that no reliance can be put on the Council's figure of 523 dpa and the principle of increasing this is consistent with the evidence submitted by LS. The only properly assessed OANs are those put forward by LS and TFP. The lowest figure to test, as put forward by the LP Inspector, is now 580 but even this is too low.

7.41 Despite his conclusion, UDC should still be assessed as a 20% authority. This is because replacing 523 with 580 means that UDC has only met its requirements for 3 out of the last 14 years¹⁷⁸ and not at all since the LP was adopted in 2011. It has under-delivered 1,288 dwellings since 2000/01 and at least 289 since 2011/12. Even using UDC's figures, it has only met the requirement in 6 out of the last 14 years which amounts to an under-delivery of 309 dwellings. On either basis, this is a persistent under-delivery.

7.42 With regard to Elsenham, the Inspector has endorsed the objections that the s78 scheme would be premature¹⁷⁹, that it would not represent sustainable development, and that the surrounding highway network is unsuitable. In particular, he did not give significant weight to the train station as few journeys are undertaken by train, public transport connectivity and journey times to facilities are poor, and the line itself is an obstacle to integration. The latter could become much worse if the crossing is closed. He found it unclear as to whether it was feasible to widen the Hall Road, and these comments, as

¹⁷⁷ TAA Table 12.1 and Horsfall in XX by Wigley, as required by the IEA guidelines CDG16 para 2.8 p9

¹⁷⁸ See table at paragraph 2 of LS letter to PINS dated 12 January 2015, ID70

¹⁷⁹ Ibid paragraph 2.3

well as those on sustainability are equally applicable to the 800 unit scheme. He raised further concerns with regard to the J8 of the M11.

- 7.43 His findings reinforce the case that there is a 5 year HLS shortage. Appeal A would be sustainable while Appeal B should be refused, being unsustainable on account of the poor location of the site and its services, the poor transport connections and journey times, and the inadequacies of the surrounding highway network.

Following publication of the 2012-based household projections, LS added the following comments.

- 7.44 After allowing for a 4.7% vacancy rate, as the Edge Analytics report, the projected growth of 508 equates to 530, similar to the LP Inspector's figure of 529 dpa. In establishing the full OAN, consideration should be given to further adjustment for migration and household formation rates, the need to balance population and job growth, the need to make an uplift for market signals. There is nothing in the new projections to suggest a lower figure than that of the LP Inspector or to alter the previous justification for a figure in excess of 675 dpa.

8. The Case for The Fairfield Partnership¹⁸⁰

The closing submissions deal in some detail with the emerging LP¹⁸¹ and with prematurity¹⁸². Given that the emerging LP has been withdrawn, and further submissions added, I do not summarise the submissions on either point here.

The appeal site

- 8.1 Of around 51ha, most of the site is agricultural land in arable use¹⁸³. The west side adjoins Elsenham; to the north-east are arable fields with the village of Henham beyond. To the south lie Elsenham Quarry, recreational and horticultural uses, and Stansted Airport beyond.

The proposal

- 8.2 The outline application was for up to 800 dwellings and other uses including offices, retail uses, a primary school, a health centre and other community buildings, rail interchange facilities, open spaces and landscaping, and infrastructure including access for buses, motor-vehicles, cycles and pedestrians¹⁸⁴. This was submitted with an ES and a series of other documents¹⁸⁵. An Agreement under s106 has now been completed.

¹⁸⁰ Fairfield (Elsenham) Limited

¹⁸¹ ID 65 paras 24-28

¹⁸² Ibid paras 29-35

¹⁸³ See pages 9 to 11 of Mr Copsey's proof and plan PDC/1

¹⁸⁴ See application letters dated 2 April, 22 July, 27 August and 19 September 2013 and the bundle of up to date plans provided with the Appellant's proofs.

¹⁸⁵ Including a Planning Statement, a Design and Access Statement, a Green Infrastructure Strategy, an Economic Strategy, a Retail Assessment and a Transport Assessment. The Environmental Statement was updated in July and September 2013 and updated and consolidated in September 2014

The LPA's position

8.3 Following revisions, the application was recommended for approval but rejected by members who resolved to delegate authority to refuse the application, but gave no reasons for refusal. TFP then wrote to the LPA expressing its concerns about the manner in which the application had been considered¹⁸⁶. It was again considered and again rejected citing conflict with policies S3, S7 and S8 and with adopted LP policies ENV3 and ENV5 and that the benefits including housing and AH would not outweigh the harm caused. The LPA has since reviewed its position and, in view of the proposed allocation in the emerging LP, confirmed that it would not seek to defend the refusal¹⁸⁷. While LS has sought to undermine this position through a series of questions, the position remains that the LPA does not object¹⁸⁸ and this is reflected in the SoCG with the LPA and the PCsB¹⁸⁹. UDC is now content with the suggested conditions and the s106 Agreement.

The Issues

8.4 Given the objections from others, TFP has provided evidence to address other matters raised as well as the LPA's now abandoned reason for refusal and any issues of policy or approach.

Policy and approach

8.5 The LP ran to 2011, has now expired and is significantly out-of-date. Whilst a number of policies have been saved, the Saving Direction acknowledges that new policy will be afforded considerable weight¹⁹⁰. The NPPF confirms as much¹⁹¹. Of particular relevance, the NPPF applies a presumption in favour of sustainable development, seeks to boost significantly the supply of housing, and requires local plans to meet objectively assessed housing needs¹⁹². Here, relevant policies are out-of-date and NPPF 14 applies.

8.6 The PCsB argued that the policies were not out-of-date and that NPPF 14 does not apply. This is flawed as:

- a) failure of only one, not all three, of the tests in NPPF 14 engages the presumption in favour of sustainable development¹⁹³;
- b) the presumption can still apply even if the LPA can demonstrate a 5 year HLS¹⁹⁴. There are two routes to this, first if policies are out-of-date, second if there is no 5 year HLS. The *Bentfield Green*¹⁹⁵

¹⁸⁶ See paragraphs 3.14 to 3.16 of Mr Copsey's proof

¹⁸⁷ See the LPA's letter of 26 June 2014 and its Statement of Case

¹⁸⁸ IDs14

¹⁸⁹ ID46

¹⁹⁰ CDA2

¹⁹¹ NPPF paragraph 196

¹⁹² Ibid paras 14, 47 and 197

¹⁹³ See Gardner's proof para 6.5

¹⁹⁴ Ibid 6.4

¹⁹⁵ Ibid appendix GP/3

decision addressed the case where there was no 5 year HLS and was rightly ignored in closing;

- c) the conclusion that relevant policies are not out-of-date¹⁹⁶ is wrong given policy in NPPF 14, 47, 49 and 215.

- 8.7 On the last point, nothing in the LP reflects the step change with regard to housing in the NPPF. LP policies S3 and S7 are out-of-date, S7 being only partly consistent with the NPPF¹⁹⁷. Even though NPPF 17.5 acknowledges the desirability of retaining countryside, it should no longer be strictly controlled as before¹⁹⁸ and so the test is different. With regard to housing numbers, LP policies S3 and S7 set development boundaries with reference to the 2001 SP which in turn used numbers derived from 1996 projections. Consequently, the boundaries are no longer relevant to current needs.
- 8.8 The PCsB argued that where there is a 5 year HLS the boundaries can still apply and the development plan need not be out-of-date. However, the NPPF leaves no doubt that local plans should be up-to-date¹⁹⁹. The reference to predictability and efficiency in the *Felsted*²⁰⁰ decision does not support this or bind this case where significantly more evidence has been heard. In *Thaxted* the Inspector accepted that policy S7 is only partially consistent with the NPPF and that the weighted balance in NPPF 14 applied even where there was a 5 year HLS. In any event, since there is no 5 year HLS, these policies cannot apply.
- 8.9 The comparisons LS drew between the Elsenham proposals and its own scheme should play no part in these appeals, each of which should be considered on its own merits. However, since comparisons have been made, it should be noted that: the Council objected to the Appeal A scheme on sustainable transport and landscape grounds; the Highway Authority considered that the Appeal B scheme was superior to Appeal A²⁰¹ and to be preferred with regard to sustainable transport²⁰²; Appeal B would provide excellent accessibility on foot, bicycle, bus and rail with easy access to services and employment; Appeal A would have no rail station, would be divorced from Great Dunmow by the bypass, and would have poor links to the town and nearest foodstore; and Appeal B would be preferable in terms of landscape, natural beauty and mitigation.

HLS

- 8.10 There is a HLS shortfall of between 1.1 and 2.5 years²⁰³. The final position of the parties at the Inquiry²⁰⁴ highlights the areas of disagreement as: accumulated shortfall, annual requirement, approach to shortfall, buffer, and overall HLS. The difference with regard to shortfall depends on how far back

¹⁹⁶ Ibid 5.4 to 5.22, IC and XX

¹⁹⁷ See CDA4

¹⁹⁸ Para 1 of PPS7

¹⁹⁹ NPPF 17.1, as well as paragraphs 12, 14, 47, 49, 157,2 and 213 (in Annex 1)

²⁰⁰ See appendix A4/1 to Hutchinson's rebuttal proof

²⁰¹ Wilkinson in answer to IQs

²⁰² Horsfall further rebuttal and Bird in XX

²⁰³ Copsey proof and erratum/update submitted on 23 September 2014

²⁰⁴ ID6 but now see tables with further comments

this should be taken. The Council only looks at 2013/14 rather than correctly looking at the whole of the LP period. To do so is to ignore the NPPF's aim for sufficient housing for all needs including past unmet needs²⁰⁵. Depending on which figure is used²⁰⁶, the shortfall from 2001-2011 should be 570 or 1,002.

- 8.11 The Council's annualised housing requirement of 523 takes no account of migration trends or employment growth and did not reflect the SHMA work²⁰⁷. The Council's figure of 523 dpa is based on 2008 data. While it sits within the Phase 6 forecasts, these give no preference or recommendation and without a chance to check its technical reliability, gives no comfort for the Council's figure. The average of 529 is of two alternative approaches and is not consistent with the Phase 5 approach. The correct figure should lie between 573 and 774 dpa. The parties agree that the shortfall should be addressed over the next 5 years as set out in *Sedgefield* and the PPG²⁰⁸.
- 8.12 With regard to the buffer, the housing target has only been met for 4 of the last 13 years and only twice in the last 5 years. For much of that time the shortfalls have been substantial amounting to a record of persistent under delivery. Moreover, the buffer should be applied to the shortfall as found at the *Droitwich* appeals²⁰⁹. The difference in the supply figures between the Council's 3,592 and TFP's 3,468 is down to the lack of certainty for windfalls and an adjustment for the timing of delivery on 2 sites.
- 8.13 It follows that even with a 5% buffer there is a significant shortfall and an urgent need for land for market and affordable housing. As the trajectory shows that this will continue, the position will only get worse. There is no merit in the suggestion²¹⁰ that there is any risk to the AH provision and no requirement for a viability assessment. The viability is not in doubt and the AH would be secured by the s106 Agreement.

Character and appearance

- 8.14 The evidence includes a comprehensive LVIA and a thorough appraisal of the site, context and effects²¹¹. The undulating fields contain few important landscape features such as specimen or groups of trees, woodlands, hedgerows or ponds; the site is not within a deeply rural area²¹². Significant parts are not even in agricultural use²¹³. The landform slopes gently towards Elsenham and so accentuates its relationship with the built up forms of the village and the railway. The green infrastructure has been carefully considered, including public open space and new tree and hedgerow planting, and these would offer significant benefits²¹⁴. The effects on landscape

²⁰⁵ See the approach in *Sandbach* CDF51 paras 30-31

²⁰⁶ The Policy H1 figure of 459 dpa or the SP figure of 373 dpa. See Copsey s2 and table 6.8 of erratum/update

²⁰⁷ See Copsey 6.25-6.50

²⁰⁸ Ref. ID 3-035-20140306

²⁰⁹ CDG9 para 8.46

²¹⁰ Wigley's wild assertion in closing para 17

²¹¹ Tregay proof, rebuttal and further rebuttal as supported by the ES

²¹² Ibid proof 5.2.3 and 5.4.3

²¹³ Including the former poultry units and sandpits

²¹⁴ Tregay proof s3.3 and CDF28 para 21.49

character would be very localised and key characteristics would not be significantly affected. None of this evidence was substantively challenged by the PCsB²¹⁵.

8.15 With regard to LS's landscape evidence²¹⁶: there was no objection in principle; it was acknowledged that it would be possible to provide more adequate landscape mitigation on the east side; it was more directed at the misguided prematurity argument; the wirelines overstate the impact and are flawed²¹⁷; the criticisms of the eastern boundary are unfounded as a 10m tree belt would be adequate²¹⁸; and there is nothing which depends on a larger scheme.

8.16 On this issue, the scheme is not isolated but takes advantage of adjoining Elsenham, would have significant green infrastructure benefits, would meet or exceed UDC standards for open space, and the design would accord with the NPPF 56-58 and the PPG and result in a very successful and high quality, sustainably designed development²¹⁹.

Airport CPZ

8.17 LP policy S8 established a zone limiting development in order to prevent coalescence between the airport and existing development. The policy was aimed at containing the airport²²⁰. There is no conflict with this policy, the Council has given it little weight in its decisions, only a small part of the access road would pass through and the road would not affect openness or coalescence. It was not an issue at the Inquiry.

BMV agricultural land

8.18 LP Policy Env5 and NPPF 112 permit the use of BMV agricultural land unless there are opportunities on previously developed land or on land within development limits. Where it is required, poorer quality land should be used. The Appeal B site comprises 41% Grade 2 and 58% Grade 3 land, although not all is in production. However, the district is predominantly rural, with limited areas of brownfield land²²¹, so greenfield land must be used. The loss of 33-43ha of BMV agricultural land would only amount to some 0.053-0.069% of the total in Uttlesford²²² and there is no lower grade land close to existing settlements. It is not a differentiating factor and there would be no conflict with the policy objectives. The officers' report reached the same conclusion.

Transport sustainability

²¹⁵ Gardner refers to the ES but not the 2014 update. He makes no appraisal of the landscape impacts 'as they are matters for specialists' – Gardner para 7.10

²¹⁶ Toyne

²¹⁷ Toyne appendix 7 and Tregay rebuttal s3.1

²¹⁸ Tregay rebuttal para 3.15, fig 18 p 40 of the Green Infrastructure Strategy, s3.2 and 3.3 and in oral evidence

²¹⁹ It was designed by the highly experienced David Lock Associates, see also Copsey 7.9-7.10, s8 and IC, and ID26 paras 15-22,

²²⁰ Copsey proof 7.26-7.29

²²¹ Ibid 7.41-7.50

²²² Copsey IC

8.19 This formed no part of the LPA's reason for refusal, and there were no Highway Authority objections²²³, but the issue was raised by the PCsB and LS. Three points should be made concerning the NPPF and PPG on sustainable transportation:

8.19.1 there is no concept of an "intrinsically sustainable location" and NPPF 34 does not mean that there is some fixed sustainability threshold to apply to site assessment;

8.19.2 NPPF 29, 32 and 34 promote a site specific approach²²⁴;

8.19.3 for larger residential sites, NPPF 38 applies and the proposals would comply with this.

8.20 The proposed mix of uses accords with the NPPF in offering the chance to undertake day-to-day activities on site. This would make it sustainable and reduce travel by car. The proximity to Elsenham offers further facilities including a GP surgery. The criticism that there is not a secondary school or large foodstore nearby should be rejected as it misconceives NPPF 38 and ignores the significant on-site or nearby employment opportunities²²⁵. Employment opportunities further afield in London, Harlow and Cambridge can all be reached by train. To refer to the on-site retail provision as "four small shops"²²⁶ is to underestimate 1400m² of A1, A2, A3 and A5 uses. Viability is not in doubt with interest from the Co-op and Morrisons. A site for a health would be secured through the s106 Agreement. The secondary school at Forest Hill in Stansted Mountfitchet has capacity and would be accessible by bus²²⁷.

8.21 Hence the proposals would provide a real choice about how to travel. The design would promote non-car travel within the site as the green infrastructure would provide links between houses and education, employment, retail and community facilities, including public open space, as well as being linked to routes outside the site²²⁸. The station and bus stops would all be within easy walking distance. Cycling to the existing village centre, nearby employment and recreation would benefit from improvements along local roads.

8.22 Building on existing services, bus provision would include linking the proposed interchange and an extension of the existing 308/309 service which links to Stansted Airport, Bishop's Stortford and Forest Hall School during term times. The allegation that the service would not be viable should be rejected as:

8.22.1 it would use an existing viable service;

²²³ Confirmed in the officers' report CDF28 paras 19.24, 21.34-21.36 and 21.85-21.86

²²⁴ See also the last bullet in paragraph: 001 Reference ID: 50-001-20140306

²²⁵ See the Economic Strategy at s4, 0.5ha B1 on-site employment land, sites very close by at Gold's Enterprise Zone and Old Mead Road, nearby at Trisail and Bury Lodge Lane, and Stansted Airport at only 6km – see ID7

²²⁶ Gardner proof 6.18

²²⁷ Copsy IC and ID43 with a school bus service from Elsenham provided by ECC

²²⁸ Horsfall s3.3

- 8.22.2 the 308 service is used by Stansted Airport employees²²⁹;
- 8.22.3 there are committed residential developments in Elsenham;
- 8.22.4 there is an agreement in place which is fully costed by the operator²³⁰;
- 8.22.5 the s106 Agreement would ensure that the service will be in place.
- 8.23 The appeal site is in the unique position of being able to take advantage of the existing railway with frequent services to Bishop's Stortford, Harlow, Cambridge and London²³¹. The transport interchange would facilitate switching between rail, bus and taxi and improve access by foot and cycle. Even the evidence for the PCsB²³² shows that this would be an important service. LS's doubt over train travel is not supported by any calculations²³³ when it would in fact be likely to reach 13%²³⁴. Few would drive to another station when driving and parking time are taken into account.
- 8.24 There can be confidence in substantial future use of rail, and the increased use would encourage train operators to consider additional stops or frequency to Elsenham. The TP would ensure improved mode shift and the framework TP has been further revised following the Inspector's comments during the Inquiry. The TP target of a 10% reduction in mode share would be enforced if necessary through additional measures set out in the s106 Agreement. A further deposit for ECC could be used in the event of a breach or failure. All these measures allow confidence to be put in the delivery of the TP²³⁵. Overall, the scheme would be very sustainable in both location and design, particularly on account of its railway station. Its interchange, bus, cycle and walking strategy would provide a real choice in terms of non-car mode travel and the TP would ensure the Government's objectives would be achieved. The Scheme would be entirely consistent with the NPPF.

Traffic impacts

- 8.25 This similarly formed no part of the LPA's reason for refusal, and there were no Highway Authority or LPA officer objections²³⁶. However, the issue was raised by the PCsB and LS who raised concerns about the ability of the road network to serve the new development. The allegation was that the local highway network is not adequate to take the increased traffic and that the highways strategy in the TA and TAA would not succeed. The concerns are not justified²³⁷.
- 8.26 The case for the PCsB is no more than a scatter gun critique of the TFP's case. It contained no operational traffic impacts assessment or new empirical data to

²²⁹ Bamber's calculation takes no account of the specific circumstances surrounding Stansted Airport – Horsfall explained IC and XX

²³⁰ The TGM Group ID53

²³¹ TA s4.2 and Horsfall s3.4

²³² Bamber 4.104-4.105

²³³ See Bird 8.1-8.6 and CDE15

²³⁴ ID39, excluding those who work from home, otherwise 11.6%

²³⁵ See ID47 s3

²³⁶ See CDF28 paras 19.24 and 21.81-21.95

²³⁷ See Horsfall's proof and the TA work

support it. The only critical junction capacities analysis, and so the one which should be relied upon, was that carried out for TFP²³⁸.

- 8.27 Objections to the TA and TAA were in large part due to inadequate understanding and criticisms of the numerical information, relating to the percentage of vehicle trips to local destinations, took no account of the clear explanation for the distribution of trips to zones set out in the TA²³⁹. When the TA is properly understood, there is no basis to criticise the allowances for internalisation of trips or the distribution between internal and external trips²⁴⁰. Even if the shopping internalisation figures²⁴¹ are still too high, it should be recognised that relatively few residents would be likely to drive out of the site to go shopping during the peak hours. Many of the criticisms were withdrawn in the SoCG²⁴² and in oral evidence²⁴³, in particular that the TA work underestimated the traffic impacts on the highway network²⁴⁴.
- 8.28 The suggestion that the TA work was deficient, as it was based on vehicle rather than trip generation rates, ignores parts of the TA²⁴⁵. Furthermore, following review by the Highways Authority, revised trip rates were agreed²⁴⁶ and reduced internalisation factors resulted in an increasingly robust assessment as shown in the TAA²⁴⁷. Criticism of safety checks for the proposed access on Henham Road was not justified either²⁴⁸ when the road safety audits were provided. None of the criticisms were justified; the highways strategy was agreed with the HA.
- 8.29 The overarching objective of the strategy²⁴⁹ is to encourage both development and background traffic to use Hall Road rather than Stansted Road. The TA sets out how that objective would be met. This includes assessing the constraints within Stansted Mountfitchet, the capacity of Hall Road and route choice. At the moment, the latter has capacity while the former is congested at peak periods²⁵⁰. The TA notes that while Stansted Mountfitchet is sometimes quicker it suffers from variability, especially in peak periods, and so expects traffic from the development to use Hall Road. However, to discourage further traffic from using Stansted Mountfitchet, it proposes various measures including traffic calming along Elsenham High Street and reducing journey times along Hall Road²⁵¹, and contingency measures along Tye Green Road, Old Mead Road and Ugley Green²⁵².

²³⁸ By WSP and contained in the TA and TAA - See in particular section 15 and appendices S and T of the TA and sections 12, 14, 33, 34 and 35 and appendices M, R and S of the TAA

²³⁹ Horsfall rebuttal 2.1.4

²⁴⁰ TA 2.1.4-2.1.13, s11 and s12; TAA s2; Horsfall rebuttal 2.2.1-2.2.3

²⁴¹ Reduced from 85% to 60%: Table 7, WSP Trip Generation Technical Note, 7 June 2013

²⁴² ID33

²⁴³ In XX Bamber 4.11-4.28, 4.33 and associated tables; 4.73-4.76 were not pursued

²⁴⁴ Ibid 4.28

²⁴⁵ TA s11 and s12; TAA s2, Horsfall rebuttal 2.1.1 to 2.1.3 and IC

²⁴⁶ TAA appendix B, email dated 6 June 2013

²⁴⁷ TAA s2

²⁴⁸ Horsfall rebuttal 2.4.6

²⁴⁹ TA s10

²⁵⁰ TA 10.1.3, 10.2.3, 10.2.8 and 5.2.6, 5/3/6 and 5.7.4; CDE1: ECC DMP p4 and glossary

²⁵¹ TA s10 and TAA s20

²⁵² Ibid s10.4 and Horsfall 3.7.5

- 8.30 The TA summarises²⁵³ the strategy which has been agreed in principle with ECC and the HA. It deals with route choice based on an overall 'generalised cost' of value, time and reliability. It is particularly pertinent during peak hours journeys to education and employment and recognises that traffic will reach equilibrium between route choices which finds a balance accounting for congestion and delay. The report, supported by analysis of journey speeds and times, shows that the combination of peak hour queuing via Stansted Mountfitchet, and the proposed measures, would make Hall Road a practical alternative. Finally, the s106 Agreement and the s278 works could include a contingency for monitoring and addressing any unforeseen impacts.
- 8.31 The HA understood all this²⁵⁴ and concluded, with reference to spare capacity on the network to the south of the development that the suggested conditions would facilitate the journey of traffic to the south including a new link road and enhancements to Hall Road.
- 8.32 The assignment in the TA²⁵⁵ uses broad proportions for the routes in question²⁵⁶. It is based upon the principle that the majority of trips to the south and west of the site, without an origin or destination in Stansted Mountfitchet, will use Hall Road rather than Stansted Road and Elsenham High Street. The strategy assumes that Hall Road would be more attractive at peak times. The results²⁵⁷ show that the network would continue to operate within capacity while congestion at the critical junctions in Stansted Mountfitchet would increase journey time variability and reinforce the assignment strategy to encourage the use of Hall Road. Although the PCsB²⁵⁸ have disputed the predicted assignment they have not taken issue with the operational assessments. Even here, the controversial element relates to a relatively small amount of traffic.
- 8.33 A sensitivity test was carried out at the HA's request which assumes all traffic to Bishop's Stortford, the M11 and east Hertfordshire would use Stansted Road rather than Hall Road. Although referred to as one which "more closely reflects current assignment patterns", this should not be understood as meaning that the assignment pattern in the sensitivity test reflects current traffic as it does not. Rather, traffic already uses Hall Road, and so some choice is already being made²⁵⁹, and the sensitivity test²⁶⁰ was a theoretical scenario to test an extreme case²⁶¹ and not a realistic outcome.
- 8.34 With regard to this test it should be noted that:
- 8.34.1 PCsB acknowledged that it was not realistic²⁶²;

²⁵³ Section 10

²⁵⁴ As confirmed by letter to the LPA dated 19 September 2013, ID44

²⁵⁵ See Tables 12.3 of the TA and 5-1 of the TAA

²⁵⁶ Routes 2, 3 and 4 (eg 90% of peak hour trips to Bishop's Stortford via Hall Road v 10% of peak hour trips to Bishop's Stortford via Stansted Road)

²⁵⁷ TAA s33

²⁵⁸ Through Bamber

²⁵⁹ Horsfall 34.1.2 and in XX; also TA 5.3.6

²⁶⁰ TAA appendix R and s34

²⁶¹ Horsfall in XX

²⁶² Bamber XX

- 8.34.2 the reference to 'limited sensitivity testing'²⁶³ is not correct as testing of all critical junctions was carried out;
- 8.34.3 contrary to the closing submissions²⁶⁴, there is capacity to accommodate the increase without excessive queuing and the impacts in the sensitivity test would be largely manageable;
- 8.34.4 the HA had not objected on the basis of the sensitivity tests;
- 8.34.5 to criticise the lack of testing of environmental effects in the sensitivity test is to ignore its purpose.

8.35 With regard to criticisms as to the effectiveness of the strategy:

- 8.35.1 focusing exclusively on journey time is flawed when reliability is an important factor, especially in peak hours and for trips to work or school²⁶⁵;
- 8.35.2 some background traffic will also make different choices²⁶⁶;
- 8.35.3 the PCsB relied solely on the whole route timings in appendix K to the TA but refused to acknowledge the supplementary data in appendix K to the TAA unless raw data could be presented²⁶⁷. This was unfair given that there was plenty of time to ask for further information. Nevertheless, the process was explained and the amended SoCG now contains the final positions as to journey times and methodology. With regard to criticism of the methodology²⁶⁸, it should be noted that:
 - d) raw data alone should not be accepted at face value, but should be evaluated to check that it is fit for purpose;
 - e) the methodology should be commended as it enables different sections of routes to be analysed independently;
 - f) the TA data is sufficient and reliable, despite concerns over on-street parking, as it excludes untypical or outlying data as is accepted practice;
 - g) there is sufficient information about the assessment process and both the TA and TAA were comprehensive, there is no requirement to include further detail and no such request from the HA;
 - h) there is no evidence to suggest that the journey time surveys were carried out other than in a professional manner;
 - i) with the exception of one error²⁶⁹ there are no significant or material errors in the TA or TAA as shown by tables 12-1 and 12 of the amended SoCG;

²⁶³ Wigley closing 43

²⁶⁴ Ibid 44

²⁶⁵ TA 10.5.1

²⁶⁶ TAA s18 and 18.1.5 in particular

²⁶⁷ Horsfall XX by Wigley

²⁶⁸ Wigley closing 51, 52, 53 and supplementary 5, 6 and 7

²⁶⁹ One Route 2 run (11.57) in the pm peak period, which had wrongly been allocated to the following hour but, as ID42A and amended SoCG, the change from 13.45 to 12.51 makes no difference to the overall comparison

- j) the approach to average route times, using section times, was not inconsistent and any duplicated data was omitted so that the overall conclusions are unaffected²⁷⁰;
 - k) duplicate data was only omitted where it did not affect the averaging process or had an insignificant affect²⁷¹;
 - l) obvious exceptional outliers, such as from queuing, should be excluded²⁷²;
 - m) the suggestion that there is an error for Route 4 is a perfect example of the flawed approach of the PCsB in refusing to accept the rejection of unreasonable data²⁷³;
 - n) the journey time surveys and route averages in the TA and TAA appendices are fully compatible²⁷⁴;
 - o) the average journey times are correct²⁷⁵;
 - p) Manchester Airports Group cannot, of its own volition, permanently close the road at the access point to Stansted Airport²⁷⁶.
- 8.35.4 when considering route choice for drivers, the excessive focus on journey time data underestimates the influence of the constraints to free flowing traffic on the route through Stansted Mountfitchet²⁷⁷ and undervalues the lack of constraints and free flowing nature of Hall Road²⁷⁸. The relative attractiveness as part of the strategy has not been acknowledged;
- 8.35.5 the proposed measures along the Stansted Mountfitchet route will reinforce the disincentive provided by existing conditions and make Hall Road more

²⁷⁰ ID42A

²⁷¹ See the ID42A pm peak average time of 12:51 and Mr Horsfall's pm peak travel time with proposed measures time of 16:30. Reducing 12:51 to 12:41 would reduce 16:30 to 16:20 but route 3 would still be significantly quicker than route 2 and route 4 would only be 40 seconds longer than route 2

²⁷² The figure of 24.45 for Route 4 in the am peak. Under normal circumstances some queuing exists at junction 8 but consecutive significant queuing at consecutive junctions should indicate the presence of some exceptional event. Mr Bamber and Councillor Dean reported their own recorded time for this journey, but the use of such ad hoc evidence cannot be seen to invalidate the results of a comprehensive survey

²⁷³ Wigley 56. The two figures quoted include the extended journey time from Elsenham Cross to "Point A" - See Appendix 1 of the SoCG. This journey time of 6.02 mins - TA Appendix K Route GFCA boxes 11 and 12 and Horsfall IC and XX - represented an average speed of about 3mph – this is clearly not reliable for assessment purposes, but Bamber refused to discount it as such. See table 11 of the amended SoCG - Section CA northbound. The values are starred and there is a footnote

²⁷⁴ SoCG appendix 2 using the WSP methodology

²⁷⁵ based on the preferred methodology for evaluation and validation of data for the averaging process - See tables 12-1 and 12-2 of the SoCG

²⁷⁶ TA 5.2.18 and Bird in XX

²⁷⁷ Horsfall rebuttal 2.4.4; TAA 10.3.3 and ID41. In particular Grove Hill Junction, which acts as a "gating mechanism" to traffic from Elsenham, and the on-street parking on Chapel Hill

²⁷⁸ A free-flowing secondary distributor road, acknowledged by Bamber in XX as suitable and underused

- attractive²⁷⁹, as will the link road alignment²⁸⁰ and the High Street speed limit and traffic calming;
- 8.35.6 the interventions along Hall Road would reduce journey times and add to its attractiveness through an increase in speed of 5mph based on modest road widening, improved perception and forward visibility²⁸¹. TD9/93 Highway Link Design is not applicable²⁸² and so the calculated saving of only 10 seconds is wrong. All the proposed widening would be carried out within the highway boundary, the HA was satisfied²⁸³ and the extent could be seen on the site visit so there was no need for detailed drawings. There was no evidence to support the assertion that the widening would significantly affect accident rates;
- 8.35.7 the strategy is most unlikely to lead to rat-running via Tye Green Road and Ugley Green Road, as some sections are no more than 5m wide and there are a number of tight bends, but the route would be monitored anyway²⁸⁴. Similar considerations apply to the proposed improvements to the 'toot-toot bridge'²⁸⁵ along Old Mead Road;
- 8.35.8 even if the journey time data were altered, this would not necessarily alter the assignment as the strategy does not depend on specific, detailed figures and slight changes in journey time would mean only marginal changes in driver decision making.
- 8.36 The approach taken by the PCsB relies on flawed data without regard to exceptional queuing and focuses on journey time data without due regard to reliability. The assumption that any change to journey time data would result in adverse highway impacts and a failure of the strategy is to misunderstand the strategy itself.
- 8.37 With reference to ID42 and ID42A²⁸⁶, the tables clearly demonstrate that the interventions would be highly effective and would achieve the predicted assignments. The criticism that the ES is somehow deficient²⁸⁷, by only assessing peak hour flows, have all been addressed²⁸⁸.

²⁷⁹ TA 10.3.3-10.3.5 – the effect on journey times is summarised in ID42A, the SoCG table 6 and TAA table 20-3

²⁸⁰ This will bypass Elsenham Cross and provide a direct connection from Henham Road to Hall

Road, with Henham Road closed to all traffic bar buses and private access, and will encourage drivers to follow the natural line of the road onto Hall Road rather than turn right, then back, then left and onwards on the more unreliable route through Elsenham High Street and Stansted Mountfitchet

²⁸¹ TAA s19

²⁸² Horsfall IC: it is for setting design speeds for new roads – see Fig 1 in particular

²⁸³ TAA s19 and Horsfall in oral evidence. Note that Wilkinson did not have any concerns

²⁸⁴ See TA s5.2 and s10, Horsfall in oral evidence, and Bamber 4.65

²⁸⁵ So called, if I remember correctly, as uses often hoot before entering

²⁸⁶ Note that ID42A shows all the corrected figures. See closing 141a. to c. Note tables 12.3 in the TA and 5-1 in the TAA

²⁸⁷ Bamber 38-40 and Bird 8.41-8.43

²⁸⁸ September 2014 ES: 11.2, 11.5, 11.7, 11.8 and 11.9, and Horsfall 2.4.11-2.4.12. The identification of sensitivity receptors and concerns re accidents and safety are addressed at 11.9.12-11.9.15 and at 11.9.37-11.9.40

8.38 Overall, the traffic impacts would not have severe adverse effects and so would not conflict with NPPF 32, LP policy GEN1 (now overtaken by NPPF 32). There would be no unacceptable or even significant harm with regard to either traffic or environmental impacts.

Balance on sustainable development

8.39 When the scheme is considered against the 2005 LP, the emerging LP and the NPPF, including the design with reference to the DAS and Green Infrastructure Plan²⁸⁹, there would be no conflict with the emerging LP and the adopted LP is out-of-date. The proposals would amount to sustainable development when judged against the NPPF as a whole. There are no impediments to delivery and the scheme offers very substantial economic, social and environmental benefits including a valuable contribution towards boosting the supply of housing and market and affordable needs where there is a significant housing shortfall. Applying the presumption in favour of sustainable developments set out in NPPF 14, the limited harm would not significantly and demonstrably outweigh the benefits, rather the balance should be clearly struck in favour of granting planning permission.

Further comments

Following the Local Plan Inspector's letter, TFP added the following comments.

8.40 The Inspector's conclusions on HLS should not be accepted by this Inspector who has received and heard considerable evidence and submissions on this issue. While he confirmed the need to increase the OAN, and his figure of 580 falls within the lower range of those put forward by TFP, his brief conclusions lack analysis and do not address all the evidence. There is every possibility that the forthcoming SHMA will identify a higher OAN.

8.41 His further conclusions on HLS are not fully based on the evidence at the appeals Inquiry. The Table he used when considering the buffer was the same²⁹⁰, but is incorrect in that the target of 320 dpa for 01/02-05/06 was an averaging of what was delivered. The correct approach is to use the adopted LP target, which shows UDC to be a 20% authority, and the LP did not benefit from detailed analysis of this including other appeal decisions.

8.42 He found that there is no requirement to add a backlog for years preceding 2011²⁹¹. However, this case pre-dated the PPG and did not consider that this is a market signal and a matter of judgement²⁹². It was not put forward in evidence at the Inquiry. The correct approach is that in the *Droitwich Spa* appeal²⁹³ which post-dates *Zurich*. When all the evidence and submissions are properly considered, UDC does not have a 5 year HLS.

8.43 The LP Inspector's comments on the Elsenham Policy 1 allocation do not help determine Appeal B. The context and legal tests are different. While he acknowledges the benefits of the rail station, his comments on usage do not

²⁸⁹ See Copsey s4, s5, s7 and s8, and evidence of Tregay and Horsfall

²⁹⁰ Correct tables to Hutchinson rebuttal 22 September 2014

²⁹¹ By reference to *Zurich* paragraphs 95 and 97 in particular

²⁹² PPG ref. ID: 2a-020-20140306

²⁹³ Paragraphs IR8.46 and d/l 14

take account of factors affecting travel mode trips. His comments on the interface between the western and eastern parts of the village are not relevant, were not raised at the Inquiry, and there would be a suitable relationship with the level crossing and the existing village. There would be no prejudice to future improvements to the level crossing as the proposal offers flexibility and some land which might be required lies outside the appeal site.

- 8.44 His conclusions on Hall Road improvements are incorrect. The average width is already 6.5m²⁹⁴ and there is additional land within highway boundaries in most places. The extent of work has been misinterpreted. There was clear evidence on this at the Inquiry. The reference to the appeals is incorrect in that the improvements are within the s106 Agreement²⁹⁵ not part of draft conditions. He refers to an accident cluster but this is not how it has been considered by ECC, or in the agreed draft conditions or s106 Agreement. There were only 2 accidents in the last 3 years whereas a formal cluster would require at least 6 accidents²⁹⁶. The impact of the improvements on the CPZ would be entirely neutral. Wider implications really only refer to J8 of the M11 and the allocation is only one of many which would influence the performance of this junction. More recent modelling is not in the public domain and sufficient capacity could be provided to deal with a first phase of 800 dwellings.

Following publication of the 2012-based household projections, TFP added the following comments.

- 8.45 In line with PPG paragraph ID:2a-016-20150227, the 2012-base projection form the starting point. There must also be a consideration of local migration levels, demographic structure, employment trends and market signals including affordable housing need. As it is trend-based, it reflects long-term under-supply, is influenced by the recession and suggests suppressed household formation. Taken on their own, they risk embedding recessionary factors into future housing requirement.

9. The Case for Great Dunmow Town Council, Little Easton Parish Council, Great Easton & Tilty Parish Council, and Broxted Parish Council - PCsA

- 9.1 The local communities, including Great Dunmow and neighbouring villages as well as Little Easton, are totally opposed to this particular development. NPPF 69 aims to *involve all sections of the community ... in planning decisions*. The four councils support UDC and agree that it does have a 5 year HLS and that the LP is not out-of-date.
- 9.2 The appeal site is valued by the local community as a unique landscape of deep historical significance. The existing level of separation between Great Dunmow and surrounding villages, and Little Easton in particular, is of paramount importance to the traditional landscape. The proposed development would cause a blot on the countryside, harm wildlife and important woodland habitats. Prime agricultural land would be lost and future

²⁹⁴ TA 5.2.9: *In general, the overall width on average is some 6.5 metres.*

²⁹⁵ Part 8 paragraph 1

²⁹⁶ TA s5.5

residents would need to use their private cars for basic services. With no prospect of a link to the Barratt's site, the scheme would affect the newly-opened bypass and the amount of traffic through the town. The appellant has failed to satisfy these key criteria.

- 9.3 With regard to a 5 year HLS, LS has altered its arguments. It submitted its application on the basis of UDC's annual housing requirement at a time when it acknowledged a deficit. Since then, a large number of housing developments have been allowed so that it has a supply of over 6 years. With the anticipated phasing this becomes 7.5 years. So now, LS is arguing that the annual requirement should be higher and that there should be an additional buffer. The situation has not changed and the relevant policies for the supply of housing are not out of date.
- 9.4 Consequently, the appeal should be determined in accordance with the development plan which remains consistent with the NPPF. As the site is within the countryside the scheme should be considered against LP policy S7 which seeks to protect the countryside for its own sake. Consequently, the proposals would be contrary to the development plan. It would also conflict with the Essex Minerals Local Plan²⁹⁷ due to an outstanding objection.
- 9.5 The parish councils have significant concerns about the impact on wildlife from the severance of wildlife corridors and the fragmentation of habitat which would harm designated woodlands and biodiversity. This would happen as a result of the access road which would sever the habitat connections between High Wood and the wider natural landscape and so damage wildlife corridors, fragment habitats, and cause disturbance and edge effects to surrounding habitats and species. The proposed link to the Barratt's site would destroy the integrity of that hedgerow and its ability to act as a corridor.
- 9.6 With regard to material considerations, the site is so far removed from Great Dunmow that neither walking nor cycling would be attractive and it would not promote sustainable forms of transport. The situation for commuters would be similar as the A120 and M11 are close by but public transport is not. Bus stops would be provided, but the prospect of a bus service cannot be assumed, not least because of the uncertainty of a link with the Barratt's site.
- 9.7 The appeal site warrants protection as it comprises BMV agricultural land. There is no need for more greenfield sites to be developed and so this factor should take on additional weight. It is very attractive open countryside with an overwhelming sense of rurality and straddles two landscape character areas with a relatively high sensitivity to change. Both northern vantage points on the site visit allow views of a very attractive rural landscape. The development would give the impression of a creeping swathe across this landscape.
- 9.8 In considering up to 190 dwellings on Sector 4 at Great Dunmow 2, the Inspector identified the gap as ... *important in providing some physical and visual separation between the built-up areas of the two settlements and preventing an impression of them merging together* and that *Travelling by road from Little Easton towards Great Dunmow, there is a relatively small length of open countryside beyond the edge of that settlement before the*

²⁹⁷ CDA3

dwellings at Parsonage Downs come into view ... from which he went on to draw his conclusion about the importance of the gap providing a physical and visual separation between the two settlements. Since then, half the "important gap" has been developed making the remaining gap even more important. The reasons for granting permission then were to complete the bypass and that there was a HLS deficit. Neither of those factors applies now.

- 9.9 The draft LP is at the examination stage and is worthy of little weight. The 'Great Dunmow Town Design Statement', which has been adopted as Council approved guidance in determining planning applications, looks to protect "the open landscape to the west" from development. Although the 'Great Dunmow Neighbourhood Plan' currently merits little weight, the extensive consultation found that the community's preference is to both preserve the qualities of landscape, setting and character of the town and to prevent urban sprawl. The approval of this development would ride roughshod over the views of the local community.
- 9.10 Whilst not strictly a planning matter, a restrictive covenant (which prohibits the development and use of the land required for the proposed access road to the A120) may well prove difficult - if not impossible - to overcome and could lead to other planning applications²⁹⁸.
- 9.11 The Inquiry should not consider the two appeals as a beauty parade in which one gets permission. Each should be assessed on its own merits. The four parish councils have therefore focused on Appeal A and urge that it should be dismissed.

10. The Case for the Joint Parish Councils Steering Group (Henham, Elsenham, Ugley and Stansted Parish Councils) - PCsB

- 10.1 Appeal B should be dismissed. There is no pressing need for additional housing as the Council can demonstrate a supply of housing land which comfortably exceeds 5 years. The scheme would cause harm due to lack of sustainability, severe impact on the highways network and highway safety. It would conflict with the adopted development plan. Even if NPPF 14 were to apply, which it does not, the harm would significantly and demonstrably outweigh the benefits.

Statutory duty and planning balance

- 10.2 There is no dispute that the scheme would conflict with LP policies S3 and S7. It does not need a countryside location and would be inappropriate in this rural area. It would be contrary to policy GEN1, due to its inadequate road access and impact on the highway network, and to ENV5 through the loss of BMV agricultural land²⁹⁹. Determining the appeal in accordance with the development plan, as required, means that it must be dismissed unless material considerations indicate otherwise. There are no such considerations. The emerging LP cannot be accorded any significant weight.

²⁹⁸ See the evidence of McKendry-Gray

²⁹⁹ There is no evidence on how much is Grade 3a or 3b and so it cannot be said that the site comprises poorer agricultural land than elsewhere in the District

- 10.3 The NPPF does not alter the statutory priority and does not pull in a different direction. There is no material inconsistency between the applicable LP policies and the NPPF. Policy S7 is consistent with NPPF 17.5 with regard to the intrinsic character and beauty of the countryside, both of which include similar flexibility. The plan-led system (NPPF 17.1) should only be disturbed in specific circumstances such as the absence of a 5 year HLS. That does not apply here. The LP cannot be considered out-of-date simply because the plan period has ended or that would override the statutory status. As there is a 5 year HLS, there is no need to breach the settlement boundaries, or to disturb the plan-led system, and so policy S7 should be accorded weight³⁰⁰.
- 10.4 Moreover, the emphasis in the NPPF on sustainable development means that unsustainable proposals, as here, should be refused. The lack of higher order facilities, such as a secondary school, significant retail or employment provision, would effectively mean a commuter housing estate attached to a village in the countryside. While NPPF 38 cites primary schools and local shops as examples of key facilities, reliance should not be put on these alone while the retail provision is subject to viability meaning that there may well not be any. The preliminary enquiries and limited interest³⁰¹ do not show otherwise. The lack of a secondary school within walking or cycling distance and the long journey lengths for bulk food shopping are obvious limitations.
- 10.5 Even if it were necessary to carry out the planning balance in NPPF 14, the unsustainable location and severe impact on the transport network³⁰², together with the other disadvantages³⁰³, would demonstrably and significantly outweigh the benefits. If it is correctly accepted that the Council does have a 5 year HLS, the weight to the benefit of additional housing is reduced and the balance is even further against the appeal. Furthermore, the suggested commencement conditions³⁰⁴ offer no confidence that there would be any contribution within 5 years. If it transpired that the affordable housing would not be viable, the s106 Agreement could be renegotiated and, without evidence of viability, the weight to this benefit should be reduced accordingly.

5 year HLS

- 10.6 The Council can safely demonstrate 6.2 years supply³⁰⁵. Even this is prudent given the application of the 5% buffer to the shortfall as well as the target³⁰⁶. The annual requirement figure of 523³⁰⁷ is a slight overestimate compared with the more up to date 2011 figure of 508³⁰⁸. Otherwise, the PCsB support and rely on the Council's case for a 5 year HLS.

³⁰⁰ As it was in the recent *Summer Street* decision, Hutchinson's rebuttal proof paras 30-31
³⁰¹ ID50

³⁰² See NPPF 30 and 34

³⁰³ Gardner 7.2-7.9, ES part 3 para 16.3, table 16.1

³⁰⁴ Requiring reserved matters within 5 years and commencement up to 2 years after that
³⁰⁵ ID6

³⁰⁶ Not as recommended in *Thundersley*, Gardner para 5.22, or by LS or the Joint Parish Councils ID6

³⁰⁷ Close to 529, the average of the 2011- and 2008-based figures in Edge 6, CDC17 p69

³⁰⁸ Gardner's evidence

- 10.7 The updated summary position³⁰⁹ shows that the main differences between the Council and the two appellants relate to annual target, shortfall and buffer. First, LS adds a 10% lapse rate but this could not be justified by reference to any policy, guidance or evidence of past lapses. TFP did not argue for this. LS also refused to include C2 housing in the supply; this is contrary to the PPG³¹⁰. All parties agreed on an allowance for windfalls of 50 dpa, apart from TFP which opted for only 40 dpa.
- 10.8 The Council's prudent target figure of 523 is justified as being supported by the most up-to-date, objective assessment³¹¹ and includes inward/outward migration and jobs growth. It differs from previous versions in the use of more up-to-date projections and software³¹². TFP's only basis for preferring Phase 5³¹³ was a lack of understanding of the consultants' methodology, but this is clearly set out³¹⁴ and demonstrates improved practice with regard to internal movement from the rest of the UK, making the report more robust. As this supports the Council's figure it should be seen as more reliable.
- 10.9 Criticism of the jobs projections³¹⁵ amounted to little more than the fact that there are other jobs projections and reliance on Stansted Airport should be given little weight as there is no evidence this will happen within 5 years.
- 10.10 Both appellants add in shortfalls from the 10 years prior to 2010/11. The 3 years of the emerging plan period would be more appropriate. Even then, the calculation is on the wrong basis as it should use the need figures for that period, being the RS³¹⁶. On the RS figures, there is no shortfall³¹⁷; nor has there been persistent under delivery to justify a 20% buffer. Over the last 3 years, the Council has again been cautious and not netted off under-delivery against over-delivery³¹⁸. The consequent shortfall of 133 rather than 118 shows that the Council has tended to cautiously underestimate its HLS. For all these reasons, the Council has a robust 5 year HLS.

Transport and highway matters

- 10.11 The scheme would overwhelm Elsenham and extend into the parish of Henham. It would take up a swathe of countryside and bring large amounts of traffic onto unsuitable rural roads posing a threat to road safety. The impacts would be severe.
- 10.12 The proposal is critically dependent of a transport strategy to persuade most traffic heading south and west to use routes that are significantly longer in

³⁰⁹ ID6

³¹⁰ ID3-037-21040306 – LPAs should count housing for older people against their housing requirement, including Use Class C2

³¹¹ CDC17: Edge Analytics Phase 6 Main Report, 2.14 confirms the use of sub-national population projections (SNPP) dated May 2014

³¹² POPGROUP version 4 – see CDC17 at 1.7

³¹³ Meakins evidence

³¹⁴ CDC17 1.12-1.15

³¹⁵ By Meakins

³¹⁶ Case law suggesting that they should not be used for future need does not apply to historic shortfalls

³¹⁷ Table to Hutchinson rebuttal 2.32

³¹⁸ Ibid compared with ID6

terms of distance³¹⁹. In 2009 and 2012³²⁰ the key issue was identified as being whether traffic would use Hall Road or Stansted Mountfitchet, and this was confirmed in 2013³²¹. The TA itself recognises the 'key component ... would involve re-directing traffic along an improved Hall Road ...' and 'the overarching objective ... is to encourage ... traffic to use Hall Road rather than Stansted Road ... The strategy has already been discussed and agreed in principle with ECC'³²².

10.13 The consultation response³²³ explained that ECC raised no objection because of sustainable transport modes and traffic distribution. On the latter, it required conditions and monitoring to ensure that traffic is discouraged from using the High Street and Stansted Road, concluding that there was capacity if these conditions are met. For ECC, the acceptability depended on the success of the traffic re-assignment strategy and the reliability of the evidence in the TA. It follows that if the strategy is doomed to failure the application would be unacceptable due to the severity of the highway impacts.

10.14 The need for the strategy to succeed concerns not just congestion and driver delay but the impacts of significant extra traffic on the existing routes through Stansted Mountfitchet, Tye Green and Ugley Green or even via the 'toot toot bridge' to Saffron Walden. Elsenham's limitations in terms of the lack of sustainable transport and suitable access to the highway network are not in dispute³²⁴ and the need to avoid loading significant extra traffic onto unsuitable routes was accepted.

10.15 It has been necessary to go into some detail to assess the strategy's prospects of success. The main assessment of traffic impacts in the TA assumes a high degree of success of the re-assignments³²⁵. For example, the re-assignment assumes that only 10% of the traffic to Bishop's Stortford would use Stansted Road whereas the assignment 'more reflective of existing patterns' shows 100% using this route. Shifts to other destinations listed³²⁶ are similar. The number of vehicles is not trivial and significantly greater when unrealistic internalisations are excluded³²⁷. For example, the number of vehicles which would use Stansted Road in the a.m. peak if the strategy were to fail would be 337, rather than 262, and 296 not 192 for the p.m. peak³²⁸. Even with the limited sensitivity testing in the TAA, both the appellant and ECC rely on the strategy working. ECC has required onerous conditions and

³¹⁹ See ID35: Hall Road, Route 3 – ACEFG on @ 8.5 miles and Route 4 – ACFG @ 9.6 miles; compared with Stansted Mountfitchet, Route 2 – ABKHG @ 5.2 miles. (WSP Fig 1)

³²⁰ TA appendix A: Emails dated 17 December 2009 and 7 February 2012 from Bradley to Downes, para 3

³²¹ TAA appendix A email from Wilkinson to Denmark dated 25 April 2013

³²² TA p9 para 1.4.1.2 and p50 para 10.1.2

³²³ ID44 letter dated 19 September 2013

³²⁴ See CDE15 and Horsfall 1.1.8-1.1.9

³²⁵ TAA p35 table 12.4, 12.3.4 p34 compared with TAA table 5-1 and TA table 12.3 p73

³²⁶ Ibid

³²⁷ Greater than Bamber appendix 2 as those are based on the TA not the TAA

³²⁸ Ibid

interventions to ensure success, together with a bond³²⁹ for further measures even though there is limited scope for these.

- 10.16 The sensitivity testing highlights a number of problems with junction capacity and congestion but, relying on the deterrent effect of congestion, considers that impacts would be largely manageable³³⁰. This was not the view of ECC³³¹ and ignores the environmental impacts and vulnerability of the sensitive locations including Stansted Mountfitchet. It ignores those actually travelling there. The sensitivity testing is inadequate as it only considers junction capacity and driver delay but not environmental impacts including severance, pedestrian and cyclist amenity and delay, fear and intimidation, accidents and safety. The ES omits all these impacts and makes assessments based on the assumed traffic assignments if the strategy works³³². There is no evidence concerning the environmental impacts should the strategy fail, as it is doomed to do.
- 10.17 The strategy will fail because it relies on making the Hall Road routes more attractive, by a comparison of journey times, when the direct route to Stansted Mountfitchet and the use of other rat runs means that it will not be achieved. It is based on drivers making a 'generalised cost' choice based on the 'value of time and reliability'. However, there has been no assessment of reliability, as there has not been the necessary number of recorded journey time surveys, and the TA ignores the other important component, which is vehicle operating cost including fuel, wear and tear, and depreciation³³³. These are driven by distance and some drivers will make their choice on this basis which for commuting could be significant.
- 10.18 Finally on this point, the journey times in the TA and TAA are wrong and misleading. The existing surveyed journey times for the peak hour are claimed to be set out after the route time surveys³³⁴ and to be contained in Appendix K³³⁵. However, in the TA this only contains the earlier surveys³³⁶ and in the TAA it does not contain the raw data³³⁷. It was accepted that this was an oversight³³⁸ and the raw data was not available to verify.
- 10.19 It is apparent from comparing the agreed summary of recorded journey times surveyed³³⁹ with the tables in the TA and TAA³⁴⁰ that there are significant and material errors in both. Specifically, 13 minutes 45 seconds (13:45) for the route 2 peak should be an average of 13:45 and 11:57, i.e. 12:51, as both were for the p.m. peak hour, and the only time in the TA and TAA tables

³²⁹ A Local Roads Mitigation Bond in the s106 Agreement, p13

³³⁰ TAA s34 p102

³³¹ Acknowledged by Horsfall

³³² Confirmed by Horsfall

³³³ Accepted by Horsfall in XX

³³⁴ Which were undertaken in October 2012 and January 2013 – see TA tables 10.5 and 10.6 p54, and TAA table 20-1 p53

³³⁵ See TA 10.2.10 p52

³³⁶ ID37 pp1-9

³³⁷ Ibid pp10, 10A

³³⁸ By Horsfall

³³⁹ ID33 table 5 of Agreed statement on Highway Matters

³⁴⁰ TA p54 and TAA p53

which is an accurate record for that route is 16:22 in the a.m. peak hour. None of the other reported journey times in these TA or TAA tables is a recorded survey journey time. The suggestion³⁴¹ that the recorded time for route 4 a.m. peak (24:45) was an outlier, and should be disregarded³⁴², was followed by evidence that the recorded times were supplemented by average link times from the January 2013 survey for which there is no raw data³⁴³.

- 10.20 There is no evidence to show that these times are reliable. None of these manipulations of the link/section figures were reported, explained or justified in the TA or TAA. It is not accepted that the averages³⁴⁴ can be derived from the link/section figures, there is no record of a recorded time being disregarded as an outlier, and no explanation of why that might be other than the reference to traffic queues which might be expected at that time. There was no extraordinary event or investigation with the survey contractor.
- 10.21 In any event, it is evident that 24:45 is not an outlier but was representative³⁴⁵. Of the link times recorded, that for FG of 3:36 is the shortest of over 30 recorded times³⁴⁶. What is clear is that the TA and TAA tables³⁴⁷ on which ECC relied, are woefully inadequate, misleading and cannot be derived from the underlying data, particularly given that there was at least one acknowledged inaccuracy³⁴⁸. They are inconsistent, with no explanation, in that some routes are recorded for the whole route while others are average link times for which there is only partial data. Moreover, if the averages were used in place of whole routes, the figures would be different. The comparison of recorded times³⁴⁹ show that travel time for route 2 is significantly quicker than for both routes 3³⁵⁰ and 4 in the peak hours.
- 10.22 The effect of the intervention measures³⁵¹ also contains errors³⁵² as does the time addition for the effect of the Link Road³⁵³. The effect of the measures to the Link Road has been further exaggerated by the overestimated assumed speed reduction due to parked cars, as has that to the Crown Estate measures, due to the lack of any substantial measure. The effect of widening Hall Road has been significantly overestimated as, by reference to road design guidelines, even if the entire length of the road could be widened the assumed speed increases could not be achieved whereas there is uncertainty

³⁴¹ By Horsfall

³⁴² Notwithstanding that it is in table 5 of the Agreed statement

³⁴³ See the individual link/section times in appendix K to the TA and TAA. Compare the averages with Horsfall's times in ID42A and the TAA tables – p 54 and 53. Also see discussion of Amended Agreed SoCG below

³⁴⁴ The link times in appendix K of the TA/TAA addendum pp1-10A of ID37

³⁴⁵ As corroborated by Bamber and Councillor Dean in their recorded times of 25 and 22 minutes – ID40

³⁴⁶ Appendix K of TA and TAA for a.m. peak

³⁴⁷ TA tables 10.5/01.6 and TAA table 20-1

³⁴⁸ Route 2 was reported as 13.45 by now admitted to be 12.51

³⁴⁹ Bamber's comparison of Appendix K to the TA and TAA, table 5 to ID33 and table A to ID34A for the peak hours

³⁵⁰ Note that this uses the hour nearest to the peak which one would expect to be shorter

³⁵¹ Set out in the Agreed Statement at tables 6, 7 and 8

³⁵² Horsfall in XX: route 2 in table 20-5 should be 2:52 and 4:05 rather than 3:12 and 4:25

³⁵³ See Wigley closing para 57 for details

as to what widening is feasible. Nevertheless, even if the optimistic view is taken³⁵⁴, route 2 is still significantly quicker than route 4. The assessment (not agreed) of the slightly quicker route 3 can be of little comfort as the recorded times are not for the peak hour itself and as its continued availability is in doubt as it is owned by the operators of Stansted airport. There is no evidence to support the claim that the latter would require planning permission³⁵⁵ or could be otherwise prevented.

10.23 Overall, the reported evidence in the tables in the TA and TAA are inaccurate and misleading, and traffic would not be effectively encouraged or re-directed onto Hall Road but would use the shorter, quicker and equally reliable Stansted Mountfitchet route. The effect of this is that the vital element of the transport strategy would fail.

10.24 Even if the strategy were to work, the environmental assessments of its impacts is flawed as the ES³⁵⁶ fails to follow good practice by only assessing peak hour impacts³⁵⁷ and failing to properly assess sensitive receptors³⁵⁸. A key plank is to make Hall Road more attractive by reducing journey times through increasing traffic speeds. This has serious road safety implications. The proposed widening works³⁵⁹ have not been assessed against the width or geometry of Hall Road which is narrow in places and includes an accident cluster³⁶⁰. The latter comprises two slight and two serious accidents, three of which were attributed to drivers failing to negotiate the bend³⁶¹ where the geometry is likely to be a significant factor³⁶² as is vehicle speed. There are no specific or assessed proposals to alter the geometry, and significant improvement is not possible within the narrow highway verge, only to increase speed with the potential for serious risk to highway safety. This is disastrous for the predicted effect of the transport strategy.

10.25 With regard to modal shift, the sustainability of the site relies on a travel plan (TP). The success of this would be hampered by the limitations of the site location. If the TP is ineffective, little can be done. That is why NPPF 34 addresses location. Uttlesford residents are more likely to own and use cars for a longer commute than the national average. Travel by train forms a very small percentage of resident commutes. Car ownership in Elsenham is even higher than at the district level and without adequate measures it is likely that there would be a significant increase in traffic on local roads³⁶³. Coupled with the limited local facilities, the site is not in an inherently sustainable location and this will limit the success of the TP measures.

³⁵⁴ Horsfall's position in ID34

³⁵⁵ and a stopping up order – TA 5.2.18 p24

³⁵⁶ Transport chapter

³⁵⁷ The IEMA guidelines do not make this restriction – ES ch. 11 March 2013 para 11.2.14

³⁵⁸ For example, Old Mead Road to Golds Enterprise Zone table 11.14 p34; Stansted Road including Grove Hill table 11.3 p7; the already congested Lower Street; and the Hall Road accident cluster all of which should be assigned higher sensitivity fig 3.5 to TA

³⁵⁹ Defined as 'where feasible and necessary' in the s106 Agreement

³⁶⁰ At the bend south of Tye Green Road - see TA fig 5.3

³⁶¹ TA para 5.6.3 p29

³⁶² ES March 2013 para 11.4.1

³⁶³ CDE15 March 2014 p19

10.26 Concerning the proposed bus service, long journey times³⁶⁴ are unlikely to make this a realistic choice for Bishop's Stortford and it would cease to run as soon as the subsidy runs out³⁶⁵. The service would simply not be viable³⁶⁶ even if an unrealistic 5% modal share were assumed. Consequently, this cannot be relied upon to reduce car use. The limited destinations and frequency of rail services would reduce its prospects for modal shift. The prospects for increasing walking and cycling are extremely limited due to the few local services within a realistic distance and the unsuitable local road network. The few proposed on-site facilities would not make up for these deficiencies and may not even be viable.

10.27 All in all, the proposed 800 dwellings would be in an inherently unsustainable location on the edge of a village with few facilities, now or in the future. The local roads are so vulnerable, sensitive and inherently unsuitable that measures are proposed to divert traffic along other routes. The success of this strategy is doomed to fail but was a precondition to the support of ECC based on inaccurate and misleading information. The environmental impacts have not been properly assessed.

10.28 The scheme would therefore conflict with the NPPF and adopted LP policy GEN1. Even if NPPF 14 were to be triggered, the harm would significantly and demonstrably outweigh the benefits.

In addition to the main closing, the PCsB added comments on the updated final Agreed Statement on Highways Matters, submitted on 22 November 2014³⁶⁷, in a brief supplementary closing submission³⁶⁸:

10.29 The updated Statement confirms and reinforces the original submissions in that, despite the lack of some raw data, it is now possible to understand the route journey times for routes 2, 3 and 4. One of these is now agreed to be wrong: route 2 p.m. should be 12:51³⁶⁹. The 'exceptional queuing events' have now been excluded or discounted³⁷⁰; it was never accepted that these were exceptional. The use of 'professional judgement' on untypical survey results is inappropriate for such small data sets³⁷¹. The use of whole route observations in some cases and average link times in other is inconsistent³⁷². Excluding data 'where it does not affect averaging' is wrong³⁷³.

10.30 Where none of the data is excluded, the results show that route 2 is constantly and significantly quicker even with the proposed interventions and so the results are fatal to TFP's strategy.

³⁶⁴ Around 43 mins – longer in the a.m. peak – ID43

³⁶⁵ In 5 years or earlier – para 1.64 of the s106 Agreement

³⁶⁶ See Bamber appendix 7, based on a lower operating cost, using national travel survey trips

³⁶⁷ ID59

³⁶⁸ ID58

³⁶⁹ The average of 11:57 and 13:45 - see SoCG 2.12

³⁷⁰ SoCG appendix 2, para 2.17 bullet 2, tables 12.1 and 12.2 footnotes 1 and 3

³⁷¹ Ibid bullet 3 and footnotes 2 and 4

³⁷² The latter method would produce a shorter time for route 2 – 16:22 and 12:51 from SoCG tables 5, 12.1 and 12.2 against 15:20 and 12:41 from tables 31.1-13.4

³⁷³ For example, the averaging in table 12.2, contrary to footnote 5

Further comments

The Joint Parish Councils wrote in following the Local Plan Inspector's letter³⁷⁴. As well as emphasising certain passages they added further comments as below.

- 10.31 Although the proposals for Elsenham in the emerging LP and in Appeal B relate to different scales of development, there are common considerations. Given the LP Inspector's severe concerns about the justification for the Elsenham allocation, and thus the soundness of the plan as a whole, it would be perverse for the LP allocation to be rejected on sustainability grounds only for the first phase to be found acceptable.
- 10.32 The LP Inspector linked the two insofar as he found it crucial to ensure that Elsenham was an appropriate location for such expansion before embarking on any part of the proposals. In particular, he found that the early phase (Appeal B) would fix the layout around the level crossing, a point which would become the strong focal point for the expanded village, but around which there are uncertainties due to Network Rail's apparent aspiration to close the crossing. It follows that the Appeal B scheme would not only be severed from the rest of the village by the railway line, but would itself set in stone a layout which presents significant barriers, especially if the crossing were closed.
- 10.33 It would be wrong to ignore the capacity of J8 of the M11 as not applying to the first phase as the Inspector noted that ECC would have sought contributions from the first phase if the current model had been available earlier. He dismissed the western link as it has not been properly assessed but noted that no satisfactory ways of dealing with congestion through Stansted Mountfitchet had been identified. He raised serious doubts about the acceptability of the Hall Road route which would clearly apply to the 800 dwelling proposal and which were raised at the appeals Inquiry. He considered ways of reducing dependence on the private car but found these would make only a modest difference. He found that these concerns would apply to Appeal B but, for local facilities and bus provision, they would be exacerbated. Consequently, it must be that the 800 dwelling proposal would fail to be sustainable development.
- 10.34 With regard to 5 Year HLS, and on much the same evidence as the appeals Inquiry, the Inspector found a higher target figure. Nevertheless, using the Table submitted to the appeals Inquiry, his calculations produce a supply of 5.7 years or a surplus of 440 houses. There are therefore no grounds for departing from the development plan and allowing housing on a site in the countryside which is not allocated in either the adopted or the emerging LP.

Following publication of the 2012-based household projections, PCsB added the following comments.

- 10.35 The latest DCLG household figures and the LP Inspector's findings indicate a range of 521-580 dpa. The practical application is that whichever figure is use, UDC continues to have in excess of a 5 year HLS.

³⁷⁴ Bundle at ID70

11. The Cases for interested parties³⁷⁵

Many other speakers raised points already covered by UDC, the PCsA or the PCsB. I do not repeat these here.

Appeal A

- 11.1 The Chairman of the **Little Easton Parish Council, Sue Gilbert**, explained that the appeal site is valued by the community as of deep historical significance. She referred to the setting of the Grade I listed Norman church, the many Grade II listed buildings and the medieval Easton Lodge and gardens. Raven's Farm has a WWII pillbox and the setting of the medieval deer park would be permanently and substantially altered. She argued that neither the distance nor the screening would diminish the effects on Little Easton.
- 11.2 Neil Blackshaw, on behalf of **Cllr Martin Foley**, drew attention to the inter-visibility within the valley and the views from the north east and to concerns regarding the long term use of surplus land. **Roger Clark**, as chairman and on behalf of Broxted Parish Council, outlined the association between the parishes. He raised concerns with regard to highway safety from the likely number of journeys heading north, and the narrow roads between the villages, and from flooding.
- 11.3 Local resident, town and district councillor **John Davey** was concerned with achieving a harmonious and balanced community, and with the possible effects on coalescence, isolation, violation of the countryside, and the impact on Woodside Way. **Chris Audritt**, parish councillor for Little Easton, argued that changing the access was not enough. Amongst other matters, he raised proximity of the access road to Highwood and its impact on the SSSI.
- 11.4 Local resident **Trevor Ingrey** referred to the sudden increase in the rate of housing development. **Irene Jones** extolled the joys of walking her dog around the Little Easton fishing lakes. **Derek Connell**, landlord of the Three Horseshoes public house and representing the **Duton Hill Community Association**, referred to the large number of local community events and questioned the need for 700 houses near Little Easton.
- 11.5 A submission for **The Dunmow Society** raised particular concerns with regard to the rate of new home building and its effect on infrastructure, including schools, surgeries, dentists, sports clubs, industrial estates, parking, junction capacity, and safety at J8 of the M11. It advocated a different approach.
- 11.6 **Mike Perry** was concerned with urban sprawl and the need for green spaces while **Helen Audritt** emphasised local history including the airfield.

Appeal B

- 11.7 **Michael Garrick** sought accuracy and justification, and expressed concern with regard to consultation and accountability. District councillor **David Morson** outlined a lot of background to the Elsenham proposals.

³⁷⁵ See ID16.1 to 16.11 and 31a to 31d

11.8 Councillor **Alan Dean** welcomed much needed housing, providing that it would be accessible and sustainable, and spoke of the traffic congestion in Stansted Mountfitchet. Councillor **Janice Loughlin** summarised the policy objections and raised the importance of localism.

12. Written Representations³⁷⁶

Appeal A

Many of the representations were mostly concerned with the original access proposal from Park Road. As I have accepted the amended access I do not repeat this aspect of their objections here. The other major concerns, including the impact on the countryside and the scale of development close to Great Dunmow, are more fully articulated by the Council, the PCsA and the other representations above so I do not repeat them either.

12.1 The **Great Dunmow Town Council** was concerned that the scheme would not amount to sustainable development as there would be inadequate infrastructure, no health or secondary school facilities, and disruption to the ecological system. It argued that for these, and related, reasons it would be contrary to a raft of policies in the NPPF.

12.2 The Head of Planning, Environment & Economic Growth at **Essex County Council Minerals & Waste Planning Sustainable Environment & Enterprise Department** wrote on 29 May 2013 to object as the site is within an area designated as a mineral safeguarding area and in part overlaps with a mineral consultation area with respect to Highwood Quarry as defined in policy S8 of the Pre-submission replacement Minerals Local Plan. It reported that the Minerals & Waste Planning Authority was not consulted on the Scoping Opinion request.

12.3 This objection sought more information on a number of items including: a mineral resource assessment; the cumulative impact as required by the Environmental Impact Regulations 2011; additional information with regard to traffic and access, noise, air quality, visual and landscape impacts, hydrogeological/land stability and cumulative effects; the effective working of the permitted mineral site; protecting existing permitted waste capacity, landfilling and restoration; how the two accesses to the roundabout would be arranged/accommodated; how traffic would access the quarry during construction and afterwards; movement counts; working and landfilling beneath the proposed highway; relocation of overburden; noise, vibration and dust approximately 120m from the likely source at the quarry; visual impact from landfill; the effect of dewatering on land levels and stability; and cumulative effects. The letter invited discussion with the author.

12.4 A year later it repeated its objection then wrote again³⁷⁷ in response to LS's evidence³⁷⁸. It advised that the evidence still did not constitute a mineral resource assessment, as required under the now adopted Essex Minerals Local Plan policy S8, that it did not accept the conclusion with regard to sterilisation,

³⁷⁶ See red folders on main files

³⁷⁷ to PINS on 19 September 2014

³⁷⁸ Proof from Martin Orr dated August 2014

and that safeguarding and land banking are quite separate matters. While noting that the operators raised no objection to changes in phasing and bunding, these would require planning permission. It therefore maintained its objection.

- 12.5 Boyer Planning, on behalf of **Dunmow Land**, wrote to the Council in July 2013 to agree with LS's assessment that there was no 5 year HLS but to object on the ground that the proposed development would not be sustainable. Referring to the three dimensions in the NPPF, it argued that it would not contribute to the economic role, as the level of proposed employment floorspace is imprecise, and so there would be an imbalance between jobs and housing. Any on-site employment space would be unsustainable as the site is remote from the population of Great Dunmow. The site is not well integrated with the town other than by direct access to the A120 and would be likely to result in unsustainable levels of in and out commuting. It went on to refer to poor links with reference to the initial scheme.
- 12.6 With regard to the social role, it claimed that the scheme is uncertain as to social and community facilities to support what would essentially be a housing development in a remote location detached from the urban edge. On the environmental role, it pointed to the location adjacent to the High Wood SSSI and Hoglands Wood Local Wildlife Site, and to the access running through a working mineral extraction site. Development here, it argued, would have an irreversible impact on these valued landscapes and ecosystems.
- 12.7 Finally, it stated that LS has no evidence to support its assertion that larger developments can deliver more dwellings over a 5 year period. Rather, it is well understood that smaller sites can deliver more immediate housing. Instead, the infrastructure and lead in times would result in very little of the proposed development making a contribution to the Council's urgent 5 year need. In short, the scheme would not be in a sustainable location but within a high environmental value area, fail all three roles of sustainable development, and lead to reliance on the private car, when there are better sites located within Great Dunmow. In a further letter to the Inspectorate in March 2014, Boyer Planning added that while it acknowledged some education, social and employment facilities, it would still be a large isolated housing development with poor connectivity.
- 12.8 The **Parochial Church Council of the Churches of Broxted with Chickney, Tilty, Great Easton and Little Easton** objected that the location did not appreciate the unique contribution village life makes to the integration of a community and that large housing developments lead to a lack of community identity encouraging individualism and often leading to isolation. It added that there was huge concern regarding the lack of local employment and that for those who might be employed at a distance, public transport would not meet their needs.
- 12.9 The **Environment Agency** wrote to advise that the application area has a complexity with regard to the groundwater position. It withdrew its earlier objections subject to conditions being imposed.
- 12.10 The Aerodrome Safeguarding Advisor for **Stansted Airport Limited** wrote to request that any sustainable urban drainage scheme (SUDs) should comply

with Advice Note 6: Potential Bird Hazards from SUDs and that a condition should be applied requiring a Bird Hazard Management Plan.

- 12.11 Following the submission of survey information on protected species, **Natural England (NE)** withdrew its objections subject to three conditions with regard to deer fencing³⁷⁹. **Sport England** commented with regard to any s106 agreement for sports facility provision and offering advice. The **ECC officer for the Historic Environment** recommended conditions to safeguard any archaeological remains.

Appeal B

Many of the representations echoed the major concerns above, including the impact on the highway network, which are more fully articulated by the PCsB so I do not repeat them.

- 12.12 **Stansted Mountfitchet Parish Council's** strong objection was due to the impact it would have on the roads and junctions in the town. It drew attention to the narrow road at Grove Hill, with traffic lights and on street parking, where the junction is often grid-locked at peak times. It considers the Hall Road route most unlikely for drivers to Bishop's Stortford, as the distance is much greater. Using the alternative through Ugley Green would not help.
- 12.13 **Dr Graham Mott** wrote to express concern should the development lead to the closure of the vehicular level crossing. Following a freedom of information request, he obtained and forwarded an email between UDC planning officers expressing concern, despite the agreement of ECC and the HA to the highway strategy, that many drivers would still try and go the shortest route. He reported that it was now unlikely that Stansted Airport will have a second runway before 2030. He referred to recent permissions to the west of Hall Road, and to the schemes at the Crown Estate and Gleeson, off Stansted Road. He referred to the detailed response from the EA which found the waste water proposal to be on the very borderline of being acceptable.
- 12.14 **Network Rail** originally sought a new grade-separated crossing, at the developer's expense, but withdrew its previous objection following negotiations with TFP.
- 12.15 **C.E.Clarke** of Elsenham Place raised concerns with regard to increased traffic along Henham Road, past their dangerous access, and the possible flooding implications.
- 12.16 A **petition** of about 37 local residents records the opposition to the development, including roadways, street lighting and other infrastructure on the prime agricultural land between Henham and Elsenham.
- 12.17 **K.L.Sammons** of the White House at the bottom of Old Mead Road sent in photographs of the roads leading to the property during flooding and drew attention to the high water table.

³⁷⁹ Letter to PINS dated 18 September 2014

13. Conditions

Schedules of conditions for Appeal A and for Appeal B, were mostly agreed between the Council and each of the appellants³⁸⁰. All the suggested conditions were discussed at the Inquiry on at least two occasions and, subject to minor adjustments to accord with policy and guidance in the NPPF and PPG, these are set out at Appendix C. For the following reasons, should planning permission be granted for one or both of these proposals, I recommend that these should be imposed.

Appeal A

- 13.1 Given the scale of development, it is reasonable for the time limits to be relaxed slightly. In the interests of comprehensive planning, the location and phasing of the different areas should be controlled, with some flexibility for advance infrastructure. For the avoidance of doubt, the reserved matters should accord with the application details save for the areas of development, agreed at the Inquiry and shown on ID18b, a design code and details of the slab levels for all buildings.
- 13.2 In the interests of aircraft safety, a bird hazard management plan is necessary. So that the planned retention is safeguarded, tree protection is needed. In the interests of amenity and bio-diversity, construction and management should be controlled through management plans with scope for review, and further surveys, should development be delayed. Control over lighting is similarly necessary. To protect the SSSI, as detailed by NE, deer fencing should be installed. To protect any remains of past human activity, a scheme of archaeological investigation is needed.
- 13.3 To safeguard concerns over groundwater and drainage, investigation and further details are necessary. In the interests of highway safety and adequate access, control is needed over vehicle, cycle, and pedestrian routes and bus stops, their details and implementation. To maintain control over occupation, retail uses should be restricted. For the avoidance of doubt, the extent of landscaping details, timing and implementation should be controlled.
- 13.4 The HA originally acknowledged that it would probably not be reasonable for it to pursue this developer alone for an increase in flow at J8 on the M11, but then changed its mind. The SoS may receive further representations on this point but, unless these alter matters, the absence of a costed proposal for the junction means that a condition requiring a scheme (which could in turn lead to a financial contribution) would not be reasonable at this stage.

Appeal B

- 13.5 Many of the agreed conditions are similar to those for Appeal A for similar reasons, including those covering time limits, application details, location, phasing and design code, bird hazard management, drainage and SUDs, and construction and management plans – to include working hours, wildlife and

³⁸⁰ ID18a and 18b, and ID20a and 20b respectively

biodiversity protection, archaeology, highway safety and adequate access, vehicle, cycle, and pedestrian routes and bus stops.

- 13.6 While some conditions relevant to Appeal A would not be necessary, others would be needed. These are details of the waste water treatment works to mitigate against odours, and a waste management plan in the interests of amenity. Due to former uses, dealing with possible contamination should be controlled. To protect groundwater, control is needed over foundations. Although there is an unresolved mismatch between the two appeals, at a fairly similar distance from the junction, in the interests of highway safety and the free flow of traffic, conditions are needed regarding J8 of the M11 and monitoring of development traffic on the network, as well as an emergency exit during construction³⁸¹.

14. Obligations

- 14.1 The transitional period under Community Infrastructure Levy (CIL) Regulation 123(3) (as amended), ended nationally on 6 April 2015, shortly before I submitted my report to the SoS. After this, s106 planning obligations designed to collect pooled contributions ('tariffs') may not lawfully be used to fund infrastructure which could be funded from CIL. From that date only very limited pooled contributions (for up to five separate planning obligations relating to planning permissions granted within the charging authority's area) will be permitted towards infrastructure which could be funded from the CIL. As consideration by the SoS may take a little longer, in the event that either or both appeals are to be allowed, it may be necessary to revert to the Council to establish whether or not the limit has been exceeded at that time.
- 14.2 The Council has provided justification for the contributions and calculations for the amounts sought under the CIL Regulations and the NPPF. It was satisfied for both appeals that the agreements would comply with the relevant tests for planning obligations in that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. For the reasons set out, I agree with this assessment.

Appeal A

- 14.3 The s106 Agreement is made between LS, UDC and ECC. LS's obligations include the provision of: 40% of the dwellings as affordable housing; a healthcare contribution; completion and transfer of allotments; provision of public open space and local areas of play (LAPs); a community building, sports pavilion and sports pitches; provision and transfer of locally equipped areas of play (LEAPs) and neighbourhood equipped areas of play (NEAPs); an education site together with site works and contribution; a travel plan (TP), including a deposit sum to be expended in the event that targets are not met, a school TP and a workplace TP; a bus diversion scheme, with an identified sum of £3,457,300, or a bus service to Great Dunmow town centre with procurement and operation costs of £2,275,468; contributions for highway improvement works and maintenance; and a public rights of way (PROW) contribution.

³⁸¹ See ECC letter dated 19 September 2013 – ID44 – with reference to highways conditions and the Appeal B agreement. Also ID52 and ID61

- 14.4 The TP is to be measured by action targets (specific commitments) and aim targets (numerical goals for modal shift). The action targets amount to the appointment of a coordinator, setting up a forum and agreeing annual targets, following initial surveys, to be tailored to a 10 year build out. The TP states that it is not possible for it to set aim targets as the baseline information is not known. Rather these would be set following implementation and agreed with the forum. The TP is silent on the process to be followed in the event that there is no agreement with the forum, which would include a representative of the site owner/management company.
- 14.5 The vast majority of measures in the TP involve the provision of information. Action measures include the investigation of the feasibility of providing travel cards, the possibility of subsidised bicycles, a personalised travel planning service through the TP co-ordinator, and discussions with a view to establishing the potential for provision of a car club. No accurate targets for travel behaviour are included but the initial overall target would be to reduce single occupancy car travel by 10% across the site with the possibility of further targets once the baseline has been established. The measures in the school TP concentrate on awareness initiatives. The workplace TP, mostly comprising the supply of information, would be the responsibility of the future occupiers of the Use Class B1 office units, but with no clear mechanism as to how that obligation would be transferred. Nevertheless, the TP would contribute towards achieving a modal shift. The contributions would be justified, comply with the CIL Regulations, and the NPPF, and weight should be attached to them accordingly.

Appeal B

- 14.6 The s106 Agreement is made between TFP, UDC, ECC, and numerous owners. TFP has provided a further detailed CIL justification³⁸². The obligations relate to: phasing; affordable housing; health centre land; allotment land; public open space; sports pavilion and pitches; a community building; green areas and a maintenance contribution; and a local centre. Also the provision of an education site and contribution; transport interchange; local bus service and real time passenger information; highways contributions; and highways works (including some requirements suggested as conditions).
- 14.7 A Local Roads Mitigation Scheme, to implement TFP's highways strategy, would be funded up to a limit of £475,000. The updated Framework TP, comprising an overarching site TP with a TP deposit sum of £120,000, identifies existing travel patterns in the Elsenham area and a target for the new development to achieve a 10% reduction in the baseline car driver mode share 5 years after first occupation. The developer would be responsible for funding the recovery action plan should there be a strong likelihood that targets would not be met. Again, the contributions would be justified, comply with the CIL Regulations, and the NPPF, and weight should be attached to them accordingly.

³⁸² ID48 for TFP

15. Inspector's Conclusions

From the evidence before me at the inquiry, the written representations, and my inspection of the appeal sites, their surroundings and other sites I have reached the following conclusions. The references in square brackets [] are to earlier paragraphs in this report.

- 15.1 From the Environmental Statements (ESs), and the further information submitted at the Inquiry, I am satisfied that the evidence in both the ESs is thorough and comprehensive and fully adequate for a reasoned assessment of the likely environmental impacts of the developments, and how they may be mitigated. While I acknowledge some disagreements with some of the conclusions, I consider that the requirements of The Regulations have been met. I have taken all the environmental information into account in my report and my recommendations below. [1.11]

Main considerations

- 15.2 A common factor for both appeals was whether or not UDC could demonstrate a 5 year housing land supply (HLS) and I deal with this first. Otherwise, the main considerations in these appeals are as follows.

Appeal A

- 15.3 The effects of the proposals on:
- a) the character and appearance of the area;
 - b) the loss of best and most versatile (BMV) agricultural land;
 - c) ecology;
 - d) the loss of underground mineral resources;
 - e) accessibility for future residents; and
 - f) whether the proposals would amount to sustainable development as set out in the National Planning Policy Framework (NPPF), having regard to the above matters and any benefits of the scheme.

Appeal B

- 15.4 The effects of the proposals on:
- a) the preparation and adoption of the emerging Local Plan (prematurity);
 - b) the character and appearance of the area;
 - c) the loss of BMV agricultural land;
 - d) accessibility for future residents;
 - e) the free flow of traffic on the surrounding road network;
 - f) the Countryside Protection Zone (CPZ); and
 - g) whether the proposals would amount to sustainable development as set out in the NPPF, having regard to the above matters and any benefits of the scheme.

Conclusions common to both appeals

Five year housing land supply (HLS)

15.5 The NPPF expects the full objectively assessed needs (OAN) for the housing market area to be set out in an up-to-date local plan. Subject to consistency with the NPPF, enough sites should be identified to provide a 5 year supply, plus a buffer, to meet this requirement. Matters to take into account in assessing this include any shortfall/backlog, windfalls, any lapse rate, how C2 Uses should be considered and employment patterns. The planning practice guidance (PPG) advises that there is no one methodological approach that will provide a definitive assessment of development need, that establishing future need for housing is not an exact science, and that the number suggested by household projections should be adjusted to reflect market signals and other indicators³⁸³. [6.1 7.26 8.10 9.3 10.1]

OBJECTIVELY ASSESSED NEEDS (OAN)

15.6 The NPPF has not altered the statutory basis to the development plan, including any housing requirement figure. For Uttlesford, the relevant figure of 523 dpa was for the period until 2011 and so is now out-of-date. The PPG advises that CLG's household projections should provide a starting point. This should be derived from the evidence base. The Edge Analytics Phase 6 report averages its household projections at a figure of 529 dpa as the baseline. UDC does not have an up-to-date strategic housing market assessment (SHMA). The Phase 6 report therefore extrapolates past patterns of growth and movement and does not look at Uttlesford in isolation. [3.4 6.9 7.27 8.5]

15.7 LS has cast doubts on the Phase 6 report, which is significantly different to the previous version, and has put forward much higher need figures, as has TFP. However, I note that the LP Inspector reached his conclusion on the basis of evidence which largely included that before this Inquiry and involved parties not present at it. In line with the findings in *Hunston*, it is for the LP Inspector to arrive at a constrained housing requirement figure which he has done, even if it is not within an adopted LP. [6.17 6.33 7.27]

15.8 The evidence before the Inquiry from Edge Analytics as to why it changed its software to use a different methodology was not complete and so raises questions. Nonetheless, with nothing to show that there is a flaw in the most up-to-date report, there is no reason either to doubt that the change was made in good faith, with the intention of producing more accurate projections, or to go back to an earlier report. While not necessarily accurate, as no projection can be, the Phase 6 methodology demonstrates an adequate robustness and therefore the Council was entitled to adopt its figures in producing its forecasts. [6.12 7.26]

15.9 The NPPF recognises that the housing requirement in the plan may not be the same as the OAN, as the LP Inspector did, and there is now a very recent summary from him, if not a report, which concludes on housing requirement. The LP Inspector noted that the difference between the Council's figure and the Phase 6 average is not significant and then went on to consider in some

³⁸³ PPG Reference IDs: 2a-005-20140306, 2a-014-20140306 and 2a-019-20140306

detail the market signals including house prices, rental levels, affordability issues, and homelessness. In doing so he considered the cases put forward for a higher increase, including from the appellants to this Inquiry. Noting PPG advice that any upward adjustment should be reasonable and not attempt to be precise, he concluded that it would be appropriate to examine an overall increase of around 10% to about 580 dpa. [6.11 7.26 8.11]

15.10 In its further comments, the Council has accepted the LP Inspector's view on HLS, including that the housing need should be increased from the full OAN to 580 dpa. The appellants both still seek to justify a higher uplift. However, from a review of all the relevant evidence on this point at the Inquiry, and guidance in the PPG, there is no reason to find that the LP Inspector's assessment is not reasonable or robust, or to come up with a different forecast when this is perfectly sound and independent. As this assessment follows an Inquiry into a LP, the figures essentially amount to part of what might have been included within the Inspector's report and are to be preferred to the other assessments at the Inquiry. Although no weight should be given to the withdrawn LP, the LP Inspector's assessment of OAN and housing requirement HLS should still be accepted as the best available. [3.19 5 6.32 7.40 8.40]

15.11 Finally on this point, in commenting on the 2012-based Household Projections, the Council accepted that, while their use would produce a slightly lower annual housing figure, the LP Inspector's recommendation and his 580 dpa is a sound figure for calculating a 5 year HLS, noting that the latest figures are a clear demonstration that the Council's 5 year HLS is robust. There is therefore no reason to depart from this.

BACKLOG/SHORTFALL

15.12 The Council has accepted in principle that some of the gap between the housing target and actual delivery in previous years should be recovered to make the calculations robust. It has offered an addition of 133 units from 2013/14. There is no hard and fast guidance on how to assess this and the LP Inspector considered that starting at 2011 as the base year of the plan was reasonable. He referred to the *Zurich* case. This was not discussed at the Inquiry but the parties were asked to comment on the LP Inspector's conclusions. Its main conclusion was not that the shortfall should be calculated in a particular way, such as following the agreed position in the *Sandbach* case, but that how to do so was a matter of professional judgement based on the particular circumstances. Consequently *Zurich* is not prescriptive but allows for a reasonable approach to be taken such as that adopted by the LP Inspector. He found no fault in assessing any backlog by reference to the target at that time. [6.17 7.28 8.10]

15.13 There is a strong case for looking further back than 2013/14 but little justification for retrospectively updating the requirement. Measured against the target at that time, going back further would make little difference to the overall assessment of any backlog.

15.14 There was no serious dispute that the backlog should be made up over the next 5 years, as set out in *Sedgefield* and the PPG (ref ID: 3-035) although again this is a matter of judgement based on the case in point. As the NPPF looks forward 5 years with regard to HLS, and as the PPG suggests that any

shortfall to be made up over 5 years, it would be appropriate, balanced and consistent to look back around 5 years when assessing the extent of backlog as well. In line with *Zurich*, there is no reason why any shortfall should not be based on the target at that time. Here, the plan period for the emerging LP was to have started in 2011, the end date for the adopted LP. To go back to 2001 would be a step too far but, with reference to the PPG, 2011 is a little short. However, if one goes back another step to the time of the RS in 2006, and looks at delivery against the RS target of 430 dpa at the time, the change to the overall shortfall would be only 15 units and so not significantly different to that in the LP Inspector's approach. There is no reason to depart from his conclusions on this point. [3.19 6.17 7.28 8.10]

BUFFER

- 15.15 The purpose of the buffer in the NPPF is to boost housing supply and to ensure choice and competition in the market place. The PPG explains that this is a matter of judgement but one which is likely to be more robust if a longer term view is taken. Nonetheless, to go back before 2006 would seem excessive and unrepresentative. Using the targets at the time, 430 dpa for 2006-2011 and 523 dpa from 2011-2014, housing delivery exceeded the Council's targets in the years starting 2007, 2008, 2009 and 2012 but fell short in 2006, 2010, 2011 and 2013. In other words, it met the target half the time, oscillating above and below. This is not a flawless record but nor is it consistently below par, or one which fell short for several years in a row. Given that the recession has affected much of this period, some shortfall is to be expected and is less likely in future. The Council also identified delays at specific large sites and explained that it now prefers a larger number of smaller sites, reducing the risk in future. [3.19 6.20 7.26 8.12 9.3 10.10]
- 15.16 The appellants argued that recognising a greater housing need means that the delivery for each previous year should be measured against this higher figure, resulting in only 4 years when the housing numbers were delivered out of the last 13 years. There is little logic in such a retrospective approach. While not binding precedents, three other Inspectors reached similar conclusions in Decisions for nearby sites. [7.28 8.10]
- 15.17 The *Droitwich* appeal Decision applied the buffer to the entire 5-year requirement, including the historic shortfall, rather than adding the buffer to the housing need figure and then add the shortfall. While there is no policy or guidance on this matter, the logic has to be that the buffer should be added after adding together the 5 year requirement and the backlog, otherwise the buffer would be diminished by the backlog. [8.12]
- 15.18 For these reasons a balanced conclusion is that the Council does not have a persistent record of under delivery and that a 5% buffer is appropriate. This was also the judgement of the LP Inspector.

AFFORDABLE HOUSING

- 15.19 One of the market signals is affordable housing (AH). The LP identified the need as at least 60% of the housing provision which, using a policy figure of 40%, would not be achieved. The LP Inspector recognised this and the inability of a policy of 40% (at most) to generate a higher proportion of AH. He also referred to the guidance (PPG 2a-029) that an increase in provision

should be considered to help deliver AH prior to concluding that an overall increase of around 10% would be appropriate.

- 15.20 Both LP current and future policies are likely to require only a proportion of AH as a part of a larger development and little is likely to be provided other than with market housing. It follows that to achieve the target for AH would require an excessive uplift in housing overall. A pragmatic approach is to use this as one part of the assessment when reaching a reasonable figure and this accords with advice in the PPG. This also featured in the LP Inspector's basis for making a reasonable and proportionate upward adjustment. A shortfall in AH should not mean that a substantially greater target should be set for overall housing need or for establishing whether or not the Council has a 5 year HLS. [3.10 6.15 7.30 8.13 14.1 14.5]
- 15.21 On the other hand, the NPPF's aim to boost housing sets no ceiling. The benefits of AH therefore weigh heavily regardless of whether or not the Council can demonstrate a 5 year supply. AH is not just a policy requirement and substantial weight should be given to its benefits. In the absence of a 5 year HLS, the market housing should also be given substantial weight.

EMPLOYMENT

- 15.22 The largest employer in the area is Stansted Airport which is set to increase in activity, regardless of whether or not there is a new runway, but also draws the majority of its employees from outside Uttlesford. This means that forecasting future employment is difficult but also that housing provision would be unlikely to have much effect on economic growth. It should therefore carry limited weight in assessing the housing requirement. [2.1 3.11 3.20 6.13 7.29 8.11 10.9]

WINDFALLS

- 15.23 The difference between the main parties is between a figure of 40 and one of 50 dpa. This is of little significance. The LP Inspector used the figure of 50 dpa which is as reliable as any. [3.19 6.22 8.12]

LAPSE RATE

- 15.24 As the LP Inspector found, there is no local evidence to justify a general allowance, or lapse rate, for non-delivery. The appeal decisions which gave rise to this suggestion were in Gloucestershire, and were made in different circumstances, so are of limited relevance here. [3.19 6.22 7.26 7.28]

CLASS C2 USES

- 15.25 The PPG now advises that residential institutions should be considered when assessing HLS. With regard to figures which predate this advice, it may not matter much providing it is included or disregarded on both the need and supply sides. The Council has argued that the need figures do include C2 Uses but that they had not been identified within that need. There is no evidence to support this assertion which sits uncomfortably against guidance in the PPG (2a-021 and 3-037). Whichever way C2 Uses are accounted for must be consistent on both sides of the equation. While the LP Inspector did not specifically state that the C2 figures should be removed from the supply side, he did not confirm that they had been included. The absence of

evidence that C2 Uses were included in the HLS target means that there is a justification for excluding them from the supply side. On this point, the LS figure of 356 units for C2 housing should therefore be deleted from the supply side. [6.21 7.26]

DELIVERY

- 15.26 The LP Inspector found that the Council's housing trajectory was generally sound, albeit that it shows more completions in years 3-5, and noted that it does not rely on completions on the Elsenham allocation. There is no good reason to take a different view. As above, the figure should not include a supply of C2 Uses as these have not been identified as part of the housing need. [3.19 6.20 7.28 8.12]

CONCLUSIONS ON FIVE YEAR HLS

- 15.27 From the analysis above, on this issue, most of the LP Inspector's conclusions should be adopted. First, an OAN of 523 is reasonable, and a balanced uplift of 10% to 580 dpa produces a robust figure. The backlog is around 133 units. A buffer of 5% is adequate and there is no reason to increase this figure just to meet aspirations for AH. The level of 50 set for windfalls is appropriate and there is no need for a lapse rate. Class C2 Uses should not have been excluded and an allowance should be made for these. The arithmetic for this is $5 \times 580 = 2,900$ dwellings over 5 years plus a buffer of 5% gives a requirement of 3,045. Adding a shortfall of 133 raises this to 3,178. Reducing the supply for C2 uses takes the figure of 3,592 down to 3,236. The figures at the Inquiry therefore showed that the Council can demonstrate a 5 year HLS, if only just. Although the difference is marginal, taking account of the 2012-based household projections adds slightly more weight to the robustness of the target figure. [3.19 6.23 7.29 8.13 8.41]
- 15.28 In its further comments, the Council was understandably in agreement with the LP Inspector's conclusion at that time that, despite the need to increase its housing requirement, it could still demonstrate a *generally healthy current land supply situation*. This is therefore consistent with the above conclusion that the Council can demonstrate a 5 year HLS. [3.19.5 6.32 7.40 8.40-8.42]
- 15.29 Finally on this point, it should be noted that it is unlikely that allowing either appeal would be deliver many houses within 5 years, that the UDC now prefers smaller sites on account of their faster delivery, and that the LP Inspector's conclusions on deliverable sites did not rely upon completions on the land to the north-east of Elsenham.

CONCLUSIONS ON NPPF 14

- 15.30 The presumption in NPPF paragraph 14, second bullet point, second strand, (NPPF 14.2.2) applies to any relevant policies which are out-of-date. The housing section of the LP is particularly relevant to these appeals. This was framed to last until 2011 but has not been superseded. Together with other spatial policies, these are out-of-date regardless of a 5 year HLS as they were only to apply to 2011. The overarching policies H1 and H2, for Housing Development and for Reserve Housing Provision, are therefore out-of-date. Indeed, the Council's own NPPF Compatibility Assessment acknowledges that these are not consistent with the NPPF. [3.3 6.5]

- 15.31 LP policies S1, S3 and S7 are not specifically restricted to 2011. The weight to these is therefore dependent on NPPF 49, the question of 5 year HLS, and their consistency with the NPPF as a whole. Reference to development limits, and boundaries, in policies S1 and S3 means that, with or without a 5 year HLS, these are out-of-date. Therefore limited weight should be given to conflict with the development limits in these policies as these would restrict housing and their boundaries are based on numbers from the SP which itself took them from 1996. [3.2 6.7 7.8 8.7]
- 15.32 Policy S7 is only partly consistent with the NPPF, as it aims for strict control of the countryside rather than merely recognising its intrinsic character and beauty. The NPPF now takes a positive approach to the countryside as part of the environmental dimension rather than a protective one. Nevertheless, Policy S7 does impose a generalised restriction on development within the countryside, rather than providing protection for anything specific. The boundaries to which it refers were drawn up in the context of the housing policies which in turn were based on the SP and agreed to be out-of-date. As such, it does limit the supply of housing generally across the district. While Policy S7 should ordinarily be afforded some weight, in line with NPPF 215, in the event that a 5 year HLS were lacking, the policy would be out-of-date under NPPF 49. [3.2 3.7 6.7 7.9 8.7 9.4 10.3]
- 15.33 The findings above largely accord with those of the LP Inspector in that the Council can demonstrate a 5 year HLS, if only by a narrow margin. While there is force in the Council's argument that the planning balance to be made, as to whether or not a proposal would amount to sustainable development, cannot conclude that something unsustainable is somehow otherwise and that therefore NPPF 14.2.2 adds nothing. Equally, in a document whose purpose was brevity, the appellant is entitled to argue that the paragraph must mean something and that should be to shift the balance. These approaches miss the point which is not to alter the definition, in order to allow something to be sustainable when it is not, but to look more closely at the weight which should go into the balance. [6.32-6.39 7.40-7.41 8.40-8.42]
- 15.34 NPPF 14.2.2 emphasises the need to look at the policies as a whole, in terms of sustainability, when flaws have been identified in the development plan. With regard to housing, these policies include paragraphs 47 and 49, which aim to boost the supply of housing by reference to a 5 year HLS. It cannot be sustainable for a LPA to provide insufficient housing land. Where a 5 year HLS cannot be demonstrated, more weight should therefore be given to the need for housing compared with other factors in assessing whether or not development would be sustainable. Rather than countermanding the presumption in favour of sustainable development, NPPF 14.2.2 should be seen as giving guidance on the weight that would need to be given to other factors (significant and demonstrable) for them to prevail over the need for development (such as additional housing) when relevant development plan policies should no longer apply. [6.3 7.4-7.7 8.5-8.7]
- 15.35 For these appeals, limited weight should be given to LP policies H1, H3, S1 and S3. As the Council can demonstrate a 5 year HLS is absent, weight should be given to Policy S7 in reaching a normal planning balance.

Appeal A

Character and appearance/landscape

- 15.36 As described above, the site is attractive, gently rolling countryside mostly comprising open agricultural fields in arable production. Equally, the balance of the evidence, supported by the site visits, demonstrates that most of the appeal site itself is a fairly average piece of Uttlesford agricultural land and is therefore unremarkable for the district. [2.2-2.6 6.28-6.29 7.12 9.2]
- 15.37 The context of the area proposed for development has some unusual features, notably that it is close to ancient woodlands, a quarry, the settlement of Little Easton, with its historic buildings close to the site boundary, and Great Dunmow. There are substantial roads at the ends of its proposed access routes. It is also adjacent to the Barratt's site with a resolution to grant planning permission. The latter is currently more enclosed on account of its hedgerows including that on the shared boundary between the sites. The current gap between Great Dunmow and Little Easton also includes Sector 4, Woodlands Park, but this is to the north-east of the bypass. While there is currently little urban influence on the appeal site, this will change when the Barratt's site is completed. [2.3 6.9 7.13 9.8]
- 15.38 The appeal site has a number of footpaths running across it. Some of the site is elevated but there is also some existing screening for High Wood and potential for significantly more. The site has no special designations and nothing to show that it would meet the definition of a valued landscape under the NPPF. There are some pleasant views across the site and to the woodlands from in and around the site, particularly from the footpaths, and from Little Easton and other viewpoints to the north. [2.5 6.28 7.14 9.2]
- 15.39 The proposed development would largely follow the contours, be focussed towards the lower slopes, and screened by existing woodland or proposed planting. Subject to reserved matters, other conditions and the planning obligation, the appearance of the buildings, open spaces, accesses and infrastructure could be to a high standard. The gap between the built elements of the scheme and Little Easton could be secured and retained in agriculture or grown into woodland. These aspects of the proposals amount to substantial mitigation. On this point, the scheme would accord with LP policies ENV3 and ENV8. [5.2 6.28 7.13 9.2]
- 15.40 The Council and the PCsA correctly identify the harm that the development would cause to both the agricultural landscape of open fields and to views across it, and that this would persist over a lengthy construction period. However, the woodlands would be protected. In the revised scheme, without the access from Park Road, the harm to Little Easton would be far less, and landscaping conditions could ensure that the important rural quality experienced from Little Easton would not be eroded. Views from the site will soon be influenced by the effects of the Barratt's site in any event. Whether the scheme proceeds or not, the critical part of the gap between Great Dunmow and Little Easton is not the area intended for built development under this scheme but the area to its north, between the proposed buffer and Park Road. [5.2 6.29 7.14]

- 15.41 Unlike the Barratt's site, the appeal site is not currently enclosed on all sides. Nevertheless, the extensive and well-considered landscaping and wide, higher-level tree buffer proposals could result in an extensive and defensible limit to the site and an effective device to separate it from Little Easton. This would result in a more organic edge to the settlement than the rather square perimeter to the Barratt's site which has already extended the western limit of the town. Regarding the hedge between the two sites, there was little evidence to show that, in the longer term, the carefully designed tree buffer would be any less of a defensible boundary than the Barratt's proposal for augmented landscaping around what is currently a rather ragged hedge. The proposed landscaping, protection and public open space would therefore offset a significant part of the harm. [2.3 5.2 6.25 7.13]
- 15.42 As well as the loss of open fields, there would be harm to public views from beyond the site and from impact on footpaths. However, beyond its intrinsic age and its ancient woodlands, there is little historical significance to the landscape, and the site is not of exceptional landscape quality. To the extent that the site contributes to the rural quality and character around Great Dunmow and Little Easton, this is either already contained by the ancient woodlands or could be screened by proposed tree planting. [5.2 6.24 7.11 7.14]
- 15.43 In long distance views, from Bigods Hill, Easton Lodge gardens and around, the housing development would be visible, but would be seen in the context of the wider landscape which already has built development and will contain more once the Barratt's site is completed. With regard to the "important gap", referred to in the 2011 Decision and raised by the PCsA, this refers to an area north of Great Dunmow and so is of less relevance to this appeal. [2.4 6.28 7.13 9.8]
- 15.44 Overall, the effect on the landscape would be harmful as a result of the loss of open fields and the impact on views. Visual harm is probably almost inevitable in a scheme of this size. The proposals would lie outside the settlement boundary and so be contrary to LP policy S7, insofar as protection of the countryside is consistent with the requirement in NPPF 17 to recognise its intrinsic character and beauty. [3.2 6.6 7.9 9.4]
- 15.45 It is also important to assess the harm in the context of likely harm from any greenfield housing development in Uttlesford and whether or not additional housing is currently required. The landscape quality of the site is probably comparable to many other potential development sites in Uttlesford, such as the Barratt's site and, on this issue, it is unlikely that the harm would be any greater than for housing schemes on agricultural land elsewhere in the district. If the SoS decides that UDC does not have a 5 year HLS, the 'net' harm (compared with the inevitability of greenfield housing development elsewhere) would be slight. [2.1 7.11-7.12]
- 15.46 As the Council can demonstrate a 5 year HLS, and so there is no identified need within the next 5 years, the harm would not be inevitable somewhere in Uttlesford, and so this weighs against the scheme. In the alternative, that UDC were found to lack a 5 year supply and if substantial weight should therefore be given to the need for housing, then the harm to the landscape would not be enough to significantly and demonstrably outweigh these benefits.

BMV agricultural land

- 15.47 The scheme would result in the loss of BMV agricultural land to provide housing, other buildings, infrastructure and the landscaping buffer. On this issue, the scheme would be contrary to policy ENV5. LS acknowledged that, if there is a 5 year HLS, then the loss of BMV agricultural land would be unnecessary. It did not present evidence to demonstrate that all other options have been exhausted or to show that it is not possible to accommodate additional urban development on land of a lower grade. However, much of the land around is within the BMV categories and it would be difficult not to use high grade land if further housing is to be built on greenfield land in the district. The weight to the loss of BMV agricultural land would not outweigh the benefits of housing if there is an urgent need. [2.1 6.30 7.18 9.2]

Ecology

- 15.48 The scheme would involve the loss of agricultural land of very little ecological value. An extensive scheme of mitigation is proposed. UDC and English Nature (EN) withdrew their objections. The evidence for the PCsA was discredited and not referred to again in closing. It should be given no weight. In addition to the effects of the scheme, if implemented, the proposed link to the Barratt's site would destroy the integrity of that hedgerow and its ability to act as a corridor. However, although not yet fully investigated, the overall raft of ecological benefits would very probably outweigh this harm as well even without taking into account the advantages of greater accessibility. On balance the scheme would accord with NPPF 118. [5.5 7.20 9.5]

Mineral resources

- 15.49 As above, LS may write to the SoS after the close of the Inquiry, so this report contains no definitive recommendations on this matter. However, it remains that access to mineral reserves would be lost, contrary to Policy S8 of the July 2014 Essex Minerals Local Plan. While LS argued that the relative extent of this loss would be minimal, and so the loss should carry only very limited weight in the planning balance, that is a matter for the SoS on receipt of any further representations. In the absence of any resolution to the objections from ECC, I have reached my recommendation on the basis that little weight should be given to the harm as a result of the relatively small area of Highwood Quarry which would be sterilised. [7.19 9.4]

Accessibility

- 15.50 While the Council accepted that the safety and capacity of the highway network were acceptable, it maintained its objections with regard to accessibility and the effect of this on sustainability, which it claimed would be severe. Although the site is adjacent to Great Dunmow, identified by the Council as one of two towns in the district for growth, its connections are not straightforward as it is separated by the new bypass. There would be significant distances to destinations such as the nearest supermarket, the Helena Romanes School and the town centre. Nevertheless, the scheme would benefit from two vehicular accesses, three if the Barratt's link is included, and the footpath to Little Easton. The pedestrian links to the

school could be improved with the assistance of ECC. These all contribute to its permeability and connectivity as well as accessibility, even if the amended and design arguments appeared late in the day. With regard to the supermarket, trips there usually involve a car and, as with the town centre, such car trips would not be lengthy. [5.1 5.3 6.24-6.26 7.22]

- 15.51 With regard to employment, the site has easy links with Great Dunmow, Bishop's Stortford and Stansted Airport, albeit more easily by car than other means. The latter has severe parking problems despite a very active TP. LS has attempted to mitigate against accessibility limitations through the provision of on-site facilities, bus services, cycling links and footpath improvements. Both of the latter would depend on land outside the appeal site and their success or otherwise would affect accessibility and so sustainability. [2.2 6.26]
- 15.52 Turning to on-site facilities, there are some doubts over the viability of the proposed retail units and, while commendable in principle, even if they were completed, occupied and traded successfully, the extent that they would off-set future journeys would not be great. [5.1 5.4 6.25 7.22]
- 15.53 The bus service would be secured by the s106 agreement. The likely viability of this depends on a link with the adjoining Barratt's site. The Council has pointed out that there can be no guarantee that this would be provided; LS has argued that the two schemes will be linked together and that the SoS can be updated before reaching his decision. Provision of the link is probably within the control of the Council and would be in the interests of good planning. It would be irresponsible of the Council not to use its best endeavours to secure this link, whether for this development or as a contingency for the future. [5.7 6.27 7.24 14.4]
- 15.54 The footpath link to the school and the north end of Great Dunmow exists already. It could be improved so that it would be more attractive for more of the year. Again the extent to which this can be done would depend on the co-operation of a public body, this time ECC. Without good reason, it would be irresponsible of ECC to frustrate improvements that would assist in producing sustainable development but, in any event, the footpath is likely to be used in good weather in the summer and would probably be avoided in bad weather in the winter. Improvements would simply increase its use. On the other hand, the proposed Woodside Way crossing still requires a safety audit. [5.3 6.24-6.25 7.12]
- 15.55 On both these points, the possibility that a public body might obstruct efforts towards sustainable development should not count against the proposals and, overall, the limitations with regard to accessibility should only weigh moderately against the scheme. With regard to policy, this is a matter best considered in the round with the other dimensions of the definition of sustainable development. While the shortcomings in accessibility weigh against the Appeal A scheme, in the context of Uttlesford, they would not amount to severe.

Design

- 15.56 There was no challenge to LS's claim that the Masterplan illustrates how a well-thought out scheme could be brought forward. Many of the benefits

claimed would be little more than mitigation, but they would achieve the aim of offsetting much of the harm and leave the opportunity open for a well designed scheme. Indeed, on the face of it, and subject to cooperation over the suggested link and existing footpath, it would appear that the scheme could also improve the connectivity and permeability of the Barratt's scheme. Subject to close scrutiny at reserved matters stage, the proposed landscaping would retain, and even emphasise, the importance of the separation between Great Dunmow and Little Easton while allowing pedestrian links between the proposed development and the north end of the town. Overall, and bearing in mind the outline nature of the proposals, I give some weight to the benefits of good design which would accord with LP policy GEN2 and NPPF paragraphs 56, 59 and 61. [5.1-5.2 5.9-5.10 7.16 8.39]

Benefits

- 15.57 The application is in outline form. The indicative phasing from July 2014 was for work to start the following year with completion some 10-12 years later. Given the extent of reserved matters, and that the construction access would need to be completed first, it must be likely that few houses would be completed in the early years. With reference to conditions, LS indicated the scheme is likely to contribute some 175-190 houses within the first 5 years. Even if it were concluded that UDC does not have a 5 year HLS, the benefit to increasing housing from the Appeal A scheme within this period should be reduced accordingly. [6.2 6.8 7.30 8.39]
- 15.58 There was no dispute that the provision of AH would be a substantial benefit regardless of whether or not there is a 5 year HLS for market housing. The weight to be given to the market housing is subject to the extent of need. As the Council does have a 5 year HLS, the weight to market housing in principle should be reduced. Although housing is not defined in the NPPF as economic development, its construction would provide economic benefits and more residents would boost the local economy. [6.31 7.30 8.39]
- 15.59 The revised scheme, with the proposed link and upgraded footpath, would be reasonably well connected and permeable and so, subject to close scrutiny at the reserved matters stage, there is every chance that the scheme would amount to good design. The effect of the ecological proposals could be slightly beneficial by the time the development is completed but there is no imperative for this to be carried out and, as with other matters cited as benefits, this would essentially amount to mitigation.

Sustainable development

- 15.60 With regard to the dimensions on sustainability, new housing would provide economic benefits through construction and greater economic activity in any event, and social benefits insofar as the housing is needed. There would be a small potential economic loss through the sterilisation of part of Highwood Quarry. AH would be a social benefit in both scenarios on HLS. If there is a 5 year supply, less weight should be given to the social benefits of market housing. The loss of BMV land, open countryside and landscape views count against the scheme with regard to the environmental dimension, offset slightly by the potential for good design. The limited accessibility of the site other than by private car would count against the scheme, although this harm would be tempered by the relatively short distances to a supermarket,

a secondary school, and to town centre facilities and employment opportunities as well as efforts towards encouraging modal shift. With the proposed mitigation, the ecological effects would be broadly neutral. [7.30 8.39]

- 15.61 Sustainability is a relative concept. As the objective to boost significantly the supply of housing, in NPPF 47, forms part of the overall definition of sustainable development (NPPF 6), a shortage of housing is therefore, by definition, an indication of an unsustainable situation. If a 5 year HLS were lacking, then policies which restrain housing supply would be out-of-date (NPPF 49) and the weight to be given to the benefits (in this case of housing) would be such that the harm would need to be significant and demonstrable to outweigh this benefit. In assessing the balance as to sustainable development, the weight to be given to the various factors (in this case environmental harm in particular) therefore turns on whether or not there is a 5 year HLS.

Balance

- 15.62 The proposals would cause significant harm to the character and appearance of the area. The landscaping proposals would significantly reduce much of the harm which might otherwise be caused but would be no more than mitigation. On the other hand, the harm would be comparable with that to be expected as a result of any greenfield housing development in Uttlesford, such as the Barratt's site. No harm was identified with regard to the design but the benefits are mostly potential and subject to reserved matters. With regard to the evidence concerning restrictive covenants provided by the PCsA legal witness, other than possible, unproven implications for delivery this is not a planning matter and should be given very limited weight. [7.12 9.10]
- 15.63 If there were not a 5 year HLS, the question would arise as to whether any adverse effects would significantly and demonstrably outweigh the benefits (NPPF 14)? As above, in order that the overriding test remains that of whether the scheme would be sustainable development, this would then be considered against substantially increased weight to the benefits of housing. In this scenario, the benefits of additional housing, albeit with uncertainty over the timing of delivery, would outweigh the harm to the landscape, loss of BMV and mineral resources, and accessibility limitations, and sustainable development would be achieved.
- 15.64 No weight should be given to the emerging LP. Very little should be afforded to the emerging neighbourhood plan which scarcely affects the site in any case. The scheme would cause harm to the character and appearance of the countryside, the loss of BMV agricultural land, and sterilisation of mineral resources, contrary to LP policies S7 and ENV5, and to policy S8 of the Essex Minerals Local Plan; other policies relevant to housing are inconsistent with the NPPF. As there is a 5 year HLS, the requirement to determine the appeal in accordance with the development plan means that the conflict with it would not be outweighed by the NPPF.
- 15.65 It follows that Appeal A should fail.

Appeal B

Prematurity

- 15.66 Following the conclusions of the LP Inspector, the emerging LP has been withdrawn. Following advice in the PPG, it can no longer be considered as at an advanced stage and so there is no justification for dismissing the appeal on the grounds of prematurity. [3.21 6.32]

Character and appearance

- 15.67 The appeal site comprises gently undulating farmland and large open fields which slope gently down towards Elsenham. It contains few important landscape features. Some parts are not in agricultural use. Some of the site is elevated but in general the surface of the fields is concealed in views from the historic parts of Henham. The extent of the site can be seen more clearly from the west of Elsenham. It is not of exceptional landscape quality and has no landscape designation. There is nothing to suggest that it would meet the definition of a valued landscape under the NPPF. There are footpaths running across the site, including the Farmer's Line, and there are views over the fields and woodlands from in and around it. As with Appeal A, the site itself is a typical piece of Uttlesford agricultural land, and is therefore equally unremarkable for the district as a whole. [2.8 8.14 10.2]
- 15.68 The proposed development would be focussed on a new route between the two access points. While there is currently no natural containment along the eastern boundary, there would be landscaping on the Henham side of the development and, subject to reserved matters, there is potential for further screening than that indicated on the drawings if necessary. Although little more than mitigation, this would nevertheless offset much of the harm that would otherwise occur with regard to views over the site from this direction. Nevertheless, some of the proposed development, especially the roofs, might well be visible at least until the landscaping has grown. Alterations to construct the accesses and the link road would change the appearance of these areas but in the context of existing built development. As well as the loss of open fields, there would be some harm to public views beyond the site, including from footpaths and public areas to the west, as a result of the scheme. [5.9 7.39 8.14]
- 15.69 As for Appeal A, the development would therefore cause harm to both the landscape and to views across it, and would do so over a lengthy construction period. The proposals would be contrary to LP policy S7 insofar as protection of the countryside is consistent with NPPF 17. Whether or not the weight to be attributed to this is determinative depends on the conclusions with regard to HLS. Otherwise, limited weight should be given to conflict with policies S1 or S3.

BMV agricultural land

- 15.70 There are no substantial areas of lower grade land close to existing settlements in Uttlesford. Regardless of whether some of the land is grade 3a or 3b, and so its definition under the NPPF, the weight to be given to harm through the loss of BMV agricultural land, and to conflict with LP policy ENV5, would be comparable with that for Appeal A. [8.18 10.2]

Transport sustainability/accessibility

- 15.71 Uttlesford residents are more likely to own and use cars for longer commuting journeys than the national average and car ownership in Elsenham is even higher than that for the district. While Elsenham is not many miles from either Stansted Airport, other employment opportunities, or secondary schools, access to all these is certainly well beyond normal walking distance. On the other hand, the village has a railway station, bus service and a GPs surgery. Due to the nature of the surrounding roads (see below), cycling beyond the village along local roads is probably limited to the most confident cyclists. The nearest major shops, including large foodstores, are at Bishop's Stortford. [2.1 2.7]
- 15.72 As part of the development, there would be significant areas set aside for retail opportunities and a primary school on site, in line with the recommendations in NPPF 38. Given the proximity of the site to the rest of the village, the prospects for the viability of the proposed shops ought to be good. On the other hand, the railway line presents a significant barrier to movement between the site and the existing village. This is true even at the level crossing because it is regularly closed for trains and the footbridge is particularly high. This would be likely to dissuade some of those who might otherwise shop locally, by making it difficult to walk between the old and new shops. This would reduce the level of support to both the existing and intended facilities from that which might otherwise be expected. There was no evidence to support the assertion that 800 new houses would persuade train operators to add additional stops or frequency of service to Elsenham. [5.9 8.24]
- 15.73 The proposed bus provision would link the new interchange with an extension to the existing service to Stansted Airport and Bishop's Stortford, and to Forest Hall secondary school in Stansted Mountfitchet during term times, but other peak hour journeys to the school would add to the congestion in Stansted Mountfitchet. Proposed transport measures would include walking and cycling routes within the site, including footpaths, enhancements to Elsenham Station, an extended bus service, and a TP. The proposal for a transport interchange would be a rather grand name for an area of parking and turning space for buses, taxis, disabled car drivers and bicycles, and a drop off point. It would not include any proposals for the level crossing. Cycling within the village should benefit from the proposed road alterations. Some potential journeys might be 'internal' that is to say to new shops and employment space within the site. [2.9 5.11 8.23]
- 15.74 The TP target is a 10% reduction in mode share compared with the baseline in the proposed TP as a result of long list of measures. Additional measures aiming to achieve this, and a further sum, could be enforced if necessary through the s106 Agreement. However, the limited scope for additional measures mean that it would be by no means certain that a 10% shift would be achieved. [5.11 8.20-8.21]
- 15.75 In any case, the 10% target for modal shift away from private cars would be a small proportion of overall journeys. The recorded disinclination of the local population to travel other than in their cars means that there must be some doubt that this target would be met, even with the fund for additional

measures. While the shift would make a significant and worthwhile contribution to sustainable transport, proportionally it would do little to alter the overall number of journeys by private car. Moreover, compared with a potential site on the edge of one of the main towns in the district, these would be relatively long journey distances to secondary schools, larger shops and to most employment. [8.20-8.21 10.25 14.5]

- 15.76 There is no fixed concept of a sustainable location and no fixed sustainability threshold to apply. The NPPF recognises that solutions to maximise sustainable transport will be different in rural and urban areas. There is no decree as to which key facilities should be within walking distance for larger developments. Rather, the extent to which a proposal would or would not achieve sustainable development depends on balancing all these factors. [8.19]
- 15.77 For the above reasons, the scheme could be relatively sustainable in terms of modal split. However, the vast majority of journeys would still be undertaken by the private car and over relatively long distances. Even if a 10% shift in modal split could be achieved, there would be a significant increase in traffic on local roads. I therefore turn to the remaining private car journeys and to the effect that these would have on the local road system before concluding on this issue.

Traffic impacts/free flow of traffic

EXISTING TRAFFIC PATTERNS

- 15.78 There was no dispute that there is an existing problem with vehicular traffic in Stansted Mountfitchet, especially during peak hours. The agreed and amended statements on Highways Matters set out the position for TFP and the PCsB. As set out above, peak hour journeys are likely to include those commuting to work and to the secondary schools in Stansted Mountfitchet and Bishop's Stortford. Those to shops are more likely to be staggered. Employment is focussed in Bishop's Stortford and Stansted Airport with Chelmsford, Harlow and London beyond. A substantial proportion of employment and education commuting from Elsenham is therefore through Stansted Mountfitchet to Bishop's Stortford at peak hours. [2.12]

PROPOSALS

- 15.79 The TA sets out the existing problem but also identifies capacity for increased traffic along the Hall Road route. The strategy to resolve the potential problem, outlined above and to be financed through an enforceable sum in the s106 agreement, is essentially to encourage traffic away from Stansted Road onto Hall Road. It assumes a high degree of success such that 90% of new drivers would use Hall Road. ECC (as Highways Authority) relied on the success of this strategy as the basis for withdrawing its objections. As well as its journey time strategy, TFP also argued that Routes 3 and 4 do not suffer from the same delays and unpredictability as Route 2 and that this would shift the balance further, as would natural equilibrium. [5.12-5.16 8.27 10.12]
- 15.80 Although the numbers were not agreed, the development would be likely to generate a significant amount of traffic during peak hours, much of which would ordinarily be expected to use Stansted Road. For the strategy to

prevent an increase in congestion as a result of development, it would need to encourage most new occupiers of dwellings on the appeal site to use Hall Road. The TFP approach comprises a number of strands. First, given the existing congestion in Stansted Mountfitchet, and the presence of the level crossing at the north end of the site, it expects many new residents to use Hall Road. Second, it proposes various measures, including a new link road junction and traffic calming, to make the Stansted Mountfitchet route (and others) less attractive and to reduce journey times on Hall Road. Finally, the measures to encourage modal shift should limit the increase in the overall number of car journeys as well.

[5.14 7.33 8.30-8.32 10.12 10.15]

- 15.81 The details of the works to the two routes are summarised in s5 above. There was no dispute regarding the works within Elsenham, only their efficacy. There were doubts as to the extent of improvements that were possible along Hall Road, the possible safety implications of these, the accuracy of potential savings in journey times and the likely attractiveness of the results based on an overall 'generalised cost' of value, time and reliability. There was no agreement as to what additional measures might be or what they might achieve. Overall, this 'cost' would take account of all the factors of value, time and reliability. Indeed, it could include many other factors of subjective preference. It follows that the strategy relies on a balance of probabilities.

JOURNEY TIMES

- 15.82 The assignments for proposed journeys in the TA assume that most drivers heading south west from Elsenham would prefer to take the 8.5/9.6 mile routes via Hall Road than the 5.2 mile journey along Stansted Road. The main point at issue between TFP and the PCsB was what the likely effect of the two sets of measures would be on peak journey times along routes 2 and 3, or maybe 4, between Elsenham and Bishop's Stortford during peak hours, and so the likely choice of route. Although ultimately satisfied, given the existing disparity between the two routes, it is not surprising that ECC raised so many queries on the strategy. [5.19 8.34 10.19]
- 15.83 While the TA and TAA analysed journey times for the relevant routes, the percentage assignments put forward for each route were broadly based and did not claim any particular accuracy. The PCsB raised concerns that, despite the lengthy tables in the TAA, there was very little empirical evidence to support the journey times, particularly the re-assignments, that the journey time calculations in the TAA included references to models for which raw data was not supplied, and that assumptions over the changes in speed were based on engineering judgement. The sensitivity test was a 'what if' appraisal in the event that the strategy proved to be unsuccessful. The PCsB argued that, if this came to pass, there would be a severe impact on the highway network. Evidence at the Inquiry revealed that: the total number of journeys measured was small and the variations large, it was difficult to find the raw data amongst the evidence and some of this was missing altogether, and that other figures were not from actual journeys but were from averages either derived from different sections of the routes or taken at inconsistent times of the day. [5.20 8.27-8.28 8.34 10.18-10.23]

- 15.84 The site visit looked at sections of Hall Road. In the absence of detailed drawings, it was difficult to establish the exact boundary to the highway verge or to fully assess the extent to which the road geometry could be altered. Although it was given the opportunity to provide additional drawings of how the sharp bends could be improved within the highway verge, TFP did not do so. It also claimed that the average width of Hall Road is already 6.5m, but this is not necessarily a point in its favour as it means that the scope for improvement, and so increased speed, may be less than it had assumed. [8.29 10.24]
- 15.85 In some circumstances it may be perfectly acceptable for changes in travel times to be estimates and to some degree to rely on professional engineering judgement. However, here the judgement of the two expert witnesses as to assumed reductions in journey time did not agree and so neither can be given much weight by itself.
- 15.86 Given the importance of the journey time changes to the re-assignments, and so the strategy as a whole, the acknowledged error, the lack of raw data, use of sectional averages rather than actual journey times, and reliance on contested professional engineering judgement, collectively amount to significant shortcomings. As ECC only withdrew its very long list of objections on the basis of TFP's evidence, without details of the PCsB objections, the weight to be given to its support for the strategy should be tempered. Furthermore, while it would no doubt be welcomed by residents of Stansted Mountfitchet, ECC's suggested condition number 7, to improve the Grove Hill signals, would seem to run counter to the strategy. While duration would be a significant factor, it is unlikely that many drivers would meticulously time their journeys and so perception is likely to be important as well. This has two main strands: first that there is congestion in Stansted Mountfitchet and, second, that Hall Road is the long way around. [8.35-8.36 10.17-10.19]
- 15.87 The PCsB also raised the issue of road safety and, in particular, whether it was responsible to pursue a strategy of increasing speeds on a rural road which has suffered a number of accidents. These included more than one at a single location where drivers failed to negotiate the bend. The detailed proposals would be subject to safety checks so that a significant increase in risk to highway safety is unlikely. However, the results of these checks could impede the implementation of the proposed improvements and so affect the anticipated changes to journey times and subsequent driver choice. [8.35 10.16]
- 15.88 The TA and TAA assume traffic growth of 1% per annum between 2012 and 2018 and consider that this would bring levels back to the previous peak. In addition, it took account of some, but not all, of the existing committed developments in Elsenham. From the discussion of conditions, few houses would be expected to be built before 2018. Coupled with the omission of more recent commitments, it is therefore unlikely that the strategy would take full account of growth by the time all the dwellings were occupied. [4.2]
- 15.89 As above, the s106 agreement includes a fund for a Local Roads Mitigation Scheme for monitoring and subsequently addressing any impacts. However, beyond the measures already put forward and listed in the agreement, it does not contain any clear indication of where or how this fund might be

spent. Given that TFP appears to have already proposed more or less every conceivable device for altering driver preference in favour of Hall Road, it is unclear what the additional measures might be despite ECC's apparent confidence that this scheme would make the strategy acceptable to them. With no such indication, and the seemingly limited scope for doing so, this offer should be given limited weight and would do little to increase the probability that the strategy would be effective. [14.7]

EFFECTS

- 15.90 Most new traffic from homes towards the south of the development would be likely to head for Hall Road rather than use the level crossing. For most of these drivers, the combination of already heading south, the prospect of the junction on the link road, and the proposed measures within the village, would probably make the improved Hall Road more attractive. The 90% assignment suggested may be a high figure but the split might well be at least 50%, despite the longer journey. For those living towards the north of the development the balance of the 'generalised cost' would be shifted by the proximity of the level crossing and the possibility of a more direct access to Stansted Road. Using the crossing would involve suffering the variability of it being closed for around 20 minutes in each of the peak hours, but with the chance to become familiar with train timetables and the chance to turn around if the crossing were closed. For drivers starting out towards the north end of the development, and travelling to Stansted Mountfitchet or beyond, the much shorter route might well attract a significant percentage and certainly more than the 10% assigned in the TA. [2.7]
- 15.91 Although there was little evidence to support the theory, it doesn't require much imagination to consider that drivers faced with similar journey times for two routes, one of which is more than twice the length of the other, would assume that the shorter route will save them money in vehicle running costs. Equally, with nothing to demonstrate that the marginal financial cost is a significant factor in journey choice for Essex drivers, little weight should be given to the probability that this would affect their decisions. Then again, there is little other than professional engineering judgement to show which of the other factors are the most significant determinators of driver choice. [10.17]

EQUILIBRIUM

- 15.92 There is probably a degree of natural equilibrium in place when it comes to congestion: if one route is busy or suffers from long delays, drivers will find a way round until enough people choose a different route that the delays subside, and they then come back to the original route, and so on. This factor may well be already in play in Stansted Mountfitchet. However, there would also be a significant risk that traffic would only reach equilibrium because Stansted Mountfitchet would become so congested that some drivers would go to great lengths to avoid it while others, with a destination in Stansted Mountfitchet such as Forest Hill School, would be obliged to suffer regardless. [8.30]

Conclusions on journey times

15.93 All in all, despite ECC's confidence, the strategy was unproven and there was little evidence to show that it would succeed to the extent required to prevent a significant impact on traffic congestion in Stansted Mountfitchet. Only moderate weight should be given to the evidence supporting the likely changes in journey time or the consequential shift in traffic patterns. It therefore remains that ECC's original concerns have not all been satisfactorily overcome and that its initial assessment that there would be a significant impact should not be readily abandoned.

Conclusions on the highways strategy

- 15.94 With regard to NPPF 32, proposals in the TP and elsewhere to encourage sustainable transport modes, might achieve a 10% shift but this is uncertain. Even a 10% shift would still leave a substantial increase in traffic. Cost effective improvements to the transport network have been proposed but the residual cumulative effects on the network are likely to be substantial. Immediate access to the site would be safe and suitable but access would be more problematic from greater distances. There was limited evidence that there would be an increased risk to highway safety, only that such concerns might impede the strategy. [5.20]
- 15.95 The balance of probability is that only a proportion of drivers from Elsenham to Bishop's Stortford would reject a short, direct route via Stansted Mountfitchet to a longer circuitous route down Hall Road on the basis the measures put forward. That proportion would probably be significantly less than the predicted 90%. Even using TFP's limited growth figures, the cumulative impact would amount to a substantial increase in the volume of traffic on an already congested road. Taken as a whole, the evidence suggests that the proposals would probably exacerbate existing traffic congestion by a substantial amount.
- 15.96 With regard to the LP Inspector's comments, as above, he found that the fact that Elsenham lies at some distance from the strategic network, embedded within a network of rural roads, was a major disadvantage of the allocation. He was not persuaded that measures would have the full effect required and, while looking at a scheme on quite a different scale, he had severe doubts that the effect on Stansted Mountfitchet could be overcome. From the evidence for Appeal B, while the impact on Stansted Mountfitchet would be significantly less than the LP Inspector anticipated, for similar reasons, it would still be substantial. [3.12-3.18 7.32]
- 15.97 Concerning the benefits of public transport improvements, the LP Inspector found that these would increase with the scale of development. Conversely, the benefits of public transport improvements would be reduced if only the Appeal B scheme went ahead without the rest of the draft LP allocation and this increases the doubt that the full 10% modal shift would be achieved, despite the TP and its deposit sum. [3.17 14.7]
- 15.98 Overall on this issue, the likely extent of shift in traffic from Stansted Road to Hall Road does not show that significant impact on Stansted Mountfitchet would be averted. The probability is that this would amount to substantial harm. However, as there would probably be a useful modal shift, if not

necessarily as great as claimed, and as there is limited evidence of increased risk to highway safety, the residual cumulative impacts on sustainable transport modes, highway safety and the transport network when taken as a whole would not reach the threshold of severe such that the development should be prevented on transport grounds alone.

- 15.99 Nevertheless, even if the increase in congestion would not amount to a severe impact, it remains the case that the scheme would bring significant volumes of additional traffic to a village at a significant distance from employment and services. It is unlikely that traffic could be accommodated on the surrounding roads, contrary to LP Policy GEN1. This also weighs heavily against a conclusion that the scheme would amount to sustainable development.

CPZ

- 15.100 Only a small part of the access road would pass through the CPZ and the road would not affect openness or coalescence. It was never a major issue for UDC and was not pursued at the Inquiry. The LP Inspector found no problem with this. There was no evidence that the scheme would result in harm to the characteristics of the CPZ and so there would be no conflict with LP Policy S8. [2.10 8.17]

Design

- 15.101 TFP did not call a design witness. Nevertheless, given the constraints of the location, the Parameter Plan illustrates how a well connected and permeable scheme could be brought forward. In particular, the accesses at both ends and the primary route between would provide the opportunity for good links between dwellings and services. The proposed interchange at the location of the intended local centre would add to this albeit towards one end. Subject to close scrutiny at reserved matters stage, the scheme could achieve an attractive central spine from which to access the houses. The proposed landscaping could allow pleasant pedestrian links through the development between the ends of the village. [5.9-5.10]
- 15.102 On the other hand, the railway line would separate the development from the centre of the village. The usefulness of the connecting point, by the proposed interchange and local centre, would be hampered by the amount of time that the level crossing is closed and by the height of the pedestrian bridge. This degree of isolation would be a major drawback to the apparent advantage that the scheme would adjoin the existing village. Overall, and bearing in mind the outline nature of the proposals, I therefore give only modest weight to the benefits of good design which would accord with LP policy GEN2 and NPPF paragraphs 56, 59 and 61. [2.7]

Benefits

- 15.103 The conclusions on HLS apply equally to Appeal B as to Appeal A. The benefits of housing and AH are similar. TFP sought relaxation from the usual outline time limit in the conditions, on the basis that the necessary infrastructure might take a little longer to achieve, so the benefits to increasing housing from this scheme within 5 years should be reduced. This is in line with UDC's preference for smaller sites. [8.13 8.39]

Balance

15.104 The scheme would provide much needed AH even though there is a 5 year HLS for market dwellings. There would be harm to the character and appearance of the landscape but also some mitigation and the opportunity to require more. BMV agricultural land would be lost but this is almost inevitable in Uttlesford. The issue of the CPZ warrants only limited weight. A series of proposals, including a TP, aim to reduce reliance on the private car. Nevertheless, most new residents are likely to use private cars for most journeys and typically these journeys will not be short. Rather, they will use a network of rural roads and add to existing congestion. The highways strategy is unproven and unlikely to work to the extent claimed. The impact on Stansted Mountfitchet would probably be substantial.

Sustainable development

15.105 With regard to the dimensions on sustainability, as with Appeal A, new housing would provide economic benefits in any event and social benefits insofar as the housing is needed. AH would be a social benefit either way but as there is a 5 year HLS supply, less weight should be given to the social benefits of market housing, reduced further by the long timescales for delivery. The loss of BMV land, open countryside and landscape views, and the poor accessibility, count against the scheme with regard to the environmental dimension, offset slightly by the potential for good design, by landscape mitigation, and by efforts towards accessibility and travel other than by the private car. On the other hand, the likelihood of a substantial impact on the highway network through Stansted Mountfitchet would weigh heavily against the scheme with regard to the environmental role. [8.39]

15.106 For the above reasons, the harm to the road network, coupled with the harm to the character and appearance of the area, and the loss of BMV agricultural land, mean that the collective harms would significantly and demonstrably outweigh the benefits.

Conclusions on the development plan

15.107 The scheme would cause harm to the character and appearance of the countryside, and the loss of BMV agricultural land, contrary to LP policies S7 and ENV5; other relevant housing policies are inconsistent with the NPPF. No weight should be given to the emerging LP. Given the 5 year HLS, the requirement to determine the appeal in accordance with the development plan means that the conflict with this would not be outweighed by the NPPF.

Overall conclusions

15.108 Insofar as they would restrict supply, there was agreement between UDC, LS and TFP that the housing policies in the LP, written to apply until 2011, are now out-of-date. Similarly, any policies which refer to development limits and boundaries, such as policies S1 and S3, are in conflict with the NPPF and should be given limited weight. Other saved policies, such as those protecting the countryside and BMV agricultural land, are at least partially in conformity and should be afforded weight in line with NPPF 215. As UDC can demonstrate a 5 year HLS, the weight to Policy S7 in both

appeals is a significant factor. While both schemes offer some potential for good design, at the outline stage this merits only modest weight in their favour.

- 15.109 Both schemes would include strategies to alter the modal split between private car journeys and other means, to improve accessibility, but in both cases the level of success is uncertain. Nevertheless, this needs to be considered in context. In Uttlesford more journeys are currently taken by private car compared with other parts of the country. Appeal A would also cause the loss of underground mineral resources although the effect on ecology would be neutral at worst. Appeal B would face the additional problems with the local road network, which would probably be substantial, but limited weight should be given to conflict with policy regarding the CPZ.
- 15.110 With a 5 year HLS, the presumption in NPPF 14 does not shift the usual planning balance. Both schemes would cause significant harm to the countryside and reduce the availability of BMV agricultural land. In both appeals these conflicts weigh against the schemes. Without a 5 year HLS, substantial additional weight should be given to the provision of housing but, even then, this should be reduced by the probable length of time it would take for this to be delivered, particularly for Appeal B. The provision of AH would be a benefit in any event.
- 15.111 Against the three dimensions in the NPPF, the balance would mean that neither scheme would amount to sustainable development. Without a 5 year HLS, more weight should be given to the need for market housing which would tip the balance in favour of Appeal A. Regardless of the conclusions on HLS, the substantial impact on the surrounding road network would still weigh sufficiently heavily against Appeal B so that the adverse impacts as a whole would significantly and demonstrably outweigh the benefits. Consequently, the Appeal B scheme would not amount to sustainable development in any event.
- 15.112 Both schemes would conflict with the development plan policies cited above. In neither case would the NPPF outweigh this conflict and so both appeals should fail.

16. Recommendations

16.1 Appeal A should be dismissed.

16.2 Appeal B should be dismissed.

David Nicholson

INSPECTOR

Appendix A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon of Counsel	instructed by Uttlesford District Council (UDC)
He called	
Alison Hutchinson	Hutchinson Planning & Development Consultants
Katherine Wilkinson	Strategic Development Engineer Essex County Council (ECC)

FOR LAND SECURITIES (APPELLANT APPEAL A):

Rupert Warren QC	instructed by Hogan Lovells International LLP
and Stephen Morgan of Counsel	
They called	
Kathryn Anderson	Barton Willmore
David Bird	Vectos (South) Limited
Lisa Toyne	Barton Willmore
Bernard Fleming	Fleming Ecology
Robin Meakins	Barton Willmore

FOR THE FAIRFIELD PARTNERSHIP (APPELLANT APPEAL B):

Craig Howell Williams QC	instructed by David Lock Associates
He called	
Philip Copsey	David Lock Associates
Prof. Robert Tregay	LDA Design
Michael Horsfall	WSP UK Ltd. Cambridge

FOR THE GREAT DUNMOW TOWN COUNCIL, LITTLE EASTON PARISH COUNCIL, GREAT EASTON & TILTY PARISH COUNCIL, AND BROXTED PARISH COUNCIL - PCsA:

Alan Sturah	instructed by PCsA
He called	
Himself	Planning consultant
Dr Annie Gordon	Conservation Officer, Essex Wildlife Trust
Eileen McKendry-Gray	Little Easton Parish Councillor

FOR THE JOINT PARISH COUNCILS STEERING GROUP (HENHAM, ELSENHAM, UGLEY AND STANSTED PARISH COUNCILS) - PCsB:

Jenny Wigley of Counsel	instructed by Richard Buxton Solicitors
She called	
Geoff Gardner	Gardner Planning
Bruce Bamber	Railton TPC Ltd

INTERESTED PERSONS:

Irene Jones	Local resident
Sue Gilbert	Chairman, Little Easton Parish Council
Lawrence Smith	District Councillor for the Eastons
Roger Clark	Chairman, Broxted Parish Council
John Davey	District Councillor and Great Dunmow Town Councillor
Chris Audritt	Little Easton Parish Councillor
Trevor Ingrey	Local resident
Derek Connell	Landlord of Three Horseshoes in Duton Hill
Tony Clarke	Chairman, Dunmow Society
Mike Perry	Great Dunmow Chamber of Trade and Commerce
Keith Mackman	District Councillor and Great Dunmow Town Councillor
Neil Blackshaw	On behalf of Cllr Martin Foley
Helen Audritt	Local resident
Roger Clark	Chairman Broxted Parish Council
Michael Garrick	Local resident – Elsenham
David Morson	District Councillor for Elsenham and Henham
Alan Deane	District Councillor
Janice Loughlin	District Councillor

Appendix B

LIST OF INQUIRY DOCUMENTS

Inquiry Doc 01	List of questions for the Inspector regarding UDC not defending Appeal B
Inquiry Doc 02	ECC Additional Comments, Minerals and Waste Planning 19 Sept 2014
Inquiry Doc 03	Natural England letters of 18 September 2014 and 21 May 2013
Inquiry Doc 04a	Summary Statistics for Labour Market
Inquiry Doc 04b	Experian data
Inquiry Doc 05	Past Annual Population Change - Uttlesford (June 2014)
Inquiry Doc 05a	ONS – Past annual population change, Uttlesford (supersedes ID 5) (LS)
Inquiry Doc 06	Housing Land Position of the Parties for Round Table Session
Inquiry Doc 07	London Stansted Airport - Looking to the Future 2012
Inquiry Doc 08	Potential Bus Services to the Appeal Site, correspondence with Bus Operators - Katherine Wilkinson - ECC
Inquiry Doc 09	ECC Letter dated 29 Jan 2013
Inquiry Doc 10	Plans - Application Site Boundary - 02, Amended Illustrative Masterplan, Site Boundary and Land Ownership, Development Parameters Plan 1 - 5, Landscape Strategy Plan, A120 Highway Access and Woodside Way Highway Access
Inquiry Doc 11	Appeal Decision - Ref: APP/C1570/A/11/2146338, Sector 4, Woodlands Park, Great Dunmow, Essex
Inquiry Doc 12	Barton Willmore Letter on behalf of LS Dated 5 Nov 2013, UDC Letter regarding Barratt's and West of Woodside Way Representation Plan
Inquiry Doc 13a	Guidelines for Planning For Public Transport in Developments References to Walking distance to Bus Stops in Katherine Wilkinson's Evidence
Inquiry Doc 13b	Guidelines for Planning For Public Transport in Developments
Inquiry Doc 14a	Questions for the Inspector in relation to the Council's decision not to defend Appeal B
Inquiry Doc 14b	Land Securities' further questions dated 7 October 2014 (LS)
Inquiry Doc 14c	UDC's response dated 10 October 2014 to Land Securities' further questions (UDC)
Inquiry Doc 15	Advert in Newspaper regarding - Submission of Further Information in Relation to the Environmental Impact Statement
Inquiry Doc 16.1	Submission by Irene Jones on 29.09.14
Inquiry Doc 16.2	Sue Gilbert - Existing Community and Land Use today
Inquiry Doc 16.3	Submission by Neil Blackshaw on behalf of Cllr Martin Foley
Inquiry Doc 16.4	Submission of Roger Clark resident of Broxted - 30.09.14
Inquiry Doc 16.5	Witness Statement of John E N Davey, Dunmow Resident, Town and District Councillor
Inquiry Doc 16.6	Public Inquiry Appeal A - Public Comment - Chris Audritt - 30.09.14
Inquiry Doc 16.7	Interested Parties against Appeal A - 30.09.14
Inquiry Doc 16.7	Statement of Trevor Ingrey, Resident of Little Easton
Inquiry Doc 16.8	Statement of Derek Cornell - Representative of the Duton Hill Community Association
Inquiry Doc 16.9	The Dunmow Society: Sustainable Development in Dunmow

Inquiry Doc 16.10	Statement of Mike Perry - Resident of Lt Easton
Inquiry Doc 16.11	Statement of Mrs Audritt - Resident of Lt Easton
Inquiry Doc 17	Section 106 Agreement relating to Land North West of Great Dunmow
Inquiry Doc 18	Draft Conditions LS Amendments 24.09.14 LPA Amendments 29.09.14
Inquiry Doc 18a	Further draft conditions 14.09.14, LS amendments 21.10.14
Inquiry Doc 18b	Final draft conditions 22.10.14
Inquiry Doc 18c	Development parameters dwg 15576-302 rev E referred to in conditions
Inquiry Doc 19	Section 106 Agreement relating to Land North East of Elsenham and Framework Travel Plan
Inquiry Doc 20	Draft Conditions - Clean Version 26.09.14 - V2
Inquiry Doc 20a	Further draft conditions 11.10.14
Inquiry Doc 20b	Final draft planning conditions in relation to Appeal B 24.10.14
Inquiry Doc 21	Table of Key Policies From the Pre-Submission Local Plan and the Development of the Housing Spatial Strategy for the new Uttlesford Local Plan
Inquiry Doc 22	Emails Regarding Greater Essex Demographic Forecasts Phase 6
Inquiry Doc 23	Agreed Statement between ECC and LS on Transport Issues (With Woodside Way Access) 29.09.14
Inquiry Doc 24	Department for Transport Statistics - Trips to School by main mode, trip length and age, England 2013
Inquiry Doc 25	Bus Routes Stansted Airport - Braintree and Maps
Inquiry Doc 26	Draft - Inspectors Site Visit - Figure LT5 - Visual Appraisal Plan
Inquiry Doc 27	Appeal A – table of proposed areas (LS/UDC)
Inquiry Doc 27a	Appeal A – table of proposed areas (supersedes ID 27) (LS/UDC)
Inquiry Doc 28	Further rebuttal evidence of Prof Robert Tregay (TFP)
Inquiry Doc 29	Further rebuttal evidence of Michael Horsfall (TFP)
Inquiry Doc 30	Amended Illustrative Masterplan - Appeal Site A
Inquiry Doc 31a	Witness Statement of Mr Michael Garrick, Elsenham
Inquiry Doc 31b	Statement of Cllr David Morson, Member for Elsenham and Henham
Inquiry Doc 31c	Representation from Cllr Alan Dean, Member for Stansted South, UDC
Inquiry Doc 31d	Statement of Cllr Janice Loughlin
Inquiry Doc 32	Appeal B - Site Location Plan; Parameter Plan; Site Features; Illustrative Master Plan; Proposed Access Arrangement off: Henham Rd, Old Mead Rd; Construction Access; Elsenham Access to Wastewater Treatment works (WwTw); Elsenham Link Rd; Distribution of Open Space Provision; Green Infrastructure Strategy and Open Spaces; Illustrative Masterplan in its Strategic Context; Cycle Improvements; Access Plan; Location of Surveyed Junctions and ATCs; and Existing Bus Services and Proposed Improvements.
Inquiry Doc 33	Agreed Statement on Highways Matters between Bruce Bamber (on behalf of the JPCSG) and Michael Horsfall (WSP) on behalf of the appellant.
Inquiry Doc 34	Existing Travel Times and Travel Times with Development
Inquiry Doc 35	Elsenham Journey Time Survey Routes
Inquiry Doc 36	Surface Access Plan
Inquiry Doc 37	Timing Data off various roads at Appeal B Site
Inquiry Doc 37a	Route Surveys of Tye Green and Takely Crossroads

Inquiry Doc 38	Planning Committee 2nd Oct 13 From Geoff Gardner dated 26th September 13
Inquiry Doc 39	Method of Travel to Work Data
Inquiry Doc 40	Letter from Cllr Alan Dean dated 9 Oct 14
Inquiry Doc 41	Stansted Mountfitchet Parish Council Verbal Presentation - Maureen Caton
Inquiry Doc 42	Existing Travel Times and Travel Times with Development
Inquiry Doc 43	TGM Bus times Elsenham
Inquiry Doc 44	Letter from Highways UTT/13/0808/OP dated 19 September 2014
Inquiry Doc 45	Appeal B – site visit itinerary (TFP)
Inquiry Doc 46	Appeal B – statement of common ground in relation to planning (TFP)
Inquiry Doc 47	Appeal B – Draft Section 106 agreement – schedule of changes since preliminary session (TFP)
Inquiry Doc 48	Appeal B – CIL compliance schedule (TFP)
Inquiry Doc 49	Appeal A – statement of common ground in relation to ecology (LS/UDC)
Inquiry Doc 50	Letter from Mark Liell & Son concerning retail viability
Inquiry Doc 51	Letter from Daphne Wallace-Jarvis
Inquiry Doc 52	Highways Agency letter dated 20 October 2014 in relation to Appeal A (UDC)
Inquiry Doc 53	Memorandum of Understanding between Fairfield and Arriva Kent Thameside (TFP)
Inquiry Doc 54	Appeal B – note of possible travel plan measures (TFP)
Inquiry Doc 55	Plan Showing Amended Illustrative Masterplan – Appeal A
Inquiry Doc 56	Note on Cooper's End Roundabout (UDC)
Inquiry Doc 57	Appeal B – completed Section 106 Agreement
Inquiry Doc 58	Appeal B – Parish Councils B – closing and supplementary closing
Inquiry Doc 59	Appeal B – Amended Agreed Statement on Highways Matters
Inquiry Doc 60	Appeal A – note in relation to design codes (LS)
Inquiry Doc 61	Appeal A - technical note on highways (LS)
Inquiry Doc 62	Appeal A – note on footpath enhancements (LS)
Inquiry Doc 63	Appeal A – Parish Councils A closing
Inquiry Doc 64	Appeal A – UDC closing
Inquiry Doc 65	Appeal B – Fairfield closing
Inquiry Doc 66	Appeal A – Reasons for Refusal in relation to LS's duplicate application
Inquiry Doc 67	Appeal A – Land Securities' closing
Inquiry Doc 68	Inspector Roy Foster summary dated 3 December 2014
Inquiry Doc 69	Inspector Roy Foster conclusions dated 19 December 2014
Inquiry Doc 70	Further comments with regard to ID69
Inquiry Doc 71	Further comments with regard to the 2012-based Household Projections: England 2012-2037 published on 27 February 2015

LIST OF CORE DOCUMENTS

	Policy Documents	Date
CD	A1 Uttlesford Local Plan	2005
	A2 Secretary of States Direction under Schedule 8 of Saved Policies of Local Plan	21-Dec-07
	A3 Essex Minerals Local Plan	Jul-14
	A4 The Uttlesford Local Plan 2005 - National Planning Policy Framework Compatibility Assessment	Jul-12
	Supplementary Planning Documents	
CD	A5 Accessible Homes and Playspace	2005
	A6 Developer Contributions	2014
	A7 SPD - Energy Efficiency and Renewable Energy	2007
	A8 Great Dunmow Town Design Statement	
	A9 Essex Design Guide for Residential and Mixed Use Areas	2005
	A10 Urban Place Supplement to the Essex Design Guide	2007
	The Emerging Local Plan	
CD	B1 Public Participation on Development Plan Document, Consultation on Proposals for a Draft Local Plan,	Jun-12
	B2 Uttlesford Local Plan - Consultation on Additional Housing Numbers and Sites	Nov-13
	B3 Uttlesford Local Plan - Pre-Submission Consultation, April 2014	Jul-14
	B4 Schedule of Proposed Minor Modifications	Jul-14
	B5 Great Dunmow Neighbourhood Plan - Pre-submission Consultation	2014
	B6 Representations dated 2 June 2014 on behalf of Land Securities in relation to the Pre-Submission Local Plan	Jun-14
	B7 Representations dated 2 June 2014 on behalf of Fairfield in relation to the Pre-Submission Local Plan	Jun-14
	Background Documents/Studies for Local Plan	
	<u>Housing</u>	
CD	C1 Annual Monitoring Report (AMR)	2013
	C2 SHLAA	2013
	C2A SHLAA - Site Appraisal Information by Parish - Little Easton	
	C2B SHLAA - Site Appraisal Information by Parish - Elsenham	
	C5 SHMA - Report	2009
	C6 SHMA - Update	2012
	C7 Objectively Assessed Housing Need, Technical Assessment	2013
	C8 Update to Technical Assessment October 2013	May-14
	C9 Housing Supply Statement at 31 March 2014	2014
	C10 Housing Supply Windfall Allowance	Jun-14
	C11 Future Housing Growth Requirement	17-Oct-13
	C12 Housing Trajectory and 5 Year Land Supply	01-Apr-14

C13	Local Plan Working Group report - Housing Supply	26-Jun-14
C14	Edge Analytics - Demographic Forecasts Phase 3: Further Scenario Development	01-Jun-12
C15	Edge Analytics Demographic Forecasts - Phase 4	Jun-13
C16	Edge Analytics Demographic Forecasts - Phase 5: Main Report	01-Apr-14
C17	Edge Analytics Demographic Forecasts - Phase 6 Main Report	01-Sep-14

Others

CD	D1	Landscape Character Assessment - Uttlesford District	
	D2	Open Space, Sport Facility and Playing Pitch Strategy	
	D3	Commissioning School Places In Essex 2013-2018 - Essex County Council	
	D4	Sustainability Appraisal and Strategic Environmental Assessment Addendum June 2014 ECC Place Services	Jun-14
	D5	UDC Pre-Submission Local Plan Sustainability Appraisal and Strategic Environmental Assessment, Environmental Report: Annex D - Appraisal of Site Allocations (April 2014)	Apr-14
	D6	UDC letter 26 June 2014	
	D7	UDC Planning Committee minutes 25 June 2014	
	D8	Local Development Scheme March 2014	Apr-14
	D9	Natural England - Character Area 86: South Suffolk and North Essex Clayland	
	D10	Essex County Council Landscape Character Assessment, 2003	
	D11	Stansted Mountfitchet Conservation Area Appraisal and Management Proposals - approved April 2007	

Highway Documents

CD	E1	ECC Development Management Policies	2011
	E2	Essex County Council Parking Standards – Design and Good Practice -September 2009	
	E3	The Essex Local Transport Plan	
	E4	DMRB Vol 6 Section 1 TD 9/93 Highway Link design	
	E5	DMRB Vol 6 Section 2 Pt 6 TD 42-95 Geometric Design of major/Minor Priority Junctions	
	E6	Guidance for Transport Assessments – Dft	
	E7	Circular 1/09 Rights of Way, Guidance for Local Authorities	
	E8	Essex Road Passenger Transport Strategy 2006-2011, July 2005 Essex County Council.	
	E9	Essex Design Guide, 1997 revised 2005, Essex County Council	
	E10	Essex Cycling Strategy, August 2001, Essex County Council	
	E11	Essex Walking Strategy, August 2001, Essex County Council	
	E12	Essex Traffic Management Strategy	2005
	E13	Essex Speed Management Strategy	
	E14	Essex Public Rights of Way Improvement Plan	
	E15	Essex County Council - Highway Impact Assessment of Draft Local Plan to 2031	Mar-14
	E16	Uttlesford Local Residential Parking Standards February 2013	Feb-13
	E17	Department for Transport - Local Transport Note 2/08 - Cycle Infrastructure Design	Oct-08
	E18	Department for Transport - Manual for Streets	
	E19	Chartered Institution of Highways and Transportation - Manual for Streets 2	

Documents provided by Fairfield (TFP)

CD	F5	Uttlesford District Council, Minutes of Full Council	08-Apr-14
	F6	Uttlesford District Council, Uttlesford Local Plan Pre-Submission Consultation 2014, Summary of Main Issues	17 Apr – 2 Jun 14
	F7	Uttlesford District Council, Planning Officers Report Land South of Stansted Road, Elsenham	02-Oct-13
	F9	Uttlesford District Council, Uttlesford Draft Local Plan Position Statement	Mar-13
	F12	Uttlesford District Council, Planning Officers Report Land West of Hall Road, Elsenham	02-May-13
	F13	Uttlesford District Council, Local Development Framework Annual Monitoring Report	Dec-12
	F14	Edge Analytics, Greater Essex Demographic Forecasts Phase 2: Scenario Development Incorporating Phase 1: Model Development	Mar-12
	F15	BNP Paribas, Local Plan - Sites Viability Assessment	Mar-14
	F16	Historic Settlement Character Assessment for Henham, Uttlesford District Council	Aug-07
	F17	Henham Conservation Area Appraisal and Management Proposals, Uttlesford District Council	
	F46	Government Office for the East of England (May 2008). East of England Plan: The Revision to the Regional Spatial Strategy for the East of England	
	F47	Uttlesford Core Strategy 2011 - Review of Housing Requirements	
	F48	Planning Advisory Service (2014) Objectively Assessed Need and Housing Target Technical Advice Note, Peter Brett Associates	
	F49	Appeal Decision: (APP/H1840/A/12/1271339) in relation to Land at Honeybourne, Worcestershire	
	F50	Appeal Decision (APP/R0660/A/13/2195201) in relation to Land off Sandbach Road, Alsager	
	F51	Appeal Decision (APP/R0660/A/13/2189733) in relation to Land North of Congleton Road, Sandbach	
	F52	Appeal Decision: (APP/G1630/A/11/2146206 and APP/G1630/A/11/2148635) Bishop's Cleeve, Gloucestershire	

Other documents

CD	G1	Planning Application for land west of Woodside Way, Great Dunmow (Barratt's applications) Ref: UTT/13/2107/OP Application forms, Committee report, Illustrative Masterplan and Design and Access Statement, Site Plan	
	G2	Barratt Homes Supplementary Environmental Statement No 3 Land at Woodside Way	
	G3	English Nature - Report 178 Significance of secondary Effects from Roads and road Transport to Nature Conservation	
	G4	English Nature - Report No 626 Going Going Gone? Cumulative Impact of Land Development on Biodiversity in England	2005
	G5	High Wood SSSI Citation	
	G6	Local Wildlife Sites - Ufd224 Hoglands Wood/Broomhills/Frederick's Springs	
	G7	Defra: Biodiversity 2020: A strategy for England's wildlife and ecosystem services	
	G8	Appeal decision APP/W0530/A/13/2207961 in relation to land at Waterbeach	25-Jun-14
	G9	Appeal decision APP/H1840/A/13/2199085 in relation to land at Droitwich	02-Jul-14
	G10	Appeal decision APP/J3720/A/11/2163206 in relation to land at Shottery	24-Oct-12
	G11	Report to committee dated 31 July 2013 in relation to Appeal A	31-Jul-13
	G12	Report to committee dated 20 November 2013 in relation to Appeal B	20-Nov-13
	G13	Agenda for and minute of Council meeting of 15 July 2014	15-Jul-14

G14	LG/PAS - Ten key principles for owning your housing number - finding your objectively assessed needs	Jul-13
G15	DMRB - Interim Advice Note 174/13 - Updated advice for evaluating air quality effects for users of DMRB Volume 11, Section 3, Part 1 "Air Quality" (HA20707)	Jun-13
G16	IEMA Guidelines for the Environmental Assessment of Road Traffic	
G17	Appeal decision APP/C1570/A/14/2212188 Bolford Street, Thaxted	23-Jun-14
G18	Appeal decision APP/C1570/A/12/2181608 Flich Green (Oakwood Park)	07-Aug-13
G19	Appeal decision APP/C1570/A/13/22 01844 Bentfield Green, Stansted Mountfichet	07-Jan-14
G20	Appeal Decision APP/C1570/A/14/2213863 Sunnybrook Farm, Watch House Green, Felsted	15-Sep-14
G21	Lawton (2010) Making Space for Nature – A Review of England's Wildlife Sites and Ecological Network	

Appendix C

Schedule of conditions for Appeal A

1. Approval of the details of the layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") shall be submitted to and approved in writing from the Local Planning Authority before any development commences, excluding any advance infrastructure works approved under condition 3, and the development shall be carried out as approved.
 - A. Application for approval of the first Reserved Matters shall be made to the Local Planning Authority (LPA) not later than the expiration of 2 years from the date of this permission. Application for the approval of the final reserved matter shall be made to the LPA not later than 8 years from the approval of the first Reserved Matters application.
 - B. The development hereby permitted shall be begun no later than the expiration of 3 years from the date of this decision notice.
2. Prior to determination of the first reserved matters submission (condition 1) or advance infrastructure submission (Condition 3), a Site Wide Masterplan shall be submitted to and approved in writing by the local planning authority. The Site Wide Masterplan should set out a comprehensive scheme for the development of the site and shall address:
 - i. The location and hierarchy of all open areas, arable farmland, equipped children's playgrounds, play areas, open spaces, roads, footpaths and cycleways, water areas, green linkages, landscape structure, public art, buffer zones, sports facilities and all publicly accessible areas shall be clearly defined together with arrangements for permanent access thereto;
 - ii The location and phasing of the implementation of the development including the residential areas, roads, footpaths and cycleways, landscaped areas, shops, education, commercial and community facilities and strategic pedestrian and cycle signage.
 - iii A programme and plan of advance visual mitigation tree planting;
 - iv The relationships and links between the built development and any adjoining development and the neighbouring uses; and
 - v Identification of bus routes through the site.

No development shall take place until the above Site Wide Masterplan details have been approved and the development shall be carried out in accordance with the Site Wide Masterplan as approved, subject to any amendments or modifications which may from time to time be approved in writing by the local planning authority. Reserved matters submissions that are subsequently submitted for approval shall be in compliance with the Site Wide Masterplan.

3. Infrastructure submissions, to consist of advance earthworks and infrastructure works and advance structural landscaping may be submitted prior to the approval of the reserved matters submissions. Such details shall accord with the Development Parameters (see condition 4) and Site Wide Masterplan (see condition 2) and shall be submitted to and approved by the LPA . Any such submissions shall be supported by plans at an appropriate scale, which show:

- The proposed works in its context, both existing and as proposed.
- Any temporary treatment including hard and soft landscaping, boundary treatment etc works associated with the works.

The works shall be implemented in full accordance with the details approved.

4. All applications for the approval of reserved matters (see condition 1) shall be in accordance with the Planning Application Booklet. Notwithstanding the contents of Parameter Plan 2, no built development shall be located within the area hatched red on the attached Plan (Ref: 15576-302 Rev. E)
5. A Site Wide Design Code shall be submitted to and approved in writing by the LPA before the approval of reserved matters (see condition 1) for any buildings. The Design Code shall address the following:
 - i. Architectural style and treatment;
 - ii. Treatment of public highways;
 - iii. Building materials palette;
 - iv. Surface materials palette;
 - v. Street furniture and design and lighting design;
 - vi. Soft landscape;
 - vii. Frontage types;
 - viii. Heights; and
 - ix. Building forms.

The submission of reserved matters applications (see Condition 1) will be in accordance with the Site Wide Design Code, subject to any amendment or modification which may from time to time be approved in writing by the LPA .

6. Where appropriate the details to be submitted in accordance with condition 1 shall incorporate measures identified in the Bird Hazard Management Plan to address Stansted Airport Safety as follows:
 - Details of lighting using low light pollution installations;
 - Detailed design of SUDs, including use of infiltration and interceptors together with soft and water landscaping; and
 - Details of any green roofs.
7. Details of the proposed slab levels of all buildings, structures and the existing and proposed ground levels for each reserved matters area shall be submitted to and approved by the LPA before work commences on that reserved matters area and the development shall be completed in accordance with the approved levels.
8. No site clearance or construction work shall commence on any reserved matters area until:
 - i) A plan has been submitted to and approved by the LPA showing the location of fencing of a height of not less than 1.2 metres proposed to be erected around any tree, tree group or hedgerow requiring such protection and to be retained, and

- ii) The fencing has been erected on site in accordance with the approved plan, and such fencing shall be retained until the relevant part of the development is completed unless otherwise agreed with the LPA . Within the fenced areas, the following works shall not be carried out except with the written approval of the LPA :-
- levels shall not be raised or lowered;
 - no roots shall be cut, trenches dug or soil removed;
 - no vehicles shall be driven over the area and
 - No materials or equipment shall be stored.

The development shall be carried out in accordance with the approved details.

9. Prior to the commencement of the development, including any advance infrastructure, demolition or trial trenching, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by the LPA. The approved CEMP shall be adhered to at all times through the construction of the development.

A) The CEMP shall provide for:

- hours of construction work;
- suitable access and turning arrangements to the application site in connection with the construction of the development;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of noise, dust, dirt and vibration during site preparation, groundwork and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- routing and timing of construction traffic, which should be discussed in advance with the Highway Authority to minimise impact on the local community.

B) The CEMP shall also provide details in relation to Biodiversity and shall include the following:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones".
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The CV, role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

- Use of protective fences, exclusion barriers and warning signs.
 - On-going protected species surveys to inform Method Statements and to monitor the effectiveness of the CEMP mitigation measures.
10. A Biodiversity Management Plan (BMP) shall be submitted to, and be approved in writing by, the LPA prior to commencement of the development. The development shall be carried out in accordance with the Plan. The content of the BMP shall include the following.
- Description and evaluation of features to be managed, including but not limited to, protected wildlife sites, protected animal species, trees and other habitat features, bat flyways and commuting routes and farmland.
 - Ecological trends and constraints on site that might influence management.
 - An appropriate summary of best practice/scientific research in relation to biodiversity mitigation and conservation, including, but not limited to, transportation corridors and lighting in relation to bats and other wildlife, farmland bird conservation, protected species conservation.
 - Aims and objectives of management measures.
 - Appropriate management options for achieving aims and objectives, to include but not limited to the provision of effective bat and wildlife transportation corridor crossings, new habitat creation and farmland management to enhance the local area for farmland birds and other wildlife.
 - Prescriptions for management actions, including, but not limited to, details of bat and wildlife transportation corridor crossings, new habitat creation and farmland management.
 - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - Details of the body or organization responsible for the implementation of plan.
 - Ongoing monitoring and remedial measures.

The BMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the BMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

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

11. With the exception of works covered by advance infrastructure approval, demolition works and trial trenching, no development shall commence until a scheme for the installation of deer fencing along the western boundary of High Wood SSSI has been submitted to and approved by the LPA. The scheme will include details regarding the timing of delivery of the fencing and specification and the fencing shall be constructed and retained in accordance with the approved details.

12. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of this planning consent, the approved ecological measures secured through Condition 10 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to:
 - i) establish if there have been any changes in the presence and/or abundance of legally protected animal species and
 - ii) identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the LPA relating to a reserved matter prior to the commencement of that reserved matter. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable unless otherwise agreed in writing by the LPA .
13. Archaeology
 - i) No development or preliminary groundworks can commence in any reserved matter until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the LPA in relation to that reserved matter. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the LPA following the completion of this work.
 - ii) No development or preliminary groundworks can commence on those areas found to contain archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the LPA through its historic environment advisors.
 - iii) The applicant will submit to the LPA a post-excavation assessment (to be submitted within six months of the completion of fieldwork for each phase, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
14. With the exception of works covered by advance infrastructure approvals, demolition works and trial trenching, no development shall take place until a Water Framework Directive assessment has been submitted to and agreed in writing by the LPA and implemented as approved. Thereafter the development shall be implemented in accordance with the findings and recommendations of the assessment, unless otherwise agreed in writing by the LPA .
15. With the exception of works covered by advance infrastructure approvals, demolition works and trial trenching, no development permitted by any individual reserved matter, shall be commenced until such a time as a scheme to manage SUDS for that reserved matter has been submitted to and approved in writing by the LPA .

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the approved scheme or as subsequently agreed, in writing, by the LPA.

16. With the exception of works covered by advance infrastructure approvals, demolition works and trial trenching, no development hereby permitted shall commence until such time as the investigation and monitoring work detailed under items 1 and 2 has been carried out to the approval of the LPA:
 1. Further ground investigation shall be undertaken at the detailed design stage once the development plots are known, to ensure that the detailed drainage strategy does not impact upon the recharge of the underlying aquifer and the groundwater flows beneath the site
 2. A monitoring regime for the surface water features should be agreed and implemented prior to construction and for the duration of construction, to identify any impact construction may have on the surface water features.
17. All works will be above the shallow groundwater table and the proposed development will not include construction immediately adjacent to the surface water bodies where shallower groundwater is likely to be present, unless otherwise agreed in writing by the LPA .
18. With the exception of works covered by advance infrastructure approvals, demolition works and trial trenching, no development shall commence until details of the site access onto Woodside Way as shown on drawing ref: 110031/A/33 Rev B and the access onto A120, as shown on drawing ref: 110031/N05, and the access road between the A120 and the "maximum extent of built development" as defined in the development parameters as shown on drawing ref: VD13093-001F have been submitted to and approved by the LPA .

The details shall include information on:

- visibility splays,
- surfacing and construction
- means of surface water drainage,
- lighting,
- signing and
- stage 2 Road Safety Audits.

The road shall be a minimum of 7.3m wide with an additional 3.5m shared footway/cycleway provided on one side of the carriage and a further 2m wide strip of land on the opposite side of the carriageway shall be kept free of development. Development shall be carried out in accordance with the approved details.

19. With the exception of works covered by advance infrastructure approvals, demolition and trial trenching, no development shall commence until details of the 3.5m wide shared footway/cycleway referred to in Condition 18, have been submitted to and approved in writing by the LPA .

The footpath/cycleway shall be constructed in accordance with the approval and brought into use at the time the road route required by condition 18 is opened for public use.

20. Primary vehicle routes (as defined in the Development Parameters July 2014) and bus routes defined in Condition 2 shall be a minimum carriageway width of 6.75m.
21. With the exception of works covered by advanced infrastructure approvals, demolition works and trial trenching, a scheme for the upgrading of PROWs within the site shall be submitted to and approved by the LPA prior to commencement of development. The scheme shall be implemented as approved and any road crossing point works shall be implemented before the relevant road is open to traffic.
22. No dwelling shall be occupied until that part of the estate road, including any cycleways/footways, which provides access to it has been constructed and surfaced in accordance with the approved plans and made available for public use.
23. No dwelling shall be occupied until the access onto Woodside Way has been constructed up to adoptable standard and made available for public use.
24. No more than 150 dwellings shall be occupied prior to the access road and access onto the A120 being constructed up to adoptable standard and made available for public use.
25. No dwelling shall be occupied until a scheme showing the provision of bus stops, bus shelters, signage, including real time information signs, has been submitted to and approved in writing by the LPA. No residential unit shall be occupied in each reserved matters parcel until the approved scheme has been implemented as it relates to that reserved matter parcel.
26. With the exception of works covered by advanced infrastructure approvals, demolition works and trial trenching, no development shall commence until a scheme that makes provision for pedestrian and cycle access along and crossing of Woodside Way as shown in principle on drawing ref: 110031/A/41 Rev B and off-site roundabout capacity improvements (as shown in principle on plans 110031/A/29 and 110031/A/30 has been submitted and approved by the LPA. The approved schemes shall be implemented and the Woodside Way crossing shall be operational prior to first occupation.
27. Details of lighting for each phase of the development shall be submitted to and approved in writing by the LPA prior to occupation of that phase to which the details relate. The details shall include, a "lighting design strategy for biodiversity" for protected sites, retained habitat corridors and bat roosts shall be submitted to and approved in writing by the LPA . The strategy shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and other nocturnal wildlife and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the LPA .

28. The retail uses shall be limited to 1000m² gross floorspace for A1 food, 1000 m² gross floorspace for A1 non-food and 1000m² gross floorspace for A2-A5 use.
29. Prior to the first occupation of each reserved matters area or building plot, structural planting and landscaping for that area of development or plot shall be submitted to the LPA . The submitted details shall address:
- i) Hard and soft landscaping;
 - ii) Any ground modelling and/or grading of landform or bunding;
 - iii) Strategic, screen and ornamental landscaping;
 - iv) Planting specifications and species for structural and ornamental landscaping and furniture and suggested material for hard landscaping. These shall include details of surface finishes for roads, footpaths, cycleways and car parking areas;
 - v) Works in accordance with any such landscaping scheme agreed with the LPA shall be implemented during the first planting season following the completion of the relevant part of the development, or on a phased timescale to be agreed with the LPA ;
 - vi) For a period of 5 years following the completion of the relevant area of hard or soft landscaping, any trees, shrubs or grass therein which die, are diseased or vandalised, shall be replaced within the following planting season and surfaced materials maintained in accordance with the approved details; and
 - vii) A landscape management plan and maintenance schedules for all areas other than privately owned domestic gardens.

The development shall be carried out in accordance with the approved details.

30. No building shall be occupied until the advanced structural landscaping has been planted/created on the western boundary of the site. The works shall be carried out as identified through the submission of details in relation to conditions 1 and 3.

Schedule of conditions for Appeal B

1. Approval of the details of the layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") shall be obtained from the LPA in writing for a phase before development commences on that phase and the development shall be carried out as approved.
2.
 - A. Application for approval of all Reserved Matters for the development hereby permitted must be made to the LPA not later than the expiration of 5 years from the date of this permission.
 - B. The development hereby permitted shall be begun before the expiration of three years from the date of the grant of outline planning permission.
3. Prior to any application for approval of any reserved matters a Development Masterplan, Design Code and phasing plan shall be submitted to and approved in writing by the LPA. These should be in accordance with the Parameters Plan and Design and Access Statement. The Phasing Plan shall identify each proposed phase, the estimated timing of delivery, the number of dwellings and percentage of affordable units to be delivered on each phase together with the phased provision of Community facilities and open space and landscaping. Subsequently the submission of reserved matters applications for each phase will be in accordance with the Development Masterplan, Design Code and phasing plan.
4. The details to be submitted pursuant to condition 1 and 3 for each phase or sub area shall incorporate measures to address Stansted Airport Safety and shall include for that phase or sub area:
 - Details of protection measures for retained trees
 - Details of lighting using low light pollution installations
 - Detailed design of SuDS including use of infiltration and interceptors together with soft and water landscaping
 - Details of green roofs
 - A Bird Hazard Management Plan
 - Details of finished site levels
 - additional noise surveys in relation to road and rail noise within the application site and associated mitigation measures, where appropriate
 - Updated vibration surveys and mitigation measures required, where appropriate
 - Details of parking spaces to the adopted standards pertaining at that time
 - For the phase including the Local Centre, details of the provision of electric vehicle charging points at the Local Centre
 - For the phases adjoining the Farmer's Line, details of the Farmer's Line interpretation measures.
5. The details to be submitted in accordance with Condition 1 in relation to the Waste Water Treatment Works shall include details of any measures required to mitigate odour emissions. The development shall be carried out in accordance with the approved mitigation measures.
6. No development shall be occupied until the siting, plans and associated drainage works, including phasing, for the waste water treatment works

- providing for the handling and treatment of foul water from the development have been approved by the LPA in conjunction with the sewerage undertaker. The scheme shall thereafter be implemented as approved.
7. Prior to the commencement of any phase of the development hereby permitted a Site Waste Management Plan for that phase shall be submitted to and approved by the LPA. Subsequently the development shall be carried out in accordance with the approved plan.
 8. Prior to the commencement of any phase of the development hereby permitted, including the Waste Treatment Works and any works of demolition, a Construction Management Plan for that phase which will include construction traffic management, shall be submitted to and approved by the LPA. . . The approved Plan shall be adhered to throughout the construction period. The Statement shall provide for:
 - a. hours of construction work;
 - b. the parking of vehicles of site operatives and visitors;
 - c. loading and unloading of plant and materials;
 - d. storage of plant and materials used in constructing the development;
 - e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - f. wheel washing facilities;
 - g. measures to control the emission of dust and dirt during construction;
 - h. a scheme for recycling/disposing of waste resulting from demolition; and construction works;
 - i. the routing and timing of delivery vehicles; and
 - j. access arrangements.
 9. Prior to the commencement of development of each phase a Wildlife Protection Plan for that phase shall be submitted to and approved in writing by the LPA . The details shall include how mitigation measures for Legally Protected Species and Priority Species will be implemented prior to and during construction of the development of that phase in accordance with appropriate wildlife legislation. This shall include Method Statements where appropriate. The development of that phase shall be carried out in accordance with the approved Wildlife Protection Plan.
 10. Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the LPA . The Plan shall include provision for habitat creation and management during the life of the development hereby permitted, as outlined in the Environmental Impact Assessment Volume 1 (dated March 2013) and in the survey reports in Environmental Impact Assessment Volume 2 Chapter 8 Table 8.7 and shall, include:
 - (i) Aims and objectives of mitigation and enhancement;
 - (ii) Extent and location of proposed works;
 - (iii) A description and evaluation of the features to be managed;
 - (iv) Sources of habitat materials;
 - (v) Timing of the works;
 - (vi) The personnel responsible for the work;
 - (vii) Disposal of wastes arising from the works;

- (viii) Selection of specific techniques and practices for preparing the site and/or creating/establishing vegetation;
- (ix) Appropriate management options for achieving aims and objectives;
- (x) Prescriptions for management actions;
- (xi) Ecological trends and constraints on site that may influence mitigation and enhancement measures;
- (xii) Personnel responsible for implementation of the Plan;
- (xiii) The Plan shall include demonstration of the feasibility of the implementation of biodiversity mitigation plan for the period specified in the Plan;
- (xiv) Monitoring and remedial / contingencies measures triggered by monitoring to ensure that the proposed biodiversity gains are realised in full.

The development hereby permitted shall be implemented in accordance with the approved plan.

11. No phase of the development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site for that phase has been submitted to and approved, in writing, by the LPA :
- 1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - any potentially unacceptable risks arising from contamination at the site.
 - 2. A site investigation scheme, based on (1) including review of risk of gas or leachate contamination, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the LPA. The scheme shall be implemented as approved.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA . The remediation strategy shall be implemented as approved.
13. No infiltration of surface water drainage into the ground is permitted other than as identified in the Surface Water and SUDs Design Statement in the Environmental Impact Assessment, Volume 2 Chapter 14, or otherwise other

than with the express written consent of the LPA , which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

14. Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the LPA , which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
15. Archaeology
 1. No development or preliminary groundworks can commence on a phase until a programme of archaeological trial trenching for that phase has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the LPA following the completion of this work.
 2. No development can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the LPA through its historic environment advisors.
 3. The applicant will submit to the LPA a post-excavation assessment for a phase (to be submitted within six months of the completion of fieldwork on that phase, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
16. No more than 186 dwellings shall be occupied on the land to which the application relates unless and until the works referred to below, relating to Junction 8 of the M11 motorway, have been completed by the Secretary of State for Transport. These works consist of the alteration of road markings as shown on WSP Plan 0582-GA-012 Revision B dated August 2013, subject to such modifications as the Secretary of State may decide to make.
17. No development shall commence on the development of the Wastewater Treatment Works until the provision of a priority junction onto Bedwell Road as shown in principle on the submitted drawing number 0582-GA-015/D to include visibility splays of 4.5m by 70m, radius 10m and carriage way width of 4m with passing places. Details of the access shall be submitted to and approved in writing by the LPA in consultation with the Highway Authority, prior to commencement of the development. The access shall subsequently be implemented as approved.
18. No occupation of any dwelling shall take place until the provision of a priority junction on to Henham Road (B1051) as shown in principle on the submitted drawing number 0582-GA-003P to include visibility splays of 4.5m by 120m and 6.75 metre carriageway, one footway and one cycleway/footway (up to

3m in width), a ghosted right hand turn lane from Henham Road and two uncontrolled crossings east and west of the junction. Details of the junction shall be submitted to and approved in writing by the LPA in consultation with the Highway Authority, prior to commencement of the development. Subsequently the junction shall be implemented as approved.

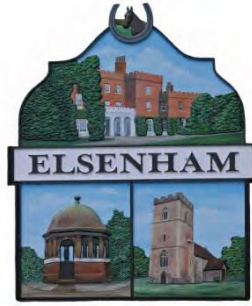
19. No occupation of any dwelling shall take place until the provision of a link road between Henham Road (B1051) and Hall Road as shown in principle on the submitted drawing 0582-GA-026B to be designed to Design Manual for Roads and Bridges standards for 40mph, 6.75m wide, with all necessary signing, lighting and Traffic Regulation Orders to include:
- a) A priority junction to a bus only link to Henham Road to include appropriate monitoring and if necessary enforcement measures
 - b) A priority junction to link to Hall Road
 - c) An unsegregated, shared use footway/cycleway on the eastern side
 - d) Retention of residential accesses on Henham Road and Hall Road.
 - e) Appropriate treatment of redundant carriage way on Henham Road and Hall Road
 - f) Appropriate tie in of the realigned carriageway into Hall Road including any realignment or remedial works required on Abbottsford Bridge.

Details shall be submitted to and approved in writing by the LPA in consultation with the Highway Authority, prior to commencement of the development. Subsequently the link road shall be constructed as approved.

20. No occupation of any dwelling shall take place until a programme of monitoring is implemented to monitor the impact of the development traffic on the rural network including but not exclusively routes from the development to the B1383 via Ugley Green and the route from the development to Church Road, Stansted Mountfitchet via Tye Green and Burton End. Details of the monitoring programme shall be submitted to and approved in writing by the LPA in consultation with the Highway Authority, prior to first occupation of the development. Subsequently the monitoring programme shall be implemented as approved.
21. No more than 200 dwellings shall be occupied until details of the access onto Old Mead Road, as shown in principle on the submitted drawing no 0582-GA-004/L, shall be submitted to and approved in writing by the LPA. The access shall include visibility splays commensurate with the speed limit at the time of construction and 6.5m carriageway and a footway and footway/ cycleway up to 3m in width. Subsequently no more than 700 dwellings shall be occupied before this access as approved has been provided.
22. No more than 200 dwellings shall be occupied until details of an appropriate emergency access to the highway network shall be submitted to and approved in writing by the LPA. Subsequently no more than 400 dwellings shall be occupied before this access as approved has been provided.

APPENDIX 3

Business Plan for Elsenham Community Hall



ELSENHAM PARISH COUNCIL

New Community Hall

Business Plan

(D R A F T)

Document Control

Approved on behalf of the Parish Council	
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Change History

Version:	Date:	Reason for change:
DRAFT A	January 2021	
DRAFT A2	March 2021	New sections 2.2.4, 4.2, 4.3, 5, 7

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[To be completed]

1. Summary

[To follow]

2. Identifying the need

2.1 Current situation

Elsenham at present has two community halls; the Village Hall and the Memorial Hall, each of which currently offer a range of facilities and services to the village and its community.

2.1.1 Village Hall

The existing Village Hall was built in 1984/85 and is now approximately 36 years old; the hall forms a part of the Elsenham Church of England Primary School, which is located at the eastern end of the High Street, directly opposite to the entrance to Hailes Wood.

The hall is a joint-use hall and the facilities are shared by three parties; the Primary School, the Elsenham Village Hall Charity (the Village Hall Management Committee, VHMC) and the Incumbent and Church Wardens of Elsenham (Elsenham Church). Because of this sharing arrangement, each of the parties has exclusive access to and use of the hall at different times of the week and/or day.

The current hall facilities that are available to users/hirers is the main hall (17m x 9m), a small upstairs meeting room, male, female and disabled toilets, a small, cupboard-based kitchen and good off-road parking facilities adjacent to the hall. The main hall has a capacity of up to 200 people.

The hall is used predominantly by the Primary School, during school hours, Monday to Friday. The Village Hall Management Committee has use of the hall during the weekday evenings and Sunday from 5.30pm and all day on Saturday. Elsenham Church has access and use of the hall during the daytime on Sunday for the holding of church services.

In recent years, Essex Education Authority and the Primary School have introduced a number of alterations to the hall facilities that have changed its use and its availability to the other joint-users. This in turn, has led to the hall becoming more limited in its suitability for use by village-based organisations, activities and social events.

2.1.2 ECA Memorial Hall

The Memorial Hall is located on an area of land within Elsenham Playing Field, adjacent to Elsenham Bowls Club and the tennis courts at the south-eastern corner of the Field. The building was built in 1987 and is now approximately 33 years old.

The hall is owned and managed by Elsenham Community Association (ECA), a registered charity; and although of a limited size, offers rooms and facilities to a wide range of local organisations and businesses. The building provides a main hall (11m x 6.5m), small meeting room, kitchen and servery, male, female and disabled toilets, storage cupboards and an extensive parking area next to the hall. The maximum capacity of the hall is up to 80 people maximum.

The Memorial Hall hosts many of the village organisations and activities, both during the daytime and in the evening, particularly during weekdays. It is also used by various commercial hirers for health-related activities (yoga, keep fit, dance, etc.).

Due to the form and the type of construction used, future expansion of the existing hall is limited and constrained. It is likely that should extensive expansion of the hall be considered, demolition of the existing hall may be necessary to allow a new, larger building to be erected. There are no plans at this time by the ECA to enlarge the hall and add to its facilities.

2.2 Challenges and Limitations

Due to the increasing number and size of new residential developments built within Elsenham over the last 10 years, the size of the village and its population has increased significantly. Over the last 7 years, it is true to say that the village has grown from under 1,000 residential homes to over 1,500 homes in 2021 and this number of dwellings is due to increase further with the addition of further planned new developments.

With the significant rise in the population of the village and the increased demand for community facilities and services that are generated, the ability and suitability of today's Village and Memorial halls to meet these growing demands is becoming more difficult to achieve and sustain.

2.2.1 The Village Hall

The village hall may be regarded as offering limited benefit to the village. However, the following constraints apply:

- Only weekday evenings, all-day Saturday and Sunday evenings are available for public use and hirings.
- The cupboard-kitchen offers very limited/basic catering facilities and space to users and hirers.
- Very little / limited storage facilities for regular hall users/hirers.
- The ongoing requirements and demands of the Primary School/Education Authority can dictate changes to the ongoing usage of the hall.
- It is possible and/or probable that at some point in the foreseeable future, the overall ownership/management of the Village Hall will revert to the Primary School/Essex Education Authority. Should this occur, the continued availability and use of the hall for hire by others (i.e. village organisations, commercial organisations and individuals) is uncertain.

2.2.2 The Memorial Hall

The Memorial Hall is available for use and hire, all-day, 7-days a week and is used by many of the village's organisations, groups, commercial hirers and individuals. However, the following constraints apply:

- The hall and its facilities are limited in size, restricting accommodation for up to 80 persons maximum.
- Limited size of kitchen and its facilities. Kitchen cupboard space shared between regular hall users.
- Adequate internal cupboard storage space; 3 walk-in cupboards off the main hall, but this is heavily in demand by regular hall hirers.
- Meaningful expansion to the size of the existing hall restricted due to structural design and construction-method used for the hall.

2.2.3 Other 'Village Hall' Facilities in other venues

One other building / facility exists in the village that has been used (occasionally) to host certain village activities; this is the Elsenham Bowls Clubhouse, located on Elsenham Playing Field, close to the Memorial Hall. The following constraints apply to its facilities:

- The Clubhouse exists primarily for use for bowling and social purposes by Bowls Club members; there are occasions when the Club committee allows the clubhouse to be used / hired by other, outside organisations and individuals.
- Secondary use of the clubhouse is restricted by the Club committee and only very occasionally allowed.
- Building and site layout has been designed to function as a bowls club, i.e. changing rooms and toilets, a main hall with bar and kitchen (for match lunches, club social activities, etc.) and an external bowling green adjacent to the building.
- The clubhouse is of limited size, similar in size to the Memorial Hall, and therefore space and accommodation is restricted, typically up to 80 people?
- The site of the bowls club and its location close to other buildings and facilities on the Playing Field, effectively limits, or even prevents, any further meaningful expansion of the existing building.

2.2.4 Meeting rooms

In addition to a large new hall, there is also a need for additional meeting rooms. The Village Hall is used very occasionally for large meetings and for events which demand the maximum amount of available space. The Memorial Hall is used routinely for monthly meetings of the Parish Council and for meetings of committees of the Parish Council and meetings of other bodies. Before the pandemic, it was usual for the Hall to be booked solidly through block bookings, making for great difficulties in arranging either further such bookings or for occasional, one-off, meetings.

The only other available meeting rooms are:

- i. 'Old Frank's', in the High Street, nearly opposite to the school. These are the office premises of the Church of England for the combined parishes of Elsenham, Henham and Ugley. The upstairs room can accommodate a meeting of up to eight persons, with space for about another twenty members of the public. The room is subject to availability, with priority obviously being given to church purposes.
- ii. Village Hall, upstairs meeting room. Access is via a narrow winding staircase, with space for no more than six participants. The room is only available outside school hours, and is unacceptably noisy if there are activities in the hall below

2.3 Future Community Facilities going forward

The aim of the New Community Hall project is to create and build a fit-for-purpose, self-sustaining, multi-user Community Hall that includes rooms and spaces of various sizes for community uses ranging from Parish Council meetings, community meetings, out-of-school groups, village clubs, societies and organisations, exercise, keep-fit and dance classes, through to larger events, including birthday parties, weddings and community fundraising events. In addition, it is proposed that the new hall also incorporate a dedicated Parish Council office, together with team changing facilities to support the Playing Field's sports facilities. A good provision of storage space within the hall is considered essential. Overall, the new community hall will provide a major part of the facilities needed to support and sustain an ever-growing and diverse village community.

In order to provide sustainability to the new hall, it is proposed, where possible and practicable, to incorporate the latest energy and cost-saving technologies into the design, construction and ongoing maintenance of the building. These goals will include:

- Reduce energy consumption
- Reduce maintenance costs
- Reduce cleaning costs
- Minimise on-site supervision costs, using a combination of technology and trusted-key partners.

3. Validating the Need

Elsenham has grown substantially over recent years with no commensurate improvement, or extension to, its existing community facilities. All of the recent emerging Local Plan strategies have categorised Elsenham as one of the Key Villages within Uttlesford and, as such, it is seen as a major focus for development in the rural areas, with a role as a provider of services to a wide rural area.

In order for Elsenham to be able to achieve this role, the provision of a wide range of community services and facilities is necessary. Good indoor community meeting space is therefore an essential part of achieving this, together with a need to ensure its ongoing sustainability.

3.1 Characteristics for community facilities

A number of characteristics may be used for indoor community facilities in Key Villages such as Elsenham, these being:

- i) A Key Village should feature at least one large facility which offers extended access to all community groups at competitive rates and should also be available for use throughout the day, seven-days-a-week.
- ii). The village should have at least one high quality main hall space suitable for a variety of uses, potentially including club sport and physical activity; theatrical rehearsals/performances and social functions, ideally in a central and accessible location in the community. The facility should also offer smaller, separate meeting spaces and significant storage.
- iii) All facilities, including toilets, should be fully accessible, or retro-fitted to ensure compliance with Disability Discrimination Act legislation wherever possible. Additional facilities, for example changing rooms, should be fit for purpose and compliant with design best practice (for example Sport England).
- iv) Facilities should include a sizable kitchen/catering area (potentially professionally equipped) for the preparation of food and drink. It is desirable that the hall be licensed, with a personal licence holder, to permit a larger number of events. The facility may also require employed staff.
- v) All new-build facilities should be designed with significant energy-efficiency measures in place. This includes energy efficient lighting (including timers and automatic sensors); double/triple glazing; draught proofing; insulation; appropriate central heating etc. Additional measures, such as the capture and use of grey water, photovoltaic cells, Combined Heat and Power (CHP), should also be explored.
- vi) All current facilities should be upgraded where appropriate and feasible to ensure that management / revenue costs are kept to a minimum.

3.2 Other criteria

Apart from the required facilities, key location criteria also need to be considered, i.e.:

- i) Location within the village centre for easy walking distance for most village residents.
- ii) Site should provide secure parking facilities for those further afield in the parish, or less mobile.
- iii) Potential to integrate and safeguard multiple users, improving utilisation and reducing costs.
- iv) Distance/orientation relative to neighbouring residences to minimise noise disturbance.

Elsenham has only limited “village hall” facilities in other venues:

- i) Elsenham Village Hall – a joint-use hall, large main hall, limited availability and facilities, good parking, but future availability questionable.

- ii) Elsenham Memorial Hall – small hall with good facilities, available 7-days-a-week; good parking and moderate hiring fees.
- iii) Elsenham Bowls Club – private clubhouse, with good facilities but a small main room. Occasional hirings allowed at discretion of the Club Committee.

3.3 Evidence of community consultation and support

A presentation will be given at the Elsenham Annual Parish Meeting scheduled for 22 April 2021, in order to introduce the idea of the new Community Hall to the residents of the village, and so as to gauge support for the concept.

4. Researching possible solutions

4.1 Reviewing design and location criteria

The new facility must meet a number of design and location criteria:

Criteria	Requirement	Approach	Nearest comparator
Size	Concurrent safe use of separate spaces from 30m ² to 200m ²	Flexible spaces capable of being used separately for a variety of purposes	Memorial Hall
Accessibility	Disability-friendly	Disabled toilets for each main space with additional “changing place” for future-proof accessibility	Village Hall Memorial Hall
Noise	Neighbour- friendly	Separation from neighbours to minimise noise disturbance	Village Hall Memorial Hall
Drop-in meeting spaces	Community group and small-business friendly - allowing drop-in WiFi-enabled meeting or work spaces throughout the day and evening	Drop-in business /community group meeting spaces available throughout the day and evening	Memorial Hall No WiFi
Safeguarding	Protecting vulnerable elderly and young	Spaces capable of being “locked-down” when occupied by vulnerable groups	Memorial Hall
Car-parking	Adequate not to exclude residents from within parish but outside village	Adequate parking space to enable concurrent use of the adjacent playing field	Village Hall Memorial Hall
Cycle storage	Adequate to encourage use by all village residents	Per UDC policy ??	None
Centrality	Within village central area to maximise walking	Site is within 800 metre walking distance of the village centre	Village Hall Memorial Hall

Control	Building under Community or Parish Council control	Parish Council favoured	Memorial Hall
Location	Proximity to Elsenham Primary School to provide safe “one-stop” drop-off and pick-up	Site adjacent to existing Elsenham Playing Field	Village Hall
Height	Below that of the immediate environment	Barley House 3-storey flats nearby	????
Style	Imaginative and original so as to extend and renew the distinctive character and traditions of Elsenham built environment	Two-storey pavilion-style within village development framework.	None

4.2 Community Hall location

In 2012 Uttlesford District Council took note of the three large housing applications in Elsenham, and made the decision that provision should be made for a new Community Hall through the Section 106 agreement relating to application UTT/0142/12/OP, whereby an area of land measuring approximately [??? the S106 does not give the size] would be made available.

The land is situated immediately to the west of the playing field, which is in the ownership of the Parish Council, with access either from Leigh Drive or from Isabel Drive/Southfield Close. The location is such that it is believed that all the criteria included in the table above can be satisfied.

The area is intended to include sufficient car parking space. It is adjacent to the ‘top’ playing field car park and thus car parking could be used in common by both areas, but it is assumed that the Hall will need to include sufficient car parking space for its own purposes.

The transfer of the land to the Parish Council should be achieved shortly, having been delayed through legal complexities.

4.3 Planning implications

The site is within the development limits of Elsenham, on a site which was made available through the aegis of Uttlesford District Council. Provision for the connection of services has been made in Southfield Close. It is therefore considered that there should be no major obstacles to obtaining outline planning approval.

5. Design evolution

Initial analysis showed that several requirements needed to be met:

- A large main hall.
- Kitchen.
- One large and one small meeting room.
- Ample storage space for the several groups expected to use the hall.
- An office for the Parish Council. At present, the clerk to the Parish Council uses a dedicated room at her own property, an unsatisfactory arrangement which cannot be guaranteed to continue indefinitely. Sufficient space is needed for the possible future accommodation of a second office employee, and for meetings of committees of the Parish Council.
- Changing rooms. As stated above, the designated location of the hall is adjacent to the playing field, which is much used by Elsenham Youth Football Club.

In summary, the requirements are:

ROOM	SIZE (metres)	AREA	COMMENTS
MAIN BUILDING			
Main Hall	10.0 x 20.0	200	Must be larger than existing village hall
Kitchen / food Preparation	8.0 x 5.5	44	
Servery / Bar Area	4.0 x 2.7	10.8	Adjacent to kitchen
Meeting Room 1	8.0 x 5.0	40	
Meeting Room 2	3.0 x 3.0	9	
Foyer / Entrance Area	6.0 x 3.0	18	Typical size, could be larger
Toilets (female)	4.0 x 2.7	10.8	
Toilets (male)	4.0 x 2.7	10.8	
Toilet (disabled)	2.7 x 1.5	4	
Storage Room 1	6.0 x 3.5	21	Tables and chairs
Storage Room 2	7.0 x 2.5	17.5	Regular Hall users?
Storage Room 3	7.0 x 2.5	17.5	Regular Hall users?
Storage Room 4	4.5 x 2.5	11.25	Regular Hall users?
Storage Room 5	3.0 x 2.5	7.5	Hall cleaning equipment / maintenance
Parish Council Office/Meeting Space	10.0 x 5.0	50	External access to/from PC office
Parish Council Storage / Toilet / Misc.	3.0 x 2.7	8	Room to adjoin PC office
Plant / Electrical Room	3.5 x 3.0	10.5	
SPORTS CHANGING FACILITIES			
Team Changing Room 1 incl. toilets	6.0 x 4.5	27	
Team Changing Room 2 incl. toilets	6.0 x 4.5	27	
Officials Changing Room 1 (+toilet)	4.0 x 2.5	10	
Officials Changing Room 2 (+toilet)	4.0 x 2.5	10	
EXTERNAL FACILITIES			
Disabled Toilet	2.2 x 1.5	3.3	Access from outside of building
Toilet (female)	2.2 x 1.5	3.3	Access from outside of building
Toilet (male)	2.2 x 1.5	3.3	Access from outside of building
TOTAL		574.55	

6. The future Community Hall

[Details to follow later]

7. Capital Finance

In 2011/12, Uttlesford District Council made provision for the financing of the Community Hall through contributions from three large development proposals which were under consideration. Two were approved and are now completed. The third ran into difficulties at the detailed application stage and was eventually replaced by a full application, which has been approved and awaits completion of the Section 106 agreement. An extended period of time has now elapsed since the original S106 agreements were concluded, but there was no provision for any of the contributions to be index-linked.

The three developments are:

Outline application	Detailed application	Dwellings	Status	Amount
UTT/0124/12/OP	UTT/14/3279/DFO	155	Complete	£380,000
UTT/15/3090/OP	UTT/17/2542/DFO	20	Complete	
UTT/13/1790/OP	UTT/15/2632/DFO	165	Complete	£330,000
UTT/19/0462/FUL		130	S106 pending	£310,000
Total		470		£1,020,000

Costings have been obtained from reputable undertakings, and the estimates currently available put the total cost of the new hall variously as £1,681,770, and £2,659,600 excluding VAT (which the Parish Council is able to claim back). The figure excludes the costs of fitting out. These figures are of course estimates, and it remains to be seen what quotations are forthcoming when the project eventually goes out to tender.

Several recent applications have been made for further housing developments in Elsenham, some of which have been approved. The Parish Council hopes that further contributions will be available for the Community Hall, although Uttlesford District Council has not proved helpful in securing such provision.

It is suggested that where such funds are made available, the amount should be calculated from the most recent S106 agreement, that is, UTT/19/0472/FU, on a *pro rata* basis. The calculation would thus be £310,000 / 130 per dwelling.

The Parish Council intends to make good the deficiency through a loan from the Public Works Loan Board, to be financed through an increased precept. Preliminary investigations suggest the requisite amount could be secured through an increase in the parish precept of about £30 pa per Band D household over a period of 25 years. It is understood that such an increase would need to be confirmed through a parish referendum.

APPENDIX 4

Appeal Decision – Warish Farm Hall, Smiths Green, Takeley

APP/C1570/W/22/3291524



Appeal Decision

Inquiry held on 21 June – 6 July 2022

Site visit made on 5 July 2022

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 9 August 2022

Appeal Ref: APP/C1570/W/22/3291524

Land at Warish Hall Farm, Smiths Green, Takeley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Weston Homes PLC against the decision of Uttlesford District Council.
 - The application Ref UTT/21/1987/FUL, dated 9 June 2021, was refused by notice dated 20 December 2021.
 - The development proposed is "Mixed use development including: revised access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to; light industrial/flexible employment units (c.3568sqm) including health care medical facility/flexible employment building (Use Class E); 126 dwellings on Bulls Field, south of Prior's Wood; 26 dwellings west of and with access from Smiths Green Lane; 38 dwellings on land north of Jacks Lane, east of Smiths Green Lane including associated landscaping, woodland extension, public open space, pedestrian and cycle routes".
-

Decision

1. The appeal is dismissed.

Procedural matters

2. Takeley Parish Council (TPC) was granted Rule 6(6) status under the provisions of the Inquiries Procedure Rules.
3. I heard from TPC that a Heritage Assessment and Audit, dated March 2022¹, which proposes a Conservation Area based on Smiths Green, was produced in support of the Neighbourhood Plan (NP). However, the NP is at the very early stages of preparation and the parties agreed that as an emerging document undergoing full consultation, it should be afforded very little weight. From my assessment, I have no reason to disagree and have dealt with the appeal on this basis.
4. Following the withdrawal of the Uttlesford Local Plan in April 2020 it was confirmed that the Council is at the early stages of preparing its new Local Plan. The Regulation 18 consultation planned to take place in June/July 2022 has been delayed. Given the new plan is in the very early stages of preparation it carries very little weight in this appeal.

¹ CD 13.10 Appendix 2

5. The development plan for the area includes the Saved Policies of the Uttlesford Local Plan (2000-2011), adopted in 2005. The policies of the Uttlesford Local Plan which are most important to the proposal under this appeal are agreed² as Policy S7 - The Countryside, Policy S8 - The Countryside Protection Zone, Policy GEN6 - Infrastructure Provision to Support Development, Policy ENV2 - Development affecting Listed Buildings, Policy ENV4 Ancient Monuments and Sites of Archaeological Importance, Policy ENV7 - The Protection of the Natural Environment - Designated Sites, Policy ENV8 - Other Landscape Elements of Importance for Nature Conservation, Policy ENV9 - Historic Landscapes and Policy H9 - Affordable Housing. Those of relevance, under paragraph 219 of the National Planning Policy Framework (NPPF), should be given due weight according to their degree of consistency with the Framework, and I return to this matter below.
6. On 7 February 2022, the Minister of State for Housing gave notice that, under powers conferred by section 62A of the Town and Country Planning Act 1990, Uttlesford District Council would be formally designated in respect of applications for planning permission for major development. The direction³, which took effect on 8 February 2022, relates to the quality of making decisions by the Council on applications for planning permission for major development under Part 3 of the Act. The decision on the proposal which forms the subject of this appeal was made before the Designation took effect and is in respect of a decision taken by the Council to refuse planning permission for major development following an Officer recommendation to approve.
7. The appellant's witness, John Russell BEng(Hons), CMILT, MIHT, who was going to give evidence on Transport, was not called while Jennifer Cooke and Tim Murphy gave evidence at the "Round Table" session on Heritage for the appellant and the Council respectively, and Charles Crawford, Jacqueline Bakker and Bobby Brown gave evidence at the "Round Table" session on Landscape Character and Appearance for the appellant, the Council and the Parish Council respectively.
8. A signed and dated Planning Obligation⁴ by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (S106 Agreement) was submitted by the appellant. This covers a phasing plan, affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility land. Based on the evidence presented at the Inquiry, I consider that the obligations in the S106 Agreement meet the tests set out in the NPPF and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010. I can therefore give the S106 Agreement significant weight and I return to these matters below.
9. In the light of the provisions of the S106 Agreement, the Council confirmed that it was no longer pursuing refusal reason 4 in respect of "a failure to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development". I have dealt with the appeal on this basis although having regard to the concerns raised in representations from interested parties,

² SoCG CD 5.2A

³ CD 4.10

⁴ ID 40

I go on to deal with a number of these issues below under Main Issues and Other Matters.

Application for costs

10. At the Inquiry an application for costs was made by Weston Homes PLC against Uttlesford District Council. This application is the subject of a separate Decision.

Main Issues

11. All of the main parties agreed that the Council is unable to demonstrate a five-year supply of deliverable housing land. The Council's Monitoring Report⁵ for 2020/21 identifies a five-year housing land supply of 3.52 years. In which case, paragraph 11d of the NPPF is engaged.
12. Against this background, I consider the main issues to be the effect of the proposal on:
- i. the character and appearance of the surrounding area, including the Countryside Protection Zone,
 - ii. the significance of nearby heritage assets including Warish Hall moated site and remains of Takeley Priory SAM, the Grade 1 listed Warish Hall and Moat Bridge, along with other designated and non-designated heritage assets,
 - iii. the adjacent ancient woodland at Priors Wood, and
 - iv. whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted.

Reasons

Background

13. The appeal site extends to around 25.15ha and comprises of three main land parcels known as 7 Acres, Bull Field and Jacks. 7 Acres (2.27ha) is made up of the field situated between Prior's Wood to the east and the Weston Group Business Centre to the west. Bull Field (12.1ha) is made up of the field situated west of Smiths Green Lane and bounded by Prior's Wood to the north and to the west and south by properties within North Road, Longcroft (including Roseacres Primary School field), Layfield, Longcroft and Smiths Green. Jacks (2.1ha) is a pasture field located on the eastern side of Smiths Green Lane which separates it from the rest of the appeal site. Abutting the settlement edge to the north of Takeley, the appeal site is mostly flat and level.
14. Within Uttlesford District, Takeley is one of the largest villages and is considered a 'Key Rural Settlement', the highest order of settlement below Stansted Mountfitchet village and the main towns of Great Dunmow and Saffron Walden. As such, Takeley benefits from a number of facilities and services including primary schools, shops and services.

⁵ Para 6.4 SoCG CD 5.2A

15. Proposed is the erection of 188 dwellings to include 76 affordable dwellings and up to 3 No. Custom-build dwellings, along with 3568m² of flexible employment space. The proposal would also provide a medical/health facility hub building, an extension to Roseacres Primary School, an extension and enhancement of Prior's Wood, formal and informal open space provision, cycleway and pedestrian links and provision of permissive walking routes. These would be secured via the submitted S106 Agreement.
16. It is proposed to spread the development across 2no. sites, split between three character areas, as follows: Commercial Area (7 Acres); Woodland Neighbourhood/Rural Lane (East and West sections of Bull Field and entrance to Jacks) and Garden Village (Jacks).

Location

17. Saved LP Policy S7 seeks to restrict development in the open countryside directing it to the main urban areas, the A120 corridor and selected Key Rural settlements, including Takeley. The policy has three strands: firstly, to identify land outside of the settlement limits, secondly, to protect the countryside for 'its own sake', and thirdly, to only allow development where its appearance protects or enhances the particular character of the countryside within which it is set, or if there are special reasons why such development needs to be in that location. It is common ground that the proposal would be located outside the development limits for Takeley as defined by the Uttlesford Local Plan. In this respect, there would be a breach of Policy S7.

Character and appearance of the countryside

18. While neither the appeal site, nor the surrounding area is a valued landscape, within the meaning of paragraph 174(a) of the NPPF, at the District level it is located within the Broxted Farmland Plateau Landscape Character Area (LCA) as defined in the District level Uttlesford Landscape Character Assessment⁶. This is characterised by gently undulating farmland, and large open landscapes with tree cover appearing as blocks on the horizon and is assessed within the LCA as having a moderate to high sensitivity to change.
19. Prior's Wood within the appeal site, is an area of Ancient and Semi-Natural Woodland while the verge adjoining Smiths Green Lane is designated as a village green⁷. In addition, Smiths Green Lane, north of its junction with Jacks Lane, is designated as a Protected Lane⁸ under Local Plan Policy ENV9 (it is identified in the Uttlesford Protected Lanes Assessment as "UTTLANE 166 Warish Hall Road" but it was more commonly referred to at the Inquiry as Smiths Green Lane and it is the latter name that I refer to as "Protected Lane" throughout this Decision). This is a heritage policy and I deal with this below under Heritage Assets. However, some of the criteria underpinning the designation have a landscape dimension and were covered by the landscape witnesses at the Inquiry.
20. Public rights of way that traverse the site and surrounding area include PROW 48_40 which runs across the site from its western boundary near Parsonage Road through to Bull Field, south of Prior's Wood, PROW 48_41 which runs across the southern section of Bull Field, PROW 48_25 which runs along the

⁶ CD 1.95 and 11.4

⁷ ID 16

⁸ CD 10.16

northern boundary of the eastern field (Jacks) and PROW 48_21 which runs parallel to the Site's northern boundary, adjacent to the A120 and forms part of the Harcamlow Way – a National Trail connecting Harlow to Cambridge.

21. A Landscape and Visual Impact Assessment⁹ (LVIA) by Allen Pyke Associates dated June 2021 was submitted with the planning application. The methodology used in the LVIA is generally compliant with GLVIA3 and identifies 19 visual receptors in respect of this proposal. I have however, in coming to my view, taken account of the appellant's landscape witness evidence¹⁰ both in terms of the review of the submitted LVIA and the conclusions reached on landscape and visual effects, and in finding the area to have a medium susceptibility to change.
22. The development would be built on the edge of the village, extending the built form into the open countryside. Whilst in overall terms the proposal would have little effect on the wider LCA, in local terms the appeal site is part of an open, tranquil environment, notwithstanding the proximity of the airport and the A120, within which the Prior's Wood ancient woodland is experienced. For that reason, it has community value being an "everyday" landscape that is appreciated by the local community. Nevertheless, I agree with the appellant that in terms of that part of the appeal site which comprises 7 Acres and Jacks, it is enclosed by mature boundary planting and existing development. This sense of enclosure means that these areas of the appeal site are largely separate from the wider landscape and the LVIA identified visual receptors. Accordingly, I consider the proposal would have minimal effect in terms of landscape character and visual impact in respect of these areas.
23. However, with regard to Bull Field (west and central areas), Bull Field (east), Maggots Field and Prior's Wood, these areas of the appeal site are of a more open character and make an important contribution to the semi-rural, agrarian nature of the area to the north of the built-up areas of Takeley and Smiths Green. I observed, notwithstanding the enclosure that is created by the boundary planting, that this part of the appeal site forms a strong demarcation between the countryside and the existing urban development to the south. As such, I consider this part of the appeal site shares its affinity with the countryside with which it forms an integral and functional part.
24. In addition, Bull Field and Maggots Field give a sense of grandeur to Prior's Wood when viewed from the visual receptors of the Protected Lane and PROWs 48_40, 48_41 and 48_25 (where it joins the Protected Lane), providing it with "breathing space" in the context of the existing built development evident in the wider area. By introducing development, albeit of a low density in the area of the Protected Lane (the Rural Lane Character Area), the proposal would reduce views of the woodland to glimpsed views between dwellings across formerly open countryside that would become urbanised. This would be most apparent from PROWs 48_41 and 48_25 (where it joins Smiths Green Lane), and the Protected Lane.
25. While I note the existing hedges along the verge of the Protected Lane, I nevertheless consider that the roofs of the proposed dwellings and the new accesses to the development would be apparent from the Protected Lane and the overall built form would be noticeable at night when street lights and other

⁹ CD 1.95

¹⁰ CD 13.3A

lights from the development would be likely to be seen. In addition, the quality of the experience for users of PROWs 48_40, 48_41 would be diminished, given the proximity of the proposed housing. It would create an urbanised environment through which the footpaths would pass in place of the current agrarian field, within which and from which, views of Prior's Wood are enjoyed. The urbanising effect of the proposal may be seen from the appellant's submitted LVIA Views and "before and after" visualisations¹¹. By so doing, the intrinsic character of the countryside would be adversely affected by the proposal in conflict with LP Policy S7.

26. I have given careful consideration to the appellant's landscape and design evidence, including the revisions to the scheme aimed at reflecting the grain of nearby settlements. I also fully appreciate that the landscape to which the appeal site belongs is not rare, or of exceptional quality, and that the site itself has no particular landscape designation. In this sense I agree that the landscape has a moderate value. However, Bull Field and Maggots form part of the wider open countryside to the north of Takeley and Smiths Green, and are an integral part of the local landscape character. They share their affinity with the countryside. This gives this part of the appeal site a high susceptibility to change, despite the presence of nearby urbanising influences.
27. In my judgement, the development would introduce an urban form of development that would not be sympathetic to the local character and landscape setting, and notwithstanding the mitigating design measures to create green infrastructure and character areas of varying layouts and densities, in the context of Policy S7 and what I heard, I consider that no special reasons have been demonstrated as to why the development, in the form proposed, needs to be there.
28. Against this background, I consider that the proposal would have a significant adverse effect on local landscape character. It would change the intrinsic rural character of the area by introducing built development into a rural setting thereby severing the connection of Prior's Wood with the open agrarian environment to its south. This would be apparent from the Protected Lane and PROWs identified above in paragraph 24, resulting in a significantly adverse visual impact in conflict with LP Policy S7 and NPPF paragraphs 130 and 174b.

Countryside Protection Zone

29. The appeal site is also situated within the Countryside Protection Zone (CPZ) as defined in LP Policy S8. This is an area of countryside around Stanstead Airport within which there are strict controls on new development, particularly with regard to new uses or development that would promote coalescence between the airport and existing development in the surrounding countryside, and adversely affect the open characteristics of the zone.
30. The 3 areas which make up the appeal site are large pastoral and agrarian fields. 7 Acres and Jacks have planting around their boundaries while Bull Field has Prior's Wood to the north and is open to the Protected Lane on its eastern flank. While the appeal site contributes to the character and appearance of the countryside to the south of the airport, and the CPZ as a whole, it is separated from the airport by the A120 dual-carriageway and sits in close proximity to development in Takeley, Smiths Green and Little Canfield.

¹¹ CD 1.95 LVIA Views 3, 4, 5, 6, 7, 8 and 9 and CD 13.3B Figures 5a & 5b, and 5c & 5d

31. My attention was drawn to a number of recent decisions where planning permissions have been granted, both by the Council and on appeal, for housing developments within the CPZ. Nevertheless, taking this proposal on its merits and the site-specific circumstances of the appeal site, in particular Bull and Maggots Fields being within the countryside and open, I consider it would have its character changed by the introduction of new development. In this regard, it would result in a reduction of the open characteristics of the countryside around the airport.
32. In terms of coalescence with the airport, I acknowledge that the proposal would further increase built development between the airport and Takeley, in a location where the gap between the airport and surrounding development is less than in other areas of the CPZ. However, the open countryside between the airport and the A120, along with Priors Wood would prevent the proposal resulting in coalescence between the airport and existing development.
33. Against this background, while the factors set out above would serve to reduce the impact, the proposal would nevertheless result in an adverse effect on the open characteristics of the CPZ in conflict with LP Policy S8.

Conclusion on the Character and Appearance main issue

34. Drawing all of these points together, I consider that there would be conflict with LP Policy S7 in respect of the location of the development and the detrimental effect on local landscape character and visual impact. This would result in the proposal failing to protect or enhance the particular character of the part of the countryside within which it is set. In addition, I find the proposal would conflict with LP Policy S8 in terms of the adverse effect on the open characteristics of the CPZ. However, I will consider the weight to be attributed to this policy conflict later in my decision, turning firstly to address the effect on heritage assets.

Effect on the significance of heritage assets

35. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) (the Act) states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
36. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. Historic England guidance: The Setting of Heritage Assets¹², indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.

¹² CD 10.1

37. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
38. A Heritage Statement of Common Ground (HSoCG) was agreed between the appellant and Uttlesford District Council which identified several heritage assets that would be affected by the proposal as a development within their settings. These are: Warish Hall and Moat Bridge (Grade 1 listed), Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), Moat Cottage (Grade II* listed) and Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage (all Grade II listed)¹³.
39. In addition, the Protected Lane, as a non-designated heritage asset, was identified in the HSoCG as being affected by the proposal as a development within its setting. From my assessment of the proposal, I agree with the list of designated and non-designated heritage assets identified by the parties. I deal with each of them below in terms of the effect of the proposed development.
40. *Warish Hall and the associated Moat Bridge*: its significance derives from its architectural and historic interest in terms of the surviving historic fabric and design detailing from the late 13th century, with architectural features indicative of its age and historic function. The setting is well contained within the moated site given the sense of enclosure created by the surrounding mature trees. The contribution of setting to its significance is high given it is part of a planned medieval moated complex but the setting is very much confined within the immediate area of the hall and bridge. In this regard, I consider that the proposal would have no effect on the significance of this designated heritage asset.
41. *Moat Cottage, The Cottage, The Croft, White House and The Gages*: these dwellings are closely grouped within the historic, linear hamlet of Smiths Green. They each are set back from, and sit within, a residential plot with hedgerow boundaries, separated from the road by large open, grass verges. I consider that their significance derives from their architectural and historic interest, dating from around the early 16th century and containing fabric and artistic elements from that time.
42. While modern development has intruded into their settings to the east and west, their settings to the north include the open aspect of Bull Field, across its agrarian landscape to Prior's Wood. This makes a positive contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.
43. *Hollow Elm Cottage*: located at the northern end of Smiths Green, its significance is predominately derived from its historic, architectural and artistic interest, being one of the earliest buildings in the hamlet. Its setting to the east includes Jacks and beyond that the late 20th century infill development of Little Canfield. The wider setting to the north and west is made up of the open fields

¹³ Paragraph 4.1 CD 5.3A

of Bull and Maggots, and Prior's Wood. To the south is Jacks Lane and the linear historic settlement of Smiths Green.

44. In particular, Bull Field, Maggots Field and Prior's Wood, serve to give the setting of this designated heritage asset a sense of tranquillity which overall makes a positive contribution to its significance. The proposal, by introducing development into the area to the north and west, would fail to preserve the setting of this listed building, thereby detracting from its significance.
45. *Goar Lodge and Beech Cottage*: the significance of these heritage assets derives from their historic, architectural and artistic interest as evidenced by the surviving historic fabric. They document the local vernacular through their form, layout, building methods and materials.
46. Their shared setting is made up of the rural character of the large open grassed areas and verges of Smiths Green Lane. This is apparent when travelling south towards Smiths Green in terms of the transition from the agrarian fields of Bull Field and Maggots to the dwellings of the historic hamlet. This gives the historic context of these listed buildings. While there is an intervening hedgerow between them and Bull Field, it is possible to appreciate the historic rural context to their rear and the setting makes a high contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.
47. *Cheerups Cottage*: the significance of this heritage asset is predominately derived from its historic, architectural and artistic interest as evidenced in some of the surviving historic fabric. As a vernacular building, Cheerups Cottage demonstrates the historic living expectations, building methods and materials available at the time of its construction. Standing at the northern end of Smiths Green, there is both inter-visibility and co-visibility between the listed building and Bull Field which is indicative of the wider historic rural setting which the historic maps show has undergone little change over the centuries.
48. This forms the majority of the building's setting, adding a sense of tranquillity and making a very positive contribution to the significance of this designated heritage asset. By introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.
49. *Pump at Pippins*: the pump is a 19th century example of its type. Its significance is drawn from its surviving historic fabric and the evidence it provides of historic living conditions in the area. It stands at the northern end of the hamlet of Smiths Green, close to the junction of Smiths Green and Jacks Lanes, within part of the village green. While there is recent development in the vicinity, the village green and the open countryside to the north and west demonstrate its historic rural context as a focal point of the hamlet. This forms its setting which makes a high contribution to its significance.
50. Unlike the parties who agreed that there would be no harm arising from the proposed development to the significance of the pump¹⁴ I consider that by introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.

¹⁴ Paragraph 5.7 CD 5.3A

51. *Warish Hall moated site and remains of Takeley Priory Scheduled Monument*: this scheduled monument includes a priory site situated on high ground, around 2km east of Takeley church. It contains a complete, rectangular moat which is set within a much larger moated enclosure. As a scheduled monument it is an asset of the highest significance and is of particular historical and archaeological importance.
52. The setting of this SM makes a strong contribution to its significance. Like other examples of its type in this part of England it was constructed in the rural landscape. Whilst field boundaries in this vicinity have changed over time and the site itself has become enclosed by mature trees, the fundamental agrarian land use in the vicinity of the SM has remained. The link to Prior's Wood and Bull Field in my judgement, is an important one in terms of setting. It is likely that the Priory had an ownership and functional relationship with the woodland and the SM retains its functional link to these rural features in the surrounding landscape.
53. Notwithstanding the built development in the vicinity including the airport, the A120 and the housing beyond Smiths Green to the south, I consider that this asset can be appreciated and experienced from Priors Wood and Bull Field in terms of the visual and historical functional links, and the tranquillity they provide to the SM. The undeveloped grain of the surrounding landscape character, as part of the asset's setting, makes a positive contribution to its significance.
54. The proposal would erode this character by bringing development closer to the SM within the nearby Bull Field and Maggots Field. The experience of the SM, from its southern ditch, would be adversely altered as the open agrarian landscape would be enclosed by built development. This would be harmful to the significance of the designated heritage asset.
55. In this regard, I agree with Historic England¹⁵ who in its consultation response noted that it is clear that the SM draws a considerable amount of its significance from its setting. In accepting that the SM is compromised by previous development, it still however benefits from long uninterrupted views southwards towards Prior's Wood and Smiths Green. Against this background, Historic England considered there would be less than substantial harm of a moderate to high degree.
56. *Warish Hall Road and Non-Designated Heritage Asset*: the background to this is set out above in paragraph 19 including how it is referred to locally as Smiths Green Lane. For clarity, it is that section of the lane which runs north from the junction with Jacks Lane towards the A120, adjacent to Bull Field¹⁶. It is protected due to a combination of features identified in the Uttlesford Protected Lanes Assessment (UPLA). These are Diversity, Integrity, Potential, Aesthetic, Biodiversity, Group Value, and Archaeological Association. I have dealt with a number of these under landscape character and visual impact under the first main issue above (character and appearance), assessing the contribution Smiths Green Lane makes to local landscape character and the effect of the proposal upon it as a visual receptor.

¹⁵ CD 3.1 and CD 3.3

¹⁶ CD 13.2 Appellant's Heritage POE

57. In terms of this main issue, LP Policy ENV9 identifies "Protected Lanes" as part of the local historic landscape. Thus, the Protected Lane falls within the NPPF definition of a "heritage asset" as it has been "identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest".
58. While the parties disputed the extent of the Protected Lane, in my judgement, it encompasses the verges (which are registered as a village green), hedgerows and other features as identified in the evaluation criteria for the Protected Lanes contained in the UPLA. Features such as verges (including those that form part of the village green), hedgerows and ditches/ponds are an intrinsic part of the historical make-up of the Protected Lane and contribute to its significance as a non-designated heritage asset (NDHA).
59. In the wider sense, the lane has a strong visual and functional relationship with the countryside through which it passes, including Bull Field and Maggots Field making it of historic interest to the local scene and imbuing it with a high level of significance. This countryside environment forms its setting and makes a positive contribution to its significance. The proposal, by introducing development into this agrarian setting would be harmful to the rural setting of the Protected Lane by the way in which it would create new vehicular accesses on to it and would bring built form close to its western verge. The urbanising effect of the proposal on the setting of the Protected Lane and the creation of new accesses across the verges, forming gaps in the hedgerows would both directly and indirectly affect the NDHA in conflict with LP Policy ENV9, which can only be justified if "the need for the development outweighs the historic significance of the site".
60. As may be seen from my conclusion on the first main issue, I consider that in terms of landscape character and visual impact, the overall effect of the form, layout and density of the proposal would be harmful, notwithstanding the mitigation measures to be employed. That conclusion takes account of Smiths Green Lane as a landscape component and visual receptor within the overall landscape, noting that in overall terms it has not been demonstrated that the development in the form proposed needs to be there.
61. In my judgement, the consideration of the effect of the proposal on the Protected Lane as a NDHA is more focussed and deals with that stretch of Smiths Green Lane that has NDHA status. As noted above, the proposal has a number of character areas. One of these "The Rural Lane", responds to the rural character of the Protected Lane. In this regard the proposal has gone through several revisions and in the area of the Protected Lane would take the form of a low-density development that reflects the established linear form of Smiths Green Hamlet, along Smiths Green Lane. The proposed large family dwellings would be set back from the lane with a series of driveways serving small clusters of dwellings and have an appearance rooted in the local vernacular.
62. While there would be harm to the significance of the Protected Lane as a NDHA for the reasons given above, it would be mitigated to some extent by the proposed Rural Lane design characteristics regarding density and layout. This would result in a moderate level of harm as the historical significance of the lane as an artery through a countryside environment, though diminished, would still be discernible.

Conclusion on the Heritage Main Issue

63. Taking all of the above together, it is clear that there would be an adverse impact on the significance of several of these designated heritage assets, arising from the failure of the proposal to preserve the settings of the listed buildings and the harm to the significance of the SM arising from development within its setting. This would be in conflict with LP Policy ENV2 which provides that development proposals that adversely affect the setting of a listed building will not be permitted and ENV4 which deals with ancient monuments and their settings.
64. In coming to this conclusion, I have had regard to the appellant's mitigation measures¹⁷. While it is argued that design, layout, density and planting within the proposal would serve to mitigate its effects, I nevertheless consider that the proposal, by introducing an urbanising influence into the open, pastoral setting of these heritage assets, would be to the detriment of their significance, resulting in less than substantial harm.
65. However, given the majority of significance in each case is derived from their surviving historical form and fabric which will not be affected by this proposal, the resulting harm would be less than substantial. The parties agree that the degree of less than substantial harm is of a low level in the case of Moat Cottage, The Croft, White House, The Cottage, The Gages and Cheerups Cottage and medium in the case of Hollow Elm Cottage. From my assessment, I have no reason to disagree.
66. In the case of Goar Lodge and Beech Cottage, for the reasons given above, I agree with the Council that the proposal would result in a medium level of less than substantial harm. However, unlike the parties who agree no effect on the Pump at Pippins¹⁸, I consider that the proposal, for the reasons set out above, would cause a medium level of less than substantial harm. In addition, in respect of the Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), for the reasons given above, I agree with Historic England and consider the proposal would cause a moderate to high level of less than substantial harm.
67. In any event, whether or not I accept the appellant's findings regarding the degree of less than substantial harm, under NPPF paragraph 202 this harm should be weighed against any public benefits of the proposal, including securing the asset's optimum viable use and this is a matter I return to below.
68. With regard to the Protected Lane (NDHA), LP Policy ENV9 requires the need for the development to be weighed against the historic significance of the site. This is broadly consistent with NPPF paragraph 203 which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would indirectly affect the significance of the NDHA by introducing development within its setting and directly by creating accesses onto the Protected Lane. In this case however, while the significance of the heritage asset is of a high level, the scale of the harm would be of a moderate nature, given the revisions to the scheme which has reduced the density of development in the vicinity of the Protected Lane.

¹⁷ CD 13.2

¹⁸ Paragraph 5.7 CD 5.3A

69. Against this is the significant need for housing in an area lacking a deliverable supply of five-year housing land. While the balances under the Policy and the NPPF may differ, I consider that the need for the development would outweigh the significance of the NDHA under LP Policy ENV9 and the moderate harm to significance under NPPF paragraph 203 would be outweighed by the significant benefit of the housing provision arising from the proposal. The proposal therefore, as it relates to the historic interest of the Protected Lane, would not conflict with LP Policy ENV9.

The effect of the proposal on the adjacent ancient woodland at Prior's Wood

70. Concerns were raised that the proposal would fail to provide a sufficient buffer between the proposal, including the access road, cycleway and dwellings, and the ancient woodland of Prior's Wood. This arises from the Standing Advice issued by Natural England and The Forestry Commission¹⁹ which recommends that a buffer zone of at least 15 metres from the boundary of the woodland should be provided in all cases.
71. It should be noted that this is a separate concern to that of the effect on Prior's Wood as part of the overall landscape and character and visual impact which I have dealt with above under the 1st main issue. In that regard, I have concluded that the proximity of the development to Prior's Wood in place of an open agrarian field would result in harm to the character and appearance of the area, including Prior's Wood. The concern under this main issue is that trees within the woodland itself would be harmed by the proposed development.
72. Whilst paragraph 180(c) of the NPPF makes clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy, the Council's ecology advice from Place Services raised no issues as regards impacts on Prior's Wood in respect of any resulting loss or deterioration.
73. Indeed, it is common ground between the Council and the appellant²⁰ that there is no objection to the technical design of the proposal as a result of any impact on trees, and no trees within Prior's Wood are to be removed or would be impacted on directly as a result of the proposed route through the buffer. Moreover, mitigation of the impact on Prior's Wood includes the Woodland Management Plan (which is part of the S106 Agreement).
74. The parties disputed where the buffer zone should be measured from, with the appellant preferring the trunks of the trees on the outer edge of the woodland and the Council, the outer edge of the ditch. Either way, it is agreed that the 15m buffer would be breached by the cycle way along the southern edge of Prior's Wood and a 35m stretch of the access road connecting 7 Acres and Bull Field (referred to at the Inquiry as the "pinch point"). I heard, as agreed in the SoCG, that no trees within Prior's Wood would be removed or would be impacted on directly as a result of the proposed access road and cycle way route within the buffer, including the road layout at the pinch point.
75. In this regard, I agree with the Inspector in a previous appeal²¹ concerning an issue with strong similarities to this case where that Inspector noted that

¹⁹ CD 12.1

²⁰ Paragraphs 6.28 and 6.31 CD 5.2A

²¹ Appeal Decision ref APP/C1570/W/21/3271310 CD 8.8

“some development is proposed within the buffer, through a mixture of road or car parking and re-grading and other landscaping works”. In considering the Standing Advice and the recommendation for a 15m buffer, that Inspector found that there was compliance with what is now para 180(c) of the NPPF. This was on the basis that “no above ground built form is proposed in that area, such as housing” and “the level of incursion is relatively minor”. I consider that the circumstances of this case are very similar.

76. That Inspector also accepted that the development that would take place would be contrary to the Standing Advice, as is the situation in the appeal before me, but went on to note that it had “been demonstrated that there would be no incursions into the root protection area”. From my assessment of this proposal, I consider that there would be no incursion into the root protection area and no harm to trees would result, as set out in the SoCG.
77. In addition, I am content from the submitted written evidence and what I heard at the Inquiry, that neither the proposed road or cycleway within the buffer or proposed housing in the vicinity, would lead to indirect effects on the ancient woodland as identified in the Standing Advice, given the proposed measures set out in the Prior’s Wood Management Plan.
78. Against this background, I consider that there would be no conflict with Policy ENV8, notwithstanding that I have found other policy conflict regarding the effect on Prior’s Wood in respect of landscape character and visual impact harm.

Whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted

79. While I have found that the proposal would accord with LP Policies ENV8 and ENV9, and with the submission of the S106 Agreement and withdrawal of refusal reason 4 would not conflict with Policies GEN6, ENV7 and H9, I have nevertheless identified harm arising from the proposal in relation to its location outwith the defined settlement boundary of Takeley, the character and appearance of the area in terms of landscape character and visual impact, the CPZ and the effect on designated heritage assets. In this regard, the proposal conflicts with LP Policies S7, S8, ENV2 and ENV4, which are the policies that go to the principle of the proposed development, and therefore conflicts with the development plan as a whole. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should only be granted if there are material considerations which outweigh that conflict.
80. As set out above, paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, but that due weight should be given to them, according to their degree of consistency with the Framework. In addition, it is common ground that the Council is unable to demonstrate a five-year supply of deliverable housing land. Given that the most up-to-date housing land supply position before the Inquiry was 3.52 years, the shortfall is significant. In the light of NPPF paragraph 11d and associated footnote 8, the absence of a five-year supply means that the policies most important for determining this appeal are deemed to be out-of-date.

81. Dealing with each of the policies in turn, Policy S7 is important to the determination of the appeal and is of direct relevance as to whether or not the appeal site would be an appropriate location for development. The parties agreed that the proposal would conflict with the locational strands of the policy, as a result of being outwith the designated settlement boundary. However, the absence of a five-year supply is a situation that has prevailed for a number of years and it is common ground that housing supply will not be addressed until a new local plan is adopted (2024 at the earliest). Although Uttlesford scored well in the 2021 Housing Delivery Test²², with a score of 129%, the latest figures published by the Council show that in the next period it fell to 99% and is likely to fall further this year again due to reduced housing delivery in the previous monitoring year 2021/22.
82. The Council accepts that settlement boundaries must be flexible and that Policy S7 must be breached in order for a sufficient supply of houses to be provided. Against this background, I conclude that the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan, should be accorded limited weight. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reached contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.
83. In respect of recognising the intrinsic character and beauty of the countryside, I consider Policy S7, in requiring the appearance of development "to protect or enhance the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there", is broadly consistent with NPPF paragraphs 130 and 174b. Consequently, having concluded that there would be significant landscape character and visual impact harm arising from the proposal without special reasons being demonstrated as to why the development in the form proposed needs to be there, I give moderate weight to this conflict with the last strand of Policy S7, given it is not fully consistent with the NPPF. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reach contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.
84. Turning to Policy S8 and the CPZ, I agree with the Inspector who in appeal ref. APP/C1570/W/19/3243727²³ concluded that Policy S8 is more restrictive than the balancing of harm against benefits approach of the NPPF, noting that the NPPF at paragraph 170 advises that decisions should recognise the intrinsic character and beauty of the countryside and that the 'protection' afforded to the CPZ in Policy S8 is not the same as the Framework's 'recognition'.
85. Given the policy is not fully consistent with the NPPF and there is a pressing need for deliverable housing land in the District, I consider that the conflict with LP Policy S8 should be given moderate weight. Again, I have taken account of the previous grants of planning permission within the CPZ both by the Council and at appeal. However, I have reached my conclusion on the weight to be given to the conflict with this policy based on the effect of the proposal on the site-specific circumstances of this case.

²² SoCG para 6.6 CD 5.2A

²³ CD 8.5

86. Policies ENV2 and ENV4 both concern the historic environment. In the case of the former, while ENV2 does not contain an assessment as to whether any resulting harm is substantial or less than substantial and does not go on to require a balance of harm against public benefits, I consider that as set out the policy is broadly consistent with the NPPF and reflects the requirements of S66(1) of the Act. Nevertheless, while ENV2 requires that planning permission be withheld where there are adverse effects on the setting of a listed building (in this case there would be less than substantial harm to the significance of several listed buildings), paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I move onto below.
87. In the case of the latter, while the policy itself deals with preserving archaeology in-situ, the explanatory text makes clear that the desirability of preserving an ancient monument and its setting is a material consideration in determining planning applications. Insofar as the policy seeks to preserve an ancient monument in-situ when affected by proposed development within its setting, I consider it is broadly consistent with the Framework. In this case, I have found that the proposal would result in less than substantial harm to the significance of a scheduled monument. However, as with Policy ENV2, paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I turn to below.

NPPF paragraph 202 balance

88. Public benefits in respect of NPPF paragraph 202 will provide benefits that will inure for the wider community and not just for private individuals or corporations. It was not suggested that the proposal is necessary in order to secure the optimum viable use of the designated heritage assets.
89. The appellant did claim however that the proposal would bring public benefits by creating a number of jobs during the construction phase, and through the submitted S106 Agreement by securing the provision of affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility Land.
90. In my judgement, employment and economic activity during the construction phase would be temporary benefits and many of the S106 Agreement contributions would be necessary to mitigate the impacts of the proposal on local infrastructure, climate and ecology. In which case they attract limited weight.
91. However, the proposed development would provide a mix of private, intermediate and social housing, including bungalows, flats, family dwellings and provision for custom build housing. The dwelling size and tenure mix would provide a balance of different unit sizes which contributes favourably to the supply of dwellings across all tenures. The proposed 188no. dwellings, including 76no. affordable housing units, would help address a shortfall of market and affordable housing delivery and would provide housing in a District where there has been a persistent shortfall in the delivery of five-year housing land supply.

92. It was suggested that the presence of the village green would be a complicating factor as it would need to be de-registered in order for the proposed accesses to be formed. It was noted that the appellant may be able to offer alternative land for a village green in exchange but that the outcome of any process for de-registration was not guaranteed. In this regard, my attention was drawn to several legal judgments on the matter. It was argued that this should reduce the weight given to the provision of housing as there was a question mark over the deliverability of the total number proposed.
93. However, the number of affected dwellings is low, being those accessed from the Protected Lane and would have a very limited impact on the overall number of dwellings provided. Accordingly, I consider that the provision of market and affordable housing, the extension to the Primary School to facilitate its future expansion, the provision of the medical facility, the enhancement to Prior's Wood including 10% extension and measures to secure its longer term management, the new cycleway and pedestrian links, new homes bonus, increased residential spending, the provision of over 4.5 ha of open space and the longer term employment provision from the business park extension are significant public benefits and attract significant weight.
94. Against this, applying section 66(1) of the Act is a matter to which I give considerable importance and weight. In addition, NPPF paragraph 199 states that great weight should be given to an asset's conservation (and the more important the asset, the greater the weight should be). In this case, less than substantial harm would result from the proposal in relation to Warish Hall moated site and remains of Takeley Priory Scheduled Monument and Moat Cottage, a Grade II* listed building. Paragraph 200 of the NPPF makes clear that these are assets of the highest significance.
95. Furthermore, less than substantial harm would occur to the significance of Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage, all Grade II listed buildings. As pointed out above, the parties, in line with the guidance in the Planning Practice Guidance²⁴ assessed the harm on a spectrum within less than substantial. I have given my assessment above and in certain instances came to different conclusions to both parties where they found no effect on significance (Pump at Pippins) and found a higher level of less than substantial harm to the appellant (Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley Priory Scheduled Monument).
96. Nevertheless, even where I to agree with the appellant and place the less than substantial harm in the case of Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley Priory Scheduled Monument lower down the spectrum, that would still simply serve to differentiate between "substantial" and "less than substantial" harm for the purposes of undertaking the weighted balancing exercise under the NPPF. Considerable importance and great weight would still be given to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development and to each asset's conservation, respectively. In which case, despite finding the harm in all instances to be less than substantial, the presumption against granting planning permission remains strong. It can be outweighed by material considerations if powerful enough to do so.

²⁴ CD 7.4

97. In this case, taking account of the extent of the shortfall in the five-year housing land supply, how long the deficit is likely to persist, what steps the local planning authority is taking to reduce it, and how much of it the proposed development would meet, and giving significant weight in terms of the extent of that shortfall and how much of it would be met by the proposed development, in addition to significant weight to the public benefits identified above, I do not consider these considerations collectively to be sufficiently powerful to outweigh the considerable importance and great weight I give to paying special regard to the desirability of preserving the settings of the listed buildings and the conservation of all of the identified designated heritage assets.
98. Having applied the balance under NPPF paragraph 202 in respect of all of the affected designated heritage assets, I have found that the public benefits would not outweigh the less than substantial harm arising. This means that under NPPF paragraph 11, d), i, footnote 7, paragraph 202 is a specific policy in the Framework that indicates that development should be restricted. Therefore, whether or not a five-year housing land supply can be demonstrated is not determinative in this appeal, and the presumption in favour of sustainable development is not available to the proposal in hand.

Other matters

99. In reaching my decision I have paid special regard to the legal judgments²⁵ that were drawn to my attention.
100. The appellant drew my attention to several appeal decisions²⁶ where housing developments were permitted elsewhere in the District and further afield, which it is claimed considered similar matters to this appeal. Be that as it may, I am not aware of the detailed considerations of those Inspectors on these issues, and in any event, I do not consider them to be directly comparable to the site-specific circumstances of this proposal, as set out above.
101. I have also given careful consideration to the Officer recommendation to approve the proposal, as set out in the Report²⁷, when it came before the Council's Planning Committee. However, I consider the proposal would be harmful for the reasons given under the main issues above.
102. It is common ground between the parties that the proposal would not harmfully change the living conditions of the occupiers of nearby dwellings, or of future occupiers of the development, in respect of overlooking, overshadowing, noise, air quality and overheating. In addition, I note that in terms of highway safety, ecology, biodiversity, drainage and flood risk, the Council as advised on these matters by Essex County Council Place Services, County Highways Officer, Highways England, National Highways, Thames Water, Essex County Council Ecology and Green Infrastructure, and Natural England raised no objections, subject to suitably worded conditions being attached to any grant of planning permission. From my assessment, I have no reason to disagree although I consider these matters do not add further, or mitigate, harm rather than being in favour of the proposal.

²⁵ CDs 9.1 – 9.9 and IDs 20, 25, 27, 32, 33 and 34

²⁶ CD 8.1 – 8.14

²⁷ CD 4.2

103. Moreover, while these matters would accord with saved LP Policies GEN1 Access, GEN2 Design, GEN3 Flood Protection, GEN4 Good Neighbourliness, GEN7 Nature Conservation; GEN8 Vehicle Parking Standards; E3 Access to workplaces; ENV1 Conservation Areas; ENV3 Open Spaces and Trees; ENV5 Protection of Agricultural Land; ENV10 Noise Sensitive Development, ENV13 Exposure to Poor Air Quality, ENV14 Contaminated Land, Policy ENV15 Renewable Energy and H10 Housing Mix, these policies do not go to the fundamental principle of the proposal, being concerned in the main with detailed design matters. They do not alter my conclusion on the Development Plan as a whole, as set out in paragraph 78 above.

Planning balance and conclusion

104. While the proposal would not be harmful in terms of the effect on Warish Hall and the associated Moat Bridge Grade I listed building, the Protected Lane, the trees within Prior's Wood and those matters set out above under other matters, and would bring public benefits including those secured by means of the submitted S106 Agreement, I have identified that the proposal would be harmful to the character and appearance of the area in terms of its adverse effect on landscape character and visual impact, would reduce the open character of the CPZ and would cause less than substantial harm to 11 no. designated heritage assets that would not be outweighed by the public benefits. Accordingly, the proposal would conflict with saved LP Policies S7, S8, ENV2 and ENV4, and NPPF paragraphs 130, 174b and 202.

105. Therefore, there are no considerations before me of sufficient weight to outweigh the totality of the harm arising nor the conflict with the development plan as a whole, giving great weight to the heritage assets' conservation.

106. For the reasons set out above, I conclude that the appeal should be dismissed.

Richard McCoy

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Brown QC instructed by the Council Solicitor

He called	
Jacqueline Bakker MSc CMLI	Chartered Landscape Architect and a Senior Landscape Architect at GUARDA
Tim Murphy IHBC MCIfA	Historic Environment Manager at Place Services, Essex County Council
Tim Dawes BA (Hons), MRTPI	Planning Director, Planit

FOR TAKELEY PARISH COUNCIL:

Matthew Dale-Harris of Counsel instructed by Takeley Parish Council

He called	
Bobby Browne, CMLI MALA	Associate at Wynne Williams Associates (Landscape and Character Impacts)
Paul Harris, BSc(Hons) MASP MRTPI	Planning Director at Cerda Planning

FOR THE APPELLANT:

James Maurici QC instructed by Mr Poole, Weston Homes PLC

He called	
Colin Pullan BA(Hons) DipUP	Head of Urban Design & Masterplanning, Lambert Smith Hampton
Charles Crawford MA(Cantab) DipLA CMLI	Director, LDA Design
Jennifer Cooke BA(Hons) PgDL MA IHBC	Director - Heritage, RPS
Peter Hadfield BSc(Hons) MSc MCIEEM	Director, Ecology Solutions
Richard Hyett MSc, BSc (Hons) MICFor MArborA	Director, Barton Hyett Associates
David Poole, BA(Hons) MA MRTPI	Senior Planning Manager, Weston Homes Plc

INTERESTED PERSONS:

Richard Haynes BSc	CPRE Essex
Geoff Bagnall	Ward Councillor
Martin Peachy	Local Resident
Dr. Fiona Perrott-Humphrey	Local Resident
Patricia Barber	Parish Councillor
Mike Marriage	STOP The Warish Hall Development Group
Jackie Cheetham	Parish Councillor
Lorraine Flawn	Local Resident
Jim Backus	Parish Councillor

INQUIRY DOCUMENTS

- 1 LPA Letter of Notification
- 2 Appellant Opening Statement
- 3 LPA Opening Statement
- 4 Rule 6 Party Opening Statement
- 5 Mr Hughes (CPRE) Evidence
- 6 Mr Martin Peachey Evidence
- 7 Dr F.Perrot. Humphry Evidence
- 8 Mr Backus Evidence
- 9 Ms P. Barber Evidence
- 10 Ms Jackie Cheetham Evidence
- 11 Mr G. Bagnall Evidence
- 12 Ms L. Flawn Evidence
- 13 Mr M. Marriage Evidence
- 14 Local Plan News – Timetable Amended
- 15 Defra Guidance – Common Land and town or village greens
- 16 Village Green – VG117
- 17 Application Ref. UTT/19/0604/OP – Decision, Officers Report and Site Plan
- 18 Woodland Trust Comments – 06th May 2022
- 19 Urban Design Presentation [Mr C Pullan]
- 20 Corbett v The Cornwall Council [2021] EWHC 1114 (Admin)
- 21 Letter from Nick Long (SES) to Mr David Poole – 27th June 2022
- 22 Draft Conditions
- 23 Draft S106 Agreement
- 24 CIL compliance schedule
- 25 Milne v Rochdale Metropolitan Borough Council [2001] Env. L.R. 22
- 26 Village Green Authorities
- 27 City & Country Bramshill Limited v SSHCLG [2019] EWHC 3437 (Admin)
- 28 Cost Application on behalf of the Appellant
- 29 Site Visit Map
- 30 Site Visit Itinerary
- 31 Uttlesford Draft LDS 2022
- 32 R. (on the application of Martin) v Folkstone and Hythe DC [2020] EWHC 1614 (Admin)
- 33 Hopkins Homes Ltd v SSCLG [2017] UKSC 37
- 34 R. (on the application of Ewans) v Mid Suffolk DC [2021] EWHC 511 (Admin)
- 35 Council Costs Response
- 36 Appellant Costs Reply
- 37 Closing Submissions on behalf of UDC
- 38 Closing Submissions on behalf of Takeley Parish Council
- 39 Closing Submissions on behalf of the Appellant
- 40 Signed and dated S106 Agreement