



Department for Levelling Up,  
Housing & Communities

Ms Marie Jasper  
Stantec  
7 Soho Square  
London W1 D 3QB

Our ref: APP/C1570/W/21/3289755  
Your ref: UTT/21/1708/OP

11 September 2023

Dear Ms Jasper

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MR JONATHAN LEVY (LS EASTON PARK DEVELOPMENT  
LIMITED)  
LAND EAST OF HIGHWOOD QUARRY, PARK ROAD, LITTLE EASTON, DUNMOW  
CM6 2JL  
APPLICATION REF: UTT/21/1708/OP**

*This decision was made by Rachael Maclean MP, Minister of State for Housing and Planning, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Roger Catchpole, BSc (Hons) PhD MCIEEM IHBC, who held a public local inquiry on 5-7 July, 20-21 July and 6-8 September 2022 into your client's appeal against the decision of Uttlesford District Council (the Council) to refuse your client's application for planning permission for between 1,000 and 1,200 dwellings (Use Class C3); up to 21,500 sq m gross of additional development for Use Classes: C2 (residential institutions care/nursing home); E(a-f & g(i)) (retail, indoor recreation, health services and offices); F1(a) (Education); F2(a-c) (local 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 Schedule and Plans; in accordance with application Ref. UTT/21/1708/OP, dated 13 May 2021.
2. On 8 April 2022, this 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.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions.

Department for Levelling Up, Housing & Communities  
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4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission, subject to the conditions set out in Annex B of this letter. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, including the addendum, and the environmental information submitted before and during the course of the inquiry. Having taken account of the Inspector's comments at IR5-8, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

### **Matters arising since the close of the inquiry**

6. In December 2022, following the completion of the inquiry into this appeal, the Council published a 5 Year Land Supply Statement and Housing Trajectory, setting out its assessment of its housing land supply as at 1 April 2022. On 17 March 2023 the Secretary of State wrote to the parties, to ensure that they were aware of this new material and had the opportunity to submit written representations if they considered that it affected the case they put the Inspector at the inquiry.
7. A list of representations received in response to this letter is at Annex A. The Secretary of State's conclusions on the matter are set out below.
8. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision as they did not raise issues which were not dealt with at inquiry, and no other new issues were raised in this correspondence to warrant further investigation, or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

### **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of comprises the saved policies of the Uttlesford Local Plan 2005 (LP) (saved in 2007), the Great Dunmow Neighbourhood Plan 2016 (NP) and the Essex Minerals Local Plan 2014 (EMLP). The Secretary of State considers that relevant development plan policies include those set out at IR21.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the County Highway Authority's policy document 'Development Management Policies', adopted February 2011. A new version of the Framework was issued on 5 September 2023; however, as the changes relate solely to

onshore wind development, and are not relevant to this appeal, the Secretary of State has not taken them into account in reaching his decision.

12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

### *Emerging plan*

13. The emerging plan comprises the new Uttlesford Local Plan 2020-2040. The emerging Local Plan was submitted for independent examination in January 2019 but withdrawn in March 2020. The Council is currently gathering evidence to underpin its emerging plan, prior to Regulation 18 Consultation. On 13 September 2022 the Council announced a pause to its current published Local Plan timetable, and in its January 2023 Scrutiny Committee report noted an increased risk to the publication of the Regulation 18 consultation. The Secretary of State notes from the Council's Scrutiny Committee report of March 2023 on mitigations put in place, and the Council's representation of 17 March 2023, that it does not necessarily follow that the published Local Plan submission date will change.
14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State agrees with the Inspector at IR46 that no weight can be given to the policies of the withdrawn plan and only negligible weight can be given to any emerging policies.

### **Main issues**

#### *Heritage*

15. For the reasons given at IR410-411 the Secretary of State agrees that the scheme would not cause direct physical harm to any heritage asset. He further agrees that there would be no harm to the significance of Stone Hall, the Old Library, Easton Lodge Registered Park and Garden or the remains of the lodge at Warwick House (IR411). He further agrees that there would be no harm to the significance of the setting of Easton Lodge through changes that would occur beyond the planned landscape that was once associated with it. The Secretary of State also agrees, for the reasons given at IR430-436, that there would be no impact on the significance of any of the buildings in the Easton Manor group from the scheme (IR436). He further agrees, for the reasons given at IR437-441, that no harm would result to Church Row or the Rectory (IR441). He further agrees, for the reasons given at IR442-446 that no harm would result to Portways or Park Road Cottage and Yew Road Cottage (IR446).
16. For the reasons given at IR 412-424 the Secretary of State agrees with the Inspector that the proposal would lead to a low level of less than substantial harm to the setting and thus the significance of the Little Easton Conservation Area (CA) (IR424). For the reasons given at IR425-429, the Secretary of State agrees that the harm to the setting of the Church of St Mary the Virgin would be at the very lower end of less than substantial (IR429). The Secretary of State agrees with the Inspector that the desirability of

preserving the significance of these assets should be given considerable importance and weight (IR453). The Secretary of State has carefully considered what weight should attach to the harm to these designated heritage assets. He agrees with the Inspector's approach at IR454-455. He further agrees with the Inspector at IR456 that the extent of the assessed harm in the longer term is largely limited to the experiential approach to the Church and the CA, and that whilst the Church is an asset of the highest significance and the CA has a high conservation value resulting from its well-preserved picturesque character, the effect of the proposal on their significance would nevertheless be limited. He agrees that this modulates the overall weight to be given to these harms (IR456). He further agrees at IR457 that the overall harm to the Church and the CA moderately weighs against the scheme, and he gives this moderate weight in the planning balance. He further agrees that this would be contrary to policy ENV2 of the LP (IR457). For the reasons given at IR35 and IR550 he agrees that this conflict should be afforded full weight. However, he further agrees that the proposal would not be contrary to policy ENV1, for the reasons given by the Inspector at IR31-34 and IR457. The Secretary of State's assessment of the heritage balance at paragraph 202 of the Framework is set out at paragraph 42 below.

17. For the reasons given at IR447-449 and IR458, the Secretary of State agrees that there would be a moderate adverse impact that would erode the significance of the non-designated heritage asset of Ravens Farm. He considers that this should carry moderate weight against the proposal. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application, and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The Secretary of State has proceeded on this basis. He further agrees, for the reasons given at IR450-451 that the overall effect of the scheme on the pillbox would be beneficial rather than harmful.

#### *Landscape*

18. For the reasons given at IR459-474 and IR550, the Secretary of State agrees that there would be adverse effects on landscape character from the permanent loss of big sky views that would arise from the mitigation zone and urban sprawl in, albeit limited, longer distance views of the proposed buildings, together with the persistent adverse effects on two towpath routes where their rural context would be significantly eroded, as well as changes to the night time environment. He further agrees that together these harms weigh moderately against the proposal (IR473), and he gives them moderate weight in the planning balance. As such he agrees that there would be persistent landscape and visual harm that would be contrary to policy S7 of the LP and inconsistent with the advice in paragraphs 174(b) and 130(c) of the Framework (IR474). For the reasons given at IR22-25 he agrees that policy S7 should only attract moderate weight. For the reasons given at IR475 he agrees that policy LSC1 of the NP is not a material consideration in the determination of the appeal.

#### *Highways and sustainable transport*

19. The Secretary of State agrees, for the reasons given at IR60 and IR476-480, that neither the current scheme nor the committed schemes (that were identified but yet to be built at the time of the Inquiry) would lead to anything even approaching the severe impact required by the Framework to refuse permission on traffic grounds alone (IR479). He further agrees, for the reasons given, that there are no credible technical grounds that

would lead him to doubt the conclusions reached in relation to the suitability of the site access or the safe and efficient operation of the wider road network (IR480, IR60).

20. The Secretary of State has gone on to consider sustainable travel issues. For the reasons given at IR481-497, the Secretary of State agrees that neither personal safety nor directness is entirely satisfactory from a cycling perspective, and that this weighs moderately against the proposal (IR497).
21. For the reasons given at IR498-502, the Secretary of State agrees that the lack of a walkable neighbourhood weighs significantly against the proposal.
22. He has gone on to consider the shuttle bus service. For the reasons set out by the Inspector at IR503-513 the Secretary of State agrees that the scheme may not enable long term access to high quality public transport, despite the subsidy that would be provided during at least the first 12 years, and agrees that this weighs moderately against the proposal (IR513). The Secretary of State also agrees that if the service did not continue, future residents would be faced with a 1.2km walk or cycle ride to the Hub along a route that is not overlooked, unlit, and with few escape routes, in order to access onward services to Stansted Airport. He agrees that there would be a similarly long walk, with not dissimilar personal safety issues, along Route 4 to access to nearest bus service to Great Dunmow. As such he agrees with the Inspector that there is little doubt that an overwhelming reliance on the use of private motor vehicles would occur (IR506).
23. Overall, the Secretary of State agrees with the Inspector that the proposal would conflict with policy GEN(c) and GEN1(e) of the LP. For the reasons given at IR26-29 and IR550 he agrees with the Inspector in giving this conflict full weight. He further agrees that the proposal would fail to meet the tests set out in paragraphs 105, 110 and 112 of the Framework, and would be contrary to paragraph 152 of the Framework that requires the planning system to support the transition to a low carbon future. He further agrees that this conflict with these Framework policies weighs significantly against the proposal (all at IR514).

#### *Other matters*

24. The Secretary of State has taken into account that the majority of the site comprises either Grade 2 (51.2ha) or Grade 3a (47.5ha) Best and Most Versatile (BMV) agricultural land (IR9). Paragraph 174(b) of the Framework states that planning decisions should recognise the economic and other benefits of BMV land, and the Secretary of State considers that the loss of a significant amount of BMV land in this case should carry moderate weight against the proposal.
25. For the reasons given at IR515-530, the Secretary of State agrees with the Inspector's analysis of the matters set out in these paragraphs, as well as other matters raised, and agrees that none of these, including air pollution, noise, and flooding and foul water drainage, either individually or collectively, warrant the refusal of the scheme or any

sustained objection in terms of disputed matters. As such, he agrees that these 'other matters' do not weigh significantly against the proposal in the planning balance (IR530).

### *Housing land supply*

26. The Secretary of State has had regard to the Inspector's analysis of the housing land supply at IR532-533.
27. In December 2022, after the inquiry into this appeal had closed, the Council published a 5 Year Land Supply Statement and Housing Trajectory ('the Statement'), setting out its assessment of its housing land supply as at 1 April 2022. On 17 March 2023 the Secretary of State wrote to parties to ensure that they were aware of this new material and had the opportunity to submit written representations if they considered that it affected the case, they put the Inspector at the inquiry.
28. In response to this letter, the Council stated that it could confirm that its housing land supply had now improved, now being 4.89 years, but accepting that it was still subject to the presumption in favour of sustainable development. The Council further stated that it would be for the Secretary of State to consider what weight should be given to its improved HLS position.
29. The appellant stated that while noting that the Statement indicated that the housing land supply had improved compared to that provided in evidence during the inquiry, there remained a shortfall in the 5 year housing land supply, and that as such the presumption in favour of sustainable development still applied. They further stated that their position at inquiry that the housing land supply would only worsen in the forthcoming years, while the Local Plan is progressed to adoption and extant planning permissions are delivered, and that the proposal would contribute significantly to housing delivery, including affordable housing and First Homes, remained valid.
30. They further stated that in January 2023, Council Officers advised their members that progress on the Local Plan was at severe risk as a result of resignations of key members of staff and that it was highly likely that the current situation would cause further delay to the anticipated publication of the Draft Local Plan for consultation in August 2023 and subsequent stages.
31. As such the appellant did not consider that the submission of the Statement substantively changed the Council's housing land supply position, and stated that the parties were in agreement that the Framework's presumption in favour of sustainable development applied.
32. Overall, the Secretary of State considers that while the Statement can only be a snapshot in time, as the latest and most complete analysis of housing land supply in the District, it is reasonable to assume the Statement can be relied upon except where the contrary has been demonstrated.
33. The Secretary of State has taken into account the appellant's argument that the Land northwest of Henham Road site was unlikely to commence completions during the time suggested by the trajectory, and that a later start on the site would inevitably mean a worsening of the housing land supply indicated in Statement, as well as the appellant's suggestion that there may be other sites within the trajectory which are subject to similar delays. However, no such examples have been put before him. The Secretary of State considers that while this factor may change the exact housing supply position it does not

alter the fact, agreed by both parties, that there is not a 5-year housing land supply, and that the presumption in favour of sustainable development is thereby triggered. It further does not change his overall conclusions on this case.

### *Benefits*

34. Taking into account the Inspector's conclusions at IR532-534, as well as the changes in housing land supply set out above, and the Government's objective of significantly boosting the supply of homes, as articulated in paragraph 60 of the Framework, overall the Secretary of State agrees that the delivery of up to 720 units of market housing is a benefit which should be afforded significant weight (IR 534). For the reasons given at IR535 he agrees that the delivery of affordable housing is a benefit of great weight. For the reasons given at IR536-537 the Secretary of State agrees that the benefit of the provision of a care home should attract moderate weight. He gives further moderate weight to the s106 provision of public open space and community facilities, for the reasons set out in IR538.
35. For the reasons given at IR539-540 the Secretary of State agrees that the combined economic benefits attract moderate weight (IR540). For the reasons given at IR541 he agrees with the parties and the Inspector that the biodiversity net gain and the provision of green infrastructure attract moderate weight. He further agrees, for the reasons given at IR542, that the benefits of preserving a potential route for a Rapid Transit System and of tree planting attract negligible weight.

### **Planning conditions**

36. The Secretary of State has given consideration to the Inspector's analysis at IR398-403, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. For the reasons given at IR400, and noting that the parties did not take issue with the revised wording of condition [1B], the Secretary of State concludes that the condition should form part of his decision in the wording proposed by the Inspector and set out at Annex B of this decision letter. For the reasons set out at IR401 he agrees with the Inspector's removal of the requirement that there shall be 'no legal or physical impediment to its construction' from condition 37, and considers that the condition 37 in this form is justified and should form part of his decision. For the reasons given at IR402, and noting that the parties agreed conditions 21 and 41, and taking into account policies GEN1, GEN2, GEN6 and ENV12 of the LP, and paragraphs 110 and 152 of the Framework, the Secretary of State concludes that these provisions are necessary, and that conditions 21 and 41 should form part of his decision. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

### **Planning obligations**

37. Having had regard to the Inspector's analysis at IR404-407, the planning obligation dated 30 September 2022, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR404 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.

## **Planning balance and overall conclusion**

38. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with policies ENV2, S7 GEN1(c) and GEN1 (e) of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
39. As the Council cannot demonstrate a 5 year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
40. Weighing in favour of the proposal is the delivery of new market homes which carries significant weight and the provision of affordable housing which carries great weight. The combined economic benefits of the proposal carry moderate weight, while the potential provision of a care home carries moderate weight. The provision of public open space and community facilities carries moderate weight, and the provision of biodiversity net gain and green infrastructure also carries moderate weight. The planting of trees and preservation of a potential route for a rapid transit system attract negligible weight.
41. Weighing against the proposal, harm to landscape and visual character carries moderate weight. The lack of a walkable neighbourhood attracts significant weight, the unsatisfactory nature of the proposed cycle routes carries moderate weight, and the uncertainty over whether the scheme will enable long-term access to high quality public transport carries moderate weight. The loss of BMV land carries moderate weight. Conflict with Framework policy on sustainable transport and the transition to a low carbon future carries significant weight. In terms of heritage impacts, the less than substantial harm to the setting of the Little Easton CA and the Grade I listed Church carries moderate weight, and harm to the setting of the non-designated asset of Ravens Farm carries moderate weight.
42. The Secretary of State has considered the heritage balance at paragraph 202 of the Framework. He considers that the harm to the designated heritage assets is outweighed by the public benefits of the proposal, and that the balancing exercise under paragraph 202 of the Framework is therefore favourable to the proposal. The Secretary of State has also considered paragraph 203 of the Framework in coming to his decision.
43. In the light of his conclusions above, the Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies.
44. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.



45. The Secretary of State therefore concludes that the appeal should be allowed and planning permission granted.

### **Formal decision**

46. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission, subject to the conditions set out in Annex B of this letter, for between 1,000 and 1,200 dwellings (Use Class C3); up to 21,500 sq m gross of additional development for Use Classes: C2 (residential institutions care/nursing home); E(a-f & g(i)) (retail, indoor recreation, health services and offices); F1(a) (Education); F2(a-c) (local 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 Schedule and Plans; in accordance with application Ref. UTT/21/1708/OP, dated 13 May 2021.

47. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

48. 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 6 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.

49. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period

50. A copy of this letter has been sent to Uttlesford District Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

*Phil Barber*

Decision officer

*This decision was made by the Minister of State for Housing and Planning, Rachael Maclean on behalf of the Secretary of State, and signed on her behalf*

## Annex A Schedule of representations

### General representations

Party	Date
Barton Wilmore	15 February 2023
Barton Wilmore	8 March 2023
Andrew Ketteridge	22 March 2023
Alison Farrell	6 July 2023
Chris Warne	10 July 2023
Kemi Badenoch MP	4 August 2023

### Representations received in response to the Secretary of State's reference back letter of 17 March 2023

Party	Date
Uttlesford Council	27 March 2023
Barton Wilmore	5 April 2023

## Annex B Conditions

- 1) Details of the layout (including internal access), scale, landscaping and appearance (hereafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences. This should be in accordance with the masterplan identified in Condition [4] and shall exclude any advance infrastructure works approved under Condition [3]. The development shall be carried out as approved and subject to the following provisions:
  - A. Application for approval of the first reserved matter shall be made to the Local Planning Authority 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 Local Planning Authority not later than 8 years from the approval of the first reserved matters application.
  - B. The development hereby permitted shall commence not later than 6 months from the date of approval of the last reserved matter for the first phase of the development as defined by Condition [4ii].
- 2) The development hereby permitted shall be in accordance with the following approved plans and schedule:
  - Application Site Location Drawing (Ref:15576-RG-M-LEHQ-42)
  - Application Site Drawing (Ref:15576-RG-M-01-1 Rev H)
  - A120/B1256 Great Dunmow Development Access Junction Improvement General Arrangement Drawing (Ref:110031/A/114/P03)

- Development Parameters Schedule (Dated April 2021)
  - Parameter Plan 1 - Land Use Zones Drawing (Ref:15576-RG-M-LEHQ-09 Rev H)
  - Parameter Plan 2 - Ground Levels Drawing (Ref:15576-RG-M-LEHQ-10 Rev J)
  - Parameter Plan 3 - Maximum Extent of Development Footprint and Maximum Building Heights Drawing (Ref:15576-RG-M-LEHQ-11-Rev H)
  - Parameter Plan 4 - Recreational and Ecological Corridors and Visual Mitigation Zone Drawing (Ref:15576-RG-M-LEHQ-12 Rev H)
  - Parameter Plan 5 Ecological Mitigation and Major Open Space Zone Drawing (Ref:15576-RG-M-LEHQ-13 Rev H)
  - Parameter Plan 6 - Primary Movement Corridor Drawing (Ref:15576-RG-M-LEHQ-14 Rev H)
- 3) Prior to determination of the first reserved matters submission pursuant to Condition [1] or advance infrastructure submission pursuant to Condition [5], a Site Wide Masterplan shall be submitted to and approved in writing by the Local Planning Authority. The Site Wide Masterplan shall be in accordance with the Parameters Plans approved under Condition [2]. All development shall be carried out in accordance with the approved details.
- 4) The Site Wide Masterplan shall set out a comprehensive scheme for the development of the site and shall include:
- i. The location and hierarchy of all open areas, equipped children's playgrounds, play areas, open spaces, roads, footpaths and cycleways, water areas, green linkages, landscape structure, public art, buffer zones, sports facilities (including playing pitches) and all publicly accessible areas. These shall be clearly defined together with arrangements for permanent access;
  - 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 tree planting in the Visual Mitigation Zone as defined in Parameter Plan 4 under Condition [2]. Implementation of the planting shall start within 6 months of the developer serving notice of implementation of the planning permission on the Local Planning Authority (as required by the planning agreement) and shall be completed within 3 months;

- iv. The relationships and links between the built development and the neighbouring uses;
- v. A recreation strategy showing recreation opportunities via suitable green infrastructure within and connecting to the site through the existing public rights of way and permissive pathways; and
- vi. Identification of bus routes through the site, including the route of any proposed sustainable transport corridor and the location of the proposed mobility hub, which will provide a bus stop, cycle parking and e-bike parking and EV charging facilities.

The reserved matters submissions shall be in full compliance with the approved Site Wide Masterplan.

- 5) Prior to determination of the first reserved matters submission, infrastructure submissions comprising advance earthworks and infrastructure works and advance structural landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be in accordance with the approved Site Wide Masterplan and shall be supported by plans, at an appropriate scale, which show:
  - The proposed works and existing features;
  - An implementation timetable; and
  - Any temporary treatment including hard and soft landscaping and boundary treatments associated with such works.

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

- 6) A Site Wide Design Code shall be submitted to and approved in writing by the Local Planning Authority before the approval of reserved matters under Condition [1] for any buildings. The Design Code shall address the following:
  - i. Architectural style and treatment;
  - ii. Treatment of 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 under Condition [1] shall be in accordance with the approved Site Wide Design Code.

- 7) The details to be submitted in accordance with Condition [1] shall incorporate appropriate measures identified in the Bird Strike Risk Assessment (Document

Ref: WIE16590-100-R-8-4-1-bird strike, dated April 2021) to address Stansted Airport Safety as follows:

- Details of lighting using low light pollution installations;
  - Detailed design of Sustainable Urban Drainage Systems (SuDS), including use of infiltration and interceptors together with soft landscaping; and
  - Details of any green roofs.
- 8) Details of the proposed slab levels of all buildings, structures and the existing and proposed ground levels for each reserved matters phased area, as defined in Condition [4ii] (the reserved matters area), shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matter submissions made pursuant to Condition [1] and the development shall be completed in accordance with the approved levels.
- 9) No site clearance or construction work shall commence on any reserved matters area until:
- i. A plan has been submitted to and approved in writing by the Local Planning Authority identifying the trees, tree group and/or hedgerow that is to be retained in that reserved matters area;
  - ii. Details of the location of fencing of a height of not less than 1.2 metres to be erected around the root zone of any tree, tree group or hedgerow requiring such protection and to be retained, shall be submitted to and approved in writing by the Local Planning Authority; and
  - iii. 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. Within the fenced areas, the following works shall not be carried out:
    - 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.

All tree protection measures shall be in accordance with the approved details that shall conform to BS5837:2012.

- 10) Prior to the commencement of the development, including any advance infrastructure, site preparation, groundworks or trial trenching, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to at all times during the construction of the development.

A. The CEMP shall provide for:

- i. Hours of construction work including deliveries;
- ii. Suitable access and turning arrangements to the application site in connection with the construction of the development;
- iii. The parking of vehicles of site operatives and visitors;
- iv. Loading and unloading of plant and materials;
- v. Site office locations and storage of plant and materials used in constructing the development;
- vi. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway;
- viii. Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour during site preparation, groundwork and construction;
- ix. Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures;
- x. A scheme for recycling/disposing of waste resulting and construction works;
- xi. Routing and timing of construction traffic, to minimise impact on the local community;
- xii. Details of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution; and
- xiii. Details of the of the protection of the public rights of way network and its users during construction.

B. The CEMP shall also provide details in relation to biodiversity and shall include the following:

- i. Risk assessment of potentially damaging construction activities;
- ii. Identification of Biodiversity Protection Zones;
- iii. Practical measures to avoid or reduce adverse impacts during construction, which include physical measures and sensitive

working practices, potentially provided as a set of method statements;

- iv. The location and timing of sensitive works that are designed to avoid or minimise adverse impacts on biodiversity features;
  - v. The activities, times and locations during different construction phases when an Ecological Clerk of Works (ECoW) or other suitably licensed and accredited ecologist needs to be present to oversee specific works;
  - vi. Responsible persons and lines of communication;
  - vii. The resume, role and responsibilities on site of the ECoW or similarly competent and appropriately accredited person;
  - viii. Use of protective fences, exclusion barriers and warning signs;
  - ix. Containment, control and removal of any Invasive Non-Native Species present on site; and
  - x. On-going protected species surveys to inform Method Statements and to monitor the effectiveness of the CEMP mitigation measures.
- 11) Prior to commencement of development, a programme for the implementation of all mitigation and enhancement measures and/or works shall be submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved programme and details contained in the Environmental Statement Addendum Chapter 11A (Barton Willmore, April 2022). This may include the appointment of an appropriately competent person (e.g. an ECoW) to provide on-site ecological expertise during construction.
- 12) Prior to commencement of development, excluding advance infrastructure, site preparation, groundworks or trial trenching, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The LEMP shall be in accordance with the details contained in the Environmental Statement Addendum Chapter 11A (Barton Willmore, April 2022) and shall include provision for habitat creation, enhancement and management during the lifetime of the development hereby permitted and shall include the following:
- a) 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;

- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management measures;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for the implementation of the plan. Ongoing monitoring, remedial and/or contingency measures triggered by the monitoring to ensure that conservation aims and objectives are met;
- h) 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 or bodies responsible for its delivery; and
- i) A programme for implementation.

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

- 13) Prior to commencement of development, a Farmland Bird Mitigation Strategy (FBMS) shall be submitted to and approved in writing by the Local Planning Authority to compensate the loss or displacement of any farmland bird territories identified as lost or displaced. The strategy shall include provision of offsite compensation measures.

The content of the FBMS shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measure, e.g. Skylark nest plots;
- b) Detailed methodology for the compensation measures, e.g. Skylark nest plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots';
- c) Locations of the compensation measures by appropriate maps and/or plans; and
- d) Persons responsible for implementing the compensation measure.

The FBMS shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years from completion of implementation.

- 14) No development shall commence until a scheme for the installation of deer fencing along the western boundary of High Wood Site of Special Scientific



Interest (SSSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details regarding the fence height, materials and installation method. All fencing shall be constructed and retained in accordance with the approved details.

- 15) No development or preliminary groundworks of any kind shall take place in any reserved matters area or area affected by advanced infrastructure or groundworks pursuant to Condition [5] until a programme of archaeological investigation relating to that area has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and the following:
- a) A programme and methodology of site investigation and recording;
  - b) A programme for post investigation assessment;
  - c) Provision for analysis of the site investigation and recording;
  - d) Provision for publication and dissemination of the analysis and records of the site investigation;
  - e) Provision for archive deposition of the analysis and records of the site investigation; and
  - f) The nomination of a competent person or persons or organisation to undertake the works.

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

- 16) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include:
- Limiting discharge rates to variable greenfield rates as defined in the Flood Risk Assessment IE16590-100-R-41-3-3\_FRA, dated April 2021, up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated;
  - Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
  - Provide online long-term storage limiting discharge to 2l/s/ha for all additional run-off volume generated by the development;
  - Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change;
  - Final modelling and calculations for all areas of the drainage system;

- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the Construction Industry Research and Information Association SuDS Manual C753;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, Final Floor Level and ground levels, and location and sizing of any drainage features;
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy; and
- A programme for implementation.

The development hereby permitted shall be carried out in accordance with the approved details and all surface drainage measure shall be retained for the lifetime of the development.

- 17) Prior to occupation of any dwelling or building, a Surface Water Drainage Maintenance Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Maintenance Plan shall provide details of the maintenance arrangements for the site, including who is responsible for different elements of the surface water drainage system, the maintenance activities and their frequency. This should include details of funding arrangements should any part of the Maintenance Plan be maintainable by a maintenance company.

All maintenance shall be carried out as approved for the lifetime of the development.

- 18) Yearly logs of maintenance shall be maintained in accordance with the approved Surface Water Drainage Maintenance Plan for the lifetime of the development. These must be available for inspection upon request by the Local Planning Authority.
- 19) Details of a lighting strategy for each reserved matters area shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of any dwelling or building within that area. The details shall include a lighting design strategy for biodiversity that mitigates adverse impacts on features such as protected sites, retained habitat corridors and bat roosts.

The strategy shall:

- a) Identify those areas and features that are particularly sensitive to disturbance that bats and other nocturnal wildlife are likely to use for breeding, shelter, commuting or foraging, including all key areas needed to meet the ecological needs of those species; and

- b) Show how and where external lighting will be installed in public areas, through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications, so that it can be clearly demonstrated that areas to be lit will not have an adverse effect on potentially affected species.

All external lighting shall be installed in accordance with the approved details and shall be retained for the lifetime of the development.

- 20) The reserved matters submitted under Condition [1] shall include the following details:
- i. Hard and soft landscaping;
  - ii. Any ground modelling and/or grading of landform or bunding;
  - iii. Strategic, screen and ornamental landscaping, excluding any planting proposals submitted under Condition [5] in relation to the Visual Mitigation Zone;
  - 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 Local Planning Authority 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 Local Planning Authority;
  - 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 landscaping for all public areas shall be carried out in accordance with the approved details prior to the occupation of the first building within that reserved matters area. The landscaping of individual dwelling plots shall be completed prior to the occupation of each dwelling.

- 21) All dwellings and buildings shall be provided with access to electric vehicle charging points in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. No dwelling or building shall be occupied until the approved details related to that property are operational in accordance with the approved details.

- 22) Biodiversity enhancement measures shall achieve a meaningful enhancement of the development site that delivers a measurable net gain of at least 10%. Enhancement measures shall be taken in accordance with the following documents:
- Land East of Highwood Quarry, Great Dunmow: Biodiversity Net Gain Strategy 2021 (Essex Ecology Services, 2021); and
  - Land East of Highwood Quarry Environmental Statement Addendum, Chapter 11A Biodiversity (LS Easton Park Investments Ltd,).
- 23) 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 permission, 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 protected and priority animal species; and
  - ii. Identify any likely new ecological impacts that might arise from any such changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed, then a scheme detailing how existing measures will be revised or new ones introduced that minimise adverse impacts shall be submitted to and approved in writing by the Local Planning Authority. This shall include an implementation timetable with details to be agreed prior to the commencement of that reserved matter. Works shall then be carried out in accordance with the approved measures and timetable.

- 24) With the exception of advance infrastructure, site preparation, groundworks and trial trenching, no above ground development shall commence in any reserved matters area until a detailed noise assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include the potential cumulative impact from noise activities associated with Highwood Quarry, until the quarry is permanently closed, road traffic noise and noise at reference locations agreed by the Local Planning Authority where attended and unattended measurements shall be taken.
- 25) With the exception of advance infrastructure, site preparation, groundworks and trial trenching, no above ground development shall commence in any reserved matters area until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority that sets out the proposed mitigation measures to protect the dwellings from noise arising from the adjacent quarrying activities and road traffic noise.

The scheme shall ensure that internal and external noise environments are achieved in accordance with the provisions of BS8233:2014. As a minimum

the scheme shall be designed so that the following noise levels are not exceeded:

- Bedrooms (23.00-07.00 hrs) 30 dB LAeq,8h and 45 dB LAmax
- Living Rooms (07.00-23.00 hrs) 35 dB LAeq,16h
- Gardens (07.00-23.00 hrs) 55 dB LAeq,16h

The submitted details shall include a scheme showing the design, layout and acoustic noise insulation performance specification of the external building envelope, having regard to the building fabric, glazing and ventilation. The scheme shall be implemented in accordance with the approved details.

- 26) Prior to installation of any external fixed noise generating plant or equipment, the details together with any necessary mitigation to achieve a rating level at the closest noise sensitive receptor from all plant combined of 5 dB below the typical background (LA 90) level, taken during the following times 07:00 to 18:30, 18:30 to 23:00 and 23:00 to 07:00 at the nearest noise sensitive receptor(s), shall be submitted to and approved in writing by the Local Planning Authority. The noise mitigation scheme shall be implemented as approved.
- 27) If during any site investigation, excavation, engineering, or construction works evidence of land contamination is identified, the developer shall notify the Local Planning Authority without delay. Any land contamination shall be remediated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority to ensure that the site is made suitable for its end use.
- 28) On completion of the development, 5% of the dwellings hereby approved shall have been built to comply with M4 Category 3 - Wheelchair User Dwellings requirement M4(3)(2)(a) and all remaining dwellings shall have been built to comply with M4 Category 2 - Accessible and Adaptable Dwellings requirement M4(2), as defined in the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 29) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial trenching) until details of the site access road, as shown in drawing number 110031/A/91 Rev G, between A120 roundabout access works, as shown in drawing number 10031-A-114/PO3 and the "maximum extent of built development", as defined in the development parameters have been submitted to and approved in writing by the Local Planning Authority.

The details shall include information on visibility splays, surfacing and construction, a means of surface water drainage, lighting, signage and Stage 2 Road Safety Audits.

The road shall:

- i. Be a minimum of 7.3 m wide with an additional 5 m footway/cycleway provided on one side of the carriage and a further minimum 2.5m wide strip of land on the opposite side of the carriageway shall be kept free of development;
- ii. Shall accommodate a transport hub, which will be subject to further detail to be approved under Condition [39], in a location as shown in drawing number 110031A/105 Rev A; and
- iii. Provide a controlled crossing to link the footway/cycleway on the southern side of the access road to the proposed link to Public Right of Way (PRoW) 5 (Little Canfield) on the northern side of the road.

The site access road and facilities shall be implemented in accordance with the approved details prior to occupation of the first dwelling.

- 30) Prior to occupation of the first dwelling a controlled crossing to accommodate equestrians, cyclists and pedestrians shall be provided on the access road to allow the users of the PRoW Bridleway 23 (Little Easton) to cross the road. Details shall be submitted to and approved in writing by the Local Planning Authority and all works shall be implemented as approved.
- 31) No development (excluding advance infrastructure, site preparation, groundworks or trial trenching) shall commence until details showing the construction of the access road and its location within the planning permission boundary of Highwood Quarry are submitted to and approved in writing by the Local Planning Authority. The details shall include how, when and where the existing storage mounds of topsoil, subsoil and overburden will be relocated. The locations shall be such that they are available for restoration of the quarry/landfill without having an adverse impact on the effective working and/or restoration of the quarry/landfill. The details shall be implemented as approved.
- 32) No development shall commence (excluding advance infrastructure, site preparation, groundworks or trial trenching) until details showing how the access arrangement to the quarry/landfill will be accommodated without adversely impacting access to the quarry/landfill processing and plant areas, HGV circulation within the quarry/landfill processing and plant area, the quarry/landfill staff parking areas and the weighbridge facilities have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as approved and according to an agreed timetable.
- 33) Primary vehicle routes, as defined in Parameter Plan 6 and the bus routes defined in Condition [2] shall be a minimum carriageway width of 6.75 m.
- 34) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial

trenching) until a scheme for the upgrading of PRowS within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to protection, surfacing works, crossings, signage and connections to the surrounding network and area. The scheme shall be implemented as approved prior to first occupation of any dwelling and all road crossing point works shall be implemented before the relevant road is open to traffic.

- 35) No dwelling shall be occupied until the road(s) serving that part of the development, including any cycleways/footways, has been constructed and surfaced in accordance with the approved plans and made available for public use.
- 36) No dwelling shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority ensuring that no less than 95% of dwellings within a reserved matters area are no more than 400 m from a bus stop with remaining dwellings being no more than 500 m from a bus stop. The scheme shall ensure that all bus stops comprise bus shelters, seating, raised kerbs, flag and pole signage and include real time information. The scheme shall include a programme for implementation and shall be implemented in accordance with the approved details.
- 37) Any reserved matters application made pursuant to this permission shall safeguard an alignment between zones A-B (on drawing 15576-RG-M-LEHQ-57 Rev A) of a minimum width of 17.5 m for potential future provision of a sustainable transport corridor. The alignment is to be agreed with the Local Planning Authority as part of the reserved matters applications unless the Local Planning Authority confirms in writing that this is no longer a requirement. The agreed route shall be safeguarded between the boundaries of the site.
- 38) No dwelling shall be occupied until a scheme showing provision of an emergency access to the public highway, surfaced as shown in principle on Emergency Vehicle Route Plan Figure 8 dated 11 February 2022, and a programme for its implementation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and an agreed implementation timetable.
- 39) Details for the transport hub referred to in Conditions [4] and [29] shall be submitted to and approved in writing by the Local Planning Authority prior to approval of details required under Condition [29]. The submitted details shall include two bus stops with the following facilities: shelters, seating, raised kerbs, bus stop markings, timetable casings, real time information, lighting, CCTV and turning facilities together with secure, covered, cycle parking and EV charging facilities. The approved details shall be implemented in full prior to occupation of the first dwelling
- 40) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial

trenching) in any areas identified for the provision of playing pitches in the Site Wide Masterplan approved under Condition [4], until the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i. A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and
- ii. Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

The approved scheme shall be carried out in full and in accordance with the approved programme of implementation. The land shall thereafter be retained and made available for playing field use in accordance with the approved scheme for the lifetime of the development.

- 41) There shall be no new connections made to any fossil fuel gas supply, as part of the development hereby approved. All buildings, shall include an efficient and entirely electric-powered heating solution, principally using air-source heat pumps.
- 42) Details of water saving measures, relating to all new residential dwellings, limiting consumption to 110 litres per person per day (as defined under regulation 36(2)(b) of Part G of Schedule 1 of the Building Regulations 2010 (as amended)) for each reserved matters area shall be submitted to and approved by the Local Planning Authority as part of the reserved matter submissions made pursuant to Condition [1] and the development shall be completed in accordance with the approved measures.





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# Report to the Secretary of State for the Department for Levelling Up, Housing and Communities

by Roger Catchpole BSc (hons) PhD MCIEEM IHBC

an Inspector appointed by the Secretary of State

Date 21 December 2022

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SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

MR JONATHAN LEVY (L S EASTON PARK DEVELOPMENT LIMITED)

UTTLESFORD DISTRICT COUNCIL



Inquiry Opened on 5 July 2022 and sat on 5-7 July, 20-21 July and 6-8 September 2022 with unaccompanied site visits being carried out on the 4 July, 8 July and 22 July 2022. A case management conference was held with the main parties prior to opening on the 8 April 2022.

Land East of Highwood Quarry, Park Road, Little Easton, Dunmow, CM6 2JL

File Ref: APP/C1570/W/21/3289775

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**ABBREVIATIONS USED IN THIS REPORT**

the Act	Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
AOD	Above Ordnance Datum
BMV	Best and Most Versatile
CA	Little Easton Conservation Area
CAA	Little Easton Conservation Area Appraisal and Management Proposals 2015
the Church	Church of St Mary the Virgin
the Cottages	Park Road Cottage and Yew Tree Cottage
CIHT	Chartered Institute of Highways and Transportation
CO <sub>2</sub>	carbon dioxide
DAS	Design and Access Statement
DfT	LTN1/20 Cycle Infrastructure Design – Department for Transport
ECC	Essex County Council

ENCTS	English National Concessionary Travel Scheme
ES	Environmental Statement
the Framework	National Planning Policy Framework 2021
FTE	Full Time Equivalent
FTP	Framework Travel Plan
GPA3	The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (2017)
ha	hectares
HE	Historic England
HLS	Housing Land Supply
HRS	Helena Romanes School
the Hub	Interchange Hub
IHT	Institute of Highways and Transportation
km	kilometres
LCA	Landscape Character Assessment of Uttlesford District
LEA	Local Education Authority
LP	Uttlesford Local Plan 2005
LTS	Less Than Substantial
LVIA	Landscape and Visual Impact Assessment
m	metres
min	minute
MoD	Ministry of Defence
NH	National Highways
NNR	National Nature Reserve
NP	Great Dunmow Neighbourhood Plan 2016
the NPPF	National Planning Policy Framework 2021
the PPG	Planning Practice Guidance 2016 (as amended)
°C	degrees centigrade
PoE	Proof of Evidence
PRoW	Public Right of Way
the Regulations	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017
RfR	Reasons for Refusal
RTS	Rapid Transit System
s106	Planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended)
SoCG	Statement of Common Ground
SoS	Secretary of State for the Department for Levelling Up, Housing and Communities
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
TAA	Transport Assessment Addendum
WW2	World War Two

**File Ref: APP/C1570/W/21/3289775**

**Land East of Highwood Quarry, Park Road, Little Easton, Dunmow, CM6 2JL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission with all matters reserved apart from access.
- The appeal is made by Mr Jonathan Levy (L S Easton Park Development Limited) against the decision of Uttlesford District Council.
- The application Ref: UTT/21/1708/OP, dated 13 May 2021, was refused by notice dated 27 October 2021.
- The development proposed is for between 1,000 and 1,200 dwellings (Use Class C3); up to 21,500 sq m gross of additional development for Use Classes: C2 (residential institutions care/nursing home); E(a-f & g(i)) (retail, indoor recreation, health services and offices); F1(a) (Education); F2(a-c) (local 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 Schedule and Plans.
- The appeal was recovered for decision by the Secretary of State by a direction made on 8 April 2022. The reason for the direction is because the proposal is for residential development of over 150 units and on a site of over five hectares, which could 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.

**Summary of Recommendation**

I recommend that the application be allowed and planning permission granted for the proposed development subject to the conditions set out in appendix 4 of this report and the s106 agreement.

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**Procedural Matters**

1. I conducted a total of three, extensive, unaccompanied site visits on the specified dates. This was according to an agreed agenda that defined the routes that I should take as well as all the key viewpoints that I should consider. This was agreed between all parties. A map, with accompanying notes, was submitted to the Inquiry to assist me in this matter<sup>1</sup>.
2. The application was submitted in outline with all matters, other than access, reserved for future consideration. The submitted plans show the site location, land ownership and proposed changes to the A120/B1256 junction. Indicative parameter plans have also been submitted showing: land use zones; ground levels; maximum footprint and building heights; recreational/ecological corridors and a visual mitigation zone; ecological mitigation and open space zones; and primary movement corridors. Whilst some deal with reserved matters, the appellant has nonetheless relied upon them to mitigate potential impacts through a site-wide masterplan and design code that would be secured through conditions.
3. The refusal of the scheme was predicated on eight reasons for refusal (RfR), as set out in the Council's decision notice<sup>2</sup>. Following the submission of further evidence and the agreement of a planning obligation (s106) and conditions,

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<sup>1</sup> ID 21

<sup>2</sup> CD 2.2

the Council withdrew its objections with regard to highway capacity [5], ecology [6], noise [7] and infrastructure provision [8]. Consequently, these matters were no longer in dispute at the close of the Inquiry.

4. One of the plans accompanying the original application was revised<sup>3</sup> and submitted as part of a bundle of plans associated with the draft s106<sup>4</sup>. Bearing in mind the Wheatcroft Principles<sup>5</sup>, I am satisfied that the amendment would not be for a materially different scheme and that none of the parties would be prejudiced by its consideration as part of the proposed development. I have reached my recommendations on the basis of the amended scheme.
5. An Environmental Statement (ES) was submitted with the application in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (the Regulations). This was subsequently amended through an addendum<sup>6</sup>. This was submitted as part of further appeal submissions made by the appellant on the 13 April 2022<sup>7</sup>.
6. The addendum sought to address issues raised by the Council in relation to the adequacy of the ES, update the construction programme and address feedback from statutory consultees. It also amended the significance of one of the landscape effects. The content of the original ES otherwise remained unchanged. In response to one of my questions, the Council indicated that it subsequently considered the ES to be adequate and compliant with requirements of Schedule 4 of the Regulations.
7. I am satisfied that both the coverage and technical detail of the ES provided an adequate assessment of the environmental effects of the proposed development and I have no substantiated, technical evidence before me that would lead me to a different conclusion. I also find it sufficient to describe the Rochdale Envelope for the reserved matters that are still to be approved.
8. Consequently, the ES, together with the other evidence that was submitted during the course of the Inquiry, meets the requirements of the Regulations. A full account has been taken of all environmental information in my assessment of the proposal and this has informed my recommendation.

### **Site and Surroundings**

9. The appeal site is located in open countryside to the west of Great Dunmow and lies beyond the settlement limit. It covers an irregular area of approximately 150 hectares (ha) of arable farmland, with the majority comprising either Grade 2 (51.2 ha) or Grade 3a (47.5 ha) agricultural land<sup>8</sup>. The National Planning Policy Framework 2021 (the Framework) defines this as the Best and Most Versatile (BMV) agricultural land<sup>9</sup>. The site is generally free from buildings save for Ravens Farm and a small, adjoining cluster of residential properties. These are located in the eastern part of the appeal site

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<sup>3</sup> A120/B1256 Development Access Junction Improvement General Layout (Ref: 110031/A/114/Rev PO3)

<sup>4</sup> ID 18 and ID 19

<sup>5</sup> Bernard Wheatcroft Ltd. v SoS for the Environment and Another [1982] 43 P. & C.R. 233

<sup>6</sup> CD 1.24

<sup>7</sup> ID 34

<sup>8</sup> CD 12.1

<sup>9</sup> The Framework, Annex 2

along with a World War 2 (WW2) pillbox that is situated on the access track to the farm. Both Ravens Farm and the pillbox are non-designated heritage assets. A scattering of residential buildings are also situated in relatively close proximity to the north-eastern site boundary, flanking either side of Park Road.

10. The site is characterised by a gently undulating landform that gradually rises in a south-westerly direction from approximately 70 metres (m) Above Ordnance Datum (AOD) to just over 95 m AOD. The landform also rises in a southerly direction from the northernmost boundary of the site. Views towards the site from the proximate parts of the hamlet of Little Easton and Park Road consequently comprise middle distance skylines rather than more expansive views of the wider landscape.
11. The field pattern comprises moderately sized fields within an established network of small, wooded areas and hedgerows. Larger blocks of woodland are also present in and around the appeal site, most notably High Wood which abuts part of its south-western boundary. This is an ancient woodland that has been designated as a Site of Special Scientific Interest (SSSI). A smaller block of woodland lies immediately to the west of the SSSI with a further block, known as Hoglands Wood, situated in the south-eastern corner of the appeal site. The latter is also classified as ancient woodland and is designated as a Local Wildlife Site. All three are defined as important woodlands under saved policy ENV8 of the Uttlesford Local Plan<sup>10</sup>.
12. The topography, field pattern and trees give rise to a well-vegetated character with a sense of containment that changes to a more open character in the northern and westernmost parts of the appeal site which are generally situated on higher ground. This gives rise to 'big sky' views and skylines of either open fields or treelines in the middle distance, as previously noted. Overall, the site has a mixed, transitional character that is founded on its predominantly rural setting.
13. There are a number of Public Rights of Way (PRoW) that either cross or bound the appeal site<sup>11</sup>. PRoW 36\_15 and 36\_16 extend from the hamlet of Little Easton and Park Road, cross the north-eastern part of the site and converge at Ravens Farm before continuing on to Great Dunmow. PRoW 36\_15 is part of a long-distance footpath, known as the Saffron Trail, that traverses the county of Essex. PRoW 36\_23 extends along the western boundary of the appeal site and intersects with 36\_24, which joins it from the west, before becoming PRoW 18\_33 which continues in a southerly direction until it joins the Stortford Road. PRoW 36\_24 continues towards a nearby quarry<sup>12</sup> along part of the proposed access route and then joins the 33\_5 which bears south, crosses the A120 and joins another footpath to Little Canfield.
14. Turning to the wider context of the site, the majority lies within Landscape Character Area B10: Broxted Farmland Plateau which forms part of Landscape Character Type - Farmland Plateau Landscapes, as defined by a joint Landscape Character Assessment of Uttlesford District (LCA) undertaken in 2005 and published in 2006<sup>13</sup>.

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<sup>10</sup> CD 3.1

<sup>11</sup> CD 9.5, figure MDC-6

<sup>12</sup> See paragraph 19 for further details

<sup>13</sup> CD 14.8



15. The key characteristics of this landscape are described as:

- Gently undulating farmland on glacial till plateau, dissected by River Roding;
- Large open landscape with tree cover appearing as blocks on the horizon or as scattered trees along field boundaries, with intermittent hedgerows;
- Higher ground where plateau broadens and flattens is expansive and full of big sky views;
- Dispersed settlements and few villages of any size;
- Some sunken lanes; and
- Moats, halls and historic farmsteads scattered over the area.

The key sensitivities to change are noted as follows:

*"Sensitive key characteristics and landscape elements within this character area include blocks of mixed deciduous woodland (visible on the horizon) and scattered trees within field boundaries (which are sensitive to changes in land management). The open nature of the skyline of higher areas of plateau is visually sensitive, with new development potentially visible within expansive views across the plateau. Sunken, often tree-lined lanes are also sensitive to new development or increases in traffic flow associated with such development. There is a sense of historic integrity, resulting from a dispersed historic settlement pattern and several visible moats and halls (the pattern of which is sensitive to change or new development). There are also several important wildlife habitats within the area (including 14 sites of importance for nature conservation, comprising ancient woodland, grassland and wetland habitats) which are sensitive to changes in land management. Overall, this character area has moderate to high sensitivity to change."*

16. The parties agree<sup>14</sup> that it is not a valued landscape and therefore not subject to the express protection afforded to such landscapes in national policy<sup>15</sup>.

17. In terms of the built environment, a series of large residential permissions have been granted to the south and east of the appeal site<sup>16</sup>. The one adjoining the southern boundary of the site comprises a scheme for approximately 790 dwellings known as Land West of Woodside Way or more simply, the Barratt Scheme. A further scheme, Woodlands Park lies to the east of Woodside Way (B184) and comprises approximately 2,125 dwellings. This forms a substantial northerly extension to Great Dunmow.

18. The built context to the north of the site is characterised by a low density, dispersed settlement pattern. The historic hamlet of Little Easton lies immediately to the northwest of the appeal site with a village of the same name situated some half a mile distant over the fields to the northeast of the hamlet. The latter has grown around a church-manorial complex comprising a number of listed buildings, including the Grade I "Church of St Mary the

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<sup>14</sup> CD 12.3, paragraph 1.8

<sup>15</sup> The Framework, paragraph 174(a)

<sup>16</sup> CD 10.4, figure 1

Virgin<sup>17</sup> and the Grade II "Easton Manor" which includes a series of ornamental ponds set within extensive, landscaped grounds. The listed buildings and manor grounds form the tightly defined extent of the Little Easton Conservation Area (CA).

19. Other notable built forms include Highwood Quarry and the A120. The former is an active aggregate works immediately to the west, part of which would provide the main access to the appeal site, whilst the latter is a major transport axis to the south. This provides access to the Strategic Road Network (SRN) and a rapid connection to Stansted Airport, which lies approximately 4 kilometres (km) to the west. The nearest railway station is situated at the airport with a further one situated approximately 16 km to the west, in Bishops Stortford. Both are accessible via local bus services which enable longer distance, onward travel to locations such as London and Cambridge.

### **Planning Policy**

20. The Development Plan for the appeal site comprises the Uttlesford Local Plan 2005 (LP), the Great Dunmow Neighbourhood Plan 2016 (NP)<sup>18</sup> and the Essex Minerals Local Plan 2014. The LP covers a period up to 2011 and the majority of its policies were saved in December 2007<sup>19</sup>. The NP was made on the 8 December 2016 and covers the parish of Great Dunmow. The majority of the appeal site lies outside the NP area, apart from Hoglands Wood. Whilst the site sits within the minerals plan area, no relevant policies apply to the proposed development.
21. The parties agree that the relevant policies for determining this appeal are the ones associated with the RfR and that the proposed development otherwise complies with all other development plan policies<sup>20</sup>. The relevant LP policies, as initially agreed<sup>21</sup>, comprised policies S7, ENV1, ENV2, ENV7, ENV10, GEN1, GEN6, GEN7 and H9 whilst the relevant NP policies initially comprised policies LSC1, NE1 and NE2.
22. Starting first with the strategic LP policies, amongst other things, policy S7 seeks to control development outside settlement or other boundaries. It protects the countryside for its own sake and confirms that planning permission will only be granted for development that needs to take place in such locations or is appropriate to a rural area. It also states that development will only be permitted where its appearance protects or enhances the particular character of the part of the countryside within which it is set, or if there are special reasons why the development, in the form proposed, needs to be situated in that location.
23. Paragraph 174 of the Framework requires that planning policies should contribute to and enhance the natural and local environment by, among other things, recognising the intrinsic beauty and character of the countryside rather than just protecting it for its own sake. Whilst an inconsistency, the third

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<sup>17</sup> As described in the list description

<sup>18</sup> CD 3.4

<sup>19</sup> CD 3.3

<sup>20</sup> CD 12.1, paragraph 6.2

<sup>21</sup> CD 12.1



strand of S7 nevertheless considers this through explicit consideration of how the appearance of a proposed development is likely to affect landscape character.

24. However, the agreed lack of a deliverable 5-year Housing Land Supply (HLS) means that the locational aspects of this policy that seek to restrict development beyond settlement boundaries are out-of-date. As a previous Inspector noted, the LP settlement boundaries were defined to accommodate housing numbers for the period up to 2011 and are “patently well out of date”, thus restraining development and causing a clear tension with the need to significantly boost the supply of homes, as set out in paragraph 60 of the Framework<sup>22</sup>. I agree with this view.
25. Despite the inconsistencies of its locational elements and the absence of a deliverable 5-year HLS, the parties agree that the third strand of the policy relating to the appearance of development remains consistent with the Framework. In cross-examination, the appellant’s planning witness agreed that, for this very reason, policy S7 should be afforded moderate weight rather than the ‘limited to moderate’ weight it was given in his Proof of Evidence (PoE). The weight to be given to this policy is a well-trodden path in appeal decision-making and accords with the conclusions reached in the more recent Fairfield<sup>23</sup> and Warish Hall<sup>24</sup> decisions.
26. Moving on to the general LP policies, GEN1 requires that traffic generated by a development must be capable of being accommodated on the surrounding road network. It also seeks to ensure that the design of a development site does not compromise road safety and that proposals take account of the needs of other road users in order to encourage alternative means of transport.
27. The appellant considers this policy to be inconsistent with the Framework owing to the fact that paragraph 111 states that development can only be prevented or refused on highway grounds if there is an unacceptable impact on highway safety or severe residual cumulative effects on the road network<sup>25</sup>. However, the Council points out that this overlooks paragraphs 110 and 112 of the Framework which require development to also take account of the needs of cyclists, pedestrians and public transport users and encourage movement by means other than a car, as set out in criteria (c) and (e) of GEN1<sup>26</sup>.
28. In cross-examination, the appellant’s planning witness also suggested that this policy should carry reduced weight because it does not, of itself, contain the tilted balance, as set out in paragraph 11(d) of the Framework. I note that this proposition was also adopted in the cross-examination of the Council’s planning witness. The Council maintains that not every policy needs to contain exactly the same balance as the Framework and an absence of any such balance does not necessarily make a policy inconsistent. In adopting this position, the Council relies upon a Court of Appeal judgement concerning the

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<sup>22</sup> CD 6.4, paragraph 150

<sup>23</sup> CD 6.4, paragraph 154

<sup>24</sup> ID 39, paragraph 83

<sup>25</sup> CD 9.7, table 12.1

<sup>26</sup> ID 45, paragraph 115

public benefit balance required for less than substantial harm to designated heritage assets<sup>27</sup>.

29. More specifically, the Council highlights paragraph 86 of this judgement as being pertinent and that the argument advanced by the appellant is consequently “nothing new”<sup>28</sup>. The Council also highlights paragraph 87 and the fact that paragraph 90 found no fault with that Inspector’s approach. In response, the appellant’s planning witness agreed that the lack of a balance does not preclude significant weight being attached to a policy. This agreement was not only made within the context of policy GEN1 but also in relation to policies ENV1 and ENV2. The appellant did not make any closing submissions to the contrary or seek to maintain its position in respect of the LP policy wording and the tilted balance.
30. Policy GEN6 requires suitable provision, at the appropriate time, for community facilities, school capacity, public services, transport provision, drainage and other such infrastructure. Policy GEN7 requires the avoidance or mitigation of any harmful effects on wildlife as well as the enhancement of biodiversity through the creation of appropriate, new habitat. However, as the RfRs associated with these policies were withdrawn, they did not remain the most relevant policies by the close of the Inquiry and are therefore not determinative in the outcome of this appeal.
31. Turning to LP built and natural environment policies, policy ENV1 seeks to ensure that development preserves or enhances the character and appearance of the essential features of conservation areas. The Council interprets one of the essential features as comprising their setting whilst the appellant maintains that this policy only applies to development that is actually within a conservation area.
32. In support of this position, the appellant highlights the fact that the Courts advise decision makers to approach planning policies in a non-legalistic and straightforward manner. The fact that the policy is entitled “Design of Development within Conservation Areas” suggests, according to the appellant, that it was not intended to apply to any development beyond conservation area boundaries<sup>29</sup>. The appellant suggests that it simply reflects the statutory provision of s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) which is why neither the wording nor the supporting text of this policy has any reference to setting.
33. The Council maintains that common sense dictates that setting is intrinsic to the policy wording despite not being explicitly expressed. The Council characterises the appellant’s position as an “overly legalistic approach” that fails to grapple with setting as an essential feature of a conservation area<sup>30</sup>. Whilst common sense might dictate that a collection of historic buildings comprising a conservation area inimically have surroundings in which they are experienced and that this is an essential feature that contributes to its significance, this is only arguable in general terms according to the appellant<sup>31</sup>.

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<sup>27</sup> CD 7.3, City & Country Bramshill Limited v SSCLG [2021] EWCA Civ 320

<sup>28</sup> Appellant’s planning witness, XX

<sup>29</sup> ID 46, paragraph 61

<sup>30</sup> ID 45, paragraph 29

<sup>31</sup> ID 46, paragraph 63

34. Bringing these views together, it is clear that the policy should be read objectively in accordance with the language used and within its proper context without resort to the excessive legalism. This is not a matter of interpretation because the wording of the policy clearly omits any mention of setting, unlike ENV2, and to imply otherwise would be inconsistent with the plain words of ENV1 when taken as a whole. Even if this policy is not applicable, the setting of the CA is nevertheless relevant to the outcome of this appeal through the application of paragraph 200 of the Framework. In that sense, the dispute goes nowhere as the setting of the CA remains a material consideration to the determination of this appeal.
35. Policy ENV2 seeks to ensure that development is in keeping with the scale, character and surroundings of listed buildings. It prohibits development that would adversely affect the setting of a listed building or impair its special characteristics. As such, it reflects the statutory duty under s66(1) of the Act but does not include the public benefit balance that enables harmful proposals to be granted permission. As previously noted, case law indicates that this does not place it (or ENV1) into conflict with the Framework or preclude any such balancing exercise. Consequently, the reduced weight that the appellant's planning witness attaches to this policy is disputed<sup>32</sup>.
36. Policy ENV7 seeks to avoid adverse effects on areas of national importance to nature conservation, such as SSSIs whilst policy ENV10 seeks to prevent noise sensitive development in locations where future occupants would experience significant disturbance. Policy H9 seeks to secure affordable housing of 40% of the total housing provision on all appropriate, allocated and windfall sites. As was the case for some of the general policies, the RfRs associated with these policies were withdrawn. Consequently, they did not remain the most relevant policies by the close of the Inquiry and are therefore not determinative in the outcome of this appeal.
37. Turning to the NP policies<sup>33</sup>, LSC1 relates to landscape, setting and character and supports development proposals that are visually attractive and can demonstrate that they will contribute positively to the quality of the area. Policies NE1 and NE2 relate to the natural environment with policy NE1 seeking to specifically protect Hoglands Wood and High Wood, as well as their settings, whilst policy NE2 seeks to promote the enhancement of the woodland and wildlife corridors in the plan area. The only part of the scheme within the NP area is Hoglands Wood, which the parties agree would not be directly harmed. Bearing in mind the mitigation that would be secured via the agreed conditions, as well as the withdrawal of the sixth RfR, policies NE1 and NE2 did not remain the most relevant policies by the close of the Inquiry and are also not determinative in the outcome of this appeal.
38. The appellant maintains that the scope of the NP policies is limited to those areas that directly overlap with the appeal scheme, namely Hoglands Wood. As the Council's planning witness conceded in cross-examination, a NP can only have operative force, or be relevant in terms of the geographical reach of its policies. Consequently, the appellant takes the view that it is legally

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<sup>32</sup> CD 9.7, table 12.1

<sup>33</sup> CD 3.4

inconsistent with that principle to apply any of the policies to areas that lie outside the NP plan area<sup>34</sup>.

39. The Council maintains that this is an unduly narrow approach because policy LSC1 is about the landscape, setting and character of Great Dunmow and requires all development to contribute positively to the quality of the area<sup>35</sup>. In support of this view, it goes on to highlight the supporting text which seeks to prevent urban sprawl and the amalgamation of Great Dunmow with the neighbouring settlement of Little Easton. It equates this with preserving the setting of Great Dunmow and maintains that this is a point with which it can properly and lawfully be concerned insofar as it gives rise to harms within the NP area.

### **Planning Guidance**

40. The County Highway Authority's policy document<sup>36</sup> 'Development Management Policies' was formally adopted by the County Council as an Essex County Council (ECC) Supplementary Guidance document in February 2011. In its RfR, the Council found the proposal would be contrary to adopted policies DM1, DM10, DM11, DM14, DM15 and DM17. As such, it is a material consideration in the determination of this appeal. The specific policy requirements are as follows.
41. Policy DM1 requires all development to provide safe and suitable vehicle access. Subject to a number of criteria, policy DM10 requires a Travel Plan for all qualifying development. A Framework Travel Plan (FTP) was submitted with the original application<sup>37</sup> and the FTP was subsequently revised following feedback from ECC<sup>38</sup>. Policy DM11 requires all development to safeguard and enhance the existing network of PRoW and encourage active modes of travel.
42. Policy DM14 requires, for any proposal that could materially alter the existing highway, a Stage 1 Safety Audit Report carried out to an appropriate standard. This was included in a Transport Assessment Addendum (TAA)<sup>39</sup> that formed part of the formal ES Addendum submitted on the 13 April 2022. Policy DM15 seeks to protect the safety and efficiency of the public highway by either requiring no detrimental impact to be demonstrated, in terms of congestion, or appropriate mitigation measures where this cannot be avoided.
43. Policy DM17 requires appropriate mitigation measures either to be undertaken by the developer and/ or payment of an agreed financial contribution to enable the Highway Authority to implement the necessary measures.

### **Housing Land Supply**

44. The Council's HLS statement advises that the Council has a 3.52-year HLS<sup>40</sup>. The parties agree that this should be the HLS figure for the purposes of this appeal and no evidence to the contrary was laid before the Inquiry.

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<sup>34</sup> ID 46, footnote 49

<sup>35</sup> ID 45, paragraph 20

<sup>36</sup> CD 4.1

<sup>37</sup> CD 1.6

<sup>38</sup> CD 1.26

<sup>39</sup> CD 1.25

<sup>40</sup> CD 4.2, December 2021

45. The Council submitted its Local Plan to the Secretary of State (SoS) for independent examination in January 2019. However, the Examining Inspectors concluded, following the Stage One Examination, that there were significant concerns as to its soundness and the Council subsequently withdrew it in March 2020.
46. At the time of the Inquiry, a new emerging plan was being prepared with an intention to consult upon it during the winter of 2022 with a view to adopting a new plan by 2025<sup>41</sup>. The Council has since confirmed that this timetable has now changed and that there will be no adopted plan until the end of 2025 at the earliest. As such, no weight can be given to the policies of the withdrawn plan and only negligible weight can be given to any emerging policies at the current time. Neither of the main parties have relied upon any such policies.

## Planning History

47. The appeal site has been the focus of two previous applications as set out below:
- UTT/13/1043/OP – Outline planning application with the details of external access committed. Appearance, landscaping, layout (including internal access), and scale reserved for later determination. 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.  
  
Submitted: April 2013  
  
Refused: 1 August 2013  
  
Appeal Dismissed: 25 August 2016 (APP/C1570/A/14/2213025<sup>42</sup>)
  - UTT/14/2285/OP – Outline planning application, with some matters reserved, with the details of external access committed. Appearance, landscaping, layout (including internal access), scale reserved for later determination. Development to comprise: between 600 and 700 dwellings (Use Class C3); up to 22,300 square 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.

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<sup>41</sup> The Council's planning witness, IC

<sup>42</sup> CD 6.1

Submitted: July 2014

Refused: 3 November 2014

Appeal Withdrawn: December 2016 (APP/C1570/W/15/3028975)

## The Proposals

48. The bullet points in the banner of this report set out the description for the proposed development and the associated application process. The application is based on development parameters rather than a fixed masterplan that seek to illustrate how the development would be implemented. The scheme would be built over a number of years with the latter governing the total amount of built and open space to be provided as well as defining the height of the buildings and the location of primary movement corridors and ecological mitigation zones. Ground levels and land use zones are also subject to these parameter plans which would be secured by condition.
49. The illustrative masterplan shows how the appeal site might be developed, with the main built form being located in the central and southern parts of the site<sup>43</sup>. It shows the remaining parts of the site as comprising, among other things, a mix of agricultural land, amenity grassland, sports pitches, flood attenuation features and allotments. This is set out in greater detail in a revised Design and Access Statement (DAS) submitted on the 13 April 2022<sup>44</sup>.
50. Whilst illustrative, the agreed conditions would nevertheless secure these features through a site wide masterplan that would be in accordance with the conditioned parameter plans. Both the masterplan and a site-wide design code, that would control the appearance of the development, would be agreed prior to commencement and any phased, reserved matters applications. These would need to be in full compliance irrespective of who makes the application and implements the approved matters<sup>45</sup>.
51. The revised DAS identifies three site-wide design principles that underpin the masterplan design<sup>46</sup>. The first is a 75 ha, radial park encircling the main housing area made up of varying landscape elements including farmland, semi-natural habitats, new and retained woodland and sports and recreation facilities. The second is a centrally located, traditional park with a Local Centre situated immediately to the east. The park is intended to act as a focal point for communal activities such as fêtes and other activities. The third is a series of green links from the central park towards the radial park and onward routes. These would allow space for existing hedgerows and trees to be retained and provide both functional and recreational movement corridors.
52. One prominent feature of the radial park would be the creation of a new belt of woodland along the northern edge of the main housing area. This would be between 20-30 m in depth and would be located on the higher ground towards the hamlet of Little Easton, as shown on the relevant parameter plan<sup>47</sup>. Further detail of the proposed planting parameters is given in the PoE of the

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<sup>43</sup> CD 9.5, figure MDC-11

<sup>44</sup> CD 1.27

<sup>45</sup> Matter of concern raised by Mr Clarke

<sup>46</sup> CD 1.27, section 7.2

<sup>47</sup> CD 1.1, Development Parameter Plan 4 (RG-M-LEHQ-12 Rev: H)



appellant's landscape witness<sup>48</sup>. This states that the planting would comprise species typical of deciduous semi-natural woodland with occasional holly (*Ilex aquifolium*). This planting is intended to function as a landscape or visual mitigation zone for the proposed development when viewed from Little Easton and Park Road.

53. Verified photomontages of View 3, which is situated on Park Road, indicates that a significant extent of the built form would be screened by year 15<sup>49</sup> and that only occasional rooftops would be visible by year 25<sup>50</sup>. They also show that existing open sky views would be occluded from this particular perspective. The Council disputes the way in which the proposal is represented in this evidence. This is because the image has a field of view of 180 degrees whereas the guidance recommends a field of view of 53 degrees or in some cases up to 90 degrees<sup>51</sup>. It consequently maintains that the image is technically accurate but gives a misleading sense of the extent to which a sense of openness would be preserved when viewed from the north.
54. Turning to the access, this would be taken from the northern roundabout of the A120 Dunmow West Interchange. This would lead to the replacement of the existing quarry haul road with a new road. The detailed layout of this access point is set out in the relevant plan<sup>52</sup> and would include the following features:
- i. Creation of a new northern arm to the A120 Great Dunmow West Interchange northern roundabout to create a new purpose-built carriageway to connect to the proposed development;
  - ii. Introduction of traffic signals on three arms of the roundabout (A120 eastbound off-slip, Overbridge and B1256 Westbound);
  - iii. Widening of the A120 eastbound off slip entry arm to provide additional capacity to reduce queuing on the slip road;
  - iv. Re-grading of the earthworks on the northern side of the eastbound off-slip to enhance the visibility for all users;
  - v. Widening of the B1256 westbound entry to provide additional capacity enhancement; and
  - vi. Improvements to the lane markings on the roundabout and the approaches to the roundabout.

National Highways (NH) agree that the vehicular access is acceptable in design terms and sufficient to accommodate the traffic generated by the appeal site in each of the scenarios that were assessed and, on this basis, ECC also accepts that the vehicular access and proposed highway improvements are satisfactory<sup>53</sup>.

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<sup>48</sup> CD 9.5, Landscape Mitigation Zone: Planting Parameters, p6, Verified Photomontages: Methodology and Supporting Evidence, January 2021.

<sup>49</sup> CD 9.5, Occluded wireline, year 15 planting, AVR01, Type 4 Photomontage, p25, Verified Photomontages: Methodology and Supporting Evidence, January 2021.

<sup>50</sup> CD 9.5, Masterplan - fully rendered view, 25 years growth, p13, Verified Photomontages: Methodology and Supporting Evidence, June 2022.

<sup>51</sup> CD 14.3, page 21

<sup>52</sup> ID 19, Drawing 110031/A/114 Rev: P03

<sup>53</sup> ID 25, paragraphs 2.2-2.3

Bearing this in mind, as well as having carefully considered all the evidence, I also agree that this would be the case. No technical evidence to the contrary was laid before the Inquiry and there are consequently no substantiated grounds to suggest that the access would not be suitable.

55. The route between the access point and main part of the appeal site would comprise an internal access road which would be around 1.2 km in length. The design would re-purpose the existing haul road as a segregated footway and cycleway which would provide connectivity between the main site and an interchange hub (the Hub) that would be situated in relatively close proximity to the A120 junction. As the new route would replace the existing haul road, the quarry traffic would use it for the duration of the remaining quarrying activities. The details of this route are set out in the relevant plan<sup>54</sup>.
56. The Hub would provide an interchange between existing bus services and passengers alighting from a new shuttle bus service or alternative means such as walking or cycling/scootering. A covered waiting area would be provided as well as passenger information and secure storage and charging for cycles, e-cycles and e-scooters. Although the final design is a reserved matter, an illustrative design shows the potential layout which would include a turning circle for buses<sup>55</sup>, with the broad location being indicated by condition<sup>56</sup>. The shuttle bus service would provide a public transport link from the main part of the site to the Hub and Great Dunmow town centre. The existing 133 and X30 services would undertake a small diversion to the Hub where passengers would be able to access onward services to Stansted, Braintree and Chelmsford<sup>57</sup>.
57. The new shuttle bus service would be secured through the s106 and would ensure a minimum, 30-minute (min) frequency service between Mondays and Saturdays<sup>58</sup>. The appellant would subsidise the service for a minimum period of 12 years, during which time a single bus would be provided for the first 8 years with an option for a second bus for a further 4 years should demand significantly increase once the appeal site is built out<sup>59</sup>.
58. The walking and cycling routes with approximate times are set out in the most recent Statement of Common Ground (SoCG) between the appellant and ECC<sup>60</sup>. A table of the agreed times to various local facilities is also included in the same document<sup>61</sup>. Assuming a central starting point, it is agreed that the approximate walking times to the supermarket (2.3 km) would be 29 mins, existing Helena Romanes Secondary School (3.9 km) would be 48 mins and Great Dunmow High Street (3.4 km) would be 42 mins. The approximate cycling time to Stansted Airport (9.2 km) would be 32 mins.
59. A number of improvements to some of the associated walking and cycling routes have been proposed<sup>62</sup>. These would be secured via conditions and/or the s106 and include:

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<sup>54</sup> ID 25, Drawing 110031/A/91 Rev: G, Appendix D, Updated SoCG, July 2022

<sup>55</sup> CD 9.6, Image 5.9, page 50

<sup>56</sup> Condition 29(ii)

<sup>57</sup> CD 9.6, paragraph 5.40

<sup>58</sup> ID 47, Schedule 4, Bus Service Definition

<sup>59</sup> The appellant's transport witness, IC

<sup>60</sup> ID 25, appendix D

<sup>61</sup> ID 25, table 3.2

<sup>62</sup> ID 25, table 3.1



- Repurposing the existing quarry haul road to provide a segregated walking and cycling route, which would be surfaced, signed and lit<sup>63</sup>;
  - Improve the route (PRoW 33\_5) from the site over the A120 to Takeley Road via the existing bridge to the west of the Dunmow West Interchange<sup>64</sup>;
  - Provide a route within the appeal site to connect to PRoW 36\_23 and the proposed footway/cycleways of the Barratt Scheme<sup>65</sup>; and
  - Provide segregated footway/cycleway adjacent to the B1256 Stortford Road, but behind the existing hedgerow, which would cross this road to join the Flitch Way via High Cross Road<sup>66</sup>.
60. Turning to potential impacts on the safe and efficient operation of the wider road network, the parties agree that the scheme would not lead to any severe, residual cumulative impact on the road network or have an unacceptable impact on highway safety<sup>67</sup>. This was confirmed by the Council in oral evidence as well as the fact that RfR 3(b) and 3(c) and RfR 4(b) were withdrawn by the end of the Inquiry<sup>68</sup>. Having carefully considered the evidence I also agree that this would be the case and that there would be no conflict with paragraph 111 of the Framework.
61. Great Dunmow Town Council came to a different view and it maintains, as did a number of interested parties, that there would be impacts on the wider road network. This was, in part, informed by a review that was produced in June 2021 that, among other things, considered the technical information that the appellant submitted at the application stage<sup>69</sup>. Since that time, a significant amount of additional transport evidence has been submitted<sup>70</sup> which has shaped the mitigation that would be secured through the s106 as well as the final positions taken by both the Council and NH. As such, the Town Council report and its conclusions cannot be considered up-to-date. I shall nevertheless return to the more general matters that it raises, as well as the effect on the B1256 corridor, in my conclusions.

### **Case for the Appellant**

62. The appellant started by setting out that it is now 17 years since the Council adopted a Local Plan for its area, but despite the need for housing having increased, and house prices having escalated, in the intervening period, too few houses have been delivered.
63. After the withdrawal of its last draft plan, the Council adopted a Housing Strategy<sup>71</sup> in order to identify its key priorities. Its authors sought to highlight the reality of the current situation through statistics and also through vignettes aimed at personalising the District's unmet housing needs, for instance:

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<sup>63</sup> ID 25, drawing 110031/A/91 Rev G

<sup>64</sup> ID 25, drawing 110031/A/121 Rev B

<sup>65</sup> ID 25, drawing 110031/SK113

<sup>66</sup> ID 25, drawing 110031/A/116

<sup>67</sup> ID 25, paragraph 4.19

<sup>68</sup> The Council's transport witness, XX

<sup>69</sup> CD 16.35

<sup>70</sup> CD 1.25-1.29

<sup>71</sup> CD 4.9.

*Jack, aged 38, is a Baggage Handler at Stansted Airport and earns £18,000 a year. He is currently living in private rented accommodation with a work colleague in Bishop's Stortford and has been working at the airport for 11 years. He has a 9 year old daughter from a previous marriage and he would like his own home to enable her to stay with him every other weekend. Jack's salary is not sufficient for him to purchase his own property and so he has joined the Council's Housing Register and is seeking either a Council property or a Housing Association property as close to Stansted Airport as possible.*

64. The Council has not granted permission for sufficient affordable housing for people like Jack, a problem going back many years which is keenly felt in the District. As the Council's planning witness acknowledged, it is only through the grant of permission for large-scale housing schemes (involving a large number of market homes) that the number of affordable housing units generated begins to approach the 40% target adopted in the local plan, let alone the actual needs for affordable housing which surpass the 40% target.
65. The Council's Housing Strategy therefore recognises that it should seize the opportunities offered to bring housing forward and that it needs to act in partnership with the private sector which has a *de facto* responsibility for identifying and bringing forward most housing in the Council's area. The current indication is that there will be no new Local Plan before 2025 at the earliest and the Housing Strategy approach remains in place.
66. Turning to spatial matters, the appellant notes that the appeal site lies adjacent to the edge of Great Dunmow which is the second-largest town in the area. It is within striking distance of its largest employer, Stansted Airport. The appellant proposes between 1,000 and 1,200 new homes on the site, of which nearly 500 would be affordable.
67. The appellant is of the view that the appeal proposal would yield significant affordable housing and market housing, in line with the aims which the Council adopted on a corporate basis in 2021 and which seek to respond to the injunction in the Framework to increase the supply of housing and meet all relevant housing needs.
68. So, the appellant claims that the architecture of the planning judgement in this appeal is relatively clear. There is no dispute that the appeal scheme is contrary to the adopted plan as a whole – which is unsurprising, given when it was adopted and the fact that the site lies in the open countryside.
69. The effects of the scheme have been examined in the evidence before the Inquiry. Some relatively localised landscape and visual harm would arise, which (as the 2014 Inspector said) is inevitable in Uttlesford if its housing needs are to be met. Some limited harm to the settings and significance of designated heritage assets in Little Easton would be experienced, but the distances involved and the way the northern boundary of the scheme is proposed to be contained by a deep woodland belt would go a long way towards reducing the harm due to effect on the settings of relevant assets according to the appellant.
70. Law and policy require significant importance and weight to be given to these harms and for the balancing exercise under paragraph 202 of the Framework to be tilted towards conservation. But even bearing those points in mind, the

appellant takes the view that it is clearly the case that the very substantial aggregate benefits of the scheme outweigh the harm to designated heritage assets.

71. Paragraph 11(d) of the Framework is therefore engaged. In the appellant's judgement, the benefits would not be significantly and demonstrably outweighed by the heritage, landscape and other harms.
72. The Council argues that there is a breach of policy because the site would not be accessible by non-car modes. But that is plainly not the case: robust provision has been made for usable bus connections and most, if not all, main destinations can be reached by cycling. Pedestrian access is more difficult due to the distances involved but, as the appellant's transport witness said, that is a very common aspect of urban extensions to towns like Great Dunmow.
73. The Framework reminds us to be proportionate and location-specific in applying the policy for transport accessibility according to the appellant. There is also the important point about limiting car journeys even for those who drive – the services of Great Dunmow and the jobs of Stansted are far closer than many parts of what is a large, rural, district.
74. The appellant poses the question of why housing should be permitted on the site. Firstly, it is considered an excellent location with no apparent alternatives. Secondly, the need is severe with no up-to-date Local Plan and a long wait for one to be adopted which means there is no basis for large-scale housing to come forward in a plan-led manner at the current time. Thirdly, the conflict with the development plan and the relatively limited harm to landscape and heritage would be outweighed by the planning benefits of the scheme. Applying s38(6) of the 2004 Planning and Compulsory Purchase Act, that is why material considerations indicate that permission should, in this case, be granted according to the appellant.
75. The scheme is in outline and seeks permission for a residential-led mixed use development for up to 1,200 homes with 40% affordable housing, a primary school, community facilities and transport links. No issues remain between the main parties as to the adequacy of the environmental impact assessment of the scheme<sup>72</sup>, the validity of the proposed parameters to control and define the development or the sufficiency of evidence to enable the effects of the scheme to be properly assessed.

### Housing Benefits

76. The appellant makes the following points concerning the housing benefits:
  - a) First, the appeal scheme would comply with the Government's policy on high-quality design. It is not disputed by the Council that the 1,000-1,200 homes proposed on the site would be capable of being well designed, i.e. that they would make a beautiful, high-quality place to live<sup>73</sup>. In light of the Government's emphasis on good design in the recent editions of the Framework, this is a point of some significance. The site is large enough, and sufficient care has been taken to assess the parameters as well as the

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<sup>72</sup> Confirmed by the Council's planning witness in answer to the Inspector's question.

<sup>73</sup> Not, as the Council's planning witness sought to characterise it in passing, simply a "very large housing estate".

illustrative layouts and design coding though conditions, to deliver good design across a very significant number of new homes and associated community facilities. Of course, quantity of housing and affordable housing is important in the current circumstances but the agreed position is that it would not come at the expense of quality.

- b) Second, this appeal is not a beauty 'contest' between the appeal scheme and the 2014/16 appeal scheme. Whilst some of the previous Inspector's and SoS findings might be material on this occasion, the overall planning judgements involved are entirely distinguishable and tell one relatively little about the correct outcome in this appeal. The appellant says this because the Council seems to imply that a negative inference should be drawn from differences in scale, unit numbers or location of proposed development between the two schemes. Any such suggestion or inference is misplaced according to the appellant. Not only is the overall planning context very different - the housing shortfall in 2022 is "much worse" (the Council's planning witness) than in 2014, for instance - but the scale of benefits and some of the effects are also different.
  - c) Third, and in part connected (at least by way of a response to a thread of the Council's case) is the fact that this scheme is not just an enlargement of the 2014/16 scheme but has its own rationale. As the appellant's planning witness said, the appellant looked carefully at the appropriate scale of the scheme, weighing these factors together with the need for sufficient scale to underpin the provision of community facilities and thereby contribute to place-making. The proposals as they have emerged are therefore well-considered in terms of scale.
  - d) Fourth, there is no disagreement between the main parties that significant weight should be given to the benefit of the housing (including affordable housing) that the scheme would deliver or that such delivery would be in line with the Government's policy of significantly increasing the supply of housing while seeking to meet all relevant housing needs. Of course, the significant shortfall against the 5-year HLS target does not dictate that permission should be granted; but the appellant says it weighs very heavily in favour of the grant of permission and very heavily in all of the relevant balances, i.e. paragraph 202 of the Framework, the overall compliance with the Framework under paragraph 11(d) and the s38(6) balancing exercise.
77. The appellant refers to the fact that the Framework establishes the centrality of housing needs. The housing chapter which focuses on meeting those needs and increasing supply and engages the 'presumption', favouring the grant of permission, if no 5-year HLS can be demonstrated. This is why the appellant says it is right that national policy decision-making places a particular importance on meeting housing need. So, the first reason for giving significant weight to the proposed housing is that to do so would accord with national policy.
78. The second reason is that the 5-year shortfall is accepted to be severe - at only 3.52 years' supply or a shortfall of over 1,000 homes according to the appellant. Severity or degree of shortfall is a relevant factor when giving weight to housing proposals.

79. Third, the Council offers no evidence or argument that the shortfall will disappear or even improve in the foreseeable future (something which, it is sometimes said, militates against giving significant weight to current shortfalls):
- a) The Council's planning witness confirmed that – whatever the precise number – the housing shortfall in Uttlesford is likely to worsen over the next couple of years. The appellant's planning witness's estimate for the degree of further supply erosion over the next year<sup>74</sup> was a rational one, based on the Council's own trajectory figures<sup>75</sup>. Whilst it could not be guaranteed, it should be given due weight as a sensible, evidence-based projection according to the appellant. The Council did not query its methodology or mathematics and it puts a little more detail into the agreed position that the shortfall is likely to worsen.
  - b) It is not argued by the Council that the need would be met, or shortfall removed, by development on brownfield land, or by the development of any identified alternative greenfield sites, particularly any large developments.
  - c) It is not said that the appeal scheme is premature, by reference to the Framework, or that less weight should be given to benefit it would bring because a future Local Plan would meet the need anyway. The Council's planning witness made it clear that it was not claiming any harm to the 'plan-led system' as a result of a grant of permission for this scheme. Furthermore, any argument based on a forthcoming Local Plan would have been highly tendentious, given that there is not even a Regulation 18 draft of a new plan and against the background of plan-making failure over the last 10 years (both the 2013/14 draft plan and the 2018/19 draft plans failed).
  - d) The Council do not say that less weight should be given to the housing benefits the scheme would bring because there would be any issues over delivery of the scheme.
  - e) The timing of the housing benefits would also be highly beneficial for Uttlesford according to the appellant. Of course, with a big deficit, the quicker the better, especially where there are no other obvious sources of large housing numbers. But more than that, the appellant asks the Inspector and SoS to note that it is not said that less weight should be given to the housing benefits because the entire scheme would not be delivered within the 5-year period. In fact, a considerable number of homes would be delivered, according to the appellant's planning witness, in years 3-5 inclusive of the 5-year period. The appellant views this as a matter of importance given (a) the shortfall is agreed to be likely to increase, and (b) the lead-time for delivering houses, especially on larger sites, is considerable. Any Local Plan would take some years to bring forward units on allocated sites after the adoption of a new Local Plan (i.e. some years from, at the earliest, 2025). The appeal scheme would deliver homes, if permission is granted in 2022 or early 2023, from 2024/2025,

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<sup>74</sup> His table 11.1 page 26.

<sup>75</sup> See footnotes to the table, *ibid*, and the document itself at CD4.2.

thereby providing a firm platform for recovering the 5-year HLS before the adoption of any Local Plan and thereafter counting as an important early delivery source in the committed developments for the new plan.

80. This is not, the appellant claims, a standard 5-year shortfall case where bare numbers are prayed in aid to justify permission. There are a number of features of the situation affecting the site and the District which underline why in this case, the housing benefits should be given significant weight.
81. It is agreed that significant weight should be given to the affordable housing offer. This would comprise up to around 480 homes, which would be delivered in the size and tenure mix that is needed.
82. The Council's Housing Strategy is indicative of the central role that meeting affordable needs has within the corporate strategy according to the appellant. There is a very considerable shortfall (as the Council's planning witness put it, a "very considerable need"), with far fewer than the 40% target in the adopted plan having been met. The Council's planning witness criticised the appellant's planning witness's calculations as potentially overstating the number of relevant delivered units<sup>76</sup> and to some extent he accepted that point. But:
- a) The context is an acceptance that there is a significant affordable housing shortfall in the District which is worsening along with the 5-year HLS, reflected in the fact that the affordability ratio (also referred to in the Housing Strategy) has reached 12:1 (house price to median income), which is very unaffordable indeed;
  - b) The appellant explains that if its planning witness's figures are materially wrong, it would be because a large proportion of the delivery in Uttlesford over the past twenty years has been on smaller sites. As the Council's planning witness acknowledged, that would illustrate her point that it is only on larger sites that one approaches the 40% target and bolsters the weight to be given to the 40% delivery in this instance; and
  - c) It should not be forgotten that the 40% target itself was expressly not a means of meeting all of the District's affordable housing needs – the judgement was made that they could not in fact be met through planning policy and the 40% was a compromise<sup>77</sup>.
83. The amount of affordable housing that a scheme provides depends on its overall scale. The appellant observes that there is therefore a direct connection between the overall size of the appeal scheme, its site and the meeting of affordable housing needs. Significant weight should therefore be given to the contribution this scheme would make to a particularly pressing and intractable aspect of Uttlesford's unmet need according to the appellant.
84. The appellant's planning witness takes the view that it is right to judge that significant weight should also be given to the provision that the appeal scheme would make towards care and nursing bedspaces. There is a shortfall up to

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<sup>76</sup> On the basis that the adopted policy does not treat smaller schemes (under 0.5ha and fewer than 15 units) as subject to the 40% target.

<sup>77</sup> See the LP at CD3.1 page 40, paragraph 6.29.



2023 of 312 care and 330 nursing bedspaces which are substantial unmet needs.

85. The Council's planning witness appeared not to be in a position to accept or refute those figures, but that is not a reason to downgrade the weight to be given according to the appellant. As the Barton Willmore expert evidence notes<sup>78</sup>, the numbers are derived from well-used and policy-compliant methodologies<sup>79</sup>. There is no evidence that the commissioning strategy in Uttlesford reduces the need for care or nursing bedspaces – they are the type of need that can only rarely be met in the home in any event<sup>80</sup>.
86. The Framework says that all housing needs should be met, including for the elderly<sup>81</sup>, a theme taken up by the Planning Practice Guidance (PPG), which describes the housing needs of elderly people as "crucial"<sup>82</sup>. Significant weight should be given to specialist provision in the appeal scheme according to the appellant.

### Other Benefits

87. The appellant's planning witness has taken the view in his evidence that weight should be afforded to aspects of the scheme which go beyond mitigation or policy compliance as follows.
88. Public open space delivery in the scheme would go significantly beyond the amount required in local standards<sup>83</sup> and would provide a worthwhile additional resource for residents of Great Dunmow, including those living on the nearby Barratt Scheme site<sup>84</sup>. Moderate weight should be attached to this benefit in line with national policy on healthy living, recreation and place-making.
89. A large number of jobs would be created, both at the construction stage (over an 8-year period or thereabouts) and during the lifetime of the scheme: 333 Full Time Equivalent (FTE) jobs during construction and a minimum of 289 FTE jobs during the operational phase<sup>85</sup>. Again, these benefits should both be given moderate weight, recalling the emphasis on growth and supporting economic growth in the Framework<sup>86</sup>.
90. On a similar theme, the influx of the residents of up to 1,200 homes would bring with it an increase in the available expenditure to be spent in the local area of around £32 million per annum – this should be given moderate weight because of the economic policies in the Framework and also the emphasis that is placed on assisting the vitality and viability of town centres<sup>87</sup> according to the appellant.

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<sup>78</sup> CD 9.7, appendix 5

<sup>79</sup> SHOP@ toolkit, PPG paragraph 004 63004.

<sup>80</sup> ECC's relevant consultation response is at CD 16.10 – it refers to space standards for later living in proposed homes but says nothing which supports the idea that ECC would not value the care and nursing bedspaces.

<sup>81</sup> See Framework paragraph 62.

<sup>82</sup> PPG 63-002.

<sup>83</sup> The appellant's planning witness page 54.

<sup>84</sup> i.e. Land West of Woodside Way, directly adjacent to the appeal scheme to the south.

<sup>85</sup> See CD 1.20 Table 14.20.

<sup>86</sup> See paragraphs 81-82 of the Framework.

<sup>87</sup> Ibid paragraph 86(f), tracing the relationship between residential development and the health of centres.

91. Biodiversity Net Gain is sought by national policy<sup>88</sup> but there is no adopted local guidance. The parties agree that a provision of a minimum of 10% would satisfy policy objectives and this could be secured through conditions. However, the application of the current DEFRA metric shows that (largely due to the presence of ecologically barren arable fields across much of the site) the scheme would bring forward a much greater enhancement than 10%<sup>89</sup>. Moderate weight should be given to this benefit in line with national policy according to the appellant.
92. Limited weight should be given to the safeguarding of the possible rapid transit route (obviously not itself needed for the scheme to be acceptable in planning terms). The appellant accepts that the future of any new settlement at Easton Park is unclear, but (a) it was promoted by the Council as a sustainable new settlement in the last plan, and (b) the securing of a route is of real importance were the proposal to find its way into the new plan – hence the value and benefit in planning terms of ensuring that the opportunity to provide it is not lost.
93. Limited weight should also be given to the landscape benefits of the extensive tree planting proposed, which go well beyond mitigation and would represent a sizeable piece of Green Infrastructure in line with the local landscape character.
94. Given the above, the appellant suggests that they amount to a compelling argument in favour of the scheme, both in terms of their substance and their timing.

### Landscape

95. The appellant's landscape witness considers that there would be harm to the landscape but that it would be relatively localised and mitigated to a significant degree by the new planting that has been proposed. He suggests that the appeal site is rural with some urban influences. Most notably the emerging Barratt Scheme immediately to the south and the housing along Woodside Way which is prominent in some views from the site itself. He acknowledges that national policy<sup>90</sup> requires that character and beauty should be recognised when considering development schemes and that a loss of that character and beauty is properly regarded as a harm.
96. However, the appellant says that it is also fair to have regard to the agreed fact that the landscape of the appeal site is not of particularly notable quality or value. It is not a Valued Landscape<sup>91</sup> or one designated for its character or beauty to which any harm would inevitably attract greater negative weight. The landscape has not changed very much over the past decades, save perhaps for the effects of the westward expansion of Great Dunmow<sup>92</sup>, so this is a point which one can reasonably connect to the judgement reached in the 2014 Inspector's report. Inspector Nicholson found that "most of the appeal

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<sup>88</sup> Ibid paragraphs 174(d) and 179.

<sup>89</sup> 50%, comprising 32% area habitats and 18% from the creation of linear (i.e. hedgerow) habitats.

<sup>90</sup> Framework paragraph 174(b) "recognising the intrinsic character and beauty".

<sup>91</sup> The subject of express protection in national policy (Framework paragraph 174(a)) – and something which often goes beyond just designated landscapes.

<sup>92</sup> A point anticipated in 2014 by Inspector Nicholson: CD 6.1 IR paragraph 15.37 final sentence.



site itself is a fairly average piece of Uttlesford agricultural land and is therefore unremarkable for the district” and “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”. The appellant points to there being a large overlap between the 2014 and 2022 sites and no distinction in terms of the assessed landscape character areas.

97. Inspector Nicholson also expressed the view that the appeal site is no different to most agricultural land in the District where housing is inevitably to be provided. The Council’s planning witness said that she did not understand the evidential basis for the finding (and therefore suggested that no weight should be accorded to it), but the appellant says it was a judgement open to an experienced Inspector who had formed a clear view about the character of the site itself and had carried out a number of site visits in the area. The appellant makes two notes by way of corroboration: the SoS did not take issue with that finding and there is no evidence produced by the Council to contradict it. The appellant considers that the LCA work before both this Inquiry and the 2014 Inquiry serves to underline the types of countryside character in the District, consistent with the previous Inspector’s finding.
98. It is the appellant’s view that the difference between the main parties stems from the fact that the Council’s landscape witness: (a) gave much more weight to what he considered to be the loss of “openness” in the north of the site, and (b) considered the proposed tree planting in the north of the scheme to be harmful and out of character.
99. The appellant’s landscape witness was more circumspect about the question of openness, given the degree of enclosure on the site and took the view that the proposed tree planting would be characteristic of the area.
100. The disagreements between the landscape witnesses were over: (a) the built vernacular, (b) open fields, (c) vegetation, (d) the ‘site’ and (e) the impact on character area B10. In respect of each of these, it is the appellant’s position that the Council’s landscape witness overestimated the degree of impact/harm.
101. The appellant notes that the Council’s landscape witness agreed<sup>93</sup> that the sensitivity of the built vernacular aspect of character was limited and that he had not taken into account the high quality of development that is agreed to be guaranteed by the design coding condition.
102. The difference between the main parties, according to the appellant, turns on the landscape providing an opportunity for enhancement in the National Character Assessment<sup>94</sup> and open fields being referred to as a “key characteristic” in LCA B10. The appellant maintains that the site is relatively well enclosed and even where it is more open, towards the north, it has substantial blocks and lines of woodland present including on the horizon in some views. The sensitivity of the area is not described as medium/high for these reasons by the appellant.
103. The landscape witnesses agree that the scheme would have a beneficial effect, although the Council says this would be ‘minor’ whilst the appellant says it

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<sup>93</sup> Page 28 Table 1.

<sup>94</sup> NCA 86

would be 'moderate'. The appellant's witness explained that all the proposed planting would be appropriate in terms of species and configuration (something which the Council would control through conditions). The appellant considers that the dispute between the parties derives from the Council's landscape witness's objection to the proposed tree planting. However, the appellant makes the following points:

- a) Tree cover in the area of the site (and on the site) often appears as blocks on the horizon, as the Council's landscape witness's own evidence illustrates and will have been noted on the site visits.
- b) Tree cover exists within a farmed landscape with woodland on its edges, which "provide a wooded skyline to many views"<sup>95</sup>; in other words, when one is looking up at the skyline it is often treed and thereby enclosed rather than open.
- c) The appellant does not agree with the Council's landscape witness that the woodland planting proposed would not be "organic", because this understates the degree of latitude in exact configuration that such a large area of planting provides and also overstates how 'organic' most of the existing tree belts are – they are in almost every case farmed field edges, 'man-made' and linear or blocky.
- d) Given that the inputs into the GLVIA3 exercise are identical, as between the experts, the appellant considers that the difference of outcome (i.e. moderate adverse/minor adverse) is illogical. The Council's landscape witness says it was simply judgement but the appellant considers that this does not reflect his acceptance of beneficial nature of the proposed planting as well as his acknowledgement that elements of semi-rural character would be retained.
- e) Finally, in relation to 'B10'<sup>96</sup> the dispute was again centred on the degree to which rurality and expansive views would be affected. The Council's landscape witness acknowledged that this depended on his views as to the incongruity of the proposed planting to some degree. He did, however, accept that the effect on expansive views would be localised due to the degree of existing enclosure and the topography.

104. The appellant explained that topography is important because the proposed development would be at the same maximum AOD as both the highest part of the 2014 scheme<sup>97</sup> and the Barratt Scheme to the south, which is currently being built out. Furthermore, it is not the case that the current scheme proposes built development in an area which the 2014 Inspector felt was important to keep open as is clear from the appellant's planning witness<sup>98</sup>.

105. Which takes us back to the degree of enclosure and mitigation. A condition now seeks to ensure the very early planting of the northern woodland buffer, such that 'day 1' for those trees is a long time – years, in fact, before the housing in

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<sup>95</sup> Ibid at 5.24.

<sup>96</sup> Ibid page 30 paragraphs 6.18-19.

<sup>97</sup> It was clarified during the inquiry that the 2014 heights for development were +/-2m. There is no substantive difference between the heights of the housing in that scheme and this one.

<sup>98</sup> CD 9.7, appendix 2

the north would be brought forward. At the very least, the 15-20 years would begin some 7-8 years before the completion of the development. The appellant says it is important in this case to recognise that the deep woodland buffer, which would contain a proportion of evergreen species such as holly, would largely screen the development after 15 years and effectively prevent it from playing any material visual role in views from the north (Park Road, Little Easton, etc) after 20 years. That is a key aspect of the scheme which has been designed from the beginning and would, as the appellant's landscape witness says, strongly mitigate the landscape character effects by containing them within the site with characteristic woodland planting.

106. For these reasons, the appellant's landscape witness says that the site is of medium sensitivity and would, in landscape terms, have some low to moderate residual landscape effects, which after 15/20 years would not affect wider landscape character at all.
107. Turning to visual impact, the appellant points out that the existing and proposed woodlands would visually contain the majority of the visual impact of the appeal scheme. There is established woodland to the east and west and to some extent to the south where the scheme abuts the Barratt Scheme. It is currently more open to the north but the proposed planting has been designed to curtail views of the current scheme, as already submitted.
108. The appellant highlights the fact that the Council's landscape witness acknowledged most of those points but that he resisted the idea that there would be no visual harm to the north because of his view that the woodland buffer would be inappropriate and harmful itself. He had also misapplied the words of the 2014 Inspector because he thought that the "critical gap" referred to by the Inspector<sup>99</sup> was impinged upon by housing, but it should be remembered that:
- a) The area between the (2014) proposed buffer and Park Road is shown on the 2014 Masterplan<sup>100</sup>.
  - b) The built development in the current appeal scheme would not extend into that area – it would end at around the same point as that occupied by the 2014 woodland buffer.
  - c) The woodland planting would be as effective in the current scheme as it was in the 2014 scheme, as the visualisations show.
109. There were two main points of contention in relation to visual impacts, relating to View 2<sup>101</sup> and View 3<sup>102</sup>, to which the appellant's landscape witness ascribes minor adverse impacts, whereas the Council's landscape witness says moderate/major. The Council's landscape witness finds much more harm in the enclosure of those views because his judgement is that the northern field's character<sup>103</sup> should remain open rather than be enclosed with (in his view) inappropriate skyline woodland. The answer to this is the same according to the

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<sup>99</sup> CD 6.1, IR 15.40

<sup>100</sup> See the appellant's planning witness's Appendix 2, final A3 page.

<sup>101</sup> See The Council's landscape witness page 34 Table 4.

<sup>102</sup> Ibid.

<sup>103</sup> i.e. the area referred to in the illustrations and by the appellant's landscape witness as the Visual Mitigation Zone – see e.g. his paragraph 7.31, page 37.

appellant: there is nothing harmful about the change, given that the area, some 200-350 m in depth which stretches down to Park Road would be extensive and open. The appellant maintains that the woodland planting is just the kind of ridgeline/skyline feature that published work identifies as characteristic of the area.

110. It is right to record that there are stretches of both the Saffron Trail and PROW 18\_33 would be affected by a large magnitude of impact at year 1 and 15, with the significance of impact reducing at year 15 to moderate adverse due to the southern boundary vegetation maturing. Those impacts would only be felt by users for the stretches that are directly affected. Unlike fixed viewpoints, the experience of a footpath is a longer-distance consideration and the appellant considers that the effect of the scheme would therefore be on a relatively short section of what is likely to be a longer journey along the footpath. That is more likely to be the case for the Saffron Trail, which has a special recreational notation which indicates walkers are likely to use it for longer-distance walks rather than short daily trips such as might be associated with dog walking. The effects, in short, would be palpable and adverse, but limited in time and localised.
111. For the above reasons, the appellant accepts that there would be harm to landscape and visual amenity but that must be registered and given due weight, bearing in mind (a) paragraph 174(b) of the Framework, recognising the intrinsic character and beauty of the countryside, and (b) parts of adopted policy which are consistent with the Framework, namely that part of policy S7 which is aimed at preventing harm to the countryside.
112. However, the appellant considers that the weight should be tempered by the way the harm (in both landscape and visual contexts) would be well contained by existing and proposed features. The site is a stretch of the countryside lying adjacent to the now extended Great Dunmow and already feeling influences of the urban area. Given that it is not said to have any elevated value and the harm is likely to be equivalent to the countryside harm needed elsewhere in Uttlesford to meet the housing needs of the District, only moderate weight should, the appellant submits, be given to the landscape and visual harm that would result.

### Heritage

113. The framework for assessing the effect of the scheme on designated and undesignated assets is not in dispute between the parties. It is found in (a) the statutory duty under s66 of the Act, (b) in the relevant paragraphs of the Framework, and (c) in ENV2 of the adopted local plan. Issues concerning the applicability of ENV1 and the appellant's position in that regard are considered in an earlier section of this report <sup>[31-34]</sup> and will not be repeated here for the sake of brevity.
114. The appellant notes that paragraph 195 of the Framework only relates to the minimisation of harm and not the consideration of alternatives. Moreover, both 195 of the Framework and paragraphs 14 and 18 of the HE guidance (GPA3)<sup>104</sup> relate to the minimisation of harm therefore any reference to the lower housing

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<sup>104</sup> CD 13.3 - The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (2017)

density (600 dwellings) of the previous scheme is not relevant because this appeal scheme is wholly different and should be considered on its individual merits.

115. The other matter of approach to mention briefly is the requirement that harm to designated assets be given significant importance and weight as part of a tilted paragraph 202 balance. That has always been acknowledged by the appellant and is set out in the heritage SoCG between the parties<sup>105</sup>.
116. The relevant designated assets are set out in the heritage SoCG<sup>106</sup>: the Grade I Church in Little Easton; Grade II Church Row; Grade II Easton Manor and associated buildings; Portway and Park Road Cottage and Yew Tree Cottage (all Grade II), and the CA. Reference was also made to the non-designated WW2 pillbox and Ravens Farm.
117. The appellant's heritage witness accepts that there would be less than substantial (LTS) harm to the CA, but at a very low level. The same degree of LTS harm would, in his view, be experienced by the Church of St Mary the Virgin (the Church). Both of these effects would arise as a result of the loss of rurality in the hinterland to the assets, which to a small extent informs their significance.
118. The appellant's heritage witness also considers that there would be low harm to the Pillbox through a degree of loss of some of its open setting relevant to understanding its function and a low-medium level of harm to the Ravens Farm due to severance from farmland and urbanisation of its wider setting.
119. These are proportionate judgements. On the one hand, it is right that the CA and the Church have a rural setting and to a small degree that rurality informs their significance. But on the other hand, the degree to which the altered rurality would cease to inform their significance is very small, given the distance of the scheme from the assets and the effect of the proposed landscaping. Although this would effect a change from more to less 'open', it would nevertheless maintain to a very high degree the sense of rurality that is relevant in heritage terms according to the appellant.

### *The Church*

120. The Church, according to the appellant, derives the majority of its significance from its fabric, its architectural and archaeological interest, its aesthetic value and from its historic interest<sup>107</sup>. From without, it is best appreciated at close quarters from the churchyard and the nearby stretch of Park Road. The appellant accepts that it is also visible from the field to the north, albeit screened, in part, by the almshouses<sup>108</sup> and suggests that none of these aspects of significance would be harmed by the scheme.
121. Given that the majority of the Church's significance would be untouched and given the limited role of the appeal site in informing that significance, the appellant considers that the Council's heritage witness's assessment is incorrect.

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<sup>105</sup> CD12.2 paragraphs 3.11 and 3.12.

<sup>106</sup> Paragraph 2.4, CD 12.2.

<sup>107</sup> The appellant's heritage witness deals with these comprehensively at pages 35 to 38.

<sup>108</sup> Ibid paragraph 3.29 page 38.

122. It is the appellant's view that the Church does not have a particularly strong presence in the wider landscape and lacks the beacon-like presence of many churches. Its tower lies within the tree canopy and its relationship with other buildings and the trees around it means that it really only comes into view at close quarters.
123. It is the appellant's case that the Church has no strong historic, visual or associative links with the appeal site. The appellant disagrees that the footpaths across the appeal site were part of a radiating pattern from Little Easton imbued with ritual and historic significance. The area is criss-crossed with footpaths which are expedient<sup>109</sup> and the appellant maintains that there is no functional, operational or ownership connection with the appeal site.

#### *Conservation Area*

124. The assessment of significance of the CA is aided by the presence of a Conservation Area Appraisal (CAA)<sup>110</sup>. The appellant says its contents do not support the Council's heritage witness's assessment in the following ways:
- a) The Council's heritage witness relies on the reference to the CA as comprising a "*historic grouping of buildings in a rural setting*"<sup>111</sup>, but as she accepted, that does not contain, or purport to contain, an assessment of the degree to which the rural surrounds to the village contribute to the significance of the CA itself.
  - b) The CAA<sup>112</sup> – dealing with fields in the area – does not say that they contribute to the CA's significance. There is no evidential basis for attaching particular weight to field patterns or types of agriculture, given changes over time<sup>113</sup>.
  - c) The focus in the CAA is on the buildings and spaces *within* the CA comprising their architecture, listed buildings and materials<sup>114</sup>.
  - d) When the appraisal turns to the wider setting it is not ascribing particular value to the appeal site. There is reference to rural tranquillity, but there is no reference to historical, ownership or associative value of the fields in the area of the appeal site. There is no "estate" legible here to which any associative value might be ascribed.
  - e) It is the appellant's view that since the relationship between the scheme and the CA would, given the distance, be a visual one to the limited extent that there would be intervisibility for the first few years. It is of some significance that the CAA assesses views of importance which do not include any views that would be affected by the scheme<sup>115</sup>.
125. There is no support for the Council's heritage witness's views in the CAA. She also gives great weight to what she regards as the 'isolation' of the CA which is ascribed as forming part of its significance. But as she accepted, the western

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<sup>109</sup> See the footpaths across the area illustrated in The Appellant's landscape witness's MDC1.

<sup>110</sup> CD 4.5.

<sup>111</sup> The Council's heritage witness's paragraph 5.5, page 28, referring to page 10, paragraph 1.45 of CD 4.5.

<sup>112</sup> Paragraph 1.37

<sup>113</sup> This was a point explored in some detail by the Inspector with The Council's heritage witness.

<sup>114</sup> See page 15

<sup>115</sup> See paragraph 1.105 page 34 and 40, and Figure 2 of CD 4.5.



end of the CA is heavily shrouded in trees and contains the ponds and the eastern approaches along Park Road cannot reasonably be characterized as approaches to an 'isolated' settlement. This is because Great Dunmow is only 3 mins away by car, 15 mins by cycle or 20 mins on foot, during which one passes, and has very clear views of, the main Little Easton village to the north, and a number of groups of buildings. In any event, in response to the Inspector's questions on this issue, the Council's heritage witness changed her evidence from "isolated" to "detached". The scheme would not cause Little Easton to cease to be detached from Great Dunmow.

126. The Council's heritage witness is also wrong, in the appellant's view, to judge that the change caused to views on Park Road would harm the significance of the CA through becoming more suburban<sup>116</sup>. The appellant notes that the countryside here is characterised by open landscape punctuated by low thick fragmented hedges and occasional blocks of woodland. The appeal scheme planting would not denature the setting of the CA by introducing a historically inappropriate woodland typology into those views and within 20 years the scheme would not be readily appreciable any way<sup>117</sup>.
127. These points also underpin the response to Place Service's expressed concerns on this point<sup>118</sup>. Great Dunmow and Little Easton would not coalesce, nor would one lose the ability to perceive them as historically distinct settlements – indeed, all the evidence points to the enclave of Little Easton having a relatively strong, internally-focused character, none of which would be affected by the proposed scheme according to the appellant.

#### *Church Row*

128. The appellant's heritage witness says that the former almshouses, Church Row, have no functional or historic connection with the fields which include the appeal site. There was no Estate connection. Although the appeal site, or part of it, lies within the setting of Church Row, it does not contribute to its heritage significance, which resides entirely in its historic, and aesthetic interest and the connections with the Church and with the Countess of Warwick.
129. Furthermore, the buildings were clearly not designed to relate strongly to, or draw anything from, the appeal site – they turn their largely imperforate and unadorned backs to the fields to the south and focus almost entirely on the relationship with the Church. They do not have expansive views – as there are two windows at the rear but no sense of any designed relationship or connection that goes to significance according to the appellant.
130. There would be a significant physical and, after a few years, complete visual separation between the scheme and Church Row. The appellant consequently maintains that its witness is correct to judge that they would not suffer any harm to their heritage significance.

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<sup>116</sup> See The Council's heritage witness's paragraph 7.5 page 51.

<sup>117</sup> See The Appellant's landscape witness's last AVRs Figure 6 page 24.

<sup>118</sup> CD 16.14, page 2

### *Easton Manor Group*

131. The appellant's heritage witness sets out in his evidence a comprehensive assessment of the significance of this group of buildings<sup>119</sup> with which the Council's heritage witness agrees. She also acknowledged that the buildings are enclosed or secluded, especially to the south/west, and that they are visually divorced from the appeal site.
132. No visible built form would be juxtaposed in any view with the group and there would be no sense in which the group would be impinged upon or suburbanised. Indeed, there is nothing in their significance which would be affected, as the appeal site and fields to the south of the group have no associative connection with the former Manor according to the appellant<sup>120</sup>.

### *Portways/Park Road Cottage/Yew Tree Cottage*

133. These buildings, as the appellant's heritage witness describes<sup>121</sup>, have varying degrees of historic interest residing in their fabric. He observes<sup>122</sup> that the primary historic setting is the relationship of Portways with Park Road Cottage and Yew Tree Cottage and with the road as part of a historic roadside development. He notes that they are experienced in the context of the adjacent properties to the east and west and to the rear of Portways there is a great deal of remaining enclosure.
134. None of the three buildings has a meaningful relationship with the appeal site. So, whilst it might, in the early years, be possible to see some of the development as one traverses Park Road itself near the buildings, that would not impinge on the rural context for the three buildings, due to the distance and the proposed buffer planting. The appellant's heritage witness illustrates this through aerial photographs showing the approximate location of the planting<sup>123</sup>.

### *Non-designated Assets*

135. There would be a change to the setting of the Pillbox due to its relative proximity to the scheme and encroachment on some of the area which it seems likely was designed to defend over. The appellant's heritage witness puts the harm at very low. He notes that the Design Code<sup>124</sup> requires exploration of the potential re-purposing or restoration of this structure, potentially with interpretation boards, which the appellant's heritage witness judges would outweigh the harm he identifies.
136. It is inevitable that the development of a large extent of the agricultural setting of the unlisted group at Ravens Farm would give rise to harm, as the appellant's heritage witness finds<sup>125</sup> that there would be obvious change and urbanisation, but also a separation and some breathing space in the design in which to read and understand the group as older, different and separate from the appeal

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<sup>119</sup> His paragraph 3.43.

<sup>120</sup> The Council's heritage witness was wrong to see an "agricultural link" with the fields (her paragraph 6.42), about which there is no evidence.

<sup>121</sup> Section 4 of his PoE, pages 50ff.

<sup>122</sup> Paragraph 4.6, page 52.

<sup>123</sup> CD 9.4, photo 25

<sup>124</sup> CD 1.3 page 37

<sup>125</sup> Paragraph 5.13 page 67.



scheme<sup>126</sup>. Given that the architectural and historic interest of the group derives principally from their fabric and layout (which would remain unaffected), the appellant's heritage witness ascribes a low to medium level of harm to the assets.

137. Mention was also made in the Council's heritage witness's evidence about the Rectory. It is not listed, addresses the Church and has no designed, historic or associational connection with the site. It would not, according to the appellant's heritage witness, suffer any adverse impact.
138. The appellant says the very low harm to the setting of the Church would indicate that the scheme would not comply with s66 of the Act. There would be no harm to the CA itself and consequently s72(1) of the same Act would not be engaged. If ENV1 is found to apply then there would be a limited conflict with this policy. In line with the s66 point, the appellant accepts a small degree of harm to the significance of the Church would indicate a degree of conflict with ENV2 as well.
139. Considerable importance and weight attaches to the harm to the significance of the Church and CA, but its degree is, according to the appellant, very small indeed. The Court of Appeal in *Bramshill* referred to, and endorsed, the earlier statements by the Court of Appeal that in undertaking the Framework balance, it is for the decision maker to apply this in a fact-sensitive way<sup>127</sup>:

*73 "The concept in paragraph 193 – that "great weight" should be given to the "conservation" of the "designated heritage asset", and that "the more important the asset the greater the weight should be" – does not predetermine the appropriate amount of weight to be given to the "conservation" of the heritage asset in a particular case. Resolving that question is left to the decision-maker as a matter of planning judgment on the facts of the case, bearing in mind the relevant case law, including Sullivan L.J.'s observations about "considerable importance and weight" in Barnwell Manor.*

*74 The same can be said of the policies in paragraphs 195 and 196 of the NPPF, which refer to the concepts of "substantial harm" and "less than substantial harm" to a "designated heritage asset". What amounts to "substantial harm" or "less than substantial harm" in a particular case will always depend on the circumstances. Whether there will be such "harm", and, if so, whether it will be "substantial", are matters of fact and planning judgment. The NPPF does not direct the decision-maker to adopt any specific approach to identifying "harm" or gauging its extent. It distinguishes the approach required in cases of "substantial harm ... (or total loss of significance ...)" (paragraph 195) from that required in cases of "less than substantial harm" (paragraph 196). But the decision-maker is not told how to assess what the "harm" to the heritage asset will be, or what should be taken into account in that exercise or excluded. The policy is in general terms. There is no one approach, suitable for every proposal affecting a "designated heritage asset" or its setting.*

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<sup>126</sup> The appellant's heritage witness refers in this connection to the masterplan and also the DAS images of the likely relationship here: see his Figure 17, page 66.

<sup>127</sup> See *Bramshill* CD7.3 at paragraphs 73-75.

*75 This understanding of the policies in paragraphs 193, 195 and 196 reflects what Lewison L.J. said in Palmer (at paragraph 5) – that the imperative of giving "considerable weight" to harm to the setting of a listed building does not mean that the weight to be given to the desirability of preserving it or its setting is "uniform". That will depend on the "extent of the assessed harm and the heritage value of the asset in question". These are questions for the decision-maker, heeding the basic principles in the case law."*

140. The appellant notes that harm invokes a presumption affecting the 202 balance and that the balance needs to give considerable importance and weight to the harm. Consequently, it is imperative, according to the appellant, in the case of every asset, to assess how much weight should be given to the harm overall. It includes assessing the "extent of the assessed harm" as well as the "heritage value of the asset in question".
141. Applying those principles to this case, the Grade I Church and the CA are both of great heritage value, but the extent of harm to them as a result of the scheme would be very small. That tempers the overall weight (whilst recognising that in both cases it should "considerable") to be given to the harms identified according to the appellant.
142. The benefits carry a very significant weight and the appellant agrees with its planning witness in that it is correct to judge that they would outweigh the extent and importance of the harms identified. The scheme would barely reduce the significance of the two assets, but would bring 1,200 homes of which nearly 500 would be affordable homes as well as other benefits. The appellant notes that this is at a time when there is a very marked need for them which it has not been suggested could or would be met elsewhere in the foreseeable future. Under such circumstances the appellant maintains that the 202 balancing test would clearly be passed in this instance.
143. It also follows that there is a clear and convincing justification for harm, in line with paragraph 200 of the Framework. The scheme has been the subject of careful calibration as to scale as well as containing large scale, in-built mitigation. The appellant suggests that the GPA3 idea that harm should be "minimised" is passed in this case.
144. As a result, the appellant concludes that there would be no remaining argument against the engagement of the tilted balance in paragraph 11(d) of the Framework.

#### Accessibility

145. The highways and transportation objections have been largely satisfied, as the Council's transport witness confirmed. The Council and ECC no longer pursue RfR 5, or RfR 3(b) or (c), or RfR 4(b). There is no issue over adequacy of information or any allegation that the scheme would cause a severe adverse impact on the highway or safety.
146. According to the appellant, no weight ought to be given to the objection of NH because it produced no evidence of impact on the SRN and both the transport assessment and its addendum shows there would be none. The appellant is of the view that its representations added nothing substantive to the Council's transport witness's views on accessibility.

147. That leaves the question of accessibility to and from the appeal site by bus, cycle and on foot. The Council's transport witness's view is that the site is not sustainable to the extent that adopted LP policy GEN1 would be breached, as well as the policies in paragraphs 104, 110 and 112 of the Framework.
148. But context is all-important here. It is understood by all parties that, by contrast to the policy in paragraph 111 of the Framework (i.e. refuse permission if this is a severe residual cumulative impact on safety or free flow of traffic), the relevant policies relating to sustainable transport accessibility are not so restrictive. Moreover, paragraph 110 of the Framework provides that:
- "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;"*
149. The policy, as set out in paragraph 110, is therefore to enable appropriate opportunities for the precise context given the type of development and its location. This chimes with the advice in paragraph 105 of the Framework:
- "Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*
150. The need for reasonable judgements bearing in mind the precise context is also clearly signposted in paragraph 112(a) of the Framework:
- "Applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;"*
151. The appellant highlights the consistent stress on "so far as possible" and "appropriate". There is no single yardstick for measuring how a scheme performs against the deliberately flexible provisions of the Framework according to the appellant. In this case, the site would form an urban extension to Great Dunmow, on the western side of Woodside Way (like the Barratt Scheme) but with a configuration which prevents straight-line accessibility to the town centre or the school.
152. The appellant makes three main points in relation to the Framework guidance:
- a) Firstly, it is not Government policy to pass/fail a scheme by reference to uniform accessibility criteria and in the case of much needed housing in the form of an urban extension, one must approach the question reasonably. Such developments are, by definition, on the outskirts of settlements. They are inherently less likely to be within easy walking

distance of the centre and other facilities<sup>128</sup> and allowances have to be made when considering micro-sustainability, in the service of the macro-sustainability according to the appellant. That is to say, of providing homes in an urban extension rather than in a more remote and unsustainable location. One consequence of national planning policy, in the appellant's view, is that one has to treat with caution guidance which (as in the Council's transport witness's evidence) appears to downgrade or criticise routes simply on the basis that they are not "direct" or a the "crow flies" – there are often negotiations and trade-offs to be made when extending a town such as Great Dunmow.

- b) Secondly, the site is agreed by both the Council's transport witness and the Council's planning witness to have certain macro-locational advantages – it is adjacent to Great Dunmow and close to Stansted and that carries with it a greater ability to offer genuine opportunities for sustainable travel to those major destinations within Uttlesford than the majority of the District.
- c) Thirdly, Government does not prioritise walking over cycling – they are both accorded the same priority despite the fact that the range that cycling brings far exceeds distances that can be easily walked according to the appellant.

153. There is no issue between the parties that the cycle routes to all relevant destinations<sup>129</sup> are within the standard distances advised for cycling<sup>130</sup>. The residual points raised by the Council's transport witness are all qualitative and she accepted that cyclists have different aptitudes and that there would be many people who would cycle the proposed routes.

154. The appellant notes that the routes would offer the opportunity for cycling in line with policy:

- a) The main access to the B1256 would be segregated, paved and lit (15 mins to the supermarket, 19 mins to the town centre)<sup>131</sup>.
- b) To cycle via the Barratt Scheme site would be relatively direct and coherent with suitable surfaces capable of being provided and free of traffic conflict<sup>132</sup>.
- c) It would be easy to cycle from the site to the existing and re-located Helena Romanes School (HRS)<sup>133</sup>.
- d) It would be possible to cycle to Stansted by a dedicated route using the bridge over the A120 and the Flitch Way. The surfacing of this route is controlled by the s106. Although it is not lit and one has to dismount to cross the Stortford Road at one point, these are relatively minor

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<sup>128</sup> That pattern is true in Great Dunmow already – Land West of Woodside Way is 2.1 km from the centre; LSSR is 1.4 km away, and Land West of Buttley's Lane is 2.2 km away.

<sup>129</sup> See the Appendices to the Highways SoCG setting out the cycle routes.

<sup>130</sup> See The Council's transport witness's paragraph 7.7, page 33, which sets that out.

<sup>131</sup> See The appellant's transport witness Rebuttal, paragraphs 2.22-23.

<sup>132</sup> Ibid 2.25-26. NB in particular the fact that the route through Barratt has been the subject of agreement between the Appellant and Barratt (see Appendix F to the SCG on Transport)

<sup>133</sup> Ibid 2.29 and 2.38.

inconveniences for confident cyclists who would be prepared to cycle to Stansted.

155. In relation to this last point, the Stortford Road drawing<sup>134</sup> shows the works to enable a crossing. It is a relatively busy road but visibility at that point is excellent. This kind of crossing is, according to the appellant's transport witness, relatively common for cycle-commuters. The appellant says that there is no need for further safety audits of the crossing and that there is no guidance which rules out this kind of route or crossing for cyclists.
156. Cycling opportunities would therefore be provided in line with national and local policy. As to pedestrian movements, the scheme would enable easy walking within the scheme to the primary school, community hub and shop as well as local employers. There would consequently be a degree of internalisation. The real value of short trips by foot to the shop for *ad hoc* purchases and to the school with primary-age children should not be underestimated according to the appellant.
157. Outside the site, there are opportunities to walk and the appellant makes the following points:
- a) The new HRS would be easily walkable. The appellant recognises the new school is not guaranteed, but it has permission and is to be facilitated by a re-development of the existing site which is being actively pursued. There is nothing unsafe about the route to and from that site. The Council's transport witness confirmed that the point related to the 'perception' of lack of safety, rather than the route actually being unsafe, something which would be clear if it was regularly used. Design at the detailed stage is more than capable of dealing with removing opportunities for concealment. As the appellant's transport witness stated, children going to school tend to move in groups and it would also be lit through the appeal site and through the Barratt Scheme site.
  - b) Although further, one could walk to the supermarket (2.3 km) in under half an hour – there are no additional issues with such a walk. The opportunity is clear despite some residents having to double back during the walk. As the appellant's transport witness noted, it is the overall convenience of the walk that would matter. Walking to the existing Helena Romanes, Great Dunmow town centre or to the supermarket would all be possible for some residents according to the appellant.
158. The appellant is of the opinion that the walking and cycling opportunities would be appropriate to the location with many of the facilities on site and some within a 20 min journey on foot or by bike or e-bike.
159. The appellant notes it has worked hard to put in place a system which meets the Framework policy objectives. Within the scheme, there would be access to a bus which would go to the town centre<sup>135</sup> as well as to the Hub near the access roundabout<sup>136</sup>, at which one could change to one of the existing routes (133 or

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<sup>134</sup> Appendix D, ID 25

<sup>135</sup> Minor issues about the bus stops at HRS are covered in the note ID 37.

<sup>136</sup> Agreed to be fit for purpose in terms of its in-principle design.

- X30). There is no issue about the functionality of the hopper bus or the fact that it would be viable for at least 12 years during the subsidy period<sup>137</sup>.
160. The appellant highlights the fact that throughout the establishment of the site and well beyond, when the first families are moving in, and patterns begin to be set, there would be a bus service that the Council accepts would be viable. This would represent a good service with a 30 min frequency and the possibility of a second bus being added in the latter part of the period (after 8 years). The bus service is directly in line with the Framework and would provide a suitable and accessible service which would be attractive to those without a car, or who did not wish to use one. The bus service arrangements would be attractive to existing operators because they do not require a long diversion through the site (as would have been the case in 2014), with consequential 'dead miles' returning south on Woodside Way.
161. Beyond the subsidy period (i.e. later than 2035), the Council is concerned that the bus service would not be viable. However, the appellant makes the following points:
- a) Slight care needs to be taken with too rigid a definition of the "subsidy period": it might well be possible for the operator to spread out subsidy, if required, beyond Year 12, by reducing frequency or bus numbers.
  - b) The procurement and financial arrangements for the hopper bus is not fixed at the moment – the County would, as its transport witness acknowledged, play an important role in the contractual agreements governing the hopper. It might well be Arriva (current operator of the 133) who runs the hopper bus and therefore through-ticketing and splitting up the fare is not an issue.
  - c) The appellant considers that even were the operators of the hopper and other connecting routes to be different companies, the County still plays a highly influential role in the contractual provisions. It is surely not beyond the abilities of bus companies to agree a division of the fare which enables all the new passengers from the appeal scheme to connect to the existing through-services according to the appellant.
162. Arriva's representative was not called and questions about his email correspondence with the Council's transport witness could not be directly addressed. The key issues that emerged were reimbursements of concessions and the general level of fares in rural Essex. As to the former, no details were given and the appellant says it is very difficult to give weight to the point. As to the latter, the fares in the area of Takeley/Stansted/Great Dunmow are already far in excess of the £1.50 that Arriva's representative asserts – a colleague of the appellant's transport witness took a bus from Little Canfield to Great Dunmow during the Inquiry and the fare was £3.10. Little weight should be given to the suggestions that the fare assumed for 2035 and beyond is too low says the appellant.
163. The main point, according to the appellant, that emerged during the Council's transport witness's evidence was that ECC is not in a position to say what the

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<sup>137</sup> Mrs Council's transport witness XX confirmed.



viability of a bus service would be in 2035 and beyond. The cost of running the bus is unknown, whether the buses would all be electric, what fare would be charged - all these points are unknown. But it is reasonable to assume that with a well-used bus service in place for 12 years, the fare would have become settled and reliable by 2035. Fares necessarily fluctuate in line with the costs of a service.

164. It is therefore the appellant's position that the proposed bus service would meet the policy objectives in the Framework in terms of "so far as possible ... facilitating access to high quality public transport". There is no suggestion that the scheme would cause harm to the running of public transport - it would be an enhancement which is borne out by the summary note on bus delays<sup>138</sup>.
165. The appellant acknowledges that there would be car use from the site, although it is less straightforward than it might first appear to use the car regularly to get into Great Dunmow town centre or to Stansted<sup>139</sup>. The appellant maintains that sufficient policy-compliant provision for a genuine choice of transport has been made. The location of the site has obvious advantages in overall sustainability terms and residents would be encouraged out of the car by a fully effective bus service agreed to be viably subsidised until at least 2035, by a range of cycling routes and by some on-site and nearby walkable facilities. Although not a trip to work or school, the site also offers good access to footpaths and the wider countryside which would be a further health benefit.

#### Other Matters

166. The Council has declared a climate emergency and demonstrating resilience to climate change is a requirement of the Framework and of ECC's Climate Initiatives. For many reasons, the appellant considers that the appeal scheme would be in line with climate change policy - these are summarised in the document entitled *Review of Consistency with ECC Climate Change Initiatives*<sup>140</sup>.
167. Local residents raised several matters which lie outside the scope of the Council's case and are not in dispute between the appellant and any relevant public body: water resourcing and resilience; ecology; noise and disturbance from light spill, the maintenance of the Countess of Warwick Show on the appellant's land; the delivery of primary and secondary education; and loss of agricultural land.

#### Appellant's Conclusions

168. The appellant concludes that it would be very much in the interests of sustainable development (in all three of its facets) for permission to be granted for this scheme: to deliver housing and affordable housing, care spaces and some significant other benefits, despite chronic plan-failure in Uttlesford, on an undesignated site adjacent to the second largest settlement and near the biggest employer in the District. The cost would be modest landscape harm and some very limited heritage impacts - but the planning balances are markedly in favour of delivering the scheme. Overall, the scheme accords with the

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<sup>138</sup> ID 41

<sup>139</sup> ID 36

<sup>140</sup> ID 27

Framework, which outweighs the non-conformity with the very out of date local plan.

169. Subject to the conditions as discussed and the completed s106, the appellant respectfully requests that permission be recommended and granted for this scheme to proceed.

### **Case for the Council**

170. The Council considers that it is abundantly clear following the evidence that this proposal is more harmful than the previous scheme rejected by the SoS on the same site. The proposal is contrary to the development plan as a whole, causes a range of significant landscape and visual harms, attracts the presumption against development under s66 of the Act due to harm to nationally important heritage assets, and fails to provide a scheme which would encourage travel by means other than the car. As set out in the Council's opening<sup>141</sup>, these continue to provide formidable reasons why the Council is right to reject the scheme even in the absence of a 5-year HLS.

### Landscape

171. The Council considers that development within the parameters put forward by the appellant for this application would not be capable of being effectively assimilated into the landscape and would not be acceptable in landscape and visual terms. Although the appellant's landscape witness was keen to make the point that the site does not have any landscape designations and is agreed not to be a valued landscape<sup>142</sup>, the position remains that there are valued features to the landscape and views across the site which would be significantly impacted by the proposed development. It is not a feature of local or national landscape policy that a site must be designated or valued in the narrow terms set out in the Framework in order for development on it to be in breach of policy or to be unacceptable<sup>143</sup>.
172. The site is in agricultural use and generally remains rural in feel. This sense is reduced to some extent in the southern part by proximity to the Barratt Scheme and the A120 corridor<sup>144</sup>, but it is not fair to suggest, as the appellant's landscape witness seeks to, that the sense of rurality is diminished across the whole of the site. Neither is it fair to suggest, as the appellant's landscape witness does, that the proposal would have intervisibility with existing and proposed schemes which would further reduce the perception of rurality<sup>145</sup>. Parts of the southern part of the site would be intervisible with the development site to the south (the Barratt Scheme) and the rooftops of the Woodlands Park scheme are visible in places. The other developments relied on by the appellant's landscape witness which include the Helena Romanes redevelopment currently at appeal, land to the South of Stortford Road, the relocated HRS and land West of Buttley's Lane are more distant and in the unlikely event it is

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<sup>141</sup> ID5

<sup>142</sup> CD 9.5 Appellant's landscape witness PoE §8.19

<sup>143</sup> Appellant's landscape witness XX

<sup>144</sup> CD 9.5 §8.3

<sup>145</sup> CD 9.5 Appellant's landscape witness PoE §8.6



possible to get glimpsed views of them they are unlikely to exert any influence over the appeal site<sup>146</sup>.

173. Adjacent to the Barratt Scheme is the only part of the appeal site where the proposed developable area of the appeal site adjoins Great Dunmow. The appeal site, and particularly the proposed developable area of the site, would not read as a logical extension to Great Dunmow<sup>147</sup>, a point which impacts on both its capability of assimilating a large-scale development such as this one and its ability to provide sustainable walking and cycling routes.
174. The appellant places significance on the well-contained nature of the appeal site<sup>148</sup>. That is fair in relation to the southern end of the site, but the northern end of the site is far more open and benefits from "big sky" views both from the footpath that crosses the site at the northern end and from Park Road<sup>149</sup>. The northern part of the site has a characteristic wooded horizon, but the Council contends that views of that horizon from the northern part of the site are some way in the distance, lending a sense of openness.
175. The rurality of the appeal site and the big sky views it affords reflect key characteristics of the LCA B10 Broxted Farmland Plateau in which the site mainly sits and it specifically mentions the "open nature of skyline of higher areas of plateau" as a sensitivity to change. The suggested landscape planning guidelines include conserving the rural character of the area. The fact that the LCA carries these points through into the recommendations shows that the assessors of the LCA regarded these as valued features. While the LCA as a whole makes it clear that preserving woodland blocks on the horizon would be beneficial, there is nothing in this guidance to support the introduction of significant tree planting that would have the effect of foreshortening views.
176. The Council explains that appreciating the different roles of different parts of the appeal site is important in understanding why the current proposal is more harmful than that rejected by the SoS in 2016<sup>150</sup>. On the last occasion the Inspector concluded that the effect on the landscape would be harmful as a result of the loss of open fields and the impacts on views, resulting in the scheme being contrary to policy S7 and the requirement in the Framework to recognise the intrinsic character and beauty of the countryside<sup>151</sup>. In considering that the harm on the last occasion was tempered, the Inspector noted that the proposed development would largely follow the contours, be focussed towards the lower slopes and be screened by existing woodland or proposed planting<sup>152</sup>. He also thought it of particular importance that the rural quality experienced from Little Easton would not be eroded<sup>153</sup>.
177. In this case, however, the proposed developable area for the scheme pushes development away from the lower ground around Little Ravens and up on to the

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<sup>146</sup> Appellant's landscape witness XX

<sup>147</sup> CD 10.4 Council's landscape witness PoE §5.32

<sup>148</sup> CD 9.5 §5.10, §5.11, §9.7

<sup>149</sup> CD 9.5 Council's landscape witness appendix 2 Site context viewpoints B-E. ES vol 2 app 6.3 site context photographs 1-3

<sup>150</sup> CD 10.4 Council's landscape witness PoE §3.7

<sup>151</sup> CD 6.1 Land West of Great Dunmow SoS decision §15.44

<sup>152</sup> CD 6.1 §15.39

<sup>153</sup> CD 6.1 §15.40

higher ground, as well as pushing it north towards Little Easton<sup>154</sup>. The Council's landscape witness is right to regard the development as more harmful than that previously proposed. On the last occasion the SoS regarded the previous landscape and visual effects as weighing moderately against the scheme<sup>155</sup>. The current proposals weigh more substantially against the scheme to the point that they are unacceptable as the evidence of the Council's landscape witness in support of the reason for refusal concluded.

178. In planning evidence, the appellant sought to rely on the previous Inspector's suggestion that the harm from the proposal on that occasion would be similar to harm caused by greenfield development elsewhere in the District and that in the absence of a 5-year HLS the 'net' harm would be slight<sup>156</sup>. Whether or not there was any basis for the previous Inspector in drawing this conclusion, the fact is there is no evidence before this Inquiry comparing the harm that would be caused by this proposal with the landscape harm that would arise from other greenfield sites in the District. In the absence of any such evidence it would be unsound to adopt the previous Inspector's approach says the Council. The landscape harm does not change in the absence of a 5-year HLS and the only conclusion the Council says can be reached is that the harm is greater than the moderate adverse harm found on the last occasion.
179. In his assessment of the acceptability of the proposal, the appellant's landscape witness relies in particular on his assessment that there would be significant landscape and visual effects on a limited range of receptors by year 15<sup>157</sup>. While the focus of discussion is ultimately on what would occur at year 15, neither the accepted construction effects nor the effects at years 1-15 should be ignored. The ES identifies that construction would take place over 8 years between 2023/24 and 2031/32<sup>158</sup>. The appellant accepts that during construction, significant landscape effects would occur on open fields, topography the site and the LCA B10<sup>159</sup> and significant visual effects would occur on viewpoints 1, 2, 3, 10<sup>160</sup>. In addition to those significant effects at construction, the appellant then accepts that at year 1 (and it follows for up to 15 years thereafter) there would be significant landscape effects on open fields, topography, the site and the LCA B10<sup>161</sup> and significant visual impacts on viewpoints 1, 2, 3 and 10. Bearing in mind both the construction effects and effects during the first 15 years of the scheme's existence, there are up to 23 year's-worth of significant effects that weigh into the balance in addition to the final effects.
180. There is agreement between the main parties concerning whether significant landscape and visual effects would continue beyond year 15, but the appellant has underestimated the extent of those impacts and failed to recognise further significant impacts. It is agreed that at year 15 there would be a significant effect on open fields as a receptor with the Council's landscape witness saying that the impact would be moderate-major<sup>162</sup> and the appellant saying that the

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<sup>154</sup> CD 10.4 RM figure 3.

<sup>155</sup> CD 6.1 §36

<sup>156</sup> CD 6.1 §15.45

<sup>157</sup> CD 9.5 Appellant's landscape witness PoE §8.16

<sup>158</sup> CD 1.24 pp 3 A.7

<sup>159</sup> CD1.24 ES addendum appendix 6A

<sup>160</sup> CD 1.21 vol 2 appendix 6.5

<sup>161</sup> CD1.24 ES addendum appendix 6A

<sup>162</sup> CD 10.4 Council's landscape witness PoE §6.9 to §6.10

impact would be moderate. However, the reduced area of land that would remain to the north of the site would not allow the sense of openness to be retained<sup>163</sup>. The open farmland fields are a valued characteristic of the LCA and this positive aspect of the site would be largely removed, something that cannot be mitigated in the Council's view. In judging this point, the SoS would need to bear in mind that the image relied upon by the appellant<sup>164</sup> does not follow the guidance in that it has a field of view of 180 degrees<sup>165</sup> whereas the guidance recommends a field of view of 53 degrees or in some cases up to 90 degrees<sup>166</sup>. The visual is technically accurate but gives a misleading sense of the extent to which there would be a sense of openness when viewed from the north. This point needs to be judged on site.

181. Additionally, the Council considers that at year 15 there would be significant adverse effects on the landscape receptors of the site and LCA B10 which is not acknowledged by the appellant. In terms of the effects on the site, in reaching the conclusion that the effect would be minor adverse, the appellant's landscape witness relies on the planting proposals which he says would provide a strong sense of containment and the use of an appropriate building typology that would control materiality<sup>167</sup>. The appellant's argument that putting more trees in the landscape is positive in landscape terms is wrong in the Council's view. The proposed configuration of the tree belt is not reflective of existing field patterns and does not follow the landscape contours. More importantly it would curtail the valued characteristic of open sky views. As identified above, there is no support for it in any of the more fine-grained LCAs. In so far as the tree planting provides mitigation for views from the north it would not do so for many years even on the appellant's own assessment.
182. In terms of the argument that use of appropriate typographies would mitigate the harm, all development must be well designed and there is nothing in the landscape character guidance which supports the view that large scale development can be made acceptable in this receiving landscape provided it is well designed. On the contrary, the LCA B10 landscape character guidance refers to preserving the rural character of the area<sup>168</sup>.
183. For similar reasons there would remain a significant effect on the LCA B10 at year 15 according to the Council. There would be a loss of valued LCA characteristics including big sky views, with a total loss of open skyline on the plateau<sup>169</sup> and a significant diminishing of the rurality of the site<sup>170</sup>.
184. The impacts on two landscape receptors were not assessed in the LVIA, those being the effects on PRoW and on night-time character. In terms of the PRoW, the Council is clear that there would be a significant effect on them as a landscape resource<sup>171</sup>. The appellant's landscape witness accepts that at least in respect of the Saffron Trail there would remain a significant *visual* effect at year

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<sup>163</sup> CD 10.4 §6.9

<sup>164</sup> CD 9.5 Appellant's landscape witness landscape documents B at page 13 of section 4 ('view 2 proposed-masterplan-fully rendered view, 25 years growth')

<sup>165</sup> CD 9.5 Appellant's landscape witness landscape documents B at page 12 of section 4.

<sup>166</sup> CD 14.3 page 21.

<sup>167</sup> CD 14.8 pp 307

<sup>168</sup> CD 14.8 page 307 under 'suggested landscape planning guidelines'

<sup>169</sup> CD 10.4 Council's landscape witness landscape PoE §6.17.

<sup>170</sup> CD 14.8 page 305

<sup>171</sup> CD 10.4 Council's landscape witness landscape PoE §6.22

15<sup>172</sup> therefore there is no dispute that the PRoW would be substantially adversely affected. The Council's landscape witness's approach of assessing the footpaths as a landscape receptor is an entirely common one and should be accepted.

185. In terms of night-time character, this was considered by the appellant but no conclusion was drawn regarding the significance of the effect<sup>173</sup>. However, it is acknowledged that the site is relatively dark with influence of lighting decreasing to the north of the site and that there is no source of light on the site other than Ravens Farm at the current time. The proposal would inevitably introduce additional lighting into the night-time landscape and that is why the appellant's landscape witness did not strongly disagree with the Council's landscape witness's conclusion of a moderate to minor adverse effect on night-time character<sup>174</sup>.
186. In terms of visual impacts, it is agreed that at year 15 there would remain significant adverse effects on Viewpoint 10 which is representative of people walking on PRoW 18\_33<sup>175</sup>. It is also agreed that a significant adverse effect would remain at Viewpoint 3 but there is a disagreement as to whether that effect would be moderate or moderate/major<sup>176</sup>. In addition, the Council's landscape witness identifies a significant (moderate to major adverse) effect at viewpoint 2 not acknowledged by the appellant's landscape witness. He is wrong, say the Council, to downgrade the effects at viewpoints 2 and 3 which are both viewpoints taken from the north of the site<sup>177</sup>. In both cases there would remain a medium magnitude of effect at year 15<sup>178</sup>, which means that on the appellant's methodology that there would be a noticeable change in the view<sup>179</sup>. Therefore, the claim, that the ultimate effect could not be moderate adverse at viewpoint 2 because there would be no noticeable deterioration<sup>180</sup>, is inconsistent according to the Council. In both viewpoints there would be a noticeable or pronounced deterioration in the view even after 15 years and there would be significant impacts on these receptors which are agreed to be of medium-high sensitivity<sup>181</sup>.
187. The Council maintains that the evidence indicates that there would be a range of significant landscape and visual effects, both during construction, the first 15 years of the development and for the lifetime of the development. This strongly supports the Council's landscape witness's conclusion that the development is not capable of being effectively assimilated into the surrounding landscape without significant adverse harm<sup>182</sup>. This is, in part, because of the fact that a large portion of the proposed application site sits on the plateau (approximately 75m to 95m AOD). Extensive landscaping would be required to screen the site

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<sup>172</sup> CD 9.5 Appellant's landscape witness PoE §7.35.

<sup>173</sup> CD 1.21 ES Vol 1 Chapter 6 §6.155

<sup>174</sup> CD 10.4 Council's landscape witness PoE of evidence §6.24, and the appellant's landscape witness XX.

<sup>175</sup> CD 12.3 landscape SOCG table 2,

<sup>176</sup> CD 12.3 landscape SOCG table 3.

<sup>177</sup> CD1.21 ES figures, figure 6.5 identifies the location of the viewpoints.

<sup>178</sup> CD 9.5 Appellant's landscape witness appendices appendix MDC-4, visual effects table.

<sup>179</sup> CD 9.5 Appellant's landscape witness appendices appendix MDC-1 LVIA methodology table 6 page 8.

<sup>180</sup> CD 9.5 Appellant's landscape witness appendices appendix MDC-1 LVIA methodology table 8 page 9.

<sup>181</sup> CD 10.4 Council's landscape witness PoE agrees all sensitivity assessments for visual viewpoints at §5.41.

Sensitivity assessment for the viewpoints can be found at CD 9.5 appellant's landscape witness appendices appendix MDC-4, visual effects table.

<sup>182</sup> CD 10.4 Council's landscape witness PoE 8.11

from the north but this is in itself harmful and would not effectively screen the development from the PRow that pass through the site nor would it provide adequate screening to Park Road and Little Easton for at least 15 years and up to 25 years according to the Council.

188. The weight to be given to relevant policies at this point in the Council's case has been considered in an earlier section of this report <sup>[22-25, 37-39]</sup> and is not repeated here for the sake of brevity. Given the above, the Council finds that the scheme would be contrary to policy S7 of the LP, LSC1 of the NP and paragraphs 174(b) and 130(c) of the Framework<sup>183</sup>.

### Heritage

189. It is not disputed that material harm would result in heritage terms to the significance of some assets. At issue is the level of harm that would be caused and the number of assets that would be affected. The contrasting positions are set out in the heritage SoCG<sup>184</sup> as follows:

<b>Heritage Asset</b>	<b>Appellant's position</b>	<b>Council's position</b>
Little Easton CA	Very low	Upper-medium
Church Row (grade II)	No Harm	Medium-low
St Mary (grade I)	Very low	Medium
Easton Manor Group (grade II)	No Harm	Low-Medium
Portways (grade II)	No Harm	Low
Park Road/Yew Tree Cottage (grade II)	No Harm	Low

190. The parties agree that there would be no harm to the setting of the Grade II\* Stone Hall, Easton Lodge Registered Park and Garden or the Old Library, both of which are Grade II. The Council identifies that it describes as relatively minor disagreement over the effect of the proposal on the setting of three non-designated heritage assets (Ravens Farm, the Pillbox and the Rectory).
191. The parties also agree that each asset needs to be considered in turn. If harm is identified to several designated assets each identified level of harm will need to be afforded considerable importance and weight in relevant legal and planning balances.

<sup>183</sup> CD 10.6 Council's planning witness PoE §5.68

<sup>184</sup> CD 12.2

192. The Council maintains that the appellant has failed to provide any clear or convincing justification for the harm it proposes to cause to designated heritage assets and that this would be contrary to paragraph 200 of the Framework. It suggests that no satisfactory explanation has been given to justify the density of development and its proximity to the CA and notes that the appellant's planning witness confirmed he was not suggesting that development is only viable if this number of dwellings were to be provided<sup>185</sup>. The only explanation for the number of dwellings, he maintains, is that this is connected with the provision of, among other things, a primary school on site. The Council notes that a school was also proposed in the scheme associated with the previous appeal<sup>186</sup> and consequently maintains that this cannot provide an adequate explanation on this point.
193. The Council is of the opinion that, if built out, there would be material harm to the settings of a significant number of nationally and locally important heritage assets as set out in expert evidence<sup>187</sup> which concluded that there would be harm to the setting and thus the significance of 12 heritage assets, 9 of them designated. In contrast, the appellant notes that only 2 designated assets would be harmed<sup>188</sup> and even then, only considered the harm to be at a very low level of LTS harm.
194. The Council highlights the fact that the ES<sup>189</sup> indicates that a wider range of designated assets would be harmed by the proposal in contrast to the conclusions of the appellant's heritage witness and it is also the case for the Council's heritage witness. Historic England (HE) also departed from the views of both witnesses in this respect and identified a wider scope of harm<sup>190</sup>.

*"Of particular concern is the way that the development would bridge the open landscape buffer between Great Dunmow and Little Easton, which enables them to be understood as historically distinct settlements. This would mean that the two settlements would effectively coalesce, causing harm to their historic interest as discrete historic settlements within a wider agricultural setting."*

195. In relation to the listed buildings and the CA to the north of the site HE noted:

*"..the impacts vary depending on the distance of the heritage assets from the development Site. While the development may be visible in longer views from the listed buildings along Duck Street, its impact on their wider setting would be minor adverse."*

*In contrast, the impact on the setting of the Little Easton Conservation Area and the listed buildings especially on the southern boundary of the Conservation Area would be more considerable. The open and undeveloped character of the development Site has remained largely unaltered since at least the eighteenth century, providing a rural context which forms an integral part of the historic setting of Little Easton, contributing to our understanding of*

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<sup>185</sup> Appellant's planning witness XX

<sup>186</sup> CD 6.1 §5.1, at 14.3

<sup>187</sup> See LJ PoE CD10.3, section 3, p.19

<sup>188</sup> The CA and the Church

<sup>189</sup> CD 1.20 – Ch7, 7.91 and 7.124

<sup>190</sup> CD 16.14, dated 13.10.21 and CD 16.22, dated 21.06.21



*it as a small, historic rural settlement surrounded by agricultural land. The undeveloped landscape permits vistas across the historic agrarian landscape from and towards the listed buildings at the southern part of the Conservation Area, including the Grade I listed church..”*

196. HE assessed that there would be a medium level of LTS to a range of designated assets.
197. The Council accepts that the nature of the subject matter and the judgments involved mean that differences in professional judgment are likely but maintains that the position taken by the appellant’s heritage witness was at least in part influenced by the need to downplay the effect of a scheme whose proximity is closer to the assets at issue in comparison with the previous scheme. It also notes that the instances where the Council’s heritage witness has identified harm are supported by at least two other experts who have also found a degree of material harm, unlike the appellant’s heritage witness who identified no harm to the majority of the assets. The short point being that the appellant’s heritage witness has underplayed harm that would be caused across a wide area. None of the heritage experts or consultees (including HE) were considering the proposal in light of other relevant material considerations and so were not reporting an overall view on whether the proposal should be allowed or not.
198. The following propositions are relied upon by the Council:
- a) The concept of LTS harm<sup>191</sup> is a broad category of harm which incorporates a wide range of degrees of harm. For that reason, it is often critical for experts and decision makers to express where the level of harm falls within the LTS category.
  - b) Any material harm within the LTS range is capable of constituting a very serious degree of harm for the purpose of decision making.
  - c) As the courts have made clear<sup>192</sup> a decision maker must not fall into the error of treating a finding of LTS harm to the setting/significance of a listed building as equating to a less than substantial objection<sup>193</sup>.
  - d) A finding of LTS to a designated asset, such as a listed building, does not mean it would be appropriate or lawful to just give weight to such matters in a planning balance.
  - e) Parliament has made the power to grant planning permission having regard to material considerations expressly subject to the s66(1) duty of the Act. In this context, the Council says that it is clear that having special regard to the desirability of preserving the setting of a listed building under s66 involves more than just giving weight to those matters in the planning balance.
  - f) There is a statutory presumption against granting planning permission for any development which would fail to preserve the setting of a listed building and that this presumption applies in this case.

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<sup>191</sup> As set out in the Framework and related PPG guidance

<sup>192</sup> For example, C7.1 *East Northants DC v Secretary of State* [2014] EWCA Civ 137 (often referred to as ‘Barnwell’)

<sup>193</sup> See esp. para 29 of CD 12.1

- g) When the evidence reveals that a proposed development would harm the setting and significance of a listed building or buildings, the Council notes that the decision maker must give considerable importance and weight to the desirability of preserving the setting of the listed building.
- h) The degree of harm is a matter of judgment within the LTS range and that identification of the level of harm will often be critical according to the Council.
- i) The imperative of giving considerable importance and weight to harm in a s66 context does not mean that the amount of weight to be given to the desirability of preserving its setting in a planning balance is uniform. That weight would depend upon the extent of the assessed harm and the heritage value of the asset in question.
- j) In *Bramshill*<sup>194</sup> the Court of Appeal reviewed and explained the case of *Palmer*<sup>195</sup> and earlier caselaw<sup>196</sup>. In doing so, the court identified the correct approach to assessing harm in the context of s66 and the Framework<sup>197</sup> as follows:

*"75 ... the imperative of giving "considerable weight" to harm to the setting of a listed building does not mean that the weight to be given to the desirability of preserving it or its setting is "uniform". That will depend on the "extent of the assessed harm and the heritage value of the asset in question". These are questions for the decision-maker, heeding the basic principles in the case law."*<sup>198</sup>

- k) That is reflected in paragraph 199 Framework in terms of the more important the asset then the greater the weight that should be given to the conservation of the assets significance
- l) The Council also highlights the fact that any harm to the significance of a designated heritage asset requires a *clear and convincing justification* according to paragraph 200 of the Framework.

199. The Council maintains that the previous appeal pursued by the appellant<sup>199</sup> is material in the context of heritage. It proposed a lower number of homes and set such development further to the south so as to minimise/reduce harm to heritage assets.

200. Both heritage witnesses agree that HE guidance is relevant<sup>200</sup> and the Council maintains that within this context it is necessary to consider the extent to which the proposal could have sought to reduce harm to heritage assets through, among other things, repositioning different elements<sup>201</sup>. The Council considers that this is linked to the need to provide a clear and convincing justification for

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<sup>194</sup> CD 7.3

<sup>195</sup> One of the cases BM references but Lang J also touches on *Bramshill* in *Kinsey* – CD 12.12 discussed below

<sup>196</sup> Note *Bramshill* at paragraph 79

<sup>197</sup> Note paragraphs 199-202, previously 193-196 and see CD 12.5 per Lindblom LJ at paragraphs 72-75 and 79

<sup>198</sup> Note *Bramshill* paragraph 60 in context of reviewing earlier caselaw

<sup>199</sup> CD 6.1

<sup>200</sup> CD13.3

<sup>201</sup> CD 13.3 p.14 as part of step 4 for example



any harm in the Framework and that this is something that needs to be explicitly addressed.

201. The Council's heritage witness maintains, particularly in the context of the previous appeal decision, that no such justification had been provided in relation to the current scheme<sup>202</sup>. The appellant's heritage witness accepts the relevance of the issue but indicated he had not been involved at the formative stage of the proposal and so had not advised on or considered any such minimisation and was not aware of any reasons as to why the proposal was situated in the proposed location<sup>203</sup>.
202. The Council view this as one of the matters to be considered in the heritage context, particularly in the context of considering the extent to which any harm is justified. The Council suggests that it is reasonable and necessary in policy terms to consider if the harm to important assets could have been reduced or removed if development were, for example, drawn back and whether there is a justification for not doing so. It finds it possible to design housing in substantial numbers on the site without intruding on the setting and significance of nearby heritage assets and is of the opinion that no clear or convincing justification has been proffered.

#### *The Conservation Area*

203. The Council view the Little Easton CA as a fine example of a small historic settlement in a rural setting that is worthy of designation with one particularly important feature of its significance being drawn from the interconnectivity between the CA and the surrounding rural landscape with its open skyline and in which the Church sits as a landmark<sup>204</sup>.
204. Views towards and from the CA across large open fields are important as they reinforce the low-density rural character and highlight its separation both from the Little Easton Village Core and Great Dunmow. Moreover, the lack of screening and an ability to see long views adds to the significance of the CA because it maintains a sense of prominence in a rural context according to the Council.
205. The Council's heritage witness suggests that the rural and undeveloped setting contribute positively to the significance of the CA and the ability to appreciate it as a historic, isolated settlement. The Council points out that the appellant's heritage witness gave this less weight and failed to focus on the CAA as a whole<sup>205</sup>. When read as a whole, the CAA emphasises the panoramic nature of views and the sense of tranquillity as an aspect of setting and significance. The Council maintain that such matters are underplayed by the appellant's heritage witness and that such matters are key. They are well understood and appreciated by local residents, as one of the representations at the Inquiry demonstrates<sup>206</sup>.

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<sup>202</sup> LJ PoE at 3.3, p.20

<sup>203</sup> XX

<sup>204</sup> CD 4.5 at 1.45, pp 9-10

<sup>205</sup> CD 4.5, by ignoring paragraph 1.37

<sup>206</sup> ID 8

206. The Council's heritage witness highlights the fact that when approaching the CA from the east, the appeal site forms part of the agrarian approach to the CA. The same is true from the footpath to the south. Such views are long established and are critical to significance.
207. This contrasts with the view of the appellant's heritage witness. Whilst he accepts the rural setting contributed to significance, he relies on the proposed structural landscape buffer to mitigate the harm to the CA and other heritage assets which leads him to conclude that there would be a low level of harm despite the fact that it would be at odds with this part of the historic landscape according to the Council. This is because, it would be uncharacteristic to introduce large areas of dense vegetation into part of a historic landscape that has been open for hundreds of years. The Council finds it hard to imagine how anyone could suggest that the positioning and scale of the proposed planting could have a positive effect on the setting of the CA when the historic context is understood.
208. The suggestion by the appellant's heritage witness that the large field sizes found to the south of the CA did not derive from historic field patterns is without an evidential basis, according to the Council. It points out that the witness accepted that there was no documentary or map evidence to suggest that the site had been wooded<sup>207</sup>. Furthermore, the other areas of woodland nearby relied upon by the witness in his PoE<sup>208</sup> were not the same in character and had other historic use associations (e.g. hunting). In any event, the northern part of the appeal site that is nearest to the CA was and is mainly open and agrarian in character, in contrast to smaller wooded pockets, and was used historically for cropping associated with the wider estate.
209. As the CAA makes clear:
- "this part of Little Easton around the church and ponds has remained virtually unchanged over the last century, reflecting the comparative isolation of many of the smaller rural settlements. The proposed Conservation Area is a mirror reflection of the community as it existed in the late 19<sup>th</sup> century and as shown on the 1877 Ordnance survey map (see Figure 1). Within the village the scale is intimate, with channelled views out through buildings and trees to the open countryside"*
210. Quite apart from that, the substantial reliance placed on a visual woodland screen to mitigate heritage harm is misplaced. The Council makes the following submissions in that regard:
- a) It is clear that it would not provide an effective screen of any kind for many years;
  - b) Even after 15 years it would still be possible to see the upper parts of the proposed buildings from Park Road and parts of the CA, as confirmed by the appellant's own evidence<sup>209</sup>;

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<sup>207</sup> XX

<sup>208</sup> CD 9.4, figure 7, pp 26

<sup>209</sup> Also noted by appellant's heritage witness - CD 9.4, paragraph 2.39, pp 23

- c) There would be a clear awareness of the development – at least until up to 25 years have passed. It is only at this point that the appellant’s heritage witness appears to conclude a level of harm that would be very low. Even on his own case, it follows there should be a higher level of LTS at years 10 or 15<sup>210</sup>;
  - d) Even then, if approaching from the south along the footpath there would be an awareness and experience of development in the form of a large urban settlement;
  - e) Given that the proposal is designed to be positioned on an area of higher ground, and even with the landscape planting, it would still be visible in views from the CA and on the approach to the village; and
  - f) It would be visible in what are currently open and panoramic views across the field scape which contribute to the setting/significance of the CA and would create a sense of coalescence with Great Dunmow, thus undermining its currently isolated character.
211. If the development is built out, both the planting and the built form would change how the CA is experienced with the sense of space and detachment from Great Dunmow being lost according to the Council’s heritage witness. It would remove the long views when looking south out of the CA and in doing so it would change the skyline. This would also affect listed buildings in the southern section of the CA, especially the Church and Church Row as well as the locally listed Rectory.

#### *Church Row*

212. Church Row is a Grade II listed building, comprising a small terrace of cottages on the southern side of Park Road. A clear view of the site can be obtained from the rear of this building. The rural setting of the building contributes to its significance according to the Council’s heritage witness who suggests that it is to be viewed and understood as a distinct building in a rural context.
213. The relevant parts of the appeal site, as an area of undeveloped agricultural land, allows Church Row as well as the adjacent non-designated asset, the Rectory, to be experienced with a sense of seclusion and detachment when viewed from Park Road. This is emphasised by the distance between the buildings on the southern side of Park Road, of which there are only three, The Rectory, Church Row and their intervening neighbour, Little Ravens.
214. The appellant’s heritage witness was wrong to suggest there would be no harm to this asset (or to the Rectory) given their proximity to the appeal site boundary and an area allocated for the provision of a school according to the Council. This is because the associated paraphernalia, sports pitches, scale and massing of a school building would be at odds with the form of the existing buildings which would fight for visual dominance when these assets are viewed from Park Road.
215. The Council submit this would harm how they are perceived and viewed, thus harming their significance as examples of nineteenth century architecture built

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<sup>210</sup> Although in xx IF declined in the end to accept this proposition.

within the context of a country estate. Furthermore, wide open views of rural landscape would be diminished and land use immediately to the south of Church Row would change. The proposed planting and new development would result in a sense of containment that would reduce the depth of the currently open, wide views afforded from the buildings into the landscape beyond. This would remove the existing feeling of isolation which contributes positively to both buildings significance.

### *Church of St Mary*

216. Both heritage witnesses accept that there would be material harm within the LTS category to this asset. The Church is Grade I and so of exceptional interest as set out by the Council's heritage witness<sup>211</sup>. A particular aspect of this significance is its functional role as a parish church and way-marker within the landscape.
217. The visibility of the church within the landscape is a high contributor to its setting and significance because of the community value the building possesses according to the Council whose witness explained that churches such as this were purposefully designed to be a way-marker within the landscape and visible from some distance in order to guide parishioners to its doors. As the CAA notes, "*St Mary's Church sits prominently at the entrance to the proposed Conservation Area.*"<sup>212</sup>
218. The church is approximately 50 m from the appeal site boundary and within its northern reaches it is currently possible to gain views from the footpaths toward the church tower, which is a prominent feature of the skyline. Due to the undulating land levels, these views from within the appeal site can be fleeting and kinetic, however they provide visual confirmation of the footpath's routes and their destination.
219. The Council's heritage witness suggests that the setting – of which the appeal site is part – makes a notable contribution to its significance due to the visibility of the Church but also because the open nature of the land on the appeal site reinforces the sense of tranquillity within which it is experienced.
220. To some extent the appellant's heritage witness agreed that setting was an element of significance as he accepts that his finding of very low harm was based on a change to the rural setting of the Church. However, his evidence is unclear and he appeared to suggest that his finding of harm was no more than an alternative assessment<sup>213</sup> before then accepting the harm was material so that the "*decision maker should take it into account*"<sup>214</sup>.
221. The Council submits that the proposal would fundamentally change the character of the environs to the south from one of an undeveloped agricultural, open nature to encroachment by built development. It would result in views and routes towards the Church (and views out from the Church) losing elements of their rural character and in the diminishment of its status in the landscape as a parish church.

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<sup>211</sup> CD10.3 LJ PoE at p.31

<sup>212</sup> CD4.5 at para 1.38 – section on setting

<sup>213</sup> A point repeated in his PoE at 3.37

<sup>214</sup> XX

### *Easton Manor Group*

222. There are four listed buildings of relevance. The Council's heritage witness explained that the rural setting of this group is indicative of their formal agricultural function and relationship with the surrounding landscape. The barn and the listed outbuilding and stable block were built for agricultural purposes. The former use of the manor, as a farmhouse, can still be appreciated as a designed country home with agricultural history. The Council maintain that the functional relationship with the surrounding landscape extends to the appeal site.
223. As the Council's heritage witness suggests<sup>215</sup>, this is due to the sloping nature of the fields immediately east of the manor, on the northern side of Park Road, where views toward the buildings at Little Easton Manor from the footpaths at the east of the manor are juxtaposed with views of the appeal site. The appeal site's undeveloped appearance supports the ability to appreciate the manor in a rural context. It is suggested that this emphasises the sense of arrival at the manor from the north and that the way in which the formalised area of buildings and landscaping is encountered is such that this contrasts with the surrounding agrarian landscape. In this way, the Council suggests that the rural setting is a contributing factor to the significance of such assets and that views would be altered<sup>216</sup>, particularly on the footpath leading between Easton Manor and Duck Street. The new development would be seen in these views towards Easton Manor with the impact on the outbuildings being higher, due to their former relationship with the wider landscape as functional farm buildings that were part of an agrarian economy.

### *Park Road Buildings*

224. In relation to Portways, Park Road Cottage and Yew Tree Cottage, agricultural fields surround the buildings to the north, east, west and south, just beyond the garden boundaries of the dwellings and their neighbours.
225. The setting and proximity of the buildings to each other gives them a group value as a cluster of historic buildings within a rural setting according to the Council's heritage witness. Moreover, their location in relation to surrounding fields provides an indication of how the hamlet developed, allowing the buildings to be viewed in their original context, detached from the larger settlement of Great Dunmow. This adds to their significance as outlying vernacular buildings, providing an indication of past human activity.
226. The appeal site forms part of the wider setting of the listed buildings, with its current undeveloped appearance reinforcing their relationship with the surrounding landscape and detachment from surrounding buildings at Little Easton and Great Dunmow. Despite their modest size, the visibility of these buildings across the wide expanse of the appeal site permits an appreciation of their significance as vernacular dwellings within a wider agrarian landscape, due to the lack of competing built form or surrounding development.
227. The development would be located south-west of these buildings. Located on an area of higher ground, the development would be seen in the backdrop to

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<sup>215</sup> CD 10.3, paragraph 5.15

<sup>216</sup> CD 10.3 -see LJ at 6.44-6.55

Portways, Park Road Cottage/Yew Tree Cottage when they are viewed from the road and would also be visible in views looking south from these buildings. The introduction of built form within the appeal site would, according to the Council, change the currently rural relationship, making the buildings appear more connected to Dunmow, framing views toward the listed building from within the site with modern houses.

### *The Rectory*

228. The Rectory has already been addressed above in the context of Church Row. It is mentioned in the CAA<sup>217</sup> and noted to be standing in a prominent position overlooking Park Road<sup>218</sup>. As with Church Row, the rural setting allows it to be viewed as a standalone building providing context for its relationship with the Church and the wider landscape. The Council maintains this setting would change radically by the proposed development which would reduce the current wide-open views and lead to a sense of urban encroachment. For these reasons the Council concludes that a medium level of harm would be caused.

### *Ravens Farm*

229. Ravens Farm is a historic farm complex with documentary research suggesting that the house is at least two hundred and fifty years as evident from the Chapman and Andre map of 1777<sup>219</sup>. As an example of an historic farmstead, Ravens Farm has historic significance due to its plan form and layout according to the Council because the farmstead, when compared to the 1898 Ordnance Survey map has remained largely unchanged<sup>220</sup>.

230. Both heritage witnesses agree that harm would be caused to the setting and significance of this heritage asset. The density, height and urban character of the proposed development would obscure the existing relationship the farm has with the landscape. The Council is of the opinion that this would remove its primacy over the appeal site and hinder the ability to appreciate the building within an open landscape. There would be a loss of wide views, the addition of noise, lighting and changes to the character of the site – all urbanising effects that would largely remove the current agricultural setting of the farm thus harming its significance.

231. For these reasons, the Council's heritage witness considers that the farm's functional relationship with the landscape would be lost, with its agrarian setting converted to residential use. Despite the retention of some areas of fields around the farm, its outlook across the agricultural field scape, towards the west, and to which it is orientated, would be removed thus causing a high level of harm.

### *The Pillbox*

232. The Pillbox is a second world war structure, built in connection with the airbase which was located to the east of the appeal site, on what is now Highwood Quarry. It is located in a slightly elevated position, above the track. It would

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<sup>217</sup> See CD 4.5 paragraph 1.98, p.26.

<sup>218</sup> CD 4.5, paragraph 1.31

<sup>219</sup> CD 10.3, figure 11

<sup>220</sup> CD 10.3, figure 12



have been placed in order to gain wide views across the landscape<sup>221</sup> and this is how the building's function is to be understood and appreciated as a surviving piece of military history.

233. As a designed defensive structure, the building was purposefully located and built to afford its users a protected wide view, to aid in defence. Removing this viewpoint, through the introduction of additional screening harms the way in which the asset is appreciated, and its function and typology understood. Whilst the Pillbox may have been concealed, its purpose was to survey, meaning that if its outlook is reduced, its functional links to its setting are diminished. This affects its significance and the contribution it makes to the history of the area which would cause a medium level of harm according to the Council.

### Highways

234. During the course of this application and appeal the appellant provided several iterations of detailed modelling evidence<sup>222</sup> which has been carefully considered by ECC<sup>223</sup>. Mitigation has been put forward by the appellant at the following junctions:

- a) B1256/A120 on-slip roundabout works would include widening of the western approach on the B1256, widening the footway on the north of the B1256, widening of the eastern approach on the B1256 and improvements to lane markings<sup>224</sup>. Additionally, there is provision in the s106 agreement for a queuing survey at this roundabout. If the queuing survey shows an unacceptable queue, as defined in the s106, then that would trigger a requirement on the appellant to either carry out additional works to make the exits two lanes or to pay a sustainable travel contribution<sup>225</sup>.
- b) Land West of Woodside Way/B1256 roundabout works would include widening of the eastbound exit from the roundabout to provide a 2-traffic lane exit and adjustments to road markings and signing<sup>226</sup>. Again, there is provision for a queuing survey at this roundabout. If the queuing survey shows an unacceptable queue, as defined in the s106, it would trigger a requirement to give travel vouchers of up to £100 per household<sup>227</sup>.

235. In light of the modelling and the proposed mitigation, ECC reached the view that while there would still be queueing on the B1256 corridor<sup>228</sup> the impact on the road network would not be severe for the purposes of paragraph 111 of the Framework<sup>229</sup>.

236. A fundamental objection on the part of ECC and the Council nevertheless remains in that the proposal would not be sustainable in travel terms. This is a

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<sup>221</sup> CD 10.3, viewpoints 4 and 6

<sup>222</sup> See original Transport Assessment (CD1.5), TAA (CD1.25), A120 Onslip Modelling Technical Note (CD15.15), Response to ECC Modelling Comments (CD15.16) and Land West of Woodside Way Access Modelling (ID16).

<sup>223</sup> See Transport Modelling Impacts Review (CD15.15), Technical Note 2 A120/B1256 Roundabout Modelling Response (CD15.17), Technical Note 3 Additional Modelling update Response (CD15.18) and paragraph §3.2.9 of the Highways Position Statement (ID 20)

<sup>224</sup> ID 42, definition of 'highway works' at Schedule 4, and clause 5.1 of schedule 4.

<sup>225</sup> ID 42 schedule 4 clause 5.5 to 5.9 when read with definition of Additional Highway Mitigation Works at schedule 4.

<sup>226</sup> ID 42 clause 5.1 of schedule 4 when read together with the definition of highway works in Schedule 4.

<sup>227</sup> ID 42 clause 5.15 of schedule 4

<sup>228</sup> Katherine Council's transport witness evidence in chief and response to Inspector's questions. See also ID 41.

<sup>229</sup> ID 25 Highways SOCG §4.19.

concern also shared by NH. In an unusual intervention, NH provided a PoE to the Inquiry in which the witness confirms that it has *"concerns with the sustainability of the location of the proposed development which would have a longer impact on the resilience of the [SRN] and [NH] consider that the proposals do not accord with Government policy"*<sup>230</sup>. The witness made himself available to the Inquiry to answer questions on his PoE and was not challenged although he resiled from the only point made by the appellant about prematurity. This intervention should carry great weight, according to the Council, because it is well established that the views of statutory consultees such as this should be given great or considerable weight and that a departure from those views requires *"cogent and compelling"* reasons<sup>231</sup>.

237. As NH confirms, the unsustainable nature of the proposal puts it fundamentally at odds with national policy as expressed in the Framework. The need for a development to provide good quality alternative modes of access to the car runs through the Framework. Paragraph 92 in the chapter on promoting healthy and safe communities, for example, refers in the context of decision making to the need for *"easy pedestrian and cycle connections within and between neighbourhoods"* and for *"healthy inclusive and safe places which are safe and accessible so that crime and disorder and the fear of crime do not undermine quality of life or community cohesion-for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes..."*.
238. Chapter 9 is clear that *"significant development should be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes"*<sup>232</sup>. It requires not merely that appropriate opportunities to promote sustainable travel modes have been taken up but that they can be taken up, given the type of development and its location<sup>233</sup>. That wording is important, according to the Council, because the test is not just that a developer has done all they can in terms of promoting sustainable travel. If the situation is such that appropriate opportunities to promote sustainable travel cannot be taken up, either because of the location of a site or because of other factors such as land ownership constraints, then the failure to take those opportunities weighs against the development.
239. The Council goes on to highlight the fact that chapter 9 also contains the central requirement that safe and suitable access to the site can be achieved for all users<sup>234</sup> and that the application for development should *"give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas"* and *"so far as possible to facilitating access to high quality public transport with layouts that maximise the catchment area for bus...and appropriate facilities that encourage public transport use"*<sup>235</sup>.
240. The Council recognises that the wording does not give priority to pedestrian movements over cycle movements and that both good quality pedestrian and cycle routes should be provided. But in considering whether all the sustainability tests in the Framework are met, the Council maintains that it is relevant to take

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<sup>230</sup> Mark Norman PoE CD 11.2 §9.1

<sup>231</sup> Shadwell Estates Ltd v Breckland District Council [2013] EWHC 12, at paragraph 72

<sup>232</sup> Framework §105

<sup>233</sup> Framework §110(a)

<sup>234</sup> Framework §110(b)

<sup>235</sup> Framework paragraph 112(a).



into account the fact that the evidence shows far more people walk than cycle. The census data shows that for work trips 12% of people go on foot 1% cycle<sup>236</sup>, for foot retail trips 25% go on foot and 1% by bike<sup>237</sup>, for 'other trips' 1% go by foot and 17% cycle<sup>238</sup>. The inevitable consequence of that data is that the focus on whether adequate pedestrian routes have been provided must be particularly strong in assessing whether the development offers a genuine choice of transport modes and whether safe and suitable access to the site can be achieved for all users according to the Council.

241. When looking at chapter 9 of the Framework, the appellant sought to rely on the part of paragraph 105 which reminds us that "*opportunities to maximise sustainable transport solutions will vary between urban and rural areas*". It was suggested that because either the site is currently rural or because Uttlesford in general is rural that the proposed sustainable transport solutions should be considered acceptable<sup>239</sup>. This Council maintains that this approach is simply wrong. Paragraph 105 does not look to the fact that a site is currently fields but rather to the nature of the proposed development<sup>240</sup>. Although the appeal site retains a rural feel within its northern extent it is located close to Great Dunmow and immediately adjoins the Barratt Scheme to the south. The current proposal, the Council maintains, is intended as an urban extension to Great Dunmow and its sustainability credentials should be judged as such rather than assessed as if it were a proposal for homes in a rural location.
242. Under the previous scheme both the Inspector and the SoS concluded that although the shortcomings in accessibility of the proposals weighed against the scheme, they would not be severe<sup>241</sup>. Whatever the position under previous iterations of the Framework, the Council maintains that it is now clear that the severity test set out in paragraph 111 of the Framework only applies to residual cumulative impacts on the road network. There is nothing in the Framework which suggests that sustainability impacts also have to be regarded as severe to justify the refusal and the appellant's transport witness confirmed that the appellant is not seeking to take that point<sup>242</sup>.
243. However, the conclusions reached by the Inspector and SoS on the sustainability credentials of the previous appeal scheme are telling. The previous scheme had the benefit of two vehicular and walking/cycling accesses<sup>243</sup> along with a central vehicular and walking cycling access to the Barratts Scheme and the Inspector concluded was "*probably within the control of the Council and would be in the interests of good planning*"<sup>244</sup>. Despite these facts it was still found that there were shortcomings in the sustainability of that proposal, which the SoS weighed moderately against that proposal.
244. The Council's transport witness set out in detail how this proposal is worse than the previous scheme in sustainability terms in a number of ways<sup>245</sup>. Firstly, that

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<sup>236</sup> CD 1.25 TAA table 7.6 under paragraph 7.14.

<sup>237</sup> CD 1.25 TAA table 7.15 under paragraph 7.44

<sup>238</sup> CD 1.25 TAA table 7.18 under paragraph 7.55

<sup>239</sup> Suggestion put in XX of the Council's transport witness

<sup>240</sup> Appellant's transport witness XX

<sup>241</sup> CD 6.1. Inspector's decision at §15.55. Secretary of State's decision at §40

<sup>242</sup> Appellant's transport witness XX.

<sup>243</sup> CD 6.1 §15.50

<sup>244</sup> CD 6.1 §15.53

<sup>245</sup> Council's transport witness XIC.

there would be no pedestrian/cycle or vehicular link to Woodside Way. Secondly, that the link to the Barratt Scheme site is now only for pedestrians/cyclists and located in the far west of the site. The witness highlights the fact that this would result in the limited number of routes towards Great Dunmow being wholly indirect. Thirdly, that the single (1.7 km) vehicular access would have a limiting effect on the bus strategy. All of this means that even the relatively limited permeability of the previous scheme has now been reduced and that necessarily weighs more heavily against the current proposals.

245. In criticising the suitability of the routes provided for off-site connections the Council's transport witness is not urging a counsel of perfection. As she acknowledged in response to the Inspector's questions, not every site ticks every box. The problem is that there are significant issues on every route that may be used by pedestrians/cyclists to access existing facilities. Given the limited number of routes available and taken in concert with the substantial concerns around the bus offer, these make the proposals unsustainable. If this was a few homes on the edge of a village, that might be acceptable but planning policy does not support the provision of a very substantial scheme, such as this, under such circumstances according to the Council.
246. There is no dispute that all existing facilities would be outside the IHT guidelines on walking distances<sup>246</sup>. The relocated HRS at 1.8 km would be outside the desirable and acceptable IHT distances but would be just within the preferred maximum of 2 km. Although the appellant's transport witness sought to take issue with the IHT guidelines in his rebuttal<sup>247</sup>, he nevertheless acknowledges that they are still used to assess planning applications<sup>248</sup>. His suggested alternative of a 20-minute neighbourhood equates to around 800 m walkable area<sup>249</sup>. The Council notes that no offsite facilities are within this distance and all exceed it by some degree<sup>250</sup>.
247. The idea that the walking distances associated with the proposed development would be an inevitable consequence of the expansion of the town of Great Dunmow is without merit according to the Council. When a town expands it is inevitable that development will become increasingly distant from the town centre. But that does not make it inevitable that the development would be substantially outside established walking distances from every existing facility.
248. Not only are the limited walking routes far too long but they also fail on qualitative criteria, as do the cycling routes. The Council makes the following points in this respect:
- a) Walking routes 1, 2, 3 and 4 and cycling routes 1, 2 and 3<sup>251</sup> all start off by leaving the site through an area of open space, passing along an existing bridleway before accessing the Barratts site at the far western end of that site, then passing through an area of open space on that

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<sup>246</sup> The appellant's transport witness XX. The point can be seen by comparing the agreed distances at table 3.2 of CD 12.4 with table 3.2 of CD15.6.

<sup>247</sup> ID1 §2.3

<sup>248</sup> In XX

<sup>249</sup> ID 28 page 19.

<sup>250</sup> CD 12.4 table 3.2. The shortest distance is the 1.8 km to the relocated HRS which is over double the suggested 800m.

<sup>251</sup> See Figure A and Figure B in appendix D to the second highways SOCG, ID 25

site<sup>252</sup>. The need for the access to be at the far western end of the Barratts site makes all these routes very indirect, taking walkers and cyclists who want to go east into Great Dunmow out west. This 250 m stretch<sup>253</sup> is not overlooked. Given its proximity to the ancient woodland and SSSI of High Wood it is doubtful whether it can be lit. If this is possible then the extent of lighting would have to be limited to stud lighting to avoid adverse effects on wildlife. The Council notes that such lighting is intended primarily for way-marking rather than creating ambient lighting. That might be acceptable if this was just one of a number of attractive routes, but this is the only realistic route for walkers and likely to be the main route for cyclists to access Great Dunmow because the only other alternative would be to go down the 1.7 km pedestrian/cycle link access road then along the B1256 which goes in completely the wrong direction and is itself not overlooked.

- b) Once walkers or cyclists have passed through the Barratts site on walking routes 1, 2, 3 and 4 or cycling routes 1, 2, 3 and 6 there are still further concerns. For children walking the 50 mins to the existing HRS there are footpaths which are not overlooked and which do not have all-weather surfacing<sup>254</sup>. Walking route 5 which is a possible route to the new HRS would be along an unlit bridleway and is not overlooked.

249. Much is made by the appellant of the proximity of the site to Stansted Airport as one of the area's largest employers<sup>255</sup>. To get to Stansted Airport without a vehicle requires a 9.2 km cycle ride in circumstances where LTN 1/20 says that five miles (8 km) is an achievable distance for most people to cycle<sup>256</sup>. Although the use of e-bikes may mean that more people are able to tackle the distance involved, there is no evidence that the take-up of e-bikes is sufficiently widespread to make the distance to Stansted achievable for many or most people.

250. Cyclists who are able to cover the distance would have to travel 1.7 km down a new cycle route which would not be overlooked or lit and which it would not be possible to leave once joined<sup>257</sup>. If it passes safety audits there would then be a crossing of the B1256 within a 60 mph zone. Cyclists would then either have to go on to the Flitch Way, which is not lit or overlooked and which has a leisure surface with limited suitability in winter, or they would have to continue on the B1256.

251. The B1256 has an average speed of over 40 mph<sup>258</sup>, so LTN 1/20 figure 4.1 states that use of such a road in mixed traffic (i.e. without a segregated cycle facility) is "*suitable for few people and will exclude most potential users and/or have safety concerns*"<sup>259</sup>. All of the cumulative issues along this route mean that it is likely to be attempted only by a very small subset of those who would

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<sup>252</sup> Drawing 110031/SK113 in appendix D to the second highways SOCG, ID 25 shows this part of the route in detail.

<sup>253</sup> Distance agreed by the appellant's transport witness in XX

<sup>254</sup> CD 10.5 Council's transport witness PoE §7.18

<sup>255</sup> See e.g. CD 9.7 appellant's planning witness PoE page 35.

<sup>256</sup> CD 15.9 page 16 §2.2.2.

<sup>257</sup> See route between points A and C on drawing 110031/A/121B at appendix D to the second highways SOCG, ID 25

<sup>258</sup> CD 10.5 Council's transport witness PoE §7.19.5

<sup>259</sup> CD 15.9 page 33.

otherwise be interested in cycling which would in turn only represent a small proportion of the total number of future residents according to the Council.

### *On-site facilities*

252. Part of the appellant's answer to the limitations of off-site routes lies in its proposal for on-site facilities. In this context, the Council highlights the fact that it is very important to understand what exactly would be provided and in what circumstances. While the description of development contains reference to a number of elements of a mixed-use scheme, there is no obligation on the appellant to build any of those elements. In order to understand what the SoS can be confident might come forwards, it is necessary to examine the detail of the s106:

- a) Retail Unit - the agreement commits the developer to building one retail unit which would be completed prior to the occupation of more than 40% of the dwellings (i.e. 480 homes<sup>260</sup>). Although a retail unit would be provided, nothing in the agreement gives any certainty that it would trade or that any particular type of retailer would operate. On the evidence before the Inquiry, it is not possible to conclude that it would lead to any substantial diversion of off-site journeys according to the Council.
- b) Sports Facilities - the sports facilities would comprise 1.74 ha of pitches and a pavilion<sup>261</sup>. They would be provided before more than 45% of the homes (540) are occupied<sup>262</sup>. The Council says they would only likely have an impact on off-setting a very limited number of journeys.
- c) Community Centre - the appellant would provide a community centre subject to a maximum cost of £960,000 prior to occupation of 45% (540) homes<sup>263</sup>. If the community centre can be completed for that sum it would only offset a limited number of journeys according to the Council.
- d) Healthcare Facility - the appellant would provide a facility for primary care services to meet the primary needs of the development if required by the clinical commissioning group and if agreement can be reached with that group. If required, the facility would be sold or leased before 750 dwellings are occupied<sup>264</sup>. If no agreement is reached the developer instead pays a contribution towards a facility in the vicinity of the site. It is not yet known whether the on-site healthcare facility is likely to be taken up by the group<sup>265</sup> so the SoS cannot be clear whether the facility would actually come forwards according to the Council. If provided, the Council only view this as off-setting a limited number of off-site journeys.
- e) Primary School - the requirement within the agreement is to hold a site suitable for a primary school for ten years. If the education authority serve notice within that time, then the site must be prepared and transferred to them and the County Council would provide the school, or

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<sup>260</sup> ID4 2 schedule 3 clause 8

<sup>261</sup> ID 42 definition at clause 1.1

<sup>262</sup> ID 42 schedule 3 clause 4.1

<sup>263</sup> ID 42 schedule 3 clause 5.1, and definitions section in clause 1.1

<sup>264</sup> ID 42 schedule 3 clause 6.2.2.

<sup>265</sup> The appellant's s106 witness, section 106 session.

if the appellant serve notice they themselves can provide the school as an academy at their election. If neither party serves notice, there would be no school on site. The education authority note: "additional provision is being planned in conjunction with the HRS, to meet immediate need. Longer term a new school may also be required and two potential site options have been secured through the agreement, albeit neither site is yet available. The development is potentially large enough to support a new primary school."<sup>266</sup> The Council consequently points out that the SoS cannot be clear whether the facility would actually come forwards on-site or whether a contribution would instead be made to the provision of an off-site facility.

253. The position remains, in the Council's view, that there is considerable uncertainty about whether facilities would ultimately exist on site and their potential to off-set journeys.
254. The deficiencies of the walking and cycling offer from the site by themselves make this proposal unacceptable in policy terms according to the Council which says that this is further exacerbated by the deficiencies of the bus proposals in this case. This is particularly the case because the long walk from the site to the B1256 (1.7 km from the centre of the site) means that future inhabitants would have a long walk to pick up existing bus services passing along that road.
255. The bus strategy has two elements. Firstly, the provision of a shuttle bus which would loop around the centre of the site and go to Great Dunmow. Secondly the provision of the Hub in an isolated location near the entrance to the access road<sup>267</sup>. Passengers seeking to go anywhere other than Great Dunmow (particularly to Stansted) would have to change at the Hub. Both the isolation of the Hub and the need to change would make this an unattractive option in the eyes of the Council.
256. The s106 secures sufficient funding to ensure that one bus per half an hour would run to the centre of Great Dunmow for the first eight years, which includes the build out period<sup>268</sup>. The agreement would also maintain one bus per half hour for the following four years when it is predicted that congestion along the B1256 corridor would worsen<sup>269</sup>. If congestion does not worsen, the agreement would allow an increase to two busses per half an hour for the remaining period.
257. The key question is whether the bus service would be viable when the funding ends in twelve years. The Council accepts that this requires a degree of extrapolation into the future which means that it is difficult to be certain about the funding position either way. The Council takes the view that it is a point entirely against the appellant's case given the accessibility issues associated with the walking and cycling routes. It suggests that this is exactly the sort of case where the SoS needs to be confident there would be a viable, long term bus service.

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<sup>266</sup> CD 16.10 page 2

<sup>267</sup> The proposed loop and the Hub can both be seen on CD 9.6, appellant's transport witness appendices, figure 14.

<sup>268</sup> ID 25 second highways SOCG 3.16-3.18.

<sup>269</sup> ID 41

258. On the current evidence, the Council doubts whether the shuttle bus would be viable. Although there are a number of variables involved in the calculations the most important variable is revenue<sup>270</sup>. The appellant's transport witness agreed that if revenue was £1.50<sup>271</sup> per passenger the bus would not be viable, but if it was £2.50 per passenger it would be viable. The proposed figure of £2.50 per passenger was chosen by the appellant on the basis that it represents the average fare charged for bus journeys in Essex<sup>272</sup>. There are a number of reasons why the Council finds this to be an inappropriate revenue to assume per passenger:

- a) While £2.50 may be the average fare across the County it is not appropriate for all those using the shuttle bus. Those only using it to go to the Hub, for example, would expect to pay much less<sup>273</sup>. While ECC would endeavour to arrange a through-ticket approach<sup>274</sup>, the notion raised by the appellant's transport witness that this would involve all of the revenue for the through ticket going to the operator of the shuttle bus and none to the operator of the onward service is unsupported by evidence<sup>275</sup>. Therefore, it is simply wrong to assume that the average fare would be £2.50.
- b) The suggestion, in cross examination of the Council's transport witness, was that occupants of the site would be prepared to pay more to go to Great Dunmow, because of its attractions, has no merit. This is because the scheme is being promoted as an urban extension to Great Dunmow and future residents would not expect to pay the fare for a trip across their own town according to the Council.
- c) Even if the average fare were £2.50, this would not give an average revenue of £2.50. The Arriva representative confirmed in writing that: "The average revenue per passenger on a local bus route like this is closer to £1.50. This is because of lower reimbursement levels for ENCTS passengers, lower fares for children, and discounts for period tickets. I would expect closer to £1.50 on a shuttle service such as this if the single fare is £2.50." <sup>276</sup>. The Council's transport witness's experience includes arranging bus services and she confirmed that this would be the case<sup>277</sup>. The appellant's transport witness viewed fares as being synonymous with revenue and on the evidence he is wrong according to the Council.

259. Given that his assumption of £2.50 revenue finds no support in the evidence, that really is the end of the appellant's transport witness's case on bus viability. However, given that there are other variables discussed between the experts the Council makes the following submissions:

- a) The suggestion made in the TAA that modal share for buses would be 7% is exceptionally optimistic<sup>278</sup>. It involves simply assuming that everyone who

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<sup>270</sup> Appellant's transport witness XX.

<sup>271</sup> Both experts necessarily utilised 2022 costs in their calculations, reflecting that costs and revenue are both likely to go up.

<sup>272</sup> CD 1.25 TAA §5.19, confirmed by the Council's transport witness in her PoE at §8.11

<sup>273</sup> CD 10.5 Council's transport witness PoE §8.11

<sup>274</sup> Council's transport witness XIC

<sup>275</sup> ID1 highways rebuttal at §3.14

<sup>276</sup> ID 20 appendix B

<sup>277</sup> Council's transport witness XIC.

<sup>278</sup> CD 1.25 TAA §5.19



catches a train would access it using a bus. Given that there are discounts available for parking at Stansted<sup>279</sup> and that residents can drive to alternative stations there is no basis for making that assumption. As the Arriva representative highlights, the national modal share for buses is 5% and even that is extremely optimistic given the location and demographics of the proposal<sup>280</sup>. This is significantly higher than seen elsewhere in Uttlesford<sup>281</sup>. The modal share assumed in the appellant's transport witness's rebuttal of 3% is much more realistic<sup>282</sup>.

- b) Although it was suggested that residents would become habituated to using the bus during the subsidy period there is no evidence that this habituation would increase the modal share. The subsidy is intended to be used to keep the bus deliverable rather than reduce the fare to an extent it would attract those who would not otherwise use the bus.
- c) The Council's transport witness's expert evidence, based on her experience of tendering for contracts, is that the cost of the bus service would be £200,000 to £210,000 per annum<sup>283</sup>. Given this is based on current local experience, it is a more appropriate figure to use than the £120,000 assumed in the TAA<sup>284</sup>.
- d) Modelling shows that by the time the development is built out, queueing along the B1256 corridor is likely to increase so that there would be delays of 6-9 mins at peak times<sup>285</sup>. This is based on modelling scenario 18, which is the correct scenario to use according to the Council. The justification for this is set out in the PoE of the Council's transport witness<sup>286</sup>. It is important to note that NH also share the view that this is the most appropriate scenario to use<sup>287</sup>. Delays of this order would push the time for the bus to do a loop to well over 30 mins which would require a second bus to produce a 30 min service. This would either further impact on viability or reduce frequency further at peak times limiting the attractiveness of the bus service according to the Council.

260. The conclusion that the bus services would not be viable from this development is not a surprising one. It is supported by the Arriva representative's evidence<sup>288</sup> and comes in the context of situation where very few bus services in Uttlesford District are able to operate without subsidy<sup>289</sup>.

261. In light of the above the Council finds the proposal is inconsistent with GEN1 specifically sub-paragraphs (c) and (e). In simply saying that the site is in a sustainable location and there is a FTP<sup>290</sup> the appellant's planning witness misses the point that the proposal fails to properly take account of the needs of cyclists, pedestrians and public transport users. As such, the Council says that

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<sup>279</sup> ID 36

<sup>280</sup> ID 20 appendix B

<sup>281</sup> CD 10.5 Council's transport witness PoE §8.15.

<sup>282</sup> ID 1 highways rebuttal §3.22

<sup>283</sup> CD 10.5 §8.13

<sup>284</sup> CD 1.25 TAA §5.19

<sup>285</sup> ID 41

<sup>286</sup> CD 10.5, paragraphs 9.4-9.17

<sup>287</sup> CD 12.5 SOCG with ECC and NH §2.4

<sup>288</sup> ID 23 highways position statement appendix B.

<sup>289</sup> CD 10.5 Council's transport witness PoE §8.16

<sup>290</sup> CD 9.7 Appellant's planning witness PoE page 35

the proposal would fail to encourage movement by means other than driving a car and that this would be contrary to the tests set out in paragraphs 110 and 112 of the Framework.

### Planning Balance

262. The Council maintains that the proposals amount to a breach of LP policies S7, ENV1, ENV2 and GEN 1 and that there is also a breach of policy LSC1 of the NP. There is agreement between the parties that the appeal proposal is not in conformity with relevant policies of the development plan as it currently stands<sup>291</sup> and that the proposal amounts to a breach of the development plan as a whole<sup>292</sup>. As a consequence, it is necessary to apply the presumption in favour of the development plan set out in section 38(6) of the Planning and Compulsory Purchase Act 2004<sup>293</sup>. This is in addition to the strong presumption against harm to the setting of listed buildings set out in s66 of the Act. The Council notes that this presumption did not apply the last time the SoS considered a proposal on the site.
263. The question then is whether there are material considerations sufficient to outweigh the breach of the development plan or to outweigh the strong presumption in s66. The Council does not believe this to be the case and highlights the previous SoS decision as a crucial material consideration in this appeal. The Council takes issue with the argument put forward by the appellant's planning witness that the lack of a 5-year HLS overcomes the reasons the earlier appeal was dismissed<sup>294</sup> and finds it an over-simplistic and inaccurate representation.
264. This is because the Council notes that despite finding there was a 5-year HLS the SoS nevertheless went on to decide the case according to the tilted balance<sup>295</sup>. Therefore, even if the appellant's planning witness is right and this case should be decided on the tilted balance, the SoS has already examined a large mixed-use scheme in this manner and found it wanting. Furthermore, the Council highlights some significant differences in that the current scheme is larger, pushed on to higher ground and further north, and has fewer access points. Therefore, the Council finds it more harmful in landscape terms, less sustainable and that it would cause additional harm to nearby heritage assets. The Council also notes that the s66 presumption against development did not apply in the previous appeal and that the basket of harms were sufficient to significantly and demonstrably outweigh the benefits. It views the greater harm in this appeal as significantly and demonstrably outweighing the benefits of the proposed development and being contrary to paragraphs 110 and 112, 174(b) and 130(c) and paragraphs 200, 202 and 203 of the Framework.
265. It is accepted that the Council does not have a 5-year HLS and as such, in accordance with footnote 8 of the Framework, the relevant policies are considered to be out-of-date. That does not mean that they carry no weight or even limited weight and both the Council's and the appellant's planning witnesses have carried out an exercise to determine the weight to be placed on

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<sup>291</sup> CD 12.1 planning SOCG §6.3

<sup>292</sup> Appellant's planning witness XX

<sup>293</sup> CD 10.6 Council's planning witness PoE §6.29

<sup>294</sup> CD 9.7 Appellant's planning witness PoE §9.4

<sup>295</sup> CD 6.1 §55



the relevant policies in their respective PoE. The Council went on to consider the weight to be given to different policies which I have incorporated into a discussion in an earlier section of this report <sup>[20-39]</sup>.

266. The appellant's planning witness also seeks to argue that due to the absence of a 5-year HLS, the case should be determined on the tilted balance. The Council says that this overlooks the effect of footnote 7 and paragraph 202 of the Framework which requires the heritage harm to be balanced against the benefits of the development. As accepted by the appellant's planning witness<sup>296</sup>, the paragraph 202 balance has to be conducted in light of the approach in s66 and, in particular, the requirement to give considerable importance and weight to the heritage harms. Despite this acceptance, the Council says that there is no evidence in the appellant's planning witness's PoE that he carried out the exercise in this way in contrast to the Council's planning witness who reached the conclusion that the harms do not outweigh the benefits.
267. In terms of the benefits relied on by the appellant's planning witness the Council wishes to make the following points:
- a) The provision of market housing is evidently a benefit, carrying significant weight<sup>297</sup>. A note of caution on this benefit comes from the fact that this is a substantial scheme and would take a number of years to complete. The assessment in the ES that delivery can take place in two years is optimistic. Furthermore, limited weight can be placed on the exercise the appellant's planning witness seeks to undertake in looking at what he considers the housing delivery would be in the future<sup>298</sup>. The housing delivery figures are not susceptible of being projected into the future in this way and there are too many uncertainties.
  - b) The provision of affordable housing is also evidently a benefit, carrying significant weight<sup>299</sup>. However, the appellant's planning witness is wrong to say that the Council has fallen short of requirements in respect of the provision of affordable housing. In identifying what he considers to be an affordable housing target he assumes that there is a requirement to obtain 40% affordable housing on every site<sup>300</sup>. Policy H9 requires the Council to seek to negotiate up to 40% on a site-by-site basis and does not apply at all to sites below a certain size. Therefore, it does not amount to a 'requirement' of 40% affordable housing on all sites.
  - c) The provision of a care home would be a benefit but as the appellant's planning witness agrees, not a key benefit.
  - d) The provision of green infrastructure is a benefit carrying moderate weight<sup>301</sup>. In reaching the conclusion of moderate weight the Council's planning witness balances the biodiversity net gain that would be provided against the loss of best and most versatile agricultural land. The development would result in the loss of 98.7 ha of the best and most

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<sup>296</sup> In xx

<sup>297</sup> CD 10.6 Council's planning witness PoE §6.5

<sup>298</sup> CD 9.7 Appellant's planning witness PoE table 11.1 housing land supply analysis

<sup>299</sup> CD 10.6 Council's planning witness PoE §6.10.

<sup>300</sup> CD 9.7 Appellant's planning witness PoE §11.10

<sup>301</sup> CD 10.6 Council's planning witness PoE §6.14

versatile land, which the ES acknowledges as a major adverse effect<sup>302</sup>. The witness's assessment includes reference to the full biodiversity net gain benefits relied on by the appellant.

- e) The provision of economic benefits including provision for office floor space, a Local Employment and Training Scheme, provision of jobs during construction and the effects of increased occupants in the area are a benefit. Although on the last occasion the SoS only placed limited weight on such economic benefits<sup>303</sup> the Council's planning witness has concluded that in the current circumstances moderate weight should be placed on the economic benefits.
- f) The provision of public open space and other facilities where required by the s106 provides some benefit, but those facilities are predominantly aimed at mitigating the effects of the proposal so any benefits should be regarded as modest.

268. The appellant's planning witness also seeks to rely on a number of other benefits<sup>304</sup> which the Council contests are not benefits for the following reasons:

- a) The witness refers to the provision of jobs relating to the proposed Class E and F floorspace. While the provision of Class E and F floorspace is referred to in the description of development this is only an outline scheme. The Council suggests that the SoS cannot rely on an assumption that everything in the description of development would ultimately come forwards. The provision of this floorspace and associated jobs can only be relied on to the extent that it is secured in the s106. As this only secures an obligation to build one retail unit there is no certainty that the associated floorspace and jobs would be provided and it cannot be relied upon.
- b) The witness relies on the safeguarding of land to enable the future delivery of a sustainable transport route. This safeguarding merely mitigates the effect of the proposed development, and it cannot be considered a benefit according to the Council.
- c) The witness refers to the establishment of vegetation. The Council considers that this would cause harm in landscape terms and at most can only be considered to be a mitigation rather a benefit which was a point the SoS agreed with on the last occasion<sup>305</sup>.

269. When the benefits are weighed against the cultural heritage harm, taking into account the need to give considerable importance and weight to the heritage harm, it is the Council's view that the benefits do not outweigh the harm that would be caused and that this is effectively the end of the decision-making process. Even if this case is to be decided on the tilted balance, the harms significantly and demonstrably outweigh the benefits, as the SoS found in the context of lower harms in the previous appeal.

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<sup>302</sup> CD 1.20 ES chapter 13 §13.78

<sup>303</sup> CD 6.1 §42

<sup>304</sup> CD 9.7 table 16.2

<sup>305</sup> CD 6.1 §54

### Council's Conclusion

270. It remains the case that both the principles of good planning and sustainability point away from a grant of planning permission for this proposal. For all the reasons set out above the Council respectfully submits that the SoS should follow and support the approach taken on the last occasion in respect of this site and dismiss the appeal.

### **National Highways**

271. NH provided a PoE<sup>306</sup>, attended the Inquiry and was available to answer questions. The PoE remained unchallenged save for the claim of prematurity<sup>307</sup> from which it resiled when questioned. As only sustainability issues remained in dispute between the main parties<sup>308</sup>, the case set out below only relates to those parts of the PoE that are relevant to those issues.

272. As noted in Sections 7 and 8 (of the PoE), NH considers there is a transport solution that would address the proposed development's impact on the SRN. However, it has concerns with the sustainability of the location of the proposed development which would have a longer impact on the resilience of the of the SRN and NH consider that the proposals do not accord with Government policy.

273. NH explained it is required to meet the requirements of its licence which sets out functions, legal duties and other obligations. NH need to act in a manner which it considers best calculated to conform to the principles of sustainable development (paragraph 4.2 h). For the purposes of this section, "sustainable development" means encouraging economic growth while protecting the environment and improving safety and quality of life for current and future generations (paragraph 4.3).

274. In complying with paragraph 4.2, NH is required to take all reasonable steps to ensure the continued availability and resilience of the network as a strategic artery for national traffic, and as an effective part of the wider road and transport system, and should balance a range of factors in meeting the short and long-term needs of the network, in particular with regard to supporting national and local economic growth and regeneration (paragraph 5.4 and 5.25)

275. DfT Circular 02/2013 and the delivery of sustainable development, sets out how NH should contribute and manage its role as a statutory consultee in the planning system<sup>309</sup>.

276. By way of background NH noted that Easton Park is a greenfield site located between Great Dunmow and Stansted Airport and in the withdrawn Local Plan and how it was anticipated to accommodate a new community of up to 10,000 homes. The plans were predicated on the delivery of a new Rapid Transit System (RTS) which would be delivered in phases alongside housing, employment and other infrastructure provision. Those plans considered the cumulative impacts of the development and offered sustainable solutions. It envisaged early delivery of the RTS would be necessary.

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<sup>306</sup> CD 11.2

<sup>307</sup> CD 11.2, paragraph 10.2

<sup>308</sup> ID 17, section 4

<sup>309</sup> See CD 11.2 for further details

277. The development proposals subject to this appeal are limited to 1,200 dwellings and until the revised emerging Local Plan is published, there is no information that the proposals would form part of a larger settlement. The proposals do not include the sustainable solutions originally envisaged and therefore the site cannot be considered as sustainable. NH consider that in line with Government policies relating to the SRN as set out above, proposals for development in this area should be deferred until greater certainty is provided.
278. Whilst this development includes the provision of a transport hub, given its location to the proposed development, and the permeability of the site in respect to Great Dunmow, and Stansted Airport, NH has some concern if modal shift targets set out in the Transport Assessment would realistically be met, and if the proposals would be complementary with any emerging sustainable transport strategy options to support the level of growth anticipated in any emerging local plan. NH would be able to update its position, once the Council's Local Plan has been published.
279. NH note that the Framework sets out the Government's planning policies for England and how these should be applied. Paragraph 7 of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Additionally, paragraphs 73 and 105 of the Framework prescribe that significant development should offer a genuine choice of transport modes, whilst paragraphs 104 and 110 advise that appropriate opportunities to promote walking, cycling and public transport should be taken up.
280. The appellant suggests a new 15 min service between the site and Great Dunmow, but NH note that this is not consistent with the frequency of bus services that operate in the area currently. Therefore, NH consider that the viability of this and a direct service to Stansted airport is questionable. Moreover, the options for existing services would be a long diversion into the site from the Dunmow West Interchange or the use of a new bus stop by this, which would be some distance from the new residential properties, school and other uses and this would further erode the potential for public transport to serve future residents and employees.
281. Alongside the concerns raised by the Council in its formal response, in terms of the proposed walking and cycling connections not being attractive or suitable for general use, NH is concerned that the characteristics of the development would reinforce car dependency. Further, this would be contrary to the above mentioned aims of the Framework that seeks to promote more sustainable forms of travel for everyday journeys.

### **Interested Party Appearances**

282. **Mr Thompson** spoke on behalf of Stop Easton Park, a residents' action group set up in 2017 for the protection of Easton Park, a historic deer park that borders the west side of the appeal land. The group is supported by residents of Little Easton, Great Dunmow, Takeley, Canfield, Broxted, Thaxted and Great Easton and has an email circulation list of around 700. He made the following points.
283. The approach taken by the appellant is flawed because it considers the land as being a separate entity rather than an integral part of the Easton Lodge Estate,

comprising around 1,700 acres, that was acquired by the current owner in 2004. As a result, the arguments put forward for the protection of Easton Park apply equally to the appeal site according to Mr Thompson.

284. A broad plateau of open land provides an exceptional view of the Grade I church and the CA when approaching from Duck Street. The proposal would destroy this precious aspect. This has been called the "Essex Heights" in older maps and was central to the Forest of Essex that once stretched from Epping Forest, through Hatfield Forest, to Thaxted. The preservation of this open space is important for the physical and mental wellbeing of both current and future generations. The importance of such space to the health of the community has become increasingly apparent since the start of the pandemic.
285. Recent development has left the area short of the facilities for sport and wildlife. The latest census shows that over the past 10 years Uttlesford has grown at more than twice the national average. This point is made both from his personal experience and as chair of a local charity focused on the protection of open spaces and their use for mental health therapy.
286. Some 75% of the limited open space currently available in Uttlesford is accounted for by Hatfield Forest, which is a SSSI and National Nature Reserve (NNR), that is currently threatened by overuse. This can only be overcome by providing alternative facilities. The Easton Lodge Estate, including the appeal land, is the only available opportunity to secure the open space that is needed.
287. The protection of the wider area is also important in providing an ecological link between Hatfield Forest and the Chelmer Valley, as set out in the MKA Ecology Report<sup>310</sup>. This should include the various ancient woodlands that surround the deer park which would help to provide a Nature Recovery Network. This would be in accordance with both national and local priorities according to Mr Thompson.
288. In summary, this proposal must be seen in this context. The appeal site is an integral part of the Easton Lodge Estate, which has a vital role to play in the wellbeing of the local community and the environment says Mr Thompson.
289. **Ms Muir** and her family have lived in the Great Dunmow CA for approaching 25 years and she made the following points.
290. The sustainability statement<sup>311</sup> submitted by the appellant and its claim that there would be an adequate water supply is open to question. This is because the information provided by the water company does not account for climate change. The requirements of sustainability and environmental protection in the Framework are mutually exclusive with regard to this development and that only one of these can be upheld at the expense of the other according to Ms Muir.
291. Water scarcity in the region is no new phenomenon. The East of England is acknowledged to be the driest part of the UK and long-standing concerns over water deliverability are well documented. The sole provider in the District, Affinity Water, has warned that by 2025 it may not have enough water to meet

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<sup>310</sup> ID 3

<sup>311</sup> CD 1.10

demand. Furthermore, Water Resources East, the body formed to monitor and address the problem states that the whole of Eastern England is seriously water-stressed and predicts that by 2050 demand will double with the planned addition of around a million new homes.

292. Affinity Water has agreed to supply the additional demand that would arise from the proposed scheme, but it is unclear how this would be obtained. This is an issue because the Environment Agency states that:

*"surface water and groundwater resources in the district (of Uttlesford) is over-licensed or over-abstracted, meaning that there is no additional water available for supply".*

293. Residents in this District are already experiencing the consequences of water shortage. Householders in neighbouring Takeley, which has been subject to significant development pressure, are regularly unable to gain full water pressure and are even unable to flush their toilets at certain times because the cisterns do not refill. This problem is intensifying as the number of houses increases according to Ms Muir.
294. The problems are self-evident, but the solutions are more challenging, as demonstrated by Affinity Water. Their plan has yet to fully emerge. In the meantime, they are pressing on with abstracting water from the chalk aquifers which run below (and theoretically feed) the Rivers Stort and Cam at a rate of 430,000,000 litres per day. These rivers are globally rare and precious entities which have their own rich ecosystems. Their future is uncertain given Affinity Water's plan to replenish the chalk streams with acidic, imported reservoir water. This would have a serious adverse effect on these naturally alkaline ecosystems.
295. Meanwhile, Ms Muir notes that the landscape is desiccating and stressed, its groundwater having been diverted and extracted, rendering it unable to sustain flora, fauna, trees, wildlife and crops. The cracked ground beneath her feet tells the story of what is happening below and raises significant concerns about the survival of the rare and reputed ancient hunting ground of Hatfield Forest, a mere mile away to the west of the un-flushable toilets.
296. To conclude, Ms Muir pointed out that the lack of a Local Plan is not the fault or responsibility of the landscape or its residents but that together they are bearing the consequences. Simply because something may be deemed legally achievable does not make it inherently reasonable or wise. Instead of compounding the serious issues we already face, she believes it reasonable that Affinity Water should be required to put its own house in order before sanctioning the building of more houses.
297. Ms Muir also raised some concerns on behalf of **Debbie Dann** who is a long-term resident of Smith's Green, Takeley. Ms Dann highlights ongoing problems with water pressure which she maintains is exacerbated by new development in Takeley and the surrounding areas. This has impacted on her daily activities and it has not been possible, among other things, to run a dishwasher at certain times of the day. Ms Dann has been visited by Affinity Water which found that acceptable pressure was present at the time of the visit but nevertheless confirmed that there were widespread issues with low pressure in Takeley and



the surrounding area. Ms Dann felt that such issues would only get worse without remedial action being taken.

298. Ms Muir also made a final statement to the Inquiry. She remarked that different definitions of "value" had been used by each side during the course of the Inquiry. Whilst she accepted the economic value of the scheme, she made it clear that the local community valued the area as it stands now. She observed that the value attached to the existing landscape, heritage and wildlife is far higher than the value placed on these assets by the appellant.
299. **Ms Rush** has lived with her family in the CA for much of her life and her extended family has a long history of association with Little Easton village. She made the following points.
300. There are few formal parks in Uttlesford so daily exercise and access to open space is predominantly on PRow. Having access to unspoilt countryside, taking in the wonderful far-reaching views and being close to the abundant wildlife is an important part of her life and well-being. She is sure that this is hugely beneficial to everyone living close to what she considers to be a truly special part of the countryside. It is protected from becoming spoilt by humans and their pets because it is far enough removed from urban areas. After dark, this area is an undisturbed wildlife sanctuary in her view.
301. A new urban development in the historic farmland surrounding Ravens Farm would destroy the setting of the CA and completely change the character so loved by local people and visitors. People come to the village on a daily basis, to visit the Church, lakes and manor house, to see our historic buildings and walk the PRow over the open countryside between our village and Great Dunmow.
302. Historic remains of the Easton Park Estate and the buildings linked to the Countess of Warwick give the village its unique identity. There is an annual "Countess of Warwick Country Show" which attracts visitors who soak up the atmosphere of traditional village life. The Church and former airfield associated with the WW2 airbase also brings regular visitors from overseas. Losing the countryside setting of the village would spoil the experience and enjoyment for local people and those visiting the area according to Ms Rush.
303. Ms Rush appreciates that more homes are needed and that villages grow over time. Little Easton village has had gradual growth, where new homes have been built in small clusters or with infilling of individual houses, mainly along Duck Street. This has meant that the original linear pattern of housing has been retained and newer properties have respected the character of the many historic buildings and rural farmsteads.
304. More recent development has been approved to the rear of the pub on Duck Street. This is for 47 homes and 3 commercial units and includes affordable housing and self-build plots. The planning committee viewed this as a sustainable and landscape-led development, to bring new people and vitality to the village in the longer term. In contrast, it is her view that the appeal scheme is neither sustainable, in terms of its location, or respectful to its surroundings. It would mostly be situated on higher ground and lead to urban sprawl from the edge of Great Dunmow into the important countryside gap between the two historic settlements.



305. **Mr Bright** is a local resident who has lived with his family in Little Easton since 2006. He made the following points.
306. The richness and openness of the local countryside together with the diversity of wildlife are enjoyable. Open space and unimpeded views are underrated benefits to mental wellbeing. Current house building along the Stortford Road is already having the effect of pushing birds, reptiles and mammals from their long-standing natural habitats into new areas in his view. Mr Bright lives north of Park Road and has noticed a substantial increase in the number of badgers, deer, bats and rooks coming from the south into his garden and the surrounding area. If this appeal is upheld the site would squeeze more wildlife into different areas and, hemmed in by houses and people, their search for food would become problematic, consequently leading to a higher risk of zoonotic disease in his opinion.
307. Following each Covid lockdown an increasing number of people discovered the delights of Little Easton and the CA. Whilst most people were respectful of the countryside, some were not and the area suffered. This mirrors the travails of nearby Hatfield Forest where the National Trust have repeatedly pointed out the adverse impacts of recreational pressure caused by housing growth around Hatfield Forest SSSI/NNR. No-one wants what has happened to Hatfield Forest to be repeated in Little Easton. As Joni Mitchell famously sang "You don't know what you've got 'til it's gone."
308. Mr Bright also notes that the site itself is agricultural. The fields are needed to grow the basic foodstuffs we import. In 2020, 46% of the food we consumed was imported<sup>312</sup> which is not sensible given the need to reduce carbon emissions. The country needs houses, but in the right places and not at any cost. The loss of the site's amenity value to the local area in favour of development is too high a price to pay in Mr Bright's opinion.
309. **Mr Clarke** is a resident of Great Dunmow with a particular interest in planning and development matters. He also represents Great Dunmow Facebook Group. He made the following points.
310. Mr Clarke acknowledges permissions run with the land and not the developer. Here, any national house builder buying a large plot of land would do so on the express condition that it would be able to build its own house style. It would also wish to revisit any s106 it might inherit as a result of the sale. It would "value manage" and "cost engineer" the design from end to end and changes would be inevitable. He alleges that the owner has already stated that it expects to raise up to £1.25 million per acre for its landholding at Easton Park and that this could lead to a pressure to cut costs from the outset. This could result in a lowering of design and build standards and a lessening of s106 benefits following from the scheme in his view.
311. It is empiric that the design that is eventually built would bear no relation to the design which is the subject of this outline planning permission and this appeal. It is common practice throughout the house building industry and does not seem to comply with paragraph 135 of the Framework. He believes that the quality of the approved development would be materially diminished between

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<sup>312</sup> <https://www.gov.uk/government/statistics/united-kingdom-food-security-report-2021/united->

permission and completion, as a result of changes made to the permitted scheme.

312. Mr Clarke also questions whether this site is deliverable and developable within the definitions set out in Annex 2 of the Framework. The appeal site is located adjacent to a working quarry which exports approximately 1,000,000 tonnes of gravel extracted from the site each year. The appeal site owner also owns the quarry and operates it through its contractor SRC. SRC is licenced for 300 vehicle movements per day, six days per week (between 06:30 and 17:30) with all of them using the junction and road proposed by the appellant as the sole means of access to this site, as shown on the relevant plan<sup>313</sup>.
313. The quarry is scheduled to continue to operate at this level until at least 2028, with a possible extension until 2031. In the non-technical summary of the planning application booklet<sup>314</sup>, he notes the following:
- "Enabling works are anticipated to commence in 2022/23 ... with construction of the first residential plots... completed by 2023/24. The construction phase is expected to span eight years. Overall construction is expected to be completed by 2030/31."*
314. Therefore, the quarry and the housing site would run concurrently for at least eight years. Traffic must share the access road and junction with both construction traffic from 2023 onwards and then with residents. It is difficult, Mr Clarke says, to see how this could be done safely and without risk to all users of the access road and junction, especially the residents of the new estate.
315. In Mr Clarke's professional opinion and on the evidence available on the Council's planning portal, the overall scheme design is flawed to the point that it cannot be developed and delivered without major changes which would materially diminish the overall quality of the permitted scheme whomever develops it.
316. Mr Clarke considers that this runs counter to the provisions of paragraph 135 of the Framework and the definitions of what is developable and deliverable, as set out in Annex 2.
317. Mr Clarke also expressed concerns over a shortage of secondary school places and the time it would take for the development to be completed in response to the appellant's planning evidence. The appellant's planning witness pointed out that the appellant had consulted the Local Education Authority (LEA) and that the only mechanism to deliver additional secondary school places would be through providing funding via the s106. This witness stated that it was too early to know whether this would be through the LEA or an Academy. The appellant's planning witness also corrected Mr Clarke's assumption that the development would take 11 years to be completed. He stated that it would be complete in 8-9 years and that the first homes would be delivered by the third year.

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<sup>313</sup> Vectos drawing 110031/A/92 Rev B dated 3 February 2021 entitled "A120 Roundabout Modifications Geometry Overview"

<sup>314</sup> CD 1.1

318. Mr Clarke also had a number of questions concerning the s106 which mainly related to how educational provision would be secured and why it was capped. The appellant's s106 witness pointed out that the cap was in an earlier version of the obligation and was no longer present. He also explained that the individual headage payments were in accordance with the requirements of the Department for Education. Mr Clarke returned, again, to the question of how additional secondary school places would be provided. The appellant's s106 witness reiterated the appellant's planning witness's view that it was simply too early to know the answer.
319. This witness went on to state that the Academy route would be used as an alternative if an agreement could not be reached with ECC, as secured in the s106. He also highlighted the definition of secondary education places and went on to state that the on-site early years and primary school provision would directly meet the needs of the proposed development. Mr Clarke also expressed surprise at the low Council monitoring fee. The appellant's s106 witness pointed out that this had also been revised and had increased to £34,164. Mr Clarke still doubted whether a scheme of this size could be monitored for this amount despite the Council's planning witness confirming that the figure had been agreed with the District Council.
320. **Cllr Coleman** is a Great Dunmow resident of over 40 years and is also deputy Mayor and vice chair of planning. He made the following points.
321. The first point Cllr Coleman wished to make was around a perceived lack of "joined-up writing". Although the B1256 is classified as a B road, it is effectively a A/Trunk Road because it carries all the HGV's and trunk traffic to Saffron Walden and surrounding areas. Major developments have been approved along the B1256 between the A120 and Great Dunmow with each being viewed in isolation. No one has looked at the cumulative effect on the wider road network despite a 170% loading from existing developments, as shown in a report commissioned by Great Dunmow Town Council<sup>315</sup>. No one appears to have thought of a dual carriageway providing a welcome and efficient approach to the town.
322. The appeal scheme has one access planned that would use the existing quarry access onto the roundabout at the top of the A120 slip road. The loading onto that junction alone would cause major traffic problems both in and out of Great Dunmow but also on and off the A120 which was not designed to be a feeder road for large developments but a trunk road to the east. In short, the existing road network would not cope with the pressures placed upon it according to Cllr Coleman
323. Secondly, it is fine for developers to allow ground for medical centres, schools, and emergency services – but the reality is that the NHS and education department have no budgets available to fund construction and the emergency services struggle to provide adequate cover to new housing. All are stretched at the present time. Plans for a replacement secondary school have ground to a halt with no sign of a solution for providing education for the extra 3,000 houses that have already been approved, let alone any new development. The existing doctors' surgeries are unable to provide an efficient service at the current time

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<sup>315</sup> CD 16.35

and the ambulance service is also under pressure. Cllr Coleman noted that he has direct experience of this as a "first responder".

324. Cllr Coleman also pointed out that a major development using an access that has already figured in another planning application by the same developer has been refused. It is his view that infrastructure is totally inadequate for such a development and that there is a distinct lack of any employment opportunities in the area. As a result, somewhere in the region of an extra 2,000 vehicles would be moving around the region.
325. Essex and Uttlesford would appear, in his view, to be shouldering a large proportion of the Government's housing requirements. Great Dunmow and surrounding areas are being overloaded. This development would be of no benefit to this wonderful market town, or the surrounding villages according to Cllr Coleman.
326. **Cllr Pepper** is a District Councillor, a cabinet member for environment and green issues and equalities and is also a ward member of Dunmow North. However, she chose to address the Inquiry as a local resident and parent of two young adults. She made the following points.
327. Cllr Pepper set out that climate change is the greatest threat facing our world today. There is overwhelming scientific evidence saying we have limited time to act. There is more carbon dioxide (CO<sub>2</sub>) in the atmosphere today than any point since the evolution of humans and there is no sign of a slow-down or decline in the concentration of greenhouse gases. Even if all countries met the Paris Agreement targets, the world would still warm by more than 2.7 degrees centigrade (°C) by the end of the century. An Intergovernmental Panel on Climate Change report stated:
- "...the next few years are critical. It's now or never if we want to limit global warming to 1.5 °C. Without immediate and deep emissions reductions across all sectors, it will be impossible."*
328. Cllr Pepper explained that surface transport is the largest source of emissions. Cars are the main mode of travel. Dunmow offers little in respect to walkable or cyclable local job opportunities and does not have a railway station. The buses are limited, expensive and unreliable. Even the Local Plan Inspectors had doubts regarding a rapid bus system saying:
- "... even based on a 10 or 15 min bus service, it is unlikely to encourage the residents to use their cars less for local journeys despite this being better than the services that operate in Uttlesford at present."*
329. Cycling safely is difficult, says Cllr Pepper, due to narrow carriageways and 60 mph speed limits on mainly unlit roads and the local community is largely car dependant. The doctors and dentists are all full. Her husband was recently forced to travel to outside of the district for emergency, private dental treatment.
330. Cllr Pepper notes that the UK Government has banned sales of new petrol and diesel cars and vans by 2030. Fully electric car sales grew substantially to 12% in 2021 but fossil fuel vehicles remain the most common choice of new cars and vans today and are likely to make up nearly half of new sales between now and

2030. In June 2022, the Government ended upfront purchase grants for electric cars. Plug-in car and van grant rates have also been cut.
331. She also notes that there is no categorical evidence that supports the view that new residents can or would choose to travel sustainably in such a car dependent environment. Due to the cost of electric vehicles and the low confidence in the supporting infrastructure, fossil fuelled vehicles are likely to remain the main mode of travel.
332. Evidence has shown that many medical conditions are exacerbated at times when peak levels of pollutants are emitted by heavy road traffic. This development site would cause significant harm to the surrounding area due to an increase in road congestion, air pollution and CO<sub>2</sub> emissions. This would fail to address climate change and be contrary to paragraph 148 of the Framework which states:
- "The planning system should support the transition to a low carbon future in the changing climate. It should also help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions."*
333. Cllr Pepper went on to say that it is estimated the world would need to grow 50% more food by 2050 to feed an anticipated population of 9 billion people. According to the UN's food and agricultural organisation the increase in food production would be most needed in developing countries. The proposal would lead to a loss of important Grade 2 agricultural land.
334. This proposal would also cause harm to existing residents and biodiversity through the loss of open green space and natural habitats. Nature and our children and grandchildren are depending upon us to make the right decisions in securing their future. It is her view that we must build the right homes in the right places.
335. Cllr Pepper also had some questions to the appellant's transport witness. The first was the extent to which the "20-minute neighbourhood" would be inclusive. The witness responded that the routes would be wheelchair accessible and link with onward routes to encourage inclusive physical activity. Cllr Pepper also asked about how the proposal would accommodate food shopping and leisure trips. The witness acknowledged that cars would most likely be used for large food shops but that the bus service would most likely be used for "top-up shops". He also pointed out that there would be "green leisure" opportunities from the routes in and around the appeal site. The witness went on to highlight the potential for leisure trips via the public transport links from Stansted and Chelmsford via the X30 bus service.
336. **Mr Bowie** and his wife are local residents who live on the west side of Great Dunmow. They have often walked to Little Easton, particularly during the Covid lockdown. He makes the following points.
337. Figure 6.1 of the planning statement<sup>316</sup> shows a mass of listed buildings which clearly supports the historical importance of both Great Dunmow and Little Easton. The statement also shows that the appeal land completely fills the gap between Great Dunmow and Little Easton. To the south, it borders the new

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<sup>316</sup> CD 1.2

Barratt Scheme and to the north, it reaches Park Road. Whilst the proposal includes some green space to the north, in an attempt to mitigate the effects of joining the two settlements, in reality a development of this size in the proposed location can only bring irreversible harm to both in his view. The vistas that he currently enjoys and the historic setting of the many listed buildings would be lost. The proposed development would result in urban sprawl to the extent that the identity of Little Easton would be substantially compromised.

338. The development is effectively a “landlocked car only development”, having only a single access road via the A120 junction which would presumably be upgraded but would be shared with the heavy traffic from the quarry. Access to Great Dunmow, on which the development would depend, would therefore be via the Stortford Road which would be under considerable pressure particularly from the new HRS and the Barratt Scheme. With only a single access conduit, any potential bus route would take the same route in and out. Therefore, whilst it may be feasible initially, if subsidised by the developer, once returned to a commercial venture it is unlikely to be sustainable according to Mr Bowie.
339. The recent pandemic has served as a powerful reminder of the value of natural open space to promote both physical and mental wellbeing. The proposed development not only detracts from the available open space but also places further pressure on the remaining assets, particularly Hatfield Forest, due to the substantial increase to the immediate population.
340. **Mr Mahoney** is a local resident who owns Little Easton Manor. He makes the following points.
341. Mr Mahoney has sought to integrate his property into village life and since the beginning of the pandemic has operated a not-for-profit shop, opened a small tearoom and allowed residents to socialise and enjoy the gardens and grounds of the Manor. As such he believes that it is important to the mental wellbeing of local residents. He also undertakes a range of commercial activities at the Manor that are important to its upkeep as a historic building complex.
342. He states that the thought of the greatly increased number of visitors that would arise from the proposed scheme makes him fearful for the future of the Manor and opines that it might suffer a similar fate to Hatfield Forest, albeit on a smaller scale. In essence, he feels that the preservation and integration objectives he has for the Manor would be threatened and lost if the scheme were to go ahead. He points out that whilst large numbers of visitors attend the Countess of Warwick Show, this is only an annual event and is consequently sustainable.
343. If the appeal is allowed, he intends to close the gates and gardens to everyone which would impact on community cohesion and mental wellbeing as well as the longer-term financial viability of Little Easton Manor itself.
344. **Cllr Foley** is a ward councillor for Thaxted and the Eastons and is also an Essex County Councillor. He makes the following points.
345. He objects to the proposal for many reasons including the significant heritage and landscape harms already covered in the Council’s evidence. It would effectively remove the important countryside gap between Great Dunmow and Little Easton which must weigh heavily against the proposal. He agrees with the



points raised in the joint letter from eight neighbouring Parish Councils as well as the professional reports commissioned by Little Easton Parish Council and Great Dunmow Town Council which accompanied their detailed objections. To sum up, there is "*little to no*" local support for this development and it is simply not sustainable. In his view, it is best described as urban sprawl and is deficient in terms of its poor connections with Great Dunmow. There is no viable long-term alternative to the use of the private car, even if a bus service is provided initially according to Cllr Foley.

346. He says there are longstanding problems securing bus services for all major developments in and around Great Dunmow. All local routes are heavily subsidised, but this alone cannot convince commercial operators to maintain the routes to new developments, particularly if they need to detour from a main route because it slows down the service for the existing users. Securing planning conditions for bus stops does not secure the bus service itself. The local major developments with no bus service include Woodlands Park, Land North and South of Ongar Road and Priors Green in Little Canfield. This site stands out as being poorly connected to Great Dunmow. The proposed walking and cycling routes are realistically only for leisure activities in his view.
347. The only driving route into town is indirect and the Stortford Road is already the most heavily used road in the area. It is the main route off the A120 and leads to the only large supermarket in the south of the District. Developments have started on the northern side of the Stortford Road but traffic levels would be affected once development starts on the other side for the Helena Romanes secondary school, 500 houses, a health centre and new sports village. Demand for housing within Great Dunmow itself is supporting new developments which are conveniently located, close to the supermarket, on a bus route and within walking distance to amenities.
348. The housing estates market is primarily for families moving out of London but also include a high proportion of affordable homes. It is arguably more important that such homes are built close to existing amenities according to Cllr Foley. Some of these residents would not own a car. The town is growing rapidly and has over 2,000 homes with permission, still to be built. This site would compete with those in the town itself and, in his opinion, this site would be unattractive in comparison.
349. It is cut-off from Great Dunmow and is next to a working quarry with at least 8 years to run before a restoration project returns it to farmland and parkland. It is also remote from main roads to access facilities, which would inevitably cause delays and higher construction costs. He observes that housing may be required outside of development limits to satisfy the district's housing supply shortfall, however, the sites must be sustainable and deliverable. In his view the site is unsustainable and housing delivery is questionable, particularly in the short-medium term.
350. **Cllr Sidgwick** represents the Little Easton Parish Council and spoke on behalf of the residents of Little Easton village. She made to following points.
351. Local residents are opposed to their village becoming part of Great Dunmow and not being a stand-alone village anymore. The proximity of the appeal site to the CA and Grade I listed church is a significant concern. In the heritage SoCG,



the developer proposes that there is a "very low" level of harm to the significance of the CA and to the Church.

352. This part of Little Easton, around the Church and ponds, has remained virtually unchanged over the last century and as the CAA states:

*"The Conservation Area is a mirror reflection of the community as it existed in the late 19th century".*

353. Little Easton's residents do not consider the harm to be very low. We consider that replacing the historic views out of the CA with an urban landscape is a major adverse impact on the CA, the Church and the other six listed buildings. The residents of Park Road and the CA see this proposed development as a blot on the current historic landscape - even more so in winter when the proposed mitigation would be inadequate.
354. The NP village survey results, which reflect the views of the residents, stated that "90% of responders felt that the areas around the CA and Easton Park should be protected from development" and that "86% of responders indicated that the open countryside around the village was what they most liked about living in Little Easton."
355. Little Easton village with its open countryside and CA is a haven for walkers, dog walkers, horse riders and other country pursuits. It has a wealth of wildlife and varied species of birds, bats and other rare species, such as dormice and great crested newts etc. In this respect Cllr Sidgwick referred to the MKA ecology report submitted jointly by Great Dunmow Town Council and Little Easton Parish Council which is in evidence<sup>317</sup>.
356. The emergency access route to the Little Easton Highwood Quarry site, which is the access route for emergency vehicles<sup>318</sup> shows one access route via the Little Easton flood route and another via a farm track for emergency vehicles if the sole main access road is not usable. Both of these access routes are proposed from Park Road. The emergency flood route was set up by the Parish Council for the residents of Little Easton to gain access to the village when the village access road is flooded.
357. The route relies on tracks used by farm vehicles on a daily basis and it would therefore be impractical to put barriers across the entrance to prevent general vehicle access as the farm vehicles would not be able gain access to the fields. The route is unsuitable for emergency vehicles and certainly could not be used by an ambulance. Cllr Sidgwick objects in principle to any access to the new site from Park Road as this is just a strategy for trying to mitigate the issue that the Little Easton Highwood Quarry only has one access road which is an issue raised by the Highway Authority.
358. Cllr Sidgwick also highlighted the objection letter submitted by Great Dunmow Town Council which is signed by Little Easton and other local villages<sup>319</sup>. Together this group are the voice of residents at Little Easton Parish Council and they object in the strongest possible terms to the proposed development.

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<sup>317</sup> CD 16.33

<sup>318</sup> As detailed in the Vectors PoE of Evidence – CD 9.6 R34 and the SoCG between Vectos and ECC – CD 12.4 R35

<sup>319</sup> CD 16.32

359. **Ms Rodwell** is a local resident who has lived in the village of Little Easton for the last seven years. She made the following points.
360. In planning terms, the reasons the Council turned this application down have not changed, it is still unsustainable in her view. The village does not have basic infrastructure, adequate roads, GP's, fire service, hospital beds and locally commutable jobs for the population of these large-scale developments. Neither does it have sufficient water or sewage facilities either in the face of recent weather and wider climate change. It seems flash floods in the winter and drought conditions in summer will be our ongoing weather in the southeast.
361. The sewage facility that has been allotted is small and dated and located on a thin country road. Her understanding is that tankers would regularly need to go there, from the development through the village, which is marked unsuitable for heavy vehicles. This is not, she says, sustainable and certainly not environmentally friendly, adding noise and pollution to the village on a regular basis.
362. This proposed development is simply urban sprawl on a greenfield site and if this development goes ahead, there would be no gap between Dunmow, our village would be swallowed up and there would be no wildlife corridors anymore. There is amazing flora and fauna in the village, including protected species such as red kites, great crested newts, adders and multiple species of bats that would be affected according to Ms Rodwell.
363. Little Easton has an amazing history and she suggests that if the village was in the Cotswolds or Lake District then it would get more protection. The CA is there for a reason and it should be cared for and protected. Placing trees in a line in front of the proposed development does not mitigate the view, especially as the land from the Church towards Dunmow goes uphill, as pointed out by the Council case officer who turned the application down.
364. Ms Rodwell notes that the land within the village is arable farmland for a reason, it is good soil and Grade 2 in places. It has a high water table which supports good crop yield even during dryer periods. It is unclear, she says, why it is acceptable to build so much on our fertile, high-yielding crop growing land when our population is increasing, up 6%, and when the world is suffering a food shortage due to wars, political instability and extreme weather. She questions whether developing this land runs contrary to the UK's long-term needs and basic common sense. Farming and farming-based communities should be cherished, not bulldozed in her opinion.
365. **Mr Bulling** is a local resident. He made the following points.
366. Mr Bulling's statement primarily relates to public safety. Dunmow has a population of around 10,000 people, with about 15,000 in the surrounding areas. An additional 1,200 houses would bring approximately 3,000 more people to the area (an additional 15%) according to Mr Bulling. About every 3-7 days he receives text messages from the water company warning him of a loss of supply and dirty water.
367. There are many developments in the local area and there has been no upgrade of water supplies and drainage systems. There have been no road improvements or even maintenance says Mr Bulling. There are no accessible

railways or new stations in the pipeline. There is not even the direct bus service between Dunmow and Bishops Stortford. Heat fires are more likely and there is, he says, an unreliable water supply to fight such fires.

368. He states that everyone needs to decide where they stand and that the infrastructure would not support this growth. He observed that you cannot overload a system that is already broken.
369. **Mr Dodsley** is a Little Easton resident and former chair of the Little Easton Parish Council. He makes the following points.
370. This speculative planning application is yet another round in an ongoing battle to try and preserve the historic character of Little Easton village and the important countryside gap that separates it from Great Dunmow, the second largest town in the District. Since the site was bought our village has faced multiple housing development schemes. This has included a 700-home scheme and a stable conversion that were both refused as well as the potential allocation of 10,000 houses in the withdrawn LP.
371. The appellant's opening statement claims that the appeal scheme would form "a well-designed new quarter for Great Dunmow"<sup>320</sup>. None of the built development is within the Dunmow boundaries and it is entirely within Little Easton Parish. It does not, however, serve to extend Little Easton, but tries (unsuccessfully) to hide its very existence from it according to Mr Dodsley.
372. Neither does it serve to extend the town of Great Dunmow. The site is outside the Dunmow parish boundary and the development areas set out in the NP. This also sets out two wildlife corridors that edge the north-west boundary of the town. These ancient woodland and wildlife corridors, designed to surround the development limits, would be compromised by the proposed walking and cycling routes to the town centre through the Barratt Scheme site, particularly in respect of the proposed installation of lighting along the route<sup>321</sup>.
373. He observes that the site is so remote from Great Dunmow that the route to the town centre goes more than a mile to the west in the opposite direction and then a further two miles back towards the town centre<sup>322</sup>. It is also highly unlikely, according to Mr Dodsley, that many people choose to walk the 42 mins into Dunmow town centre<sup>323</sup>. From the Little Easton side, the views of the development would be of an urban character, at odds with the existing and surrounding views of an open agricultural landscape. The CAA<sup>324</sup> details the area around the Church and ponds as a village with a sense of timelessness and a pervading atmosphere of rural tranquillity.
374. The CA is the mediaeval heart of Little Easton. The area, by the appellant's own assessment, has remained virtually unchanged over the last century. The edge of the proposed built development would be around 265 m from the listed buildings in the CA and the Grade I listed church<sup>325</sup>. Any strategic gap between

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<sup>320</sup> ID 4, paragraph 39

<sup>321</sup> CD 9.6, paragraph 5.34

<sup>322</sup> CD 9.6, paragraph 5.12

<sup>323</sup> CD 9.6, table 5.2

<sup>324</sup> CD 4.5

<sup>325</sup> CD 9.5, figure MDC-5

Dunmow and Little Easton village would disappear if this application is approved says Mr Dodsley.

375. He notes that the appellant's own evidence admits that the development would have an effect of "major adverse" significance and that even by the end of year 15, some of the built elements would still be visible from Park Road<sup>326</sup>. He finds it difficult to understand how the appellant's assessment of the harm caused to the CA and Grade I listed church can be rated so low when their own methodology in their historic environment document<sup>327</sup> assesses the significance of the effect on the Church as "large to very large" and the significance of the effect on the CA as "moderate to large".
376. Mr Dodsley is also concerned that various assets have been grouped together for assessment rather than assessed individually. He questions why the Church, an asset with a statutory heritage value of "very high", as conceded in section 7.47 of the appellant's historic environment document<sup>328</sup> has been lumped into a group of assets with a value of "high" and only the cumulative median value assessed. This diminishes the "very high" heritage value of the Grade I listed church.
377. He fully supports the Council's refusal of the planning application and the reasons as set out, particularly in respect of the harm that would be caused to the settings of the heritage assets and the CA. The District Council does not want this development, Little Easton Parish Council and a host of other local Parish Councils do not want this development and the residents of Little Easton do not wish to see their historic rural village consumed by urban sprawl according to Mr Dodsley.
378. He also asked a question in response to the appellant's planning evidence concerning how public open space was defined and whether the land in-between the visual mitigation zone and Park Road was included because it was used each year for the Countess of Warwick Show. The appellant's planning witness highlighted Plan 2 in the s106 which shows the extent of such space within the appeal site. It was established that the land in question was not included and that any ongoing arrangements are a private rather than a planning matter and entirely at the discretion of the landowner.
379. In response to the appellant's transport evidence, **Ms Needham** highlighted the prohibitive cost of e-bikes for a family and whether their potential use was an unrealistic assumption. The appellant's transport witness stated that most family cycling was leisure-based in his experience and that he had only assumed that they would be used for commuting and other utilitarian activities by a limited number of family members. Ms Needham was also concerned about what provision had been made for groups of younger cyclists and potential bus voucher uptake. The witness pointed out that the appellant could only build suitable infrastructure that would be used by a range of individuals and groups. He was unable to say whether bus voucher uptake would be significant.
380. A number of additional interested persons had questions in response to the appellant's planning evidence.

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<sup>326</sup> CD 1.21, appendix 6.5, visual effects table, viewpoint 3

<sup>327</sup> CD 1.20, table 7.1 as well as paragraphs 7.22-7.23 and 7.90-7.91 etc.

<sup>328</sup> CD 1.20

381. **Mrs White** lives opposite the Church in Little Easton and can see “wide, landscape views”. She questioned why there would be more houses in comparison to the previous scheme and noted that the proposal would “implode her views”. The appellant’s planning witness pointed out that the main reason was to ensure that there would be a sufficient density of houses to sustain the proposed community infrastructure and that he relied upon the professional opinion of the appellant’s landscape witness as far as landscape impacts were concerned. Mrs White suggested that a “green band” around Little Easton would help to protect its character and that “green building measures” should be incorporated into the scheme. The appellant’s planning witness pointed out that the proposed creation of a broad, visual mitigation zone to the south of Little Easton would serve this very purpose and that the green building measures would be secured through the suggested conditions which were informed by a sustainability statement that accompanied the original planning application. Mrs White also made a closing statement to the effect that the countryside would be threatened by the proposal as well as food production and a “sense of community”.
382. **Ms Pankhurst** wanted to know how many affordable homes would be delivered and whether this would just be through shared ownership. The appellant’s planning witness pointed out that 40% of the dwellings would be affordable homes and that there were a range of ownership options, as defined and secured by the s106.
383. **Mr Haynes** raised concerns regarding the water supply which he maintains, often falls below 1 bar pressure in Great Dunmow in the mornings. He wanted to know how the increased demand would be managed. The appellant’s planning witness highlighted the findings of a report that was commissioned to consider potential impacts<sup>329</sup> and discussions with Affinity Water regarding the off-site measures that would be needed.
384. **Ms Brown** wanted to know why more weight was not given to the loss of BMV land (given population growth) as well as the loss of trees and wildlife. The appellant’s planning witness pointed out that housing, as well as food production, is important and that the ES specifically considered impacts on both trees and wildlife. He explained that the ES considered what was present on the appeal site and how it would be affected by the proposal and that the agreed conditions would secure the mitigation of any impacts.
385. A number of additional interested persons also made closing remarks to the Inquiry as follows.
386. **Mrs Wilcox** is a local teacher who has first-hand experience of the effect of development on the “demographic of new residents”. She reflected that the parents and children at the school had “country values” which has led to a strong sense of community and that this was being undermined by new residents who had different values.
387. **Mr Drew** pointed out that community services are already over-stretched. His wife is a local vicar who sees the effects of inadequate service provision on a regular basis. He felt that the appeal should not be allowed until a new Local

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<sup>329</sup> CD 1.20, chapter 12

Plan is agreed and that the provision of library services was not an apparent priority.

388. **Mr Walker**, as a former care home manager, doubted whether the construction of a new care/nursing home would be a viable proposition to a future provider given the high building costs typically associated with such facilities.

### Written Representations

389. A number of written representations were submitted at the appeal stage in addition to the representations that were made at the application stage which can be found in section 8 of the Committee Report<sup>330</sup>. Written representations prior to the opening of the Inquiry were received from **Ms Barker, Mr Bowie, Mrs Callington, Mrs Charles, Mr Critchley, Ms Keith, Miss Oulaghan and Mr Norman**. For the sake of brevity, I shall only summarise points concerning additional matters that have not already been highlighted.
390. **Mrs Charles** highlighted a mass flooding event in the village of Little Easton and submitted a number of photographs showing standing water in the fields behind Duck Street and Butchers Pasture in Little Easton that she maintains came from the River Chelmer. She states that she has lived in the village for 13 years and that flooding has increased over this time which she attributes to development and the resultant loss of (permeable) arable fields. She is concerned for occupants of new housing situated in flood plains.
391. **Mr Critchley** makes a number of additional points. Firstly, he highlights the fact that season tickets from Stansted Airport to London termini are up to £2,000 per annum more expensive than other local stations. Further, there are no free drop-off facilities at Stansted Airport meaning that this is not a viable option for regular commuters, resulting in the need to use roads to access rail services elsewhere. He also opined that Stansted Airport came top for costs when dropping off passengers.
392. Secondly, he wished to highlight a report that was produced in 2022 for Transport for New Homes, which is not in evidence before the Inquiry. He maintains that the report, 'Building Car Dependency' is based on 2018 research and that it found that greenfield housing "has become even more car-based" in recent years and added hundreds of thousands of additional car journeys to our roads.
393. He highlights the views of Rosie Pearson, chair of the Community Planning Alliance, who, he maintains stated: "Developers are building in the wrong place, with the wrong design and the wrong layout. This locks in car dependency from the outset, leading to persistent traffic jams, dangerous conditions for pedestrians and cyclists, and air pollution. It's time for change."
394. He then quotes a spokesperson for the Department for Levelling Up, Housing and Communities who he maintains stated that: "We welcome this report and agree that new development should be less dependent on cars. By 2030, we want half of all journeys in towns and cities to be walked or cycled and are investing £3bn into bus services." He feels that the proposed scheme fails to

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<sup>330</sup> CD 2.1



provide any substantial or viable alternative to road transport and that future occupants would be reliant on private cars.

395. Turning to environmental matters and High Wood, he opines that (unspecified) recommendations indicate that a buffer zone of 50 m should be provided to prevent damage to ancient woodland and that the proposed scheme would only allow a 15 m zone. He maintains that any buffer zone should be left as grass or scrubland and not compacted or used as part of a development. He consequently considers that significant damage to hedgerows would result if the appeal is allowed. He feels that hedgerows form vital wildlife corridors and that their destruction would result in the isolation of ancient woods.
396. **Miss Oulaghan** in a letter dated 23 February 2022, set out that the Ministry of Defence (MoD) has received notification from the Council stating that the planning application for the proposed development above was refused and is now the subject of an appeal. The MoD was consulted on scoping request reference UTT/20/3377/SO in January 2021 and submitted a response dated 12 January 2021 to the Council raising no objection to the proposal. The outline application to which this appeal relates reference UTT/21/1708/OP was not received by the MoD and therefore no response was submitted to the Council. The MoD has reviewed this outline application in light of the appeal and it was confirmed that this application relates to a site outside of MoD safeguarding areas, therefore, it raises no objection to the proposal. She trusts that the above would be taken into account during the appeal consideration.
397. **Mr Norman**, as a representative of NH, submitted a statement of case to the Inquiry and then a further PoE despite not having Rule 6 status<sup>331</sup>. I do not consider the substance of the first submission here because the former was superseded by the latter, the substance of which I have already considered at an earlier point in this report <sup>[271-281]</sup>.

## Conditions

398. All conditions were agreed by the main parties by the close of the Inquiry<sup>332</sup>. They benefitted from discussion on two separate occasions during the Inquiry to ensure that they would be necessary, relevant to planning and the proposed development as well as enforceable, precise and reasonable in all other respects in the event that this appeal is allowed. They incorporate a number of pre-commencement conditions to which the appellant has given written consent<sup>333</sup>. As the final version that was submitted reflected the discussions that took place, I have only made minor adjustments in the interests of clarity and to address a limited number of outstanding matters. These relate to water saving measures, the implementation of the scheme and the protection of a sustainable transport corridor.
399. A condition regarding more stringent water saving measures was consulted upon after the close of the Inquiry in response to the widespread concerns amongst local residents over the cumulative effect of development on the local water supply. I was originally minded to include this as part of the site-wide design code but the appellant suggests that a separate condition may be more

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<sup>331</sup> CD 11.1 and 11.2

<sup>332</sup> ID 43

<sup>333</sup> ID 44



appropriate as the specific measures that are needed might change during the extended period over which the scheme would be delivered. Whilst the Council is concerned about enforceability, the condition [42] nevertheless sets a consumptive threshold that would need to be met in each reserved matters area. As such, I see no reason why this would not be enforceable.

400. In relation to implementation, the parties had agreed that the development should take place no later than the expiration of three years from the date on which this appeal decision is issued. Bearing in mind the complexity of the scheme, its phasing and delays that may occur regarding the discharge of reserved matters it would seem more realistic for this to be 6 months after the approval of the final reserved matters for the first phase. The parties were consulted after the close of the Inquiry and do not take issue with the revised wording of condition [1B]. However, if there are significant delays then this could compromise the early delivery of housing from this site which is one of the defined benefits. Consequently, the SoS will need to consider the precise form that this condition should take if minded to allow this appeal.
401. Turning to the sustainable transport corridor condition [37], the final sentence implied that land would be given up or ceded to other parties. A recent Supreme Court ruling<sup>334</sup> held that it is not lawful for a planning authority, when granting planning permission for a development, to impose a condition requiring the developer to grant public rights of way over land within a development site. I have consequently only retained the requirement to safeguard the route and have removed the suggested requirement that there shall be "*no legal or physical impediment to its construction*". The SoS will need to consider whether the condition is still justified on this basis if minded to allow the appeal.
402. The agreed conditions also include the provision of electric vehicle charging points [21] and an exclusive requirement for electric-powered heating systems [41]. The Future Homes Standard seeks to ensure that all new homes built from 2025 onwards produce 75-80% less carbon emissions than was previously the case. Changes to the Building Regulations came into effect on 15 June 2022 requiring new homes to produce 31% less carbon emissions. Whilst Part S requires electric charging points for all new dwellings with parking, Part L still permits gas-fired heating systems. Given that this scheme has been submitted in outline, the transitional arrangements do not apply. Consequently, if minded to allow, the SoS will need to consider whether the electric charging points and the more ambitious reduction in greenhouse gas emissions that would flow from electric-powered heating systems are strictly necessary.
403. In more general terms, I am satisfied that the conditions accord with policy and the guidance set out in the Framework and the PPG. The schedule of conditions and accompanying reasons are set out in Appendix 4 of this report.

### **Planning Obligation**

404. The completed s106<sup>335</sup> is dated 30 September 2022 and was submitted after the Inquiry adjourned but before it closed. It was subject to considerable refinement during the course of the Inquiry<sup>336</sup>. It is a tripartite agreement

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<sup>334</sup> DB Symmetry Ltd v Swindon Borough Council [2022] UKSC 33

<sup>335</sup> ID 47

<sup>336</sup> ID 18 and ID 42

between LS Easton Park Investments Ltd, the Council and ECC. The Council provided a justification for the contributions as well as the calculations for the amounts sought in consultation with ECC. It is satisfied 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 and that it therefore accords with paragraph 57 of the Framework.

405. The s106 sets out the following financial contributions:

- Bus Service - £2,120,000 (maximum) with £700,000 payable prior to first occupation of the proposed development.
- Car Club Credit - £50 per dwelling, payable prior to first occupation of each dwelling.
- Changing Room Option 1 - £163,574 (off-site), payable prior to 45% occupation of the proposed development.
- Changing Room Option 2 - £465,948 (off-site), payable prior to 45% occupation of the proposed development.
- Community Centre - £1,500,000 (maximum), constructed prior to 45% occupation of the proposed development.
- Community Centre Maintenance - £191.26 per dwelling within six months of satisfactory building completion.
- District Council Monitoring Fee - £34,164
- County Council Monitoring Fee - £550 per obligation imposed up to £9,350
- Cricket Facilities - £258,551 (off-site), payable prior to 45% occupation of the proposed development.
- Early Years and Childcare - £20,508 (indexed and multiplied by the Early Years and Childcare Pupil Product rate), four staged payments of 25% with 50% paid prior to the first occupation of the proposed development<sup>337</sup>.
- Flitch Way - £121,500 (off-site), payable prior to first occupation of the proposed development.
- Healthcare - £617,130 (off-site), payable six months after the Implementation Date if an on-site healthcare facility cannot be agreed with the Clinical Commissioning Group.
- Indoor Sports Facilities - £1,186,544 (off-site), payable prior to 45% occupation of the proposed development.
- Libraries - £244.92 per dwelling prior to first occupation of the proposed development.

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<sup>337</sup> See ID 47, Schedule 4, paragraph 10.2 for full details.

- Primary Education - £20,508 (indexed and multiplied by the Primary Pupil Product rate), four staged payments of 25% with 50% paid prior to the first occupation of the proposed development<sup>338</sup>.
  - Open Space Maintenance - £284.30 per dwelling per annum for 10 years with an agreed Management and Public Access Scheme operative before not more than 15% of dwellings are constructed.
  - Residential Travel Plan Monitoring - £3,724 per annum prior to first occupation of the proposed development until one year after the expiry of the Travel Plan Period.
  - Rugby and Artificial Pitches - £258,112 (off-site), payable prior to 45% occupation of the proposed development.
  - Secondary Education - £24,929 (indexed and multiplied by the Secondary Pupil Product rate), four staged payments of 25% with 50% paid prior to the first occupation of the proposed development<sup>339</sup>.
  - Sports Facility Construction – £176,646 (football pitch), £258,551 (cricket pitch) and £740,932 (pavilion option 1) or £438,558 (pavilion option 2).
  - Sports Facilities Maintenance - £247,050, payable within six months of satisfactory building completion.
  - SSSI Mitigation - £150 per dwelling, payable prior to occupation of first dwelling in each phase of the proposed development.
  - Stansted Cycle Link Commuted Sum - £31.83 per m<sup>2</sup> of cycleway prior to adoption and after not more than 100 dwellings in the proposed development are occupied.
  - Sustainable Travel - £200,000 (maximum), payable contingent on results of regular road surveys<sup>340</sup>.
  - Town Centre Connectivity - £208,000 (off-site), payable prior to first occupation of the proposed development.
  - Travel Voucher - £100 per dwelling, prior to first occupation of each dwelling as part of Residential Travel Information Pack.
  - Workplace Travel Plan Monitoring - £6,383, payable prior to first occupation of the proposed development.
406. The s106 ensures that 40% of the dwellings would comprise affordable housing that would include housing for rent, First Homes and other affordable routes to home ownership and such other tenures as may be proposed by the owner and agreed by the Council in writing. The affordable housing mix would comprise 70% for rent, 25% for First Homes and 5% through other affordable means to be agreed. The affordable housing for rent would be set in accordance with the Government's rent policy for social/affordable rents or at a rate that is at least 20% below local market rents (including service charges where applicable).

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<sup>338</sup> See ID 47, Schedule 4, paragraph 10.2 for full details.

<sup>339</sup> See ID 47, Schedule 4, paragraph 10.2 for full details.

<sup>340</sup> See ID 47, Schedule 3, paragraphs 5.5–5.9

407. More broadly, the s106 secures: sports facilities comprising a 1.74 ha of pitch quality ground and an accompanying pavilion with car parking; public open space and an associated management and maintenance programme; a community centre with a minimum gross internal area of 500 m<sup>2</sup> including an area large enough for community meetings and activities, a kitchen of sufficient dimensions for cooking and washing-up facilities and storage as well as male and female toilets, disabled facilities and a baby changing area; a healthcare facility providing primary care services to serve the needs of the development and the Clinical Commissioning Group; a local employment and training scheme to provide training, skills and employment initiatives for residents of the District; a retail unit with a minimum gross internal area of 300 m<sup>2</sup> for Class E(a) use; framework, residential, workplace and education facility travel plans; defined and additional highway works to improve various junctions; the creation of walking and cycling connections across the implemented scheme to the south (i.e. the Barratt Scheme); the creation of a new cycle link to Stansted; the creation of a new cycle link from Park Road; and an education facility with indoor and outdoor area for children up to the age of 11 years old.

### **Inspector's Conclusions**

408. In this part of the report, I have used references thus [–] to cross-refer to relevant paragraphs in preceding sections.

### **Main Considerations**

409. Having regard to the matters the SoS particularly wished to be informed about, established case law<sup>341</sup> and the extant RfRs, the main issues are:

- the effect of the scheme on the significance of designated and non-designated heritage assets as derived from their settings;
- whether the public benefits of the scheme would outweigh any harm identified in the heritage balance of the Framework;
- the effect of the scheme on the landscape and visual character of the countryside;
- whether the scheme would be an accessible and sustainable form of development with regard to alternative transport modes that are safe, secure and attractive to all users; and
- any other material considerations, the consistency or otherwise of the scheme with the development plan as a whole and the overall planning balance.

### **Heritage**

410. The relevant heritage assets and the opinions regarding the potential effects of the scheme are as previously set out [113-144, 189-233]. It is agreed that the scheme would not cause direct physical harm to any heritage asset, rather, the disputed level of harm solely relates to how the proposal would affect their setting. The parties agree that differing levels of harm would be caused to the significance of at least two designated heritage assets through changes to their

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<sup>341</sup> South Buckinghamshire DC v Porter (No. 2) [2004] UKHL 33

setting and that this harm would be less than substantial within the meaning of the Framework<sup>342</sup>.

411. Neither party finds any harm to the setting or significance of "Stone Hall"<sup>343</sup>, "The Old Library"<sup>344</sup> or "Easton Lodge" Registered Park and Garden<sup>345</sup>. Whilst HE identifies specific harm at the lower end of less than substantial to the setting of Easton Lodge, this opinion lacks any reasoned justification<sup>346</sup>. Having viewed what remains of the lodge at Warwick House, as well as the wider landscape from the southern edge of the garden, it is clear that the changes during WW2 have greatly altered its setting to the extent that any earlier historic associations with the wider landscape are no longer legible. Bearing this in mind, as well as the separation distance and the resulting lack of any close juxtaposition, I can find no harm to its significance through changes that would occur beyond the planned landscape that was once associated with this asset.
412. Given the above, the key designated heritage assets potentially affected by the proposed development would be the Little Easton Conservation Area (CA), the Grade I "Church of St Mary the Virgin"<sup>347</sup>; Grade II listed buildings comprising "Church Row"<sup>348</sup>, "Portways"<sup>349</sup>, "Park Road Cottage and Yew Tree Cottage"<sup>350</sup> and "Easton Manor"<sup>351</sup>. Easton Manor has a number of associated listings comprising the "Stable at Easton Manor, 50 metres South"<sup>352</sup>, a "Barn at Easton Manor, 70 metres South East"<sup>353</sup> and "Outbuildings 25 metres South East of Easton Manor"<sup>354</sup>.
413. The position at the close of the Inquiry was that the appellant only accepts that a "very low" level of less than substantial harm would be caused to the setting of the Church and the CA whilst the Council finds that there would be a "medium" and "high-medium" harm to their respective settings as well as varying degrees of harm to the other designated heritage assets that have been listed<sup>[189]</sup>.
414. Additionally, the Council also finds harm to the setting of three non-designated heritage assets comprising Ravens Farm, the Pillbox and the Rectory. The appellant accepts that "low-moderate harm" would be caused to Ravens Farm as opposed to the "high" level of harm identified by the Council<sup>[231]</sup>. The appellant points out that harm to the Rectory was not identified in the Council's RfR and was introduced at a late stage after the submission of the Council's Statement of Case<sup>355</sup>. Be this as it may, the appellant has had an opportunity to respond to this during the course of the Inquiry and I am satisfied that its late introduction is not prejudicial to its case.

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<sup>342</sup> CD 12.1, paragraph 3.10

<sup>343</sup> List Ref: 1334091

<sup>344</sup> List Ref: 1055743

<sup>345</sup> List Ref: 1001484

<sup>346</sup> CD 16.22

<sup>347</sup> List Ref: 1097465

<sup>348</sup> List Ref: 1097468

<sup>349</sup> List Ref: 1055739

<sup>350</sup> List Ref: 1097467

<sup>351</sup> List Ref: 1334057

<sup>352</sup> List Ref: 1097464

<sup>353</sup> List Ref: 1055759

<sup>354</sup> List Ref: 1366619

<sup>355</sup> CD 12.2, paragraph 4.7.2

415. Annex 2 of the Framework defines setting as: *"The surroundings in which a heritage asset is experienced. Its 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."*
416. The PPG advises<sup>356</sup> that all heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. It stresses that whilst the extent and importance of setting is often expressed by reference to the visual relationships, other non-visual factors also affect the way in which it is experienced. It goes on to state that this can also include an understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the way in which their significance is experienced. Bearing the above in mind, I consider each asset in turn and the effect of the proposed development.
417. Both parties accept that less than substantial harm would be caused to the setting of the **CA** to a varying degree, as set out in their respective positions [124-127, 203-211]. The CA appraisal is necessarily the starting point and sets out the medieval origins of the settlement as comprising a potentially fortified manorial-church complex with the cropmarks of former field boundaries suggestive of tofts<sup>357</sup>. It goes on to note that the relationship with the wider landscape changed significantly in the post-medieval period with the Maynard family eventually creating a parkland with radiating avenues laid out in a *patte d'oie* on land to the west of the appeal site, as shown on the Chapman and Andre map of 1777<sup>358</sup>.
418. The Council's heritage witness agreed, initially, that the appeal site did not overlap with this parkland area and that there is no longer any legible, associative features linking the appeal site to the wider Easton Park Estate. The witness observed that it is "much like any other agricultural land" and she also agreed that the associative value lay in the openness of the field patterns that had resulted from much later, Victorian farming practices. However, the witness subsequently changed her position and suggested that Tithe Maps are suggestive of earlier field patterns but conceded that these had not been part of her PoE.
419. The evidence is clear on this matter and is neatly summarised in the appellant's closing [124]. There is no evidential basis for attaching particular weight to the open field patterns of the appeal site and that the appraisal, when it turns to wider setting, does not ascribe any particular value to the appeal site nor does the site coincide with any of the "important views" that have been defined<sup>359</sup>. As the appellant points out, where it does look more widely, it only identifies a pervading "atmosphere of rural tranquillity"<sup>360</sup>.
420. The relationship between the appeal site and the CA is not a purely visual one. I observed during the course of my site visits that the noise generated from the

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<sup>356</sup> Paragraph 013, revision date: 23/07/19

<sup>357</sup> CD 4.5, paragraph 1.50

<sup>358</sup> CD 4.5, paragraph 1.53

<sup>359</sup> CD 4.5, figure 2

<sup>360</sup> CD , paragraph 1.84



urbanised area to the south of the appeal site, as well as the quarry to the west, falls away on the approach to Little Easton. Little more than the sound of the wind in the trees and the ripening crops prevailed with only an occasional punctuation from passing aircraft from Stansted. This halo of peace contributes to the tranquillity of CA itself and the Arcadian idyll typified by a well-preserved sense of timelessness that pervades its picturesque dwellings and ornamental, open spaces.

421. This experiential aspect of the CA setting is also recognised by the appellant's heritage witness who goes on to acknowledge that the noise levels generated by the scheme would "not regarded as 'tranquil' in terms of noise assessment terminology"<sup>361</sup>. Although the witness views this tranquillity as being incidental to the heritage significance of the CA, which the Council's own witness acknowledged is not truly isolated, it nevertheless contributes to a wholly intended vision of pastoralism and harmony with nature which is bolstered by the undeveloped "rural apron" of the hamlet.
422. Turning to the visual relationship, by the same measure, the agrarian setting that the appeal site helps to provide clearly contributes to this rurality. The Council also highlights the fact that the rural setting of the CA is expressly highlighted in the appraisal<sup>[205]</sup>. I acknowledge that the retention of open fields to the south of Park Road would help to preserve this context and that this would prevent coalescence with Great Dunmow. I also accept that once the woodland planting is fully mature then the majority of the built form would most likely be screened from static viewpoints to the north and northeast. However, for more than a quarter of a century there would be an, albeit diminishing, sense of urbanisation that would be far from trivial.
423. Moreover, the kinetic perspectives of footpath users would change permanently with clear views of either playing fields or buildings being apparent along a considerable length of PRoW 36\_23 as well as part of the Saffron Trail immediately to the north of Ravens Farm, irrespective of the effectiveness of the visual mitigation zone<sup>362</sup>. The CA would consequently be perceived as being within a diminished rural context that would detract from its tranquil character as users approach the hamlet from the south.
424. Given the above, both the visual and aural rurality of the appeal site positively contributes to the setting and thus the significance of the CA as a whole. As such, I find that the proposal would lead to a low level of less than substantial harm to the setting and thus the significance of the CA and that this harm carries considerable importance and weight.
425. The **Church of St Mary the Virgin** has no apparent dedication to St Mary according to the Diocesan Registry<sup>363</sup>. I consequently only make further reference to it as the Church, as I have in preceding text. The Church stands in a prominent position at the entrance to the CA, to the northwest of the appeal site, on the other side of Park Road. Both parties agree that less than substantial harm would be caused to the setting of the Church but to a varying degree, as set out in their respective cases<sup>[120-123, 216-221]</sup>.

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<sup>361</sup> CD 9.4, paragraph 2.29 and 2.32

<sup>362</sup> CD 9.5, Document A, figure MDC-11

<sup>363</sup> CD 4.5, paragraph 1.88



426. Although prominent in terms of its immediate surroundings, I observed that the tower is diminutive and largely screened by the surrounding tree canopy when approached from the east, along Park Road. This also limits longer distance views from the footpaths that lie to the south and southeast. As a result, the Church is only glimpsed on approach. Within this context, it reads as a simple country church rather than a prominent, ecclesiastical beacon.
427. Whilst the tower would have a greater prominence during the winter months, this is very far from the Council's contention that it was designed to be a way-marker of ritualistic significance for agrarian parishioners <sup>[217]</sup>. The Council's heritage witness acknowledged that this assumption, as well as the contention that there was an intentional, ritualistic footpath arrangement, was predicated on its function as a Parish Church and nothing more. As such, there is no objective evidence to suggest any ritualistic or deliberate footpath arrangement is present.
428. Whilst this weakens the associative value between the appeal site and the Church, parishioners approaching it on a Sunday morning and other high days and holidays would have done so within an overwhelmingly rural context. As would be the case for the CA, the scheme would erode the rural context of this simple country church because glimpsed views of its tower would be juxtaposed with the extensive urbanisation experienced by footpath users, as set out above. Moreover, the comings and goings and daily activities of future occupants would significantly intrude into what is currently a tranquil and contemplative approach to the Church.
429. Bearing in mind that it derives the majority of its special interest from its architecture, fabric and history, as experienced at closer quarters, I find that the harm would be at the very lower end of less than substantial. As with any harm to the setting of a listed building, this should still be given considerable importance and weight.
430. **Easton Manor Group** comprises the four listed buildings, as detailed above, with the main parties disputing whether or not their setting would be harmed in their respective cases <sup>[131-132, 222-223]</sup>. The outbuildings are arranged around an open area that abuts the northern boundary of the churchyard whilst Easton Manor and its formal gardens are offset to the northwest and separated by the main approach to the manor from Park Road. A track, along the same alignment, provides access to the fields immediately to the north which wrap around an associated car park and the eastern flank of the extended churchyard.
431. Turning to the individual buildings and according to the list description, Easton Manor was extensively remodelled in 1930 and 1939 and incorporates the remains of small C17 house, two C19 cottages and re-used material from the former Easton Lodge. Aside from the evidential value of its earlier phasing, it represents a well preserved and coherent example of interwar historicist architecture. It also has a clear historic value which is founded on its association with Lady Warwick. The extended grounds and adjacent churchyard provide a picturesque and secluded setting which speaks to the bohemian lifestyle of the time rather than any earlier utilitarian, agricultural activity which only remains legible in the form and fabric of the barn and stables.

432. The outbuilding, approximately 25 m to the southeast of the Manor, was built between 1930 and 1939 and incorporates the remains of C18 granary according to the list description. The timber-framed stable block to the south of the Manor flanks the eastern side of its main approach and originates from the C18 whilst the barn to the southeast is a former C16 timber-framed tithe barn that was converted to a theatre in the early C20 by Lady Warwick. Pevsner notes that performers included Ellen Terry and H.G. Wells and that the remodelling of the buildings followed a "theatrical composition" by the actor and impresario Basil Dean, who married Lady Warwick's daughter.
433. Pevsner concludes by stating that the overall effect is charming, with gateways and walls reusing old materials and compartmented gardens leading down to a lake "with more than a touch of Hollywood (or Pinewood)"<sup>364</sup>. The informal grounds, in particular, contribute to the Arcadian romanticism of the CA and provide the principal setting for the more formal gardens and buildings of this group.
434. The Council has made much of the former use of the manor as a farmhouse and the agricultural purpose of the barn and stable block <sup>[222]</sup>. The Council's heritage witness considers that views toward the buildings of the Easton Manor Group, from the footpaths to the east, incorporate views of the appeal site and that its currently undeveloped appearance supports the rural context in which the Manor and its buildings are to be understood and appreciated<sup>365</sup>.
435. Having walked these footpaths, I find that it is primarily the fields to the north of the group that set the rural context for the earlier phase of these buildings which would remain clearly understood from their materiality and the track that directly links them to the barn and stables. Although the main access to the south could have been similarly used, the orientation and siting of the barn immediately behind the churchyard lacks the same practicality in terms of functional access to the former granary and the nearby fields immediately to the north.
436. Whatever the past relationship may have been, the fact remains that there is no substantiated evidence before the Inquiry of any associative link between the Easton Manor Group and the appeal site. I consequently find that any glimpsed view of distant rooftops to the south that may be present from the footpaths that the Council identifies would not alter the legibility of its agricultural phase or the significance of its later remodelling which has created a self-contained composition that is visually divorced from the appeal site. In this respect, its setting is drawn primarily from the romanticism of its informal grounds. As such, I find that there would be no impact on the significance of any of these buildings from the scheme.
437. **Church Row** is a small terrace of cottages comprising former almshouses built by Lady Warwick in 1895 as part of her philanthropic endeavours. They are situated on the south side of Park Road and their rear gardens abut the northern boundary of the appeal site. The parties dispute whether its setting would be harmed, as set out in their respective cases <sup>[128-130, 212-215]</sup>.

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<sup>364</sup> CD 9.4, paragraph 3.42

<sup>365</sup> CD 10.3, paragraph 5.55

438. It is an Arts & Crafts building that Pevsner describes as “highly picturesque”, according to the appellant<sup>366</sup>. In contrast to its main elevation, the rear elevation has little architectural detail apart from a pleasing cascade of gables. The primary visual relationship and orientation of the building is such that it unequivocally addresses the Church rather than the wider landscape in architectural terms.
439. The Council’s heritage witness maintains that the rural setting contributes to its significance because the detached and generous space about the building presents it as a distinct form as opposed to a building that is “part of an urban or dense street scene”. For the same reasons, the Council finds that the rural setting also contributes to the nearby non-designated heritage asset, the Rectory<sup>367</sup>.
440. I find this an unhelpful comparison given the generally loose grain of buildings I observed within the CA. I accept that the experience of the buildings is presently without distraction and that this would change with the construction of sports pitches to the south and a somewhat distant, new school building and pavilion. However, these changes would not be so great as to overwhelm their architecture or disrupt their historic associative relationship with the Church. Moreover, their immediate rural context would be preserved given that the adjoining land would remain in agricultural use.
441. As such, I do not find that the rural views experienced in and around Church Row (or the Rectory) contribute to its significance which resides predominantly with its historic and aesthetic interest. Consequently, no harm would result to either asset.
442. **Portways** was constructed in the late C16 or early C17 century according to the list description. The parties disagree over whether any harm would be caused to this asset, as detailed in their respective cases [133-134, 224-227]. The building is located amongst a cluster of buildings on the south side of Park Road with an intervening field separating them from the north-eastern boundary of the appeal site. It lies a significant distance to the east of Easton Manor and is outside the CA boundary.
443. The main parties agree that its special interest is related to its age and group value as part of the sporadic historic development that occurred along Park Road. Architecturally, it is an example of a modest timber-framed cottage with vernacular architectural detailing. As such, it is the historic form and fabric of this building and its relationship with the adjacent buildings that help to define its special interest.
444. **Park Road Cottage and Yew Tree Cottage** (the Cottages) date from the mid-C17 and were formed from a more substantial, higher-status dwelling which was subsequently subdivided into two dwellings. They front onto Park Road which defines the primary historic orientation of this building with Portways having no such relationship as a result of being situated immediately to the rear. The vernacular form and fabric of this building contribute to its special interest in much the same way as Portways [133-134, 224-227].

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<sup>366</sup> CD 9.4, paragraph 3.7

<sup>367</sup> CD 10.3, paragraph 5.40

445. Insofar as their setting is concerned, the appellant's heritage witness acknowledges that Portways has a historic relationship with the small field immediately to the south<sup>368</sup>. A map regression shows this as being present from at least 1838 onwards and I observed that there remains a significant degree of enclosure to the rear of Portways which follows the historic field boundary. However, its rural character has been altered and it is now dominated by a range of more recent buildings and structures that extend into the field as well as a high and incongruous evergreen hedge<sup>369</sup>. Consequently, any long distance, oblique views towards the appeal site from either listed building are now largely filtered through a cluttered, suburban context.
446. Bearing this in mind, as well as the retained agricultural field to the south and west, I find that the effect of the scheme on their setting would be negligible as it has already been altered by significant changes in the adjoining land use and boundary features. There would be little encroachment and no material change to the way in which the setting of these buildings are currently experienced once the visual mitigation zone matures. I consequently find that there would no permanent change to the limited contribution that the wider landscape that encompasses the appeal site makes to the significance of these assets and thus no harm would result.
447. Turning to the nearby non-designated heritage assets, Ravens Farm would be in close proximity to the eastern flank of the scheme and would experience major changes to its setting given the proximity of the built form and the flood attenuation areas<sup>370</sup>. The Pillbox would remain within an open countryside setting to the northeast but the scheme would nevertheless lead to a curtailment of its sightlines to the south and southwest. Unlike designated heritage assets, paragraph 203 of the Framework only requires a balanced judgement to be reached regarding the scale of any harm and the significance of such assets which I set out below.
448. **Ravens Farm** can be seen on the 1838 tithe map as well as the earlier Chapman and Andre map of 1777<sup>371</sup>. The appellant's heritage witness notes the sweeping roof and slightly off-centre diamond stacks as being suggestive of a frontage block of some age with the chimney stack indicating that it would have been a farmhouse of some status. He opines that the building may have originated from an earlier timber-framed structure that was later re-fronted in brick, in a Georgian style, which would explain the small and widely spaced windows<sup>372</sup>. Having viewed the house from the outside and also noting the steep roof pitch, I agree that this building may well be of earlier origin and likely to be of significant value in terms of its form, fabric and function despite not being statutorily listed.
449. The parties agree that there would be harm to the setting and significance of this asset, as set out in their respective cases <sup>[136, 229-231]</sup>. I find the low-medium level of harm ascribed by the appellant to be understated. This is because the scheme would lead to a significant urbanising effect which would eviscerate the agricultural setting of the farm and severely curtail its relationship with the

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<sup>368</sup> CD 9.4, paragraph 4.6

<sup>369</sup> CD 9.4, photo 24, pp 55

<sup>370</sup> CD 9.5, figure MDC-11

<sup>371</sup> CD 9.4, paragraph 5.2 and 10.3, paragraph 5.65

<sup>372</sup> CD 9.4, paragraph 5.3

wider landscape to the west. I find the limited “breathing space” and retention of some, albeit repurposed, fields around the farm to be contrived. Although the scheme would have a substantial negative impact on the setting of this building, its evidential value would nevertheless remain and could be subject to further investigation. As such, I find a moderate adverse impact would be caused that would erode the significance of this farmstead.

450. Turning to the **Pillbox**, the heritage witnesses differ in ascribing its form to a particular design. I observed that it is in a parlous condition and constructed from brick and concrete. It is based on a hexagonal form with rifle loops or embrasures in the walls and an entrance. The appellant’s heritage witness notes that the topography indicates that the pillbox would have overlooked the lower land to the south and east and that this is also supported from the positioning of its entrance to the north. Both witnesses agree that it may have been associated with the defence of the WW2 airfield, some distance to the west. As such, it has a clear historical, associative value with the landscape in which it is set.
451. The parties differ in the level of harm that would be caused, as set out in their respective cases <sup>[135, 232-233]</sup>. Even if I were to conclude that a medium level of harm would be caused, a Design Code, secured via conditions, requires either the re-purposing or restoration of the structure as well as the installation of interpretation boards which would far outweigh the harm that would be caused. Consequently, I find the overall effect of the scheme on this asset to be beneficial rather than harmful.

#### *Heritage Conclusions*

452. As the proposal affects the setting of a listed building of the highest significance, I have had special regard to section 66(1) of the Act. I have also had regard to paragraph 200 of the Framework which requires any harm from development in the setting of a designated heritage asset to have a clear and convincing justification.
453. I have found, as did the main parties and HE, that less than substantial harm would be caused to the significance of both the CA and the Church through the changes that would occur to their settings. In both instances I find that this would be low to very low when considered along a spectrum of less than substantial harm. The desirability of preserving the significance of these assets should nevertheless be given considerable importance and weight and this finding gives rise to a strong presumption against planning permission being granted.
454. I acknowledge that the Court of Appeal has established that the great weight to be given to the conservation of a designated heritage asset does not predetermine the appropriate amount of weight to be given to its conservation and such issues are a matter of planning judgement according to the particular facts of a case<sup>373</sup>.
455. I also note that the Palmer judgement, as cited in both parties’ closings <sup>[198(j), 139]</sup>, also establishes that the imperative of ‘considerable weight’ does not

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<sup>373</sup> CD 7.3, Bramshill Judgement, paragraphs 73-75

mean that the weight to be given to the desirability of preserving an asset or its setting is "uniform". This is seen as being dependent on the extent of the assessed harm and the heritage value of the asset which is a question that is left open to the decision-maker.

456. In this instance, the extent of the assessed harm in the longer term is largely limited to the experiential approach to the Church and the CA. Whilst the Church is an asset of the highest significance and the CA has a high conservation value resulting from its well-preserved, picturesque character, the effect of the proposal on their significance would nevertheless be limited. This modulates the overall, but considerable weight, to be given to these harms.
457. Taken together and bearing in mind the above, I still find an overall harm that moderately weighs against the scheme and that this would be contrary to policy ENV2 of the LP. However, I do not find the scheme contrary to ENV1 given the wording of this policy, as previously considered <sup>[31-34]</sup>.
458. Paragraph 202 of the Framework requires that this harm is weighed against the public benefits of the scheme. In order to do this in a comprehensive and efficient manner, these benefits alongside the wider planning benefits, need to be set out in full. Whilst not requiring such a balance, the moderate harm that would be caused to the setting of Ravens Farm will nevertheless be weighed in the wider basket of harms within the planning balance.

## **Landscape**

459. There remained a significant difference of opinion between the landscape witnesses at the close of the Inquiry, as set out in the respective positions <sup>[95-112, 171-188]</sup>. In essence, the Council's landscape witness considers that extensive harm would be caused to landscape character whilst the appellant's witness considers that the harm would be relatively localised and mitigated to a significant extent by new tree planting within the proposed visual mitigation zone. The location and relationship of this zone to other green infrastructure is set out in a planting parameter plan in the PoE of the appellant's landscape witness<sup>374</sup>.
460. The Council view the zone as not being consistent with the recommendations of the LCA<sup>375</sup> which specifically identifies the open nature of skylines within the higher plateau areas as being sensitive to change. It contends that it would not only be inconsistent with the established, more open character of the northern part of the appeal site but that it would also fail to follow existing field patterns, thus adding to the incongruity of the proposed feature <sup>[181]</sup>. The Council's landscape witness added that the zone would not have an "organic form" when questioned<sup>376</sup>.
461. In contrast, the appellant views the zone as being consistent with the overall character of the site which it maintains is relatively enclosed, even in its northernmost extent, because there are substantial blocks and lines of woodland present in relevant views. The appellant goes on to highlight the fact that open land would still be maintained in between this zone and Park Road to

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<sup>374</sup> CD 9.5, Verified Photomontages: Methodology and Supporting Evidence, June 2021, pp 6.

<sup>375</sup> CD 14.8, pp 305

<sup>376</sup> Council's landscape witness XX



a depth of between 200-350 m and that the planting would lead to just the type of skyline feature that the LCA identifies as being characteristic <sup>[109]</sup>.

462. I observed that the northernmost parts of the appeal site, when viewed from Park Road, support 'big sky' views where the skyline appears in the middle distance as an open field flanked with treelines on either side. This is especially the case from the perspective of Viewpoint 3. The prominence of these treelines is kinetic, however, and varies with movement along this road. As such, I do not find the proposed planting would be incongruent or 'inorganic' as a treeline is already present within the existing field of view, as shown in the PoE of the appellant's landscape witness<sup>377</sup>. Moreover, it would be consistent with the greater degree of enclosure I observed in the southern parts of the site and the not infrequent presence of significant blocks of woodland across the wider landscape, as is apparent from my own observations and the site context plan<sup>378</sup>.
463. However, the current sense of openness would inevitably be curtailed through the loss of the open field skyline and the coalescence of what is currently a largely peripheral treeline when viewed from the north. Consequently, I find that the 'big sky' view would be diminished from this perspective and that this would lead to an erosion of one of the key characteristics of the Broxted Farmland Plateau. It follows that the planting would harm the character of the LCA in this respect. Clearly, the location of the zone and the retention of open land along Park Road would maintain a degree of openness and mitigate this impact but the fact remains that it would become a more enclosed view from this perspective. Consequently, a permanent adverse effect would arise from the planting in landscape character terms.
464. Turning to the visual effects of the scheme, the Council points out that the effects on PRowS were not adequately addressed in the Landscape and Visual Impact Assessment (LVIA) at year 15, which is the point from which the operational phase of the development has been assessed. The location of these footpaths is set out in the PoE of the appellant's landscape witness, as noted at the beginning of this report <sup>[13]</sup>. The Council's landscape witness highlights that the experience of rural character, when walking across the fields on PRow 36\_15 (part of the Saffron Trail) and PRow 36\_23, would change significantly as a result of the proposed development<sup>379</sup>.
465. Whilst the appellant relies upon a reducing visual impact from the screening provided by the visual mitigation zone and the southern boundary vegetation, in relation to Viewpoint 10 on PRow 18\_33 <sup>[110]</sup>, the witness nevertheless notes that there would still be a considerable impact on the character of PRow 36\_15, 36\_16 and 36\_23 as they pass the development. He notes that users would experience significant urbanisation caused by the presence of dwellings, parked cars, sports pitches, roads and street lighting. I also note that a new school building, car park and associated paraphernalia would remain clearly visible from PRow 36\_23 as users move north which would fundamentally alter its currently peaceful, rural character. Moreover, the indicative planting to the south of the appeal site would not have the same depth as the zone to the north

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<sup>377</sup> CD 9.5, View 3, Verified Photomontages: Methodology and Supporting Evidence, June 2021, pp 8

<sup>378</sup> CD 9.5, Document A, figure MDC-1

<sup>379</sup> CD 10.4, paragraph 6.21



and that its necessarily deciduous nature could lead to a greater impact on footpath receptors during the winter months.

466. Turning to Viewpoint 2, the Council's landscape witness notes that the appellant treats this visual receptor as being fixed and contends that it should, instead, be defined as a 'transient' receptor associated with PRoW 36\_15. He goes on to acknowledge that an existing tree and shrubby copse partially screen this fixed view but that the visual experience of users would then deteriorate as individuals move southeast and encounter an urban context<sup>380</sup>. Whilst the proximate sections of the visual mitigation zone would increasingly reduce this impact along its north-eastern flank, I find that it would significantly diminish the open views that are currently present and allow unmitigated, glimpsed views of the scheme through the gaps that would be created from connections to the 'internal' pedestrian routes.
467. The appellant downplays the impact on footpath receptors and contends that the experience of a footpath is more of a "longer distance consideration" where only comparatively short sections would be affected, as is the case for the Saffron Trail (36\_15). Whilst the appellant acknowledges that the effects would be "palpable and adverse", it is suggested that the effect would be limited in both time and space<sup>[110]</sup>. Be that as it may, it is clear from the testimony of Ms Rush, Mr Bowie and Cllr Sidgwick, that these footpaths play an important recreational role in local life and that the shorter, more regular journeys undertaken by local people would be the ones that are likely to be most affected<sup>[300-301, 336, 355]</sup>.
468. Turning to other receptors, the parties agree that there would be an adverse effect on Viewpoint 3 at year 15 with the Council identifying a moderate-major adverse effect and the appellant identifying just a moderate adverse effect<sup>[186]</sup>. The Council's landscape witness confirmed, in oral submission, that it was the loss of rural views and the scale of the change that would occur that led him to identify a greater effect<sup>381</sup>. This was consistent with his PoE where he identified a reduction in the extent of open field views as well as the visibility of the built form, especially during winter months<sup>382</sup>.
469. The verified wireframe images of this view suggest that a significant extent of the built form would be screened by year 15<sup>383</sup> and that only very occasional rooftops would be visible by year 25<sup>384</sup>. When considered in combination with harm that would arise from the mitigation zone itself, in terms of a reduction in openness, I find that there would be a moderate-major adverse effect at year 15 that would then reduce over time. As the appellant acknowledges, this would be preceded by significant visual impacts during the construction phase from this viewpoint as well as Viewpoints 1, 2 and 10<sup>385</sup>. Whilst partly offset by the early planting of the visual mitigation zone, as secured by condition, this impact remains significant.

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<sup>380</sup> CD 10.4, paragraph 7.6

<sup>381</sup> IC evidence

<sup>382</sup> CD 10.4, paragraph 7.8

<sup>383</sup> CD 9.5, View 3, year 15, pp25 - Verified Photomontages: Methodology and Supporting Evidence, January 2021.

<sup>384</sup> CD 9.5, View 3, 25 years, pp13 - Verified Photomontages: Methodology and Supporting Evidence, June 2022.

<sup>385</sup> CD 1.21, appendix 6.5

470. Considering longer distance views from year 15 onwards, the appeal site is unusual in that the built form would generally be screened from view from the surrounding area through a combination of vegetation, landform and existing development. For example, the appellant's landscape witness points out that Broomhills and Hoglands Wood would serve to screen the majority of views from the south-east, while High Wood and the woodland around Horse Pond would screen views from the south-west<sup>386</sup>. This is not disputed.
471. My own observations suggest that the visual envelope would be generally limited to the immediate adjoining landscape although there is a notable exception from the perspective of Bigods Hill<sup>387</sup>. A wireframe photomontage from approximately the same location shows an adverse effect at year 15 that would only be partially mitigated by the visual mitigation zone<sup>388</sup>. Given that there is no significant extent of any built form directly juxtaposed, the scheme would appear as urban sprawl from this perspective and not within the context of the Barratt Scheme (or as an extension to Great Dunmow), as the appellant suggests <sup>[107]</sup>.
472. The Council highlights another impact in terms of changes to how the night-time environment would be experienced from Park Road which it characterises as a moderate to minor adverse impact <sup>[185]</sup>. Whilst I am satisfied that long-term light spillage would be controlled to a large extent by the visual mitigation zone and conditions, there could nevertheless be a residual impact arising from uncontrolled sources of light pollution, such as garden security lighting. Consequently, I find that there would be a minor adverse impact in terms of changes to the night-time environment.
473. Bringing the various strands together, I have found that there would be adverse effects on landscape character from the permanent loss of big sky views that would arise from the mitigation zone and urban sprawl in, albeit limited, longer distance views of the proposed buildings. Added to this are the persistent adverse effects on two footpath routes where their rural context would be significantly eroded as well as changes to the night-time environment. Together, these harms weigh moderately against the proposal.
474. Given the above, I find that there would be persistent landscape and visual harm that would be contrary to policy S7 of the LP and inconsistent with the advice in paragraphs 174(b) and 130(c) of the Framework which advises that decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside as well as being sympathetic to local character in terms of, among other things, landscape setting.
475. Insofar as policy LSC1 of the NP is concerned, I agree with the appellant in that it can only have operative force or be relevant in terms of the geographical reach of its policies irrespective of any wider vision that may have been articulated. As such, it is not a material consideration in the determination of this appeal.

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<sup>386</sup> CD 9.5, paragraph 7.30

<sup>387</sup> ID 21, view J

<sup>388</sup> CD 9.5, Verified Photomontages: Methodology and Supporting Evidence, January 2021, View 16, pp 42-46

## Highways and Sustainable Travel

476. As already established, the Council accepts that while there would be some congestion on the eastern B1256 corridor, that the impact of the scheme on the wider road network would not be severe for the purposes of paragraph 111 of the Framework <sup>[235]</sup>. This is also the conclusion of NH and ECC on the basis of the additional traffic modelling that had been completed by the close of the Inquiry. The Council's highway witness indicated that the residual delays across all of the different traffic flow scenarios would be an average of around 7 mins for westbound traffic along the corridor during afternoon peak flows. Further elaboration can be found in the summary of the B1256 junction delays that was submitted during the course of the Inquiry <sup>389</sup>.
477. This shows the current delays to eastbound and westbound traffic as well as the effect of the proposed development on a round trip under two different scenarios. The first being scenario 17 which includes all committed and cumulative growth whilst the second also includes the addition of background traffic growth over and above that which would be caused by the proposed scheme. The first is favoured by the appellant whilst the second is favoured by the Council.
478. A maximum delay of just over 8 minutes is indicated during the afternoon peak flow for the Council's favoured scenario which encompasses the round trip, by bus, from the appeal site across five different junctions. Even under this 'worst case scenario', there would only be a relatively small increase in journey times when committed development and background traffic growth is taken into account. The appellant also highlights the fact that the two most significant delays in the afternoon peak are lower (under both scenarios) than would otherwise be the case without the scheme because of the highway improvement works that it would deliver <sup>[164]</sup>.
479. Bearing this in mind, as well as the sum total of the transport evidence before the Inquiry, it is clear that the opinion of Cllr Coleman is unsubstantiated in terms of the assertions that "*no one has looked at the cumulative effect*" and that the proposal would "*cause major traffic problems*" <sup>[322]</sup>. Whilst I do not doubt that traffic in and around Great Dunmow has grown over time, as a result of ongoing housing development, neither the current scheme nor the committed schemes (that were identified but yet to be built at the time of the Inquiry) would lead to anything even approaching the severe impact required by the Framework to refuse permission on these grounds alone.
480. For completeness, the appellant's highway witness made the following points in oral evidence concerning the highway related conclusions of the transport study that Cllr Coleman and others relied upon <sup>390</sup>: the Framework does not have a requirement for any particular type of model; the ones that were used are based on widely accepted methodologies and were agreed with NH and ECC; the projected over capacity is not supported by the most recent modelling and does not account for the mitigation arising from the proposed highway improvements; and that a second access route onto Woodside Way would not help matters and simply lead to "*dead mileage*". Bearing this in mind, I find

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<sup>389</sup> ID 41

<sup>390</sup> ID 16.35, paragraph 8.04

that there are no credible technical grounds that would lead me to doubt the conclusions I have already reached in relation to the suitability of the site access or the safe and efficient operation of the wider road network <sup>[60]</sup>.

481. Turning to sustainable travel issues, the main parties remained in dispute as to whether the site would be suitably accessible by sustainable transport modes and provide residents and visitors with an appropriate choice of travel in accordance with national and local policies. This dispute turns on whether the proposed walking and cycling routes would provide a safe and suitable access and whether the proposed bus service would be viable in the longer term, as set out in their respective cases <sup>[145-165, 234-261]</sup>. The shuttle bus route is set out in the PoE of the appellant's transport witness<sup>391</sup> whilst the cycling and walking routes are set out in the revised transport SoCG<sup>392</sup>. I use the route numbering associated with the latter in the following discussion.
482. The Council is joined in this dispute by ECC and NH. The Council characterises the intervention of NH as being "very unusual" and something that should "carry great weight" according to established case law <sup>[236]</sup>. However, this is tempered by the opinion that the characteristics of the development would reinforce car dependency thus leading to an unsubstantiated, longer-term impact on the resilience of the SRN<sup>393</sup>. It is also unclear what secondary facts were relied upon to reach this opinion-based conclusion as no reasoning is provided. The appellant goes further and suggests that no weight should be given to this evidence due to a failure to submit or point to any evidence that the resilience of the SRN would be adversely affected by the scheme <sup>[146]</sup>. However, its view that the proposed walking, cycling and public transport connections would not be attractive or suitable for general use and that this would lead to car dependency is nevertheless one that is shared by the Council and in my view is not entirely without merit (or weight).
483. The national policy context for these matters is set out at a number of points in the Framework. Paragraph 104(c) seeks to ensure that opportunities to promote walking, cycling and public transport use are identified and pursued at an early stage. Paragraph 105 makes it clear that the planning system should actively manage growth to support this objective and that significant development should be focused on locations which are, or could be made, sustainable through limiting the need to travel and by offering a genuine choice of transport modes. It then notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that this should be taken into account in decision-making.
484. This sustainable transport thread then reappears in the weft of the Framework at paragraph 110(a) which seeks to ensure that appropriate opportunities to promote sustainable transport can be taken up, given the type of development and its location, whilst paragraph 110(b) stresses the importance of securing safe and suitable access arrangements for all users of a site. Paragraph 112(a) then goes on to advise that development should give priority to pedestrian and cycle movements and, so far as possible, facilitate access to high quality public transport, with appropriate facilities, that encourage public transport use.

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<sup>391</sup> CD 9.6, figure 11 – new shuttle bus route

<sup>392</sup> ID 25, figure A and figure B

<sup>393</sup> CD 11.2, paragraph 9.1

485. The appellant suggests that this advice is more context dependent than paragraph 111 of the Framework and open to interpretation <sup>[148]</sup>. A straightforward reading leads me to accept that there are qualifications. Firstly, by appropriate opportunities being present depending on the type and location of development and, secondly, that access to high quality public transport is only required insofar as possible. In this sense they lack the absolutist imperative of paragraph 111 and permit greater flexibility. I also accept the proposition that significant development, such as the appeal scheme, is inherently less likely to be within easy reach of town centre services when it takes the form of a large urban extension unless a suitable design code is enforced across the whole of a plan-making area. Added to this is the fact that the permeability of such schemes are often subject to the complexities of land ownership which means that the most direct routes cannot always be secured.
486. Under such circumstances it would be reasonable to accept that some existing services might not be as readily accessible and that this is the inevitable compromise inherent to large urban extensions. However, in this instance I am particularly mindful that none of the existing services and facilities are within established walking distances. Although the appellant's planning witness took issue with the Guidelines for Providing for Journeys on Foot - Institute of Highways and Transportation (IHT) (2000) that lead to this conclusion, he nevertheless conceded that they are still used to assess planning applications <sup>[246]</sup>. I also find them helpful to my deliberations.
487. The Council makes it clear that it is not urging a "*counsel of perfection*" when it seeks to criticise the indirect nature of the walking and cycling routes but highlights the fact that it found significant issues with every route which are sufficient, when considered alongside its concerns over the bus offer, to make the scheme unsustainable <sup>[245]</sup>. The Council's views on these matters were informed by, among other things, Planning for Walking - Chartered Institute of Highways and Transportation (CIHT) (2015) and LTN1/20 Cycle Infrastructure Design – Department for Transport (DfT) (2020)<sup>394</sup>.
488. The Council accepts that all of the key destinations are within an achievable distance for most people to cycle (8 km) except Stansted Airport (9.2 km) according to the DfT Guidance but notes that they would not be attractive or suitable for general, everyday use. This is predominantly due to issues relating to their lack of directness and the personal security of users<sup>395</sup>. The core design principles of this guidance establish that routes should be, among other things, both direct and safe<sup>396</sup>. It states that directness is measured in both distance and time and that routes should provide the shortest and fastest way of travelling from place to place. Routes that involve frequent stops are considered less suitable because they do not allow cyclists to maintain momentum which is viewed as an important aspect of directness<sup>397</sup>.
489. Turning to safety, the guidance makes the point that not only must cycle infrastructure be inherently safe but it should also be perceived as such in order to encourage use. It goes on to suggest that cycle routes remote from roads

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<sup>394</sup> CD 15.6, 15.8 and 15.9

<sup>395</sup> CD 10.5.1, paragraph 7.7

<sup>396</sup> CD 15.9, paragraph 4.2.2

<sup>397</sup> CD 15.9, paragraph 4.2.7



may have other risks relating to crime and personal security and that the risk of crime can be reduced through the removal of hiding places along a route, by providing frequent access points and lighting as well as passive surveillance from overlooking buildings and other users<sup>398</sup>.

490. I put it to the Council's highway witness that most rural cycle routes would fail on this basis. Whilst she acknowledged that it would not be reasonable for all routes to conform, she noted that the routes in question are not entirely rural and could have been better designed had a more "joined-up approach" with other developments been taken. In more specific terms, the Council makes the point that there are sections of the proposed cycle routes that would be unlit, not overlooked and difficult to leave once joined.
491. This would not only be the case for the initial 1.2 km section of cycle Route 4 but also the subsequent section to Canfield Road. Similar issues, in terms of overlooking and lighting, would be associated with a 250 m, combined section of cycle Routes 1-3 from the south-western corner of the appeal site to the north-eastern corner of the Barratt Site, in between points A and C<sup>399</sup>. This would also be the case for walking Routes 1-3, that follow the same course, as well as walking Route 4 and cycle Route 5 which diverge and take a southerly direction towards the new HRS site. In relation to the existing HRS site, the Council makes the point that the public footpath providing access to the school, which forms part of cycling (and walking) Route 3, is also not overlooked [248(b)].
492. The appellant did not deal with personal safety issues to any significant extent. Notably, it only addresses the cycling (and walking) route to the new HRS school. In this respect, the appellant simply points to the fact that design "at the detailed stage" would deal with this issue through appropriate crime prevention measures, such as removing concealment opportunities. The appellant also characterises the concerns of the Council's transport witness as relating to "perception" rather than any feature of the route "actually being unsafe" [157(a)]. Be that as it may, the DfT Guidance gives weight to such perceptions and so do I. However, I accept that once the school is constructed then this route would be in regular use and that other users, at the start and end of the school day, would provide some passive surveillance at such times.
493. In terms of directness, the most obvious feature of the shortest cycling routes to the supermarket (Route 1) and Great Dunmow (Route 2) is that they would go west and south before then passing through a series of 'dog legs' arising from the layout of the built-up areas and roads to the east<sup>400</sup>. As such, cyclists would need to periodically stop as they negotiate junctions and other road users. Whilst cyclists on Route 4 would be able to gain greater momentum, this would significantly increase the travel time to these two destinations and is likely to balance out any such benefit.
494. Notwithstanding issues of personal safety and directness, the extent to which Route 4 would provide a realistic alternative for individuals commuting to Stansted is disputed. The Council notes that it is beyond the recommended DfT maximum cycling distance of 8 km, although the additional 1.2 km would not be

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<sup>398</sup> CD 15.9, paragraph 4.2.9 and 4.2.12

<sup>399</sup> ID 25, appendix D, drawing 110031/SK113

<sup>400</sup> ID 25, figure A

excessive to individuals who can cycle 8 km in my experience. Even if this were the case, the appellant highlights the increasing (but unquantified) use of e-bikes which would mitigate any such effect.

495. The Council also takes issue with the fact that there is no road safety audit of the crossing point on the B1256 <sup>[250]</sup>. I observe that there would be uncluttered views for a considerable distance in both directions and that the speed limit of the road changes to 40 mph a short distance to the west of this crossing point. As such, I can find no reasonable grounds to suppose that the new crossing would lead to any substantive road safety issues despite the absence of a formal audit.
496. The Council also highlights road safety issues in relation to users who may choose to go west along the road at this point rather than via the Fritch Way. It points to the fact that the DfT Guidance recommends, for speeds of 40 mph and above, that a segregated cycle lane should be provided. It notes that the average speed in both directions is generally 44 mph and that, according to the guidance, fully mixed traffic under these circumstances is "suitable for few people and will exclude most potential users" <sup>[251]</sup>. Although cyclists could choose to avoid the road and travel west via the Fritch Way, this route is not overlooked and unlit which then brings personal safety issues to the fore again.
497. Bearing in mind the above, I find that neither personal safety nor directness is entirely satisfactory from a cycling perspective and that this weighs moderately against the proposal.
498. Turning to walking opportunities, the appellant highlights the fact that there would be a degree of "internalisation" in terms of day-to-day activities given that the primary school, community hub and shop, as well as any associated employment opportunities, would all be within easy walking distance <sup>[156]</sup>. Added to this are the sports facilities as well as a potential healthcare facility and nursing home.
499. However, these last two are not guaranteed despite one being subject to the s106. The Council also makes the point that if s106 options on the primary school site, via either an LEA or Academy route, are not taken up then it would simply not be built. It also suggests that even though the s106 requires the construction of a retail unit, there would be no certainty that it would trade or be operated by a suitable retailer <sup>[252(a)]</sup>. As with the previous appeal, I agree that there are consequent doubts over the extent to which on-site facilities would negate the need for off-site journeys <sup>[253]</sup>.
500. The appellant's transport witness highlights the fact that a greater range of services are within a 20-minute neighbourhood if cycle journey times are also considered<sup>401</sup>. However, this concept is primarily about walkable neighbourhoods and is also linked to the CIHT Guidance which suggests that most people will only choose to walk if a destination is within 800 m<sup>402</sup>. The Council points out that there would be no off-site facilities within this distance by some considerable degree and I note that the witness conceded that it is not

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<sup>401</sup> CD 9.6, paragraph 5.59 and table 5.2

<sup>402</sup> ID 28, pp7 and pp18 and footnote 23



reasonable to characterise the scheme as a 20-minute neighbourhood in cross-examination.

501. Insofar as the sustainability tests of the Framework are concerned, the Council points out that the evidence before the Inquiry shows that more people walk than cycle for some activities with work trips and food retail trips accounting for 12% and 25% respectively versus just 1% via cycling <sup>[240]</sup>. Consequently, the Council views adequate, convenient and walkable neighbourhoods as featuring strongly in any consideration of whether a site would offer a genuine choice in terms of alternative means of transport and I agree.
502. Bearing this in mind, as well as the uncertainty over the degree of internalisation and the fact that no off-site services are within the recommended distance, I find that the lack of a walkable neighbourhood weighs significantly against the proposal.
503. As a matter of principle, the deficiencies of the walking and cycling offer could to a certain extent, be offset by the shuttle bus service provided there is a reasonable degree of certainty that it would continue to operate without any ongoing subsidy. It is this matter to which I now turn.
504. The bus strategy has two elements. The first comprises the provision of a shuttle bus that would loop around the centre of the proposed scheme and provide a regular service to Great Dunmow town centre. The second comprises an interchange, the Hub, that would be located near the entrance to the main access road. The shuttle service would stop at the Hub which would act as an interchange for longer distance services. Further details are set out in the PoE of the appellant's transport witness<sup>403</sup>.
505. It is agreed that the shuttle bus would provide a suitable service for at least 12 years during the period of subsidy, as confirmed by the Council's transport witness<sup>404</sup>. This would be secured by the s106 which would ensure a half hourly service and allow for the addition of a second bus after 8 years, as previously noted <sup>[57]</sup>. The parties disagree on whether the service would continue after this period of subsidy, as set out in their respective cases <sup>[159-164, 254-260]</sup>.
506. The consequences of it not continuing are clear. Future residents would be faced with a 1.2 km walk or cycle ride to the Hub along a route that is not overlooked, unlit and with few escape routes in order to access onward services to Stansted Airport. A similarly long walk, with not dissimilar personal safety issues, along Route 4 would also be required to access the nearest bus service to Great Dunmow. In such circumstances I have little doubt that an overwhelming reliance on the use of private motor vehicles would occur. Whilst EV charging points would be provided for future residents, I find it reasonable to assume that a proportion of vehicles would continue to be reliant on fossil fuels under such circumstances and an over-reliance on private cars would thus contribute to CO<sub>2</sub> emissions and future climate change.
507. The Council doubts the long-term viability of the service and takes issue with how potential revenue has been calculated. The appellant's transport witness agrees that the proposed figure of £2.50 per passenger represents the average

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<sup>403</sup> CD 9.6, figures 11 and 14

<sup>404</sup> XX

fare charged for bus journeys in Essex and that an average revenue of £1.50 per passenger, as suggested by the Arriva Representative<sup>405</sup>, would make it unviable<sup>[258]</sup>.

508. The Arriva representative is of the opinion that the average revenue per passenger journey on the 133 service is about £2.50 but that this is heavily driven by the number of longer journeys on this route. He goes on to observe that the average revenue per passenger on a local bus route is typically closer to £1.50 because of lower reimbursement levels for English National Concessionary Travel Scheme (ENCTS) passengers, lower fares for children and discounts for period tickets. He consequently anticipates that the revenue from the shuttle bus is likely to be closer to £1.50 if the single fare is set at around £2.50<sup>406</sup>.
509. The Council's transport witness, as someone with significant experience of tendering such services, agrees that this would be the case<sup>407</sup> and also highlights the fact that the typical annual cost of such services is between £200,000 and £210,000<sup>408</sup> in her experience which is considerably more than the £120,000 assumed by the TAA<sup>409</sup> or the £150,000 assumed in the PoE of the appellant's transport witness<sup>410</sup>.
510. The appellant points out that if the shuttle bus was run by Arriva then through-ticketing and the resultant longer journeys would lead to a higher revenue<sup>[161]</sup>, as is currently the case for the 133 service where the revenue is driven by the longer journeys. I observe that this could also offset the lower levels of reimbursement that may be present. However, there is no certainty that it would be operated by this company in which case passengers would either just pay the fare to the Hub or a combined fare that would need to be split between different operators. Either way, this is likely to reduce the average revenue per passenger, thus risking the viability of the service.
511. The appellant suggests that individuals may be willing to pay more and relies on anecdotal evidence of a short distance fare of £3.10 that was paid between Little Canfield and Great Dunmow during the course of the Inquiry<sup>[162]</sup>. It is also suggested that the subsidised service (including travel vouchers) could be habit-forming although there is no evidence before the Inquiry to suggest that this has led to a change in modal share elsewhere or that the 3.7 % modal split 'break-even' point would consequently be reached<sup>411</sup>.
512. The appellant maintains that the Council cannot know whether the service would be viable from 2035 onwards given uncertainty over running costs, electrification and the fare price points that would need to be set<sup>[163]</sup>. These known unknowns cut both ways and, by the same token, the appellant cannot know whether it would be viable with any degree of certainty either.

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<sup>405</sup> Area Head for Arriva Bus which operates the 133 service - Evidence in ID 20, paragraph 4.2

<sup>406</sup> ID 20, appendix B

<sup>407</sup> XIC

<sup>408</sup> CD 10.5.1, paragraph 8.13

<sup>409</sup> CD 1.25, paragraph 5.19

<sup>410</sup> CD 9.6, paragraph 5.51

<sup>411</sup> ID 1, paragraph 5.22

513. Bearing in mind that very few bus services operate in Uttlesford District without subsidy<sup>412</sup> and given the above uncertainties, I find that the scheme may not enable long-term access to high quality public transport, despite the subsidy that would be provided during at least the first 12 years. Given that the uncertainty cuts both ways, I find that this weighs moderately against the proposal.
514. Given the above, I find the proposal would conflict with policy GEN1(c) and GEN1 (e) of the LP and fail to meet the tests set out in paragraphs 105, 110 and 112 of the Framework. It would also be contrary to paragraph 152 that requires the planning system to support the transition to a low carbon future. This policy conflict weighs significantly against the proposal.

### **Other Matters**

515. Both parties make comparisons to the previous scheme at various points in evidence [e.g. 76, 114, 69, 96, 97, 104, 108, 160, 170, 192, 199, 201, 243, 264]. I did not find this particularly helpful as the present scheme is set within a different planning context where there is a substantial housing shortfall. It also follows a different rationale in terms of its scale and the associated provision of on-site community facilities that flow from a larger scheme thus making a greater contribution to place-making. Whilst I have found similar landscape harm there are also other differences in terms of harm to the setting of three designated heritage assets and one non-designated heritage asset as well as a lack of suitable sustainable transport options. As such, I do not find the scheme the same in all respects and have considered this the proposed development on its individual merits.
516. A number of interested parties highlighted widespread issues with the local water supply [289-297, 365-368, 383]. I note that this matter is beyond the scope of the Council's case and is not a matter that is in dispute between the main parties. Affinity Water has confirmed that a supply would be available for the development and that it would provide a point of connection. It goes on to state that off-site reinforcement would be required as part of a strategic review of the demand from this and other emerging sites and that it would design and deliver this strategic reinforcement at its own cost<sup>413</sup>. Given that it does not intend to provide any "stand-alone reinforcement" for the appeal site, I find it necessary to extend the agreed Site Wide Design Code condition to ensure more stringent water saving measures are imposed in the event that the SoS is minded to allow this appeal given lag that is likely to be associated with the implementation of any strategic measures<sup>414</sup>. On this basis, I am satisfied that any temporary impact on potable water supplies would be mitigated until such time it can be addressed on a more strategic basis.
517. Although there are no outstanding matters in relation to highway safety, interested parties voiced concerns over potential hazards posed by quarry traffic and the suitability of the proposed access for emergency vehicles [356-357, 515]. The main parties agree that a suitable emergency access to the site could be provided via Park Road<sup>415</sup> and that there is no issue with the shared quarry vehicle use along part of the internal access road.

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<sup>412</sup> CD 10.5, paragraph 8.16

<sup>413</sup> CD 1.21, appendix 12.3, paragraph 3.32

<sup>414</sup> See condition 6(x)

<sup>415</sup> ID 25, paragraph 2.11 and figure 8

518. Cllr Sidgwick notes that the farm track is unsuitable for emergency vehicles and that preventing use by future residents would be impractical <sup>[356-357]</sup>. There is no objection from the emergency services before the Inquiry to support this view and I see no reason why the suggested access measures would not be practicable, i.e. bollards located at the southern end of the track, beyond the access to existing buildings, that would be removable by the emergency services when required<sup>416</sup>. Furthermore, Condition 38 would require the submission of a scheme for the provision of a suitably surfaced, emergency access along this route with a programme for its implementation to approved by the Council prior to first occupation.
519. Turning to quarry traffic, Mr Clarke highlights the fact that this would share part of the internal access to the appeal site for the first 8 years of the development and that this could pose a safety risk. However, I note that cyclists and pedestrians would use a segregated route that would be up to around 5.6 m from the vehicular carriageway and that the latter would be approximately 7.3 m wide<sup>417</sup>. Although this is an indicative design, with internal access to be approved as a reserved matter, it nevertheless demonstrates that a suitably safe route could be delivered and I note that this was informed by the recommendations of a Road Safety Audit<sup>418</sup>. Furthermore, Condition 29 requires compliance with these minimum dimensions as well as the indicative plan in a scheme to be approved by the Council.
520. There is also concern amongst a number of interested parties about potential adverse effects on biodiversity and Hatfield Forest SSSI <sup>[286-287, 339, 306-307, 334, 355, 362, 384]</sup>. Potential effects on the site in this respect are set out in the main ES chapter on biodiversity, as revised by the ES Addendum<sup>419</sup>. None of the representations challenge this evidence or offer anything other than unsubstantiated opinion concerning the potential effects of the scheme on what is currently, intensively managed arable land of limited biodiversity value. Whilst a report concerning the potential restoration of the adjacent Easton Park land is highlighted<sup>420</sup>, this is no more than a scoping document and does not rely upon any up-to-date field survey information. Moreover, it does not encompass the appeal land and cannot therefore provide any basis for an ecological impact assessment of the proposal. As such, it carries negligible weight.
521. The ES establishes that the development would result in an overall biodiversity net gain of 32% from a measurable increase in the area of semi-natural habitat and hedgerows. This would be through the creation of areas of grassland, trees, scrub and ponds which would also include the enhancement of retained habitat<sup>421</sup>. This would include, among other things, the creation of approximately 42 ha of neutral grassland/wildflower meadow as well as the planting of approximately 1.5 km of hedgerow. It is anticipated that linear habitat would increase by approximately 18% despite the unavoidable loss of around 100 m of existing hedgerow<sup>422</sup>. These habitats would be managed for

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<sup>416</sup> ID 1, paragraph 4.21

<sup>417</sup> ID 1, image 4.1

<sup>418</sup> ID 1, appendix C

<sup>419</sup> CD 1.24

<sup>420</sup> ID 3

<sup>421</sup> CD 1.24, paragraph 11.135

<sup>422</sup> CD 1.24, paragraph 11.136

biodiversity, including breeding skylark (*Alauda arvensis*) in the grassland areas, breeding birds in the hedgerows, reptiles and invertebrates in the scrub areas and aquatic and amphibian species in the ponds.

522. Nothing before the Inquiry would lead me to question the professional or technical competence of this assessment or that the Net Gain Strategy<sup>423</sup>, as secured by Condition 22, would fail to deliver the necessary gains required by paragraph 174(d) of the Framework. Further protections and enhancements would flow from Condition 13 which requires the submission and approval of a Farmland Bird Mitigation Strategy whilst construction phase impacts would be controlled through, among other things, the Landscape and Environmental Management Plan required by Condition 12 and the appointment of an Ecological Clerk of Works via Condition 11.
523. Added to this is the deer fencing along the western side of High Wood SSSI required by Condition 14 which would help to prevent the destruction of its ground flora through overgrazing. I also note that NE withdrew its objection regarding adverse effects on Hatfield Forest SSSI subject to the mitigation measures that would be secured via the s106<sup>424</sup>. As such, I find the concerns to be unfounded and unresponsive to the technical evidence that is before the Inquiry or the mitigating conditions as agreed.
524. Turning to policy related matters, Mr Clarke took the view that the proposal would be contrary to paragraph 135 of the Framework and that it would be neither "developable" nor "deliverable" according to the definitions within what is now Annex 2 of the Framework<sup>[312]</sup>. Paragraph 135 requires local authorities to seek to ensure that the quality of any approved development is not materially diminished between permission and completion.
525. In this respect, the appearance and layout of the proposed development at different reserved matters stages would be controlled through two conditions. The first is a requirement for a Site Wide Masterplan (Conditions 3 and 4) that sets out a comprehensive scheme for the development in accordance with the approved parameter plans. The second is a requirement for a Site Wide Design Code (Condition 6) which addresses matters such as materials and architectural treatments. Until such time as these conditions are discharged by the Council, no further reserved matters applications can be made nor any associated development occur.
526. A failure to comply with either the approved Masterplan or Design Code would be a breach of planning control under section 171A of the Town and Country Planning Act 1990 (as amended) and it would be open to the Council to take the necessary enforcement action. As such, I find no credible basis for presuming that the quality of the scheme would be compromised if outline permission were granted subject to the agreed conditions.
527. The Framework considers deliverable sites within the context of housing land supply in footnote 8 of paragraph 11(d). As such, the contention that the site is not deliverable according to the definition in Annex 2 of the Framework is without merit as it fails to place the definition in its proper context. A similar

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<sup>423</sup> CD 1.21, appendix 11.9

<sup>424</sup> CD 16.25

issue afflicts the view that the site is not developable as this is to be considered within the context of paragraph 68 of the Framework which deals with policy-making rather than decision-taking. This too, is without merit.

528. Mr Clarke also opined that house builders would “revisit” the terms of the s106 and that the benefits it secures would somehow be “lessened”. Planning obligations are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a s106 and it is something that all future owners must take into account.
529. I accept that a planning obligation may be modified or discharged at any time by agreement with the Council. If there is no agreement to renegotiate voluntarily and a planning obligation is over five years old, an application can be made to the Council to change the obligation if it “no longer serves a useful purpose”<sup>425</sup>. If this results in a refusal, then an appeal against the decision can then be made which would be judged on its own merits. Be that as it may, it is clear that for such an appeal to succeed then the matters underpinning the need for the s106 would have to be significantly different to the ones that are now before me. I find this unlikely and consequently give this negligible weight.
530. Given the above and bearing in mind all other matters raised, including loss of BMV land, air pollution, noise, flooding and foul water drainage, I support the view of the Council that none of these, either individually or collectively, warrant the refusal of the scheme or any sustained objection in terms of disputed matters. Consequently, none of these ‘other matters’ weigh significantly against the proposal in the planning balance.

## Benefits

531. The benefits of the scheme and the contrasting views of the main parties in relation to these matters are set out in their respective cases <sup>[76-94, 267-268]</sup>.
532. Taking each in turn and starting with open market and affordable housing. There is no dispute between the parties that significant weight should be given to the delivery of 1,200 homes, 40% of which would be affordable, given the significant and persistent housing delivery shortfall in the District. This is severe with an acknowledged 3.52-year HLS, or put another way, a shortfall of around 1,000 homes. The Council does not offer any evidence that this situation is likely to change for the foreseeable future nor does it suggest that this need could be met elsewhere.
533. Whilst the future housing delivery trend highlighted by the appellant’s planning witness is disputed<sup>426</sup>, the Council’s planning witness nevertheless confirms that the situation is likely to worsen over the next couple of years <sup>[79a]</sup>. Given that the adoption of the emerging plan is not now likely until towards the end of 2025 and considering the inevitable lag in bringing schemes forward on the allocated sites, I find that the current proposal would provide a much needed and tangible boost to the overall supply of housing within the District. This is

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<sup>425</sup> Section 106A, Town and Country Planning Act 1990 (as amended)

<sup>426</sup> CD 9.7, table 11.1



wholly in line with the Government's objective of significantly boosting the supply of homes, as articulated in paragraph 60 of the Framework.

534. The Council doubts that the early delivery of the scheme suggested in the ES would take place <sup>[267e]</sup>. Despite the enabling development that needs to occur, the appellant's planning witness maintains that a considerable number of homes are likely to be delivered between years 3-5 <sup>[79e]</sup>. For the sake of argument, if this appeal is approved at the beginning of 2023, homes would most likely start to be delivered at the beginning of 2025. This would be some years in advance of any housing that might be delivered on allocated, major development sites unless schemes are approved and implemented prior to adoption. As such, I give this benefit significant weight.
535. It would also help to meet the very considerable shortfall in affordable homes against a backdrop of spiralling affordability which is significantly above the national average<sup>427</sup>. In this respect, the appellant highlights the fact that the affordability ratio (house price to median income) currently stands at 12:1 and that the provision of affordable housing is also worsening across the District, along with the wider HLS <sup>[82a]</sup>. I also note that the Council's own Housing Strategy states that mortgages are unaffordable for a large percentage of the population and that this means that many young people, families and those providing key services are unable to remain in the District<sup>428</sup>. The consequences are illustrated by a series of stark vignettes. This extremely dire situation can only hope to be resolved with any degree of alacrity through larger schemes that are able to meet what is currently a negotiable 40% affordable housing requirement. As such, I give this benefit great weight.
536. The parties dispute the benefit that would be derived from the care home with the appellant giving it significant weight<sup>429</sup> whilst the Council only gives it modest weight within the overall basket of the community facilities that the scheme would provide<sup>430</sup>. The appellant points out that there is a shortfall of 312 care and 330 nursing bedspaces and considers this to be a substantial, unmet need <sup>[84]</sup>. The Council's planning witness did not contest the calculation but noted an increasing trend of home-based care. The witness suggested that this has reduced the need for care and nursing bed spaces but noted that evidence of this trend was not before the Inquiry. As such, this is an unsubstantiated opinion and carries little weight.
537. Although the witness questioned the methodology that was set out in the PoE of the appellant's planning witness<sup>431</sup>, she conceded that the approach was compliant with the advice in the PPG<sup>432</sup> which is neither out of date nor irrelevant to the circumstances that prevail in Uttlesford at the present time<sup>433</sup>. I am also mindful that the PPG advises that the need to provide housing for older people is critical and that a better choice of accommodation to suit their

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<sup>427</sup> CD 4.9, pp 18

<sup>428</sup> CD 4.9, pp 23

<sup>429</sup> Appellant's planning witness, IC

<sup>430</sup> CD 10.6, paragraph 6.15

<sup>431</sup> CD 9.7, appendix 5

<sup>432</sup> Paragraph: 004 - Reference ID: 63-004-20190626 - Revision date: 26 June 2019

<sup>433</sup> XX



changing needs is important<sup>434</sup>. However, as there is no guarantee that it would be built, I only give this benefit moderate weight.

538. The Council view the s106 provision of public open space and community facilities as providing modest benefits with the appellant stressing that the former goes beyond what is required by local standards <sup>[267]</sup>. The appellant also suggests that it would provide additional recreational opportunities for residents of other, nearby developments, such as the adjacent Barratt Scheme <sup>[88]</sup>. I accept that the open space would contribute to healthy lifestyles and note that this is supported by paragraph 92(c) of the Framework. Bearing in mind that the facilities would also be of wider benefit to the local community and that this goes beyond what is needed to make the development acceptable, I give these benefits moderate weight.
539. The parties agree that moderate weight should be attributed to the economic benefits which would include job creation during the construction and operational phases, a training scheme secured through the s106 and the increased expenditure of future occupants which would help to support the vitality and viability of Great Dunmow <sup>[90]</sup>. The appellant highlights the fact that 333 FTE jobs would be created during the 8-year construction phase and that a further 289 FTE jobs, associated with the Class F and E floorspace, would be created in the operational phase, as set out in the ES<sup>435</sup>.
540. However, the Council questions the extent of jobs that would subsequently be created owing to the fact that it cannot be assumed, as is the case for the care home, that everything in the description of the development would ultimately come forward <sup>[268a]</sup>. As the appellant is only obliged to build one retail unit, I find that the benefit that might arise from operational phase jobs cannot be relied upon and is overstated. Nevertheless, the additional spending of the new occupants would, by the appellant's own undisputed estimate, contribute around £32 million per annum to the local economy <sup>[90]</sup>. Bearing this in mind and the need to stimulate economic growth, I give the combined economic benefits moderate weight.
541. The parties agree that moderate weight should be given to biodiversity net gain and the provision of green infrastructure. There is no adopted local guidance that sets a particular threshold and there is, as yet, no mandatory legislative requirement to achieve a minimum of 10% net gain even though this has been agreed as a satisfactory level of provision between the parties <sup>[91]</sup>. Paragraph 174(d) currently advises only that a net gain should be achieved and that coherent ecological networks are created. I accept that the metric indicates that significant gains would accrue beyond that which would be needed to mitigate the adverse effects of the scheme. Although there is a tension with the loss of BMV land, which provides a 'provisioning' ecosystem service, I nevertheless find that the scheme would materially improve the biodiversity value of what is currently ecologically depauperate, intensively managed land. As such, I give this benefit moderate weight.
542. There was some dispute over the benefits of safeguarding a potential route for the RTS, that would bisect the appeal site, as well as the benefit of extensive

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<sup>434</sup> Paragraph: 001 Reference - ID: 63-001-20190626 - Revision date: 26 June 2019

<sup>435</sup> CD 1.20, table 14.20

tree planting <sup>[268b, 268c]</sup>. I find neither of these benefits compelling. The safeguarding of the route is wholly theoretical at this point in time as it is not associated with any emerging plan proposals that can be given any weight whilst the tree planting is predominantly associated with mitigating the adverse landscape effects that would result from the scheme such that this would amount to double counting. As such, I give these benefits negligible weight.

## **Balances**

### *Heritage Balance*

543. Considerable importance and weight should be given to the limited, less than substantial harm the scheme would cause to the setting of the CA and the Church. The very limited extent of the impact on their significance tempers the overall and considerable weight that should be given to the harm that would be caused. Set against this harm would be the very considerable and combined public benefits associated with housing, economy, open space, community and biodiversity. The market housing attracts significant weight whilst the affordable housing attracts great weight. All other benefits attract moderate weight for the reasons set out above.
544. Clearly, this scheme would deliver very significant public benefits, particularly in relation to the provision of affordable and market housing. The need for such dwellings has very little hope of being met in the foreseeable future despite the extensive development that is already occurring on other greenfield sites around Great Dunmow. Added to this are substantial economic benefits from both the construction and occupation of 1,200 dwellings as well as the biodiversity gains, community facilities and open space that would contribute positively to 'place-making' and to ecological resilience.
545. This comes at a cost in terms of the failure to preserve the setting and thus the significance of the CA and the Church. Despite this cost, it seems to me that there is a clear and convincing justification for the harm to the designated heritage assets to be accepted. As such, this material consideration justifies a departure from the associated LP policy and there are consequently no outstanding grounds against the engagement of the tilted balance of paragraph 11(d) of the Framework at the current time.

### *Other Material Considerations*

546. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise. For the reasons set out above, the balance of the public benefits against the harm to the designated heritage assets weigh heavily in favour of the scheme. I now turn to the other material considerations that must also be weighed in the balance.
547. Firstly, the proposal would significantly alter the setting of the Ravens Farm non-designated heritage asset and this would lead to a moderate adverse impact <sup>[446]</sup>. Secondly, there would be moderate landscape and visual harms, primarily associated with kinetic views from Park Road and nearby footpaths, as well as a limited, longer distance view <sup>[469-468]</sup>. Thirdly, the lack of a walkable neighbourhood, in terms of existing services and personal safety, weighs

significantly against the proposal with the safety and directness of the cycle routes and uncertainty over the long-term viability of the bus service weighing moderately against it <sup>[493]</sup>.

### *Policy Considerations*

548. Considering the above, the proposal would be contrary to the advice in paragraphs 174(b) and 130(c) in terms of the landscape and visual harm and 105, 110, 112 and 152 in terms of the less than ideal, alternative travel provision which counts against the overall sustainability credentials of the scheme. However, the proposal would gain significant support from: paragraphs 60 and 63 in terms of the need to significantly boost the supply of housing and provide affordable homes; paragraph 81 in terms of the need to support economic growth; paragraph 92 in terms of promoting healthy and inclusive local communities with accessible green infrastructure, sports facilities and strong neighbourhood centres; and paragraph 174(d) in terms of providing a net gain for biodiversity.
549. Turning to the LP, it was adopted in January 2005 and relevant policies were subsequently saved in 2007. The lack of a deliverable HLS means that the policies most important for determining this appeal are out of date. The appellant also views a number of them as being inconsistent with the Framework. I have set out the contrasting views at the beginning of this report and do not repeat them here <sup>[20-39]</sup>. The parties agree that the relevant policies for determining this appeal are the ones associated with the RfR and that the proposed development otherwise complies with all other development plan policies.
550. I have found that the proposal would be contrary to policy ENV2 given the limited harm that would be caused to the setting and thus the significance of the Church. The landscape and visual harm is such that it would be contrary to policy S7, although this conflict only carries moderate weight due to its inconsistency with the Framework, as previously discussed. I have also found the proposal contrary to policies GEN1(c) and GEN1(e) as a result of issues relating to sustainable travel. Whilst neither GEN1 nor ENV2 incorporate the Framework balancing exercise, I nevertheless give this conflict full weight bearing in mind the relevant case law highlighted by the Council <sup>[28]</sup>.

### *Overall Planning Balance*

551. Adopting the heritage balance set out in paragraph 202 of the Framework, the benefits of the proposal would far outweigh the considerable weight of the low level of harm that would be caused to the significance of the CA and the Church.
552. Turning to the LP conflict in respect of heritage, landscape and sustainable transport modes, I find this moderate and potentially manageable should further subsidy or favourable commercial arrangements enable the continuation of the shuttle bus service. Even if this were not the case, I do not find that the harm identified would outweigh the very significant and timely benefits of this scheme.
553. I therefore conclude that the adverse impacts of allowing the proposed development would not significantly and demonstrably outweigh the benefits

that would accrue from it. This provides a clear and compelling reason to allow the proposed development contrary to strict adherence with the out-of-date LP.

**Recommendation**

554. Given the above and considering all other matters raised, I recommend that the appeal should be allowed subject to the schedule of conditions in Appendix 4.

*Roger Catchpole*

INSPECTOR

## **APPENDIX 1 – APPEARANCES**

### **For the Appellant**

Mr Rupert Warren KC - Instructed by Barton Wilmore, now Stantec

He called: Mr Froneman B.Arch Stud ACIfA IHBC (heritage witness)

Mr Chard BA (Hons) Dip MAUD CMLI (landscape witness)

Mr Bird BSc (Hons) CEng MICE (transport witness)

Mr Sitch BSc (Hons) DipTP MRTPI (planning witness)

Mr White - Partner, Herbert Smith Freehills LLP (planning obligation)

### **For the Council**

Mr Tom Cosgrove KC and Ms Clare Parry, of Counsel, instructed by Uttlesford District Council

He called: Ms Johnson BA (Hons) MSc (heritage witness)

Mr Mills BSc (Hons) MSc CMLI (landscape witness)

Ms Wilkinson BSc (Hons) MCIHT (transport witness)

Mrs Hutchinson BSc (Hons) MRTPI (planning witness)

Mr Lockhart (planning obligation)

### **Interested Parties**

Mr Thompson	Stop Easton Park
Ms Muir	Local Resident
Ms Rush	Local Resident
Mr Bright	Local Resident
Mr Clarke	Great Dunmow Facebook Group
Cllr Coleman	Great Dunmow Town Council
Cllr Pepper	Local Resident
Mr Bowie	Local Resident
Cllr Foley	Thaxted and the Eastons Ward
Cllr Sidgwick	Little Easton Parish Council
Ms Rodwell	Local Resident
Mr Mahoney	Local Resident

Mr Norman	National Highways
Mr Bulling	Local Resident
Mr Dodsley	Stop Easton Park
Ms Needham	Local Resident
Mrs White	Local Resident
Ms Pankhurst	Local Resident
Mr Haynes	Local Resident
Ms Brown	Local Resident
Mrs Wilcox	Local Resident
Mr Drew	Local Resident
Mr Walker	Local Resident



**APPENDIX 2 – CORE DOCUMENT LIBRARY**

<b>CD1</b>	<b>APPLICATION DOCUMENTS &amp; PLANS</b>
<b>Original Submission</b>	
1.1	Planning Application Booklet comprising: <ul style="list-style-type: none"> <li>○ Description of Development</li> <li>○ Completed Application Forms and Ownership Certificates</li> <li>○ CIL additional information form</li> <li>○ Notice Served Under Article 13</li> <li>○ Site Location Plan Drawing (Ref:15576-RG-M-LEHQ-42)</li> <li>○ Application Site and Applicant Ownership Plan Drawing (Ref:15576-RG-M-LEHQ-01H)</li> <li>○ A120 Highway Access Drawing (Ref:110031-A-92 RevB)</li> <li>○ Development Phasing Plan Drawing (Ref:15576-RG-M-LEHQ-43)</li> <li>○ Development Parameters Schedule</li> <li>○ Development Parameter Plans               <ul style="list-style-type: none"> <li>Plan 1 - Land Use Zones</li> <li>Plan 2 - Ground Levels</li> <li>Plan 3 - Maximum Extent of Development Footprint &amp; Maximum Building Heights</li> <li>Plan 4 - Recreational and Ecological Corridors &amp; Visual Mitigation Zone</li> <li>Plan 5 - Ecological Mitigation &amp; Major Open Space Zone</li> <li>Plan 6 - Primary Movement Corridor</li> </ul> </li> </ul>
1.2	Planning Statement
1.3	Design Code
1.4	Design and Access Statement
1.5	Transport Assessment
1.6	Framework Travel Plan
1.7	Landscape and Biodiversity Management Strategy
1.8	Environmental Lighting Report
1.9	Bird Strike Risk Assessment
1.10	Sustainability Statement
1.11	Energy Strategy
1.12	Operational Waste Management Strategy
1.13	Construction Phase Waste Management Technical Note
1.14	Health Impact Assessment
1.15	Tree Survey
1.16	Statement of Community Involvement
1.17	Archaeological Evaluation Report
1.18	Biodiversity Checklist
1.19	Outline Drainage Design – Checklist for Submission
1.20	Environmental Statement Volume 1
1.21	Environmental Statement Volume 2
1.22	Environmental Statement Non- Technical Summary
1.23	Archaeological Evaluation dated September 2021
<b>Amendment Submission</b>	
1.24	Environmental Statement Addendum

1.25	Transport Assessment Addendum
1.26	Revised Framework Travel Plan
1.27	Revised Design & Access Statement
1.28	Revised Design & Access Statement Errata Sheet
1.29	Revised A120 junction access plan (Drawing Ref:110031/A/114/P02)
<b>CD2</b>	<b>COMMITTEE REPORT &amp; DECISION NOTICE</b>
2.1	UDC Planning Committee Report 27 <sup>th</sup> October 2021
2.2	UDC Decision Notice dated 27 <sup>th</sup> October 2021
<b>CD3</b>	<b>DEVELOPMENT PLAN</b>
<b>Adopted</b>	
3.1	UDC Adopted Local Plan 2005
3.2	Local Plan Proposals Map
3.3	Saved Policies GO Letter dated 21 <sup>st</sup> December 2007
3.4	Great Dunmow Neighbourhood Plan 2016
<b>Withdrawn</b>	
3.5	Uttlesford Regulation 19 Local Plan
3.6	Examining Inspectors Letter re 2019 draft Local Plan dated 10 <sup>th</sup> January 2020
<b>CD4</b>	<b>SUPPLEMENTARY GUIDANCE/OTHER UDC DOCUMENTS</b>
4.1	Essex County Council Development Management Policies, Supplementary Guidance February 2011
4.2	Uttlesford's 5-year Land Supply Statement and Housing Trajectory (December 2021)
4.3	UDC First Homes Planning Advice Note 2022
4.4	UDC Local Plan Authority Monitoring Report 2020/21
4.5	Little Easton Conservation Area Appraisal and Management Proposals (June 2015)
4.6	Great Dunmow Conservation Area Appraisal and Management Proposals (November 2007)
4.7	Uttlesford Local Plan 2005 – NPPF Compatibility Assessment 2012
4.8	Temple Report (28 June 2021)
4.9	UDC Housing Strategy 2021-2026 (October 2021)
4.10	UDC Corporate Plan 2022-2026 (February 2022)
4.11	UDC Interim Climate Change Planning Policy (February 2021)
<b>CD5</b>	<b>RELEVANT APPLICATIONS/ &amp; COMMITTEE REPORTS</b>
5.1	West of Woodside Way Decision Notice (Ref: UTT/13/2107/OP) dated 27 <sup>th</sup> October 2015
5.2	West of Woodside Way Approved Reserved Matters Layout (Ref: UTT/20/2220/DFO)
5.3	West of Woodside Way Approved Reserved Matters Layout (Ref: UTT/20/3419/DFO)
5.4	West of Woodside Way Approved Non-Material Amendment (Ref: UTT/21/0274/NMA)

5.5	West of Woodside Way Approved Non Material Amendment (Ref: UTT/21/2324/NMA)
<b>CD6</b>	<b>RELEVANT APPEAL DECISIONS</b>
6.1	Land West of Great Dunmow SoS Decision Letter & Inspectors Report dated 25 <sup>th</sup> August 2016 (Ref: APP/C1570/A/14/2213025)
6.2	Land West of Great Canfield Road, Takeley (Ref: APP/C1570/W/18/3213251)
6.3	Land to the North of Wicken Road, Newport (Ref: APP/C1570/W/19/3223694)
6.4	Land East of Elsenham (Ref: APP/C1570/W/19/3243774)
<b>CD7</b>	<b>CASE LAW</b>
7.1	East Northamptonshire DC v Secretary of State for Communities and Local Government [2014] EWCA Civ 137; [2015] 1 WLR 45
7.2	R. (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895
7.3	Bramshill v S of S for Housing [2021] EWCA Civ 320; [2021] 1 WLR 5761
<b>CD8</b>	<b>PINS APPEAL DOCUMENTS</b>
8.1	PINS Start Letter dated 2 <sup>nd</sup> February 2022
8.2	Revised Case Management Conference Notes dated 12 <sup>th</sup> April 2022
8.3	PINS Recovery Letter dated 8 <sup>th</sup> April 2022
<b>CD9</b>	<b>APPELLANTS APPEAL DOCUMENTS</b>
9.1	Pre-Notification of Appeal dated 26 <sup>th</sup> November 2021
9.2	Appeal Form dated 23 <sup>rd</sup> December 2021
9.3	Statement of Case dated 23 <sup>rd</sup> December 2021
<b>Proofs of Evidence</b>	
9.4	Mr Froneman (Heritage)
9.5	Mr Chard (Landscape Planning)
9.6	Mr Bird (Transport)
9.7	Mr Sitch (Planning)
<b>CD10</b>	<b>UDC APPEAL DOCUMENTS</b>
10.1	Appeal Questionnaire
10.2	Statement of Case
<b>Proofs of Evidence</b>	
10.3	Ms Johnson (Heritage)
10.4	Mr Mills (Landscape)
10.5	Ms Wilkinson (Highways)
10.6	Mrs Hutchinson (Planning)
<b>Correspondence</b>	
10.7	Email from Alison Hutchinson (on behalf of UDC) to Elizabeth Humphrey (PINS) dated 23 <sup>rd</sup> May 2022 (Reference RfR 6 and 7)

10.8	Email from Alison Hutchinson (on behalf of UDC) to Elizabeth Humphrey (PINS) dated 20 <sup>th</sup> May 2022 (Reference RfR 6)
<b>CD11</b>	<b>THIRD PARTY APPEAL DOCUMENTS</b>
11.1	National Highways Statement of Case dated 29 <sup>th</sup> April 2022
<b>CD12</b>	<b>STATEMENTS OF COMMON GROUND</b>
12.1	Planning SoCG dated 13 <sup>th</sup> April 2022
12.2	Heritage SoCG dated 24 <sup>th</sup> May 2022
12.3	Landscape SoCG dated 24 <sup>th</sup> May 2022
12.4	Transport SoCG (Appellant & ECC) dated 30 <sup>th</sup> May 2022
12.5	Transport SoCG (ECC & National Highways) dated 30 <sup>th</sup> May 2022
12.6	Transport SoCG (Appellant & National Highways) dated 30 <sup>th</sup> May 2022
<b>CD13</b>	<b>HERITAGE</b>
13.1	Conservation Principles, Policies and Guidance, English Heritage, 2008
13.2	Historic Environment Good Practice Advice in Planning: 2, Managing Significance in Decision-Taking in the Historic Environment, Historic England 2015
13.3	Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets, Historic England, 2017
13.4	Historic England's Advice Note 12, 'Statements of Heritage Significance: Analysing Significance in Heritage Assets'
13.5	Historic England Advice Note 1: Conservation Area Appraisal, Designation and Management, 2019 Second Edition
13.6	British Standards - 7913:2013 Guide to the Conservation of Historic Buildings
<b>CD14</b>	<b>LANDSCAPE</b>
14.1	Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)
14.2	Technical Guidance Note 02-21: Assessing landscape value outside national designations
14.3	Technical Guidance Note 06/19 Visual Representation of development proposals
14.4	Uttlesford District Council Landscape Sensitivity Assessment Phase 1: Towns and key villages Draft (LUC, September 2021)
14.5	Uttlesford Landscape Sensitivity Assessment: Towns and key villages Appendix C Landscape sensitivity proformas (LUC, September 2021)
14.6	National Character Area Profile: 86 South Suffolk and North Essex Clayland (Natural England, 2014)
14.7	Essex Landscape Character Assessment (Chris Blandford Associates, 2003)

14.8	Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments (Chris Blandford Associates, 2006)
<b>CD15</b>	<b>HIGHWAYS</b>
15.1	Land East of Highwood Quarry Response to ECC Highways Comments (N95/110031C and appendices)
15.2	ECC Trip Generation Issues Table
15.3	ECC Trip Generation Review
15.4	Additional Modelling B184/B1008/Woodside Way Roundabout
15.5	Essex County Council Development Management Documents 2011
15.6	Guidelines for Providing for Journeys on Foot IHT 2000
15.7	Buses in Urban Developments CIHT 2018
15.8	Planning for Walking CIHT 2015
15.9	LTN1/20 Cycle Infrastructure Design DfT 2020
15.10	Essex Design Guide EPOA 2018
15.11	National Model Design Code Part 2 Guidance Notes HCLG 2021
15.12	Bus Services and New Residential Developments – Stagecoach - 2017
15.13	Better Planning, better transport, better places
15.14	Land at Highwood Quarry – Model Impact Review May 2022
15.15	Manual for Streets 2007
15.16	Manual for Streets 2010
15.17	Gear Change DfT 2013
<b>CD16</b>	<b>STATUTORY CONSULTEE &amp; PUBLIC COMMENTS</b>
<b>UDC officer comments</b>	
16.1	Environmental Health Officer (14 October 2021)
16.2	Housing & Enabling Officer (10 June 2021)
16.3	Landscape Officer (13 October 2021)
16.4	New Communities & Local Plan Team (June 2021)
16.5	Urban Design Officer (2 July 2021)
<b>External consultee comments</b>	
16.6	Aerodrome Safeguarding – MAG London Stansted (1 July 2021)
16.7	Anglian Water (4 June 2021)
16.8	Cadent Gas (2 June 2021)
16.9	Defence Infrastructure Organisation (3 June 2021)
16.10	ECC – Growth & Development (6 October 2021)
16.11	ECC – Highways & Transportation (4 August 2021)
16.12	ECC – Highways & Transportation (11 October 2021)
16.13	ECC – Place Services – Archaeology (23 September 2021)
16.14	ECC – Place Services – Built Heritage Advice (13 October 2021)
16.15	ECC – Place Services – Ecology (9 August 2021)
16.16	ECC – SUDs (11 June 2021)
16.17	Essex Police (24 June 2021)
16.18	Exolum Fisher German (10 June 2021)
16.19	Gigaclear (2 June 2021)
16.20	Health & Safety executive (28 May 2021)
16.21	Highways England (15 September 2021)
16.22	Historic England (21 June 2021)

16.23	NATS Safeguarding (27 May 2021)
16.24	National Trust (rec'd July 2021)
16.25	Natural England (14 October 2021)
16.26	Sport England (15 June 2021)
16.28	Thames Water (17 June 2021)
16.29	The Garden Trust (24 June 2021)
16.30	UK Power networks (2 June 2021)
<b>Parish/Town Council comments</b>	
16.31	Little Easton (2 July 2021)
16.32	Great Dunmow Town Council – 8 Parish Councils (13 July 2021)
16.33	Great Dunmow & Lt Easton – MKA Ecology (22 October 2021)
16.34	Great Dunmow Town Council Landscape report (March 2021)
16.35	Great Dunmow – Walker Engineering (June 2021)
<b>Further Comments (Post Appeal Submission)</b>	
16.36	ECC – Place Services – Ecology (17 May 2022)
<b>CD17</b>	<b>OTHER DOCUMENTS</b>
17.1	DLUHC Special Measures Designation Notice dated 8 <sup>th</sup> February 2022
17.2	Draft S106 Agreement dated 7 <sup>th</sup> June 2022
17.3	Draft Conditions Schedule dated May 2022

### **APPENDIX 3 – SUBMITTED DOCUMENTS**

- ID1 – Rebuttal Proof of Evidence, Vectos (June 2022)
- ID2 – Easton Park: A Vision for a New Country Park in Uttlesford (July 2022)
- ID3 – Easton Park Restoration – Ecology and Biodiversity (March 2022)
- ID4 – Opening Statement – Appellant
- ID5 – Opening Statement – Council
- ID6 – Inquiry Statement – Mr Thompson
- ID7 – Inquiry Statement – Ms Muir
- ID8 – Inquiry Statement – Ms Rush
- ID9 – Inquiry Statement – Mr Bright
- ID10 – Inquiry Statement – Mr Clarke
- ID11 – Inquiry Statement – Cllr Coleman
- ID12 – Inquiry Statement – Ms Pepper
- ID13 – Inquiry Statement – Mr Bowie
- ID14 – Map Showing Key Viewpoints
- ID15 – CD14.3 Revision – Visual Representation Technical Guidance Note
- ID16 – Transport Technical Note, Vectos (July 2022)
- ID17 – Revised SoCG with National Highways (July 2022)
- ID18 – Draft Planning Obligation, 15 July 2022
- ID19 – Revised Transport Plans:
  - A120/B1256 Junction Improvement (110031/A/114 Rev: PO3)
  - B1256 Stortford Road Preliminary Layout (110031/A/88)
  - B1256/Barratt Homes Junction Improvement (110031/A/119)
  - B1256 Eastbound and Westbound Exit Improvement (110031/A/88.2)
  - A120 Overbridge Route for s106 (110031/A/121 Rev: A)
- ID20 – Transport Position Statement, Ms Wilkinson (14 July 2022)
- ID21 – Site Visit Itinerary and Notes
- ID22 – Inquiry Statement – Mr Mahoney
- ID23 – Planning Conditions, 18 July 2022
- ID24 – Sustainable Transport Corridor Reference Plan (RG-M-LEHQ-57)
- ID25 – Revised SoCG with Essex County Council (July 2022)



- ID26 – Inquiry Statement – Cllr Foley
- ID27 – Review of Consistency with ECC Climate Initiatives (4 July 2022)
- ID28 – 20-Minute Neighbourhoods Extract, TCPA (March 2021)
- ID29 – Inquiry Statement – Cllr Sidgwick
- ID30 – Inquiry Statement – Ms Rodwell
- ID31 – Planning Conditions, 19 July 2022
- ID32 – Inquiry Statement – Mr Bulling
- ID33 – Inquiry Statement – Mr Dodsley
- ID34 – ES Addendum Letter, 13 April 2022
- ID35 – CIL Compliance Statement
- ID36 – Subsidised Parking at Stansted
- ID37 – Bus Stop Provision at Relocated School
- ID38 – National Modal Bus Share
- ID39 – Warish Hall Farm Appeal Decision (3291524)
- ID40 – Planning Conditions, 5 September 2022
- ID41 – Bus Delay Comparison Tables
- ID42 – Draft Planning Obligation, 5 September 2022
- ID43 – Planning Conditions, 7 September 2022
- ID44 – Pre-commencement Condition Agreement
- ID45 – Council’s Closing Statement
- ID46 – Appellant’s Closing Statement
- ID47 – Signed Planning Obligation, 30 September 2022

## **APPENDIX 4 – SCHEDULE OF RECOMMENDED CONDITIONS**

- 1) Details of the layout (including internal access), scale, landscaping and appearance (hereafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences. This should be in accordance with the masterplan identified in Condition [4] and shall exclude any advance infrastructure works approved under Condition [3]. The development shall be carried out as approved and subject to the following provisions:
  - A. Application for approval of the first reserved matter shall be made to the Local Planning Authority 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 Local Planning Authority not later than 8 years from the approval of the first reserved matters application.
  - B. The development hereby permitted shall commence not later than 6 months from the date of approval of the last reserved matter for the first phase of the development as defined by Condition [4ii].

REASON: In accordance with Article 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be in accordance with the following approved plans and schedule:
  - Application Site Location Drawing (Ref:15576-RG-M-LEHQ-42)
  - Application Site Drawing (Ref:15576-RG-M-01-1 Rev H)
  - A120/B1256 Great Dunmow Development Access Junction Improvement General Arrangement Drawing (Ref:110031/A/114/P03)
  - Development Parameters Schedule (Dated April 2021)
  - Parameter Plan 1 - Land Use Zones Drawing (Ref:15576-RG-M-LEHQ-09 Rev H)
  - Parameter Plan 2 - Ground Levels Drawing (Ref:15576-RG-M-LEHQ-10 Rev J)
  - Parameter Plan 3 - Maximum Extent of Development Footprint and Maximum Building Heights Drawing (Ref:15576-RG-M-LEHQ-11-Rev H)

- Parameter Plan 4 - Recreational and Ecological Corridors and Visual Mitigation Zone Drawing (Ref:15576-RG-M-LEHQ-12 Rev H)
- Parameter Plan 5 Ecological Mitigation and Major Open Space Zone Drawing (Ref:15576-RG-M-LEHQ-13 Rev H)
- Parameter Plan 6 - Primary Movement Corridor Drawing (Ref:15576-RG-M-LEHQ-14 Rev H)

REASON: For the avoidance of doubt as to the development that has been permitted.

- 3) Prior to determination of the first reserved matters submission pursuant to Condition [1] or advance infrastructure submission pursuant to Condition [5], a Site Wide Masterplan shall be submitted to and approved in writing by the Local Planning Authority. The Site Wide Masterplan shall be in accordance with the Parameters Plans approved under Condition [2]. All development shall be carried out in accordance with the approved details.

REASON: To ensure the development is carried out in accordance with the principles of the development as set out in the outline planning application, in accordance with Uttlesford Local Plan Policies GEN1, GEN2, GEN3, GEN7, GEN8, ENV10 and ENV11 (2005).

- 4) The Site Wide Masterplan shall set out a comprehensive scheme for the development of the site and shall include:
- i. The location and hierarchy of all open areas, equipped children's playgrounds, play areas, open spaces, roads, footpaths and cycleways, water areas, green linkages, landscape structure, public art, buffer zones, sports facilities (including playing pitches) and all publicly accessible areas. These shall be clearly defined together with arrangements for permanent access;
  - 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 tree planting in the Visual Mitigation Zone as defined in Parameter Plan 4 under Condition [2]. Implementation of the planting shall start within 6 months of the developer serving notice of implementation of the planning permission on the Local Planning Authority (as required by the planning agreement) and shall be completed within 3 months;
  - iv. The relationships and links between the built development and the neighbouring uses;

- v. A recreation strategy showing recreation opportunities via suitable green infrastructure within and connecting to the site through the existing public rights of way and permissive pathways; and
- vi. Identification of bus routes through the site, including the route of any proposed sustainable transport corridor and the location of the proposed mobility hub, which will provide a bus stop, cycle parking and e-bike parking and EV charging facilities.

The reserved matters submissions shall be in full compliance with the approved Site Wide Masterplan.

REASON: To ensure the development is carried out in accordance with the principles of the development as set out in the outline planning application, in accordance with Uttlesford Local Plan Policies GEN1, GEN2, GEN3, GEN7, GEN8, ENV10 and ENV11 (2005) and the National Planning Policy Framework.

- 5) Prior to determination of the first reserved matters submission, infrastructure submissions comprising advance earthworks and infrastructure works and advance structural landscaping shall be submitted shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be in accordance with the approved Site Wide Masterplan and shall be supported by plans, at an appropriate scale, which show:
  - The proposed works and existing features;
  - An implementation timetable; and
  - Any temporary treatment including hard and soft landscaping and boundary treatments associated with such works.

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

REASON: To ensure the development is carried out in accordance with the principles of the development as set out in the outline planning application, in accordance with Uttlesford Local Plan Policies GEN1, GEN2, GEN3, GEN7, GEN8, ENV10 and ENV11 (2005) and the National Planning Policy Framework.

- 6) A Site Wide Design Code shall be submitted to and approved in writing by the Local Planning Authority before the approval of reserved matters under Condition [1] for any buildings. The Design Code shall address the following:
  - i. Architectural style and treatment;
  - ii. Treatment of 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 under Condition [1] shall be in accordance with the approved Site Wide Design Code.

REASON: In the interests of the appearance of the development in accordance with Policy GEN2 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 7) The details to be submitted in accordance with Condition [1] shall incorporate appropriate measures identified in the Bird Strike Risk Assessment (Document Ref: WIE16590-100-R-8-4-1-bird strike, dated April 2021) to address Stansted Airport Safety as follows:
- Details of lighting using low light pollution installations;
  - Detailed design of Sustainable Urban Drainage Systems (SuDS), including use of infiltration and interceptors together with soft landscaping; and
  - Details of any green roofs.

REASON: To reduce the risk of creating a habitat that will increase the risk of a bird strike to aircraft using Stansted Airport in accordance with Policy GEN2 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 8) Details of the proposed slab levels of all buildings, structures and the existing and proposed ground levels for each reserved matters phased area, as defined in Condition [4ii] (the reserved matters area), shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matter submissions made pursuant to Condition [1] and the development shall be completed in accordance with the approved levels.

REASON: In the interests of the appearance of the development in accordance with Policy GEN2 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 9) No site clearance or construction work shall commence on any reserved matters area until:
- i. A plan has been submitted to and approved in writing by the Local Planning Authority identifying the trees, tree group and/or hedgerow that is to be retained in that reserved matters area;

- ii. Details of the location of fencing of a height of not less than 1.2 metres to be erected around the root zone of any tree, tree group or hedgerow requiring such protection and to be retained, shall be submitted to and approved in writing by the Local Planning Authority; and
- iii. 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. Within the fenced areas, the following works shall not be carried out:
  - 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.

All tree protection measures shall be in accordance with the approved details that shall conform to BS5837:2012.

REASON: In the interests of protecting the visual amenity of existing trees and hedgerows where possible in accordance with Policy ENV3 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 10) Prior to the commencement of the development, including any advance infrastructure, site preparation, groundworks or trial trenching, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to at all times during the construction of the development.

A. The CEMP shall provide for:

- i. Hours of construction work including deliveries;
- ii. Suitable access and turning arrangements to the application site in connection with the construction of the development;
- iii. The parking of vehicles of site operatives and visitors;
- iv. Loading and unloading of plant and materials;
- v. Site office locations and storage of plant and materials used in constructing the development;
- vi. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- vii. Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway;
- viii. Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour during site preparation, groundwork and construction;
- ix. Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures;
- x. A scheme for recycling/disposing of waste resulting and construction works;
- xi. Routing and timing of construction traffic, to minimise impact on the local community;
- xii. Details of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution; and
- xiii. Details of the of the protection of the public rights of way network and its users during construction.

B. The CEMP shall also provide details in relation to biodiversity and shall include the following:

- i. Risk assessment of potentially damaging construction activities;
- ii. Identification of Biodiversity Protection Zones;
- iii. Practical measures to avoid or reduce adverse impacts during construction, which include physical measures and sensitive working practices, potentially provided as a set of method statements;
- iv. The location and timing of sensitive works that are designed to avoid or minimise adverse impacts on biodiversity features;
- v. The activities, times and locations during different construction phases when an Ecological Clerk of Works (ECoW) or other suitably licensed and accredited ecologist needs to be present to oversee specific works;
- vi. Responsible persons and lines of communication;



- vii. The resume, role and responsibilities on site of the ECoW or similarly competent and appropriately accredited person;
- viii. Use of protective fences, exclusion barriers and warning signs;
- ix. Containment, control and removal of any Invasive Non-Native Species present on site; and
- x. On-going protected species surveys to inform Method Statements and to monitor the effectiveness of the CEMP mitigation measures.

REASON: In the interests of highway safety and the control of environmental impacts in accordance with Uttlesford Local Plan (2005) Policies GEN1 and GEN4, to conserve and enhance biodiversity, in accordance with Policy GEN7 and to prevent flooding by ensuring the satisfactory storage or disposal of surface water from the site in accordance with Policy GEN3 as well as relevant policies of the National Planning Policy Framework.

- 11) Prior to commencement of development, a programme for the implementation of all mitigation and enhancement measures and/or works shall be submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved programme and details contained in the Environmental Statement Addendum Chapter 11A (Barton Willmore, April 2022). This may include the appointment of an appropriately competent person (e.g. an ECoW) to provide on-site ecological expertise during construction.

REASON: In the interests of conserving biodiversity, in accordance with Policy GEN7 of the Uttlesford Local Plan (2005).

- 12) Prior to commencement of development, excluding advance infrastructure, site preparation, groundworks or trial trenching, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The LEMP shall be in accordance with the details contained in the Environmental Statement Addendum Chapter 11A (Barton Willmore, April 2022) and shall include provision for habitat creation, enhancement and management during the lifetime of the development hereby permitted and shall include the following:
- a) 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;

- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management measures;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for the implementation of the plan. Ongoing monitoring, remedial and/or contingency measures triggered by the monitoring to ensure that conservation aims and objectives are met;
- h) 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 or bodies responsible for its delivery; and
- i) A programme for implementation.

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

REASON: To allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment and Rural Communities NERC Act 2006 (NERC) in relation to priority habitats and species. To conserve and enhance biodiversity, in accordance with Policy GEN7 and Policy ENV8 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 13) Prior to commencement of development, a Farmland Bird Mitigation Strategy (FBMS) shall be submitted to and approved in writing by the Local Planning Authority to compensate the loss or displacement of any farmland bird territories identified as lost or displaced. The strategy shall include provision of offsite compensation measures.

The content of the FBMS shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measure, e.g. Skylark nest plots;
- b) Detailed methodology for the compensation measures, e.g. Skylark nest plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots';

- c) Locations of the compensation measures by appropriate maps and/or plans; and
- d) Persons responsible for implementing the compensation measure.

The FBMS shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years from completion of implementation.

REASON: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (in relation to priority habitats and species) in accordance with Policy GEN7 of the Uttlesford Local Plan (2005).

- 14) No development shall commence until a scheme for the installation of deer fencing along the western boundary of High Wood Site of Special Scientific Interest (SSSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details regarding the fence height, materials and installation method. All fencing shall be constructed and retained in accordance with the approved details.

REASON: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (in relation to priority habitats and species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (2005).

- 15) No development or preliminary groundworks of any kind shall take place in any reserved matters area or area affected by advanced infrastructure or groundworks pursuant to Condition [5] until a programme of archaeological investigation relating to that area has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and the following:

- a) A programme and methodology of site investigation and recording;
- b) A programme for post investigation assessment;
- c) Provision for analysis of the site investigation and recording;
- d) Provision for publication and dissemination of the analysis and records of the site investigation;
- e) Provision for archive deposition of the analysis and records of the site investigation; and
- f) The nomination of a competent person or persons or organisation to undertake the works.

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

REASON: To ensure the appropriate investigation of archaeological remains, in accordance with Policy ENV4 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 16) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include:
- Limiting discharge rates to variable greenfield rates as defined in the Flood Risk Assessment IE16590-100-R-41-3-3\_FRA, dated April 2021, up to and including the 1 in 100 year plus 40% allowance for climate change storm event. All relevant permissions to discharge from the site into any outfall should be demonstrated;
  - Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
  - Provide online long-term storage limiting discharge to 2l/s/ha for all additional run-off volume generated by the development;
  - Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change;
  - Final modelling and calculations for all areas of the drainage system;
  - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the Construction Industry Research and Information Association SuDS Manual C753;
  - Detailed engineering drawings of each component of the drainage scheme;
  - A final drainage plan which details exceedance and conveyance routes, Final Floor Level and ground levels, and location and sizing of any drainage features;
  - A written report summarising the final strategy and highlighting any minor changes to the approved strategy; and
  - A programme for implementation.

The development hereby permitted shall be carried out in accordance with the approved details and all surface drainage measure shall be retained for the lifetime of the development.

REASON: To prevent flooding by ensuring the satisfactory storage or disposal of surface water from the site in accordance with Policy GEN3 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 17) Prior to occupation of any dwelling or building, a Surface Water Drainage Maintenance Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Maintenance Plan shall provide details of the maintenance arrangements for the site, including who is responsible for different elements of the surface water drainage system, the maintenance activities and their frequency. This should include details of funding arrangements should any part of the Maintenance Plan be maintainable by a maintenance company.

All maintenance shall be carried out as approved for the lifetime of the development.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in the approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with Policy GEN3 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 18) Yearly logs of maintenance shall be maintained in accordance with the approved Surface Water Drainage Maintenance Plan for the lifetime of the development. These must be available for inspection upon request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in the approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with Policy GEN3 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 19) Details of a lighting strategy for each reserved matters area shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of any dwelling or building within that area. The details shall include a lighting design strategy for biodiversity that mitigates adverse impacts on features such as protected sites, retained habitat corridors and bat roosts.

The strategy shall:

- a) Identify those areas and features that are particularly sensitive to disturbance that bats and other nocturnal wildlife are likely to use for breeding, shelter, commuting or foraging, including all key areas needed to meet the ecological needs of those species; and

- b) Show how and where external lighting will be installed in public areas, through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications, so that it can be clearly demonstrated that areas to be lit will not have an adverse effect on potentially affected species.

All external lighting shall be installed in accordance with the approved details and shall be retained for the lifetime of the development.

REASON: In the interests of conserving biodiversity and the character of the site, in accordance with Policy GEN2 and GEN7 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 20) The reserved matters submitted under Condition [1] shall include the following details:
- i. Hard and soft landscaping;
  - ii. Any ground modelling and/or grading of landform or bunding;
  - iii. Strategic, screen and ornamental landscaping, excluding any planting proposals submitted under Condition [5] in relation to the Visual Mitigation Zone;
  - 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 Local Planning Authority 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 Local Planning Authority;
  - 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 landscaping for all public areas shall be carried out in accordance with the approved details prior to the occupation of the first building within that reserved matters area. The landscaping of individual dwelling plots shall be completed prior to the occupation of each dwelling.

REASON: In the interests of the character and appearance of the development in accordance with Policy GEN2 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 21) All dwellings and buildings shall be provided with access to electric vehicle charging points in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. No dwelling or building shall be occupied until the approved details related to that property are operational in accordance with the approved details.

REASON: In the interests of reducing carbon emissions in accordance with Policies GEN1 and ENV13 of the Uttlesford Local Plan (2005) and paragraph 110 of the National Planning Policy Framework.

- 22) Biodiversity enhancement measures shall achieve a meaningful enhancement of the development site that delivers a measurable net gain of at least 10%. Enhancement measures shall be taken in accordance with the following documents:

- Land East of Highwood Quarry, Great Dunmow: Biodiversity Net Gain Strategy 2021 (Essex Ecology Services, 2021); and
- Land East of Highwood Quarry Environmental Statement Addendum, Chapter 11A Biodiversity (LS Easton Park Investments Ltd,).

REASON: In the interests of furthering nature conservation and securing biodiversity net gain, in accordance with Policy GEN7 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 23) 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 permission, 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 protected and priority animal species; and
- ii. Identify any likely new ecological impacts that might arise from any such changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed, then a scheme detailing how existing measures will be revised or new ones introduced that minimise adverse impacts shall be submitted to and approved in writing by the Local Planning Authority. This shall include an implementation timetable with details to be agreed prior to the commencement of that reserved matter. Works shall then be carried out in accordance with the approved measures and timetable.



REASON: To conserve protected and priority species and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 in relation to priority species in accordance with Uttlesford Local Plan Policy GEN7 (2005) and the National Planning Policy Framework.

- 24) With the exception of advance infrastructure, site preparation, groundworks and trial trenching, no above ground development shall commence in any reserved matters area until a detailed noise assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include the potential cumulative impact from noise activities associated with Highwood Quarry, until the quarry is permanently closed, road traffic noise and noise at reference locations agreed by the Local Planning Authority where attended and unattended measurements shall be taken.

REASON: To protect the living conditions of future occupiers in accordance with Policy ENV10 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 25) With the exception of advance infrastructure, site preparation, groundworks and trial trenching, no above ground development shall commence in any reserved matters area until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority that sets out the proposed mitigation measures to protect the dwellings from noise arising from the adjacent quarrying activities and road traffic noise.

The scheme shall ensure that internal and external noise environments are achieved in accordance with the provisions of BS8233:2014. As a minimum the scheme shall be designed so that the following noise levels are not exceeded:

- Bedrooms (23.00-07.00 hrs) 30 dB LAeq,8h and 45 dB LAmax
- Living Rooms (07.00-23.00 hrs) 35 dB LAeq,16h
- Gardens (07.00-23.00 hrs) 55 dB LAeq,16h

The submitted details shall include a scheme showing the design, layout and acoustic noise insulation performance specification of the external building envelope, having regard to the building fabric, glazing and ventilation. The scheme shall be implemented in accordance with the approved details.

REASON: To protect the living conditions of future occupiers, in accordance with Policy ENV10 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework.

- 26) Prior to installation of any external fixed noise generating plant or equipment, the details together with any necessary mitigation to achieve a rating level at the closest noise sensitive receptor from all plant combined of 5 dB below the typical background (LA 90) level, taken during the following times 07:00 to 18:30, 18:30 to 23:00 and 23:00 to 07:00 at the nearest noise sensitive receptor(s), shall be submitted to and approved in writing by the Local Planning Authority. The noise mitigation scheme shall be implemented as approved.

REASON: To protect the living conditions of any future occupiers, in accordance with Policy ENV10 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

- 27) If during any site investigation, excavation, engineering, or construction works evidence of land contamination is identified, the developer shall notify the Local Planning Authority without delay. Any land contamination shall be remediated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority to ensure that the site is made suitable for its end use.

REASON: To ensure that the proposed development does not cause pollution of controlled waters or harm to human health, as well as the wider interests of safety and the living conditions of future occupants, in accordance with Policy GEN2, ENV12 and ENV14 of the Uttlesford Local Plan (2005).

- 28) On completion of the development, 5% of the dwellings hereby approved shall have been built to comply with M4 Category 3 - Wheelchair User Dwellings requirement M4(3)(2)(a) and all remaining dwellings shall have been built to comply with M4 Category 2 - Accessible and Adaptable Dwellings requirement M4(2), as defined in the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

REASON: To ensure a high standard of accessibility, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005), the Supplementary Planning Document (SPD) entitled 'Accessible Homes and Playspace' and the Planning Practice Guidance.

- 29) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial trenching) until details of the site access road, as shown in drawing number 110031/A/91 Rev G, between A120 roundabout access works, as shown in drawing number 10031-A-114/PO3 and the "maximum extent of built development", as defined in the development parameters have been submitted to and approved in writing by the Local Planning Authority.

The details shall include information on visibility splays, surfacing and construction, a means of surface water drainage, lighting, signage and Stage 2 Road Safety Audits.

The road shall:

- i. Be a minimum of 7.3 m wide with an additional 5 m footway/cycleway provided on one side of the carriage and a further minimum 2.5m wide strip of land on the opposite side of the carriageway shall be kept free of development;
- ii. Shall accommodate a transport hub, which will be subject to further detail to be approved under Condition [39], in a location as shown in drawing number 110031A/105 Rev A; and
- iii. Provide a controlled crossing to link the footway/cycleway on the southern side of the access road to the proposed link to Public Right of Way (PRoW) 5 (Little Canfield) on the northern side of the road.

The site access road and facilities shall be implemented in accordance with the approved details prior to occupation of the first dwelling.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), policy DM1 of the Development Management Policies, as adopted as County Council Supplementary Guidance in February 2011.

- 30) Prior to occupation of the first dwelling a controlled crossing to accommodate equestrians, cyclists and pedestrians shall be provided on the access road to allow the users of the PRoW Bridleway 23 (Little Easton) to cross the road. Details shall be submitted to and approved in writing by the Local Planning Authority and all works shall be implemented as approved.

REASON: In the interests of pedestrian, cycle and equestrian safety, in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), policy DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 31) No development (excluding advance infrastructure, site preparation, groundworks or trial trenching) shall commence until details showing the construction of the access road and its location within the planning permission boundary of Highwood Quarry are submitted to and approved in writing by the Local Planning Authority. The details shall include how, when and where the existing storage mounds of topsoil, subsoil and overburden will be relocated. The locations shall be such that they are available for restoration of the quarry/landfill without having an adverse impact on the effective working and/or restoration of the quarry/landfill. The details shall be implemented as approved.

REASON: To ensure the materials are available and accessible for restoration of the quarry/landfill and moved and stored in a suitable manner to ensure beneficial restoration of the quarry/landfill to arable agricultural use without having an adverse impact on the effective working or restoration of the quarry/landfill in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), Policies S8 and S12 Minerals Local Plan 2014, Policy 2 of the Waste Local Plan and the National Planning Policy Framework.

- 32) No development shall commence (excluding advance infrastructure, site preparation, groundworks or trial trenching) until details showing how the access arrangement to the quarry/landfill will be accommodated without adversely impacting access to the quarry/landfill processing and plant areas, HGV circulation within the quarry/landfill processing and plant area, the quarry/landfill staff parking areas and the weighbridge facilities have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as approved and according to an agreed timetable.

REASON: To ensure that the amended quarry access, does not constrain HGV access to the site or adversely impact the effective working of the quarry/landfill and its processing and plant areas, parking areas and HGV circulation areas in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), Policy S8 of the Minerals Local Plan, Policy 2 of the Waste Local Plan and the National Planning Policy Framework.

- 33) Primary vehicle routes, as defined in Parameter Plan 6 and the bus routes defined in Condition [2] shall be a minimum carriageway width of 6.75 m.

REASON: In the interests of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and the National Planning Policy Framework.

- 34) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial trenching) until a scheme for the upgrading of PRowS within the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to protection, surfacing works, crossings, signage and connections to the surrounding network and area. The scheme shall be implemented as approved prior to first occupation of any dwelling and all road crossing point works shall be implemented before the relevant road is open to traffic.

REASON: To protect the public right of way network from increased footfall, promote active travel and increase accessibility in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), Policy DM9 and DM11 of the Development Management Policies as adopted as County

Council Supplementary Guidance in February 2011 and the National Planning Policy Framework.

- 35) No dwelling shall be occupied until the road(s) serving that part of the development, including any cycleways/footways, has been constructed and surfaced in accordance with the approved plans and made available for public use.

REASON: To ensure access for all dwellings from the start of occupation in accordance with Policy GEN1 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework

- 36) No dwelling shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority ensuring that no less than 95% of dwellings within a reserved matters area are no more than 400 m from a bus stop with remaining dwellings being no more than 500 m from a bus stop. The scheme shall ensure that all bus stops comprise bus shelters, seating, raised kerbs, flag and pole signage and include real time information. The scheme shall include a programme for implementation and shall be implemented in accordance with the approved details.

REASON: to increase accessibility and promote public transport in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), Policy DM9 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and the National Planning Policy Framework

- 37) Any reserved matters application made pursuant to this permission shall safeguard an alignment between zones A-B (on drawing 15576-RG-M-LEHQ-57 Rev A) of a minimum width of 17.5 m for potential future provision of a sustainable transport corridor. The alignment is to be agreed with the Local Planning Authority as part of the reserved matters applications unless the Local Planning Authority confirms in writing that this is no longer a requirement. The agreed route shall be safeguarded between the boundaries of the site.

REASON: To ensure that a route is protected to allow a sustainable transport corridor to be provided to serve existing and future development and allow future flexibility.

- 38) No dwelling shall be occupied until a scheme showing provision of an emergency access to the public highway, surfaced as shown in principle on Emergency Vehicle Route Plan Figure 8 dated 11 February 2022, and a programme for its implementation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and an agreed implementation timetable.

REASON: To provide access in the case of emergency in the interests of public safety.

- 39) Details for the transport hub referred to in Conditions [4] and [29] shall be submitted to and approved in writing by the Local Planning Authority prior to approval of details required under Condition [29]. The submitted details shall include two bus stops with the following facilities: shelters, seating, raised kerbs, bus stop markings, timetable casings, real time information, lighting, CCTV and turning facilities together with secure, covered, cycle parking and EV charging facilities. The approved details shall be implemented in full prior to occupation of the first dwelling

REASON: To ensure the development is carried out in accordance with the principles of the development as set out in the outline planning application, in accordance with Uttlesford Local Plan Policy GEN1 (2005) and the National Planning Policy Framework.

- 40) No development shall commence (with the exception of works covered by advance infrastructure approvals, site preparation, groundworks and trial trenching) in any areas identified for the provision of playing pitches in the Site Wide Masterplan approved under Condition [4], until the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i. A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and
- ii. Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

The approved scheme shall be carried out in full and in accordance with the approved programme of implementation. The land shall thereafter be retained and made available for playing field use in accordance with the approved scheme for the lifetime of the development.

REASON: To ensure that the playing field is prepared to an adequate standard and is fit for purpose in accordance with Uttlesford Local Plan Policies GEN2 and GEN6 and the National Planning Policy Framework.

- 41) There shall be no new connections made to any fossil fuel gas supply, as part of the development hereby approved. All buildings, shall include an efficient and entirely electric-powered heating solution, principally using air-source heat pumps.

REASON: To ensure the development is carried out in accordance with the principles of the development as set out in the outline planning

application, in accordance with Uttlesford Local Plan Policies GEN2 and GEN6 (2005) and in support of the transition to a low carbon future as required by paragraph 152 of the National Planning Policy Framework.

- 42) Details of water saving measures, relating to all new residential dwellings, limiting consumption to 110 litres per person per day (as defined under regulation 36(2)(b) of Part G of Schedule 1 of the Building Regulations 2010 (as amended)) for each reserved matters area shall be submitted to and approved by the Local Planning Authority as part of the reserved matter submissions made pursuant to Condition [1] and the development shall be completed in accordance with the approved measures.

REASON: To ensure the development minimises water consumption in accordance with Uttlesford Local Plan Policy GEN2 and mitigation of any short-term, cumulative pressure that the scheme might place on the public water supply.





# Department for Levelling Up, Housing & Communities

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.