

Land known as Bull Field

Redetermination - Addendum Report

Addendum Report submitted in support of the redetermination of Section 62a Application relating to the Land known as Bull Field following the High Court Judgment and quashing of the decision to refuse planning permission under Section 62A Application Ref. No. S62A/2023/0019.

Weston
Homes



Table of Contents

| | |
|--|----|
| Document History | 2 |
| 1.Introduction | 5 |
| 2.Updated Site Context & Planning History | 6 |
| 3.Further Representations on Behalf of the Applicant | 14 |
| 4.Heritage Matters | 28 |
| 5.Landscape Matters..... | 33 |
| 6.Transport Matters..... | 36 |
| 7.Arboriculture Matters..... | 38 |
| 8.Ecology Matters | 41 |
| 9.Planning Balance | 42 |
| 10.Summary & Conclusions | 44 |

List of Appendices

- Appendix A – Photos of Completed 7 Acres Development
- Appendix B – Decision Notice (Ref. S62A/2023/0016) – Jacks s.62A Refusal
- Appendix C – Decision Notice (Ref. UTT/22/3126/FUL) – Jacks Application Refusal
- Appendix D – Decision Notice (Ref. S62A/2023/0027) – Jacks s.62A Approval
- Appendix E – Bull Field Scheme in Context of Approved Jacks and 7 Acres and other Surrounding Developments
- Appendix F – Decision Notice (Ref. S62A/2023/0019) – Bull Field Quashed s.62A Refusal
- Appendix G – High Court Judgment (*Weston Homes Plc, R (On the Application Of) v Secretary of State for Levelling Up, Housing and Communities & Anor* [2024] EWHC 2089 (Admin))
- Appendix H – “The status and legal effect of a quashed appeal decision in planning law” by James Maurici QC and Miriam Seitler J.P.L. 2018, 5, 492-506
- Appendix I - Applicants Paragraph-by-Paragraph Response to Quashed S.62A Decision
- Appendix J - Statement of Common Ground from the Warish Hall Farm Appeal Ref. APP/C1560/W/22/3291524
- Appendix K – Overlaid Plan of Bull Field and Warish Hall Farm Scheme

- Appendix L - Education Statement of Common Ground from the Appeal Ref.
APP/C1560/W/22/3291524
- Appendix M – Draft Legal Agreement from Appeal Ref. APP/C1560/W/22/3291524
- Appendix N – Copy of the Ministerial Statement (Dated: 30th July 2024)
- Appendix O – Summary of how the scheme meets the UDC Design Code
- Appendix P – Copy of UDC Urban Design Officer Comments (19th October 2021)
- Appendix Q – Copy of UDC Urban Design Officer Comments (16th July 2023)
- Appendix R – Extracts from the Draft National Planning Policy Framework for Consultation
- Appendix S – Extracts from the relevant Draft Regulation 19 Policies
- Appendix T – SANG Strategy by LUC in support of the Regulation 19 Plan
- Appendix U – Update to Uttlesford’s 5 Year Housing Land Supply (20th August 2024)
- Appendix V – Essex Place Services Heritage Team Comments (Dated: 20th October 2021)
- Appendix W – Historic England Comments (Dated: 23rd August 2023)
- Appendix X – Uttlesford District Council Local Heritage List
- Appendix Y – Uttlesford District Council Criteria for Non-Designation Heritage Assets
- Appendix Z – Smiths Green Conservation Area Appraisal
- Appendix AA - Heritage Assessment on the Regulation 19 Local Plan Allocations
- Appendix BB– Updated Visualisations
- Appendix CC – Countryside Protection Zone Study 2024
- Appendix DD – Proof of Evidence on Arboricultural Matters submitted for the Appeal Ref.
APP/C1560/W/22/3291524
- Appendix EE – Standing Advice on Ancient Woodland
- Appendix FF – Letter from PINS Dated: 30th August 2024
- Appendix GG – Draft Conditions

List of Figures

Figure 1 - Site Location and Settlement Boundary

Figure 2 - Site Context

Figure 3 - Warish Hall Farm Application

Figure 4 – 7 Acres Application

Figure 5 – Jacks Application

Figure 6 - Bull Field Application

Figure 7 - Woodland Buffer - Appeal Proposals and Current Proposals Comparison

Figure 8 - Recommended Housing Mix - Local Housing Needs Assessment (June 2024)

Figure 9 - Extract of the South Uttlesford Area Strategy Map

Figure 10 - Summary of further ecological surveys

Figure 11 - Harms arising from the proposed development

Figure 12 - Benefits arising from the proposed development

Document History

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1. Introduction

- 1.1. This Report has been prepared by Weston Homes Plc ('the Applicant') in support of the s.62A Application ('the Application'), which has been submitted for redetermination following the quashing of the previous decision of Inspector Kean to refuse application Ref. No. S62A/2023/0019, which related to the land known as Bull Field and sought planning permission for:

“Access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to: 96 dwellings on Bulls Field, south of Prior’s Wood, including associated parking, landscaping, public open space, land for the expansion of Roseacres Primary School, pedestrian and cycle routes to Smiths Green Lane together with associated infrastructure”

- 1.2. This Report deals with any changes to the context of the Application and any material considerations which have arisen since the decision to refuse planning permission was issued in December 2023, as well as anything set out in the High Court Judgment ('HC Judgment') which quashed the refusal and is relevant to the redetermination of the application. This report should be read alongside the various documents and plans which were originally submitted with this s.62A application.
- 1.3. A letter was received from the Planning Inspectorate ('PINS') s.62A Application Team on 30th August 2024, which invited the Applicant to:
- send further representations (including any documents to which you intend to refer) covering any material change in circumstances (which would include any changes to the development plan position and new or altered material considerations which you think should/should no longer be taken into account), which may have arisen since the original decision was issued;
 - comment on the specific issue(s) upon which the application decision was quashed; and,
 - comment whether a change of procedure - from a hearing - should be considered providing reasons for supporting this view (having regard to the published criteria).
- 1.4. This Report covers the points mentioned above and, in relation to bullet point 3, confirms that a change in procedure is not required. The matter should be redetermined via the hearing procedure.

2. Updated Site Context & Planning History

Site Context

- 2.1. The Application relates to the land known as Bull Field (hereinafter referred to as ‘the Site’), which abuts the settlement edge of the north of Takeley and is situated to the south of the A120 and Stansted Airport. The Site is approximately 19.8ha in area and is mostly flat. **Figure 1** below sets out the site location and its relationship with the existing settlement boundary.



Figure 4 - Site Location and Settlement Boundary

- 2.2. Takeley is one of the largest villages within Uttlesford and is noted as a ‘Key Rural Settlement’ in the settlement hierarchy, the largest in order below Stansted Mountfitchet village and the main towns of Great Dunmow and Saffron Walden. As such, Takeley benefits from a number of facilities and services and is regarded as a sustainable settlement.

- 2.3. There are also a number of emerging employment opportunities being delivered as part of the 7 Acres Development (see paragraph 2.13 – 2.15, which obtained planning permission for 3,000sqm of flexible employment space along with provision for a medical centre in July 2023 (Planning Permission Ref. No. UTT/22/2744/FUL), with business looking to move into the units in the late summer 2024.
- 2.4. There are a number of designated heritage assets within the vicinity of the Site. To the north of the Site sits the Ancient Scheduled Monument known as Warish Hall moated site and remains of Takeley Priory (NHLE:1007834). Warish Hall itself and the associated Moat Bridge is a Grade I listed asset. There is a collection of Grade II/II* listed buildings to the east and southeast of the Site within Smiths Green.
- 2.5. Smiths Green Lane running north/south to the east of the Site is classified by Uttlesford District Council ('UDC') as a 'Protected Lane' (non-designated heritage asset hereinafter referred to herein as 'NDHA') which has a degree of historic significance but does not warrant statutory listing.
- 2.6. Within the previous s.62A decision ('the Quashed Decision') for the development of the Site, the Inspector, following comments made by Historic England ('HE'), made reference to Prior's Wood (Ancient Woodland ('AW') in the northern section of the Site) as being an NDHA asset although the Applicant strongly contends that this is not the case – see paragraphs 4.6 – 4.20.
- 2.7. The Site is also situated to the north of the Smiths Green Conservation Area, which was adopted on 2nd November 2023.

Planning History

- 2.8. The Site initially formed part of an application (Ref. No. UTT/21/1987/FUL) for a wider parcel of land known as the Warish Hall Farm Application. This comprised Bull Field; Jacks Field and 7 Acres (see **Figure 2** below).



Figure 5 - Site Context

Wider 2021 Planning Application and Appeal

- 2.9. The Warish Hall Farm Application (see site plan extract in **Figure 3** below) was submitted to UDC in June 2021 and, although recommended for approval following extensive pre-application discussion with the Council, was refused by the UDC Planning Committee on 15th December 2021.



Figure 6 - Warish Hall Farm Application

- 2.10. The Warish Hall Farm Application sought planning permission for the following:

“Mixed use development including: revised access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to: light industrial/flexible employment units (c.3568sqm) including health care medical facility/flexible employment building (Use Class E); 126 dwellings on Bulls Field, south of Prior’s Wood: 24 dwellings west of and with access from Smiths Green Lane; 38 dwellings on land north of Jacks Lane, east of Smiths Green Lane including associated landscaping, woodland extension, public open space, pedestrian and cycle routes.”

- 2.11. Following the refusal, an appeal was lodged by Weston Homes, which was determined via a public inquiry which sat during the summer of 2022 and concluded with the Appeal (Ref. No. APP/C1570/W/22/3291524) being dismissed in August 2022 (‘the Dismissed Appeal’).
- 2.12. Following the dismissal, subsequent planning applications were made which dealt with the various parts of the wider Warish Hall Farm Application Site and responded to the concerns of the Inspector, who determined the Appeal (‘the Appeal Inspector’).

7 Acres

- 2.13. Firstly, an application was made to UDC in relation to the land known as 7 Acres (Application Ref. No. UTT/22/2744/FUL) as the Appeal Inspector did not find this land parcel or the commercial development proposed within it to be an area of concern in his decision: see area shaded red in **Figure 4** below.



Figure 4 – 7 Acres Application

- 2.14. This application sought planning permission for:

“Erection of 4 no. industrial/flexible employment (Use Class E) buildings with associated landscaping and parking.”

- 2.15. This application was initially presented to the planning committee on 8th February 2023, with an officer’s recommendation for approval. The committee members debated the application at length and resolved to refuse permission, but did not, it transpired, provide adequate reasons for refusal. This meant that the application had to be reheard at the committee on 8th March 2023, where the application was again discussed at length and committee members were then minded to defer the application to seek confirmation on footpath and cycleway links. The application was then heard for the third time at the planning committee on 5th April 2023, where the committee members voted in favour of granting planning permission for the development. This development has now been completed with occupations due imminently at the time of writing (see photos at **Appendix A**). The medical centre remains under the consideration of the Integrated Care Board (‘ICB’) who have an option until March 2025 for taking up the site.

Jacks

- 2.16. Secondly, two planning applications for the Jacks parcel (see location in **Figure 5** below) were submitted as the Appeal Inspector did not find any significant harm arising from the proposals of that parcel of land for residential use. As such, one application was made initially to UDC in November 2022 and another separate, but identical application was made to the Secretary of State via the s.62A route later in April 2023.



Figure 5 – Jacks Application

2.17. These applications both sought planning permission for the following:

“Erection of 40no. dwellings, including open space landscaping and associated infrastructure.”

2.18. This s.62A application (Ref. No. S62A/2023/0016) was initially determined and refused on 9th August 2023 for the following reasons:

“1) It has not been adequately demonstrated that lighting and loss of vegetation, particularly in relation to access works and off-site proposals to improve the restricted byway Takeley 48/25 would not result in unacceptable harm to the established character and appearance of the surrounding area and to the significance of Smiths Green Lane (Warish Hall Road), a protected lane and non-designated heritage asset. This is contrary to policies S7, ENV9 and GEN2 of the Uttlesford Local Plan and paragraphs 130 c), 185 c) and 203 of the National Planning Policy Framework.

2) It has not been adequately demonstrated that safe and suitable access to and from the site for pedestrians and cyclists could be achieved which meets highway design standards whilst responding to local character and biodiversity considerations, contrary to Uttlesford Local Plan policy GEN1 and paragraphs 92, 110 and 112 of the National Planning Policy Framework.”

2.19. The decision notice can be found at **Appendix B**.

2.20. Due to the limited scope of the reasons for refusal set out in the initial Jacks s.62A decision, the Inspector’s concerns were addressed and a subsequent second s.62A application (Ref. No. S62A/2023/0027) was lodged which contained details of the lighting and access.

- 2.21. In tandem, the UDC application was also updated to provide the same requisite detail to enable the Council to determine the application which had responded to the Inspector's comments.
- 2.22. However, the application made directly to UDC (Ref. No. UTT/22/3126/FUL) was then refused in February 2024 (see decision notice at **Appendix C**) for the following reasons:

“1) It has not been adequately demonstrated that lighting from the proposed development would not result in unacceptable harm to the established character and appearance of the surrounding area, to the significance of Smiths Green Lane (Warish Hall Road), a protected lane and non-designated heritage asset, and the significance of the setting of the Smiths Green Conservation Area. This is contrary to Policies S7, ENV1, ENV9 and GEN2 of the Uttlesford Local Plan and the National Planning Policy Framework.

2) It has not been adequately demonstrated that the provision of the new access and highways works would not result in harm, by way of loss of vegetation and urbanising features, to the protected lane (Smith's Green Lane), a non-designated heritage asset. This is contrary to Policies GEN2, and ENV9 of the Uttlesford Local Plan (adopted 2005) and Paragraph 203 of the NPPF.”

- 2.23. The revised s.62A application was eventually approved (Ref. No. S62A/2023/0027) on 13th March 2024 following a hearing. The decision notice can be found at **Appendix D**. This means that development has now been approved, as envisaged in the appeal scheme, to both the east and the west of the Site – see plan at **Appendix E**.

Bull Field

- 2.24. Finally, in relation to the Bull Field parcel, this was the area which the Inspector dealing with the Appeal found the most impactful. This was, however, largely focussed on the development along the most eastern element towards Smiths Green Lane. As such, further additional pre-application discussions and correspondence was undertaken between March and July 2023 with UDC and relevant statutory consultees, including the Essex Country Council Place Services Heritage and Conservation Team, which informed the proposals for the s.62A application (Ref. No. S62A/2023/0019) relating to the Bull Field parcel – see **Figure 6** below.



Figure 6 - Bull Field Application

- 2.25. One of the principal changes from the Dismissed Appeal was to remove all of the development in the eastern section of the Bull Field parcel and all of the development from the Maggots in response to the main areas of concern which was highlighted by the Appeal Inspector within the Warish Hall Farm Application.
- 2.26. The Bull Field Section 62A Application was, however, refused on 15th December 2023 (see **Appendix F**).
- 2.27. Following a challenge under s.288 of the Town and Country Planning Act 1990 this decision was quashed by the High Court Judgment (see **Appendix G**), handed down on 7th August 2024.
- 2.28. The s.288 challenge succeeded on the following grounds:
- **Ground 1** - The Inspector erred in law in reducing the weight to be given to the BNG estimated for the proposal by taking into account a future legal requirement for BNG.
 - **Ground 4** - The Inspector reached findings inconsistent with those of the Appeal Inspector, in regard to the AW, Prior's Wood.
 - **Ground 2** - The Inspector erred in law by treating the proposal's provision of land for the expansion of a nearby primary school as simply amounting to mitigation rather than as a public benefit of the proposals.
 - **Ground 6** – inadequate reasons.
- 2.29. Two further grounds related to: fairness (Ground 3); and the treatment of Priors Wood as an NDHA (Ground 5).

- 2.30. Something must be said of Inspector Kean’s now quashed decision on the Application (the Quashed Decision). The Applicant contends that none of the findings of Inspector Kean are material considerations including those made on matters not the basis for quashing. The Inspector is referred to the appended article entitled “[t]he status and legal effect of a quashed appeal decision in planning law” by James Maurici QC and Miriam Seitler J.P.L. 2018, 5, 492-506 (see **Appendix H**) This is an area on which the case law is in conflict; there is no simple answer.
- 2.31. Since this article, it has been held in ***R (Davison) v Elmbridge Borough Council*** [2019] EWHC 1409 (Admin), [2020] 1 P. & C.R. 1 by Thornton J at para 55 that “[a] previously quashed decision is capable in law of being a material consideration. Whether, and to what extent, the decision maker is required to take the previously quashed decision into account is a matter for the judgment of the decision maker reviewable on public law grounds. A failure to take into account a previously quashed decision will be unlawful if no reasonable authority could have failed to take it into account”. So , as the case-law is not all one way on this issue and also because third parties are likely to refer to its findings, some comment is made below on Inspector Kean’s findings and how these should be treated, given the quashing. **Appendix I** sets out the Applicant’s detailed response to each paragraph of the quashed decision.
- 2.32 Following the quashing of the earlier decision to refuse application Ref. No. S62A/2023/0019, the Application will be redetermined *de novo* by a new Inspector: see again the above referenced article.

3. Further Representations on Behalf of the Applicant

- 3.1. Following the High Court challenge, the Court has ordered that this application be re-determined.
- 3.2. This section will address the issues upon which the decision was quashed, namely, BNG (Ground 1), Inconsistency in relation to the effects on Prior's Wood (Ground 4), Weight applied to the provision of land for the extension to Roseacres Primary School (Ground 2) and Inadequate reasons (Ground 6).

Ground 1 – Biodiversity Net Gain

- 3.3. Holgate J allowed the first ground, which related to how the now Quashed Decision dealt with and applied weight to the BNG assessment submitted alongside the Application.
- 3.4. The judge upheld this ground on the basis of the decision letter being flawed by the error identified in ***NRS Saredon Aggregates Limited v Secretary Of State For Levelling Up, Housing And Communities*** [2023] EWHC 2795 (Admin) ('***NRS Saredon***'), where Eyre J held the relevant inspector erred in law by reducing the weight he would otherwise have given to the BNG in that case because some of the gain would be necessary in any event by reason of the future legislative requirements. Holgate J held that this approach involved an error of law, because that future requirement did not apply to the proposals. The judge accepted the Applicant's submission that Inspector Kean made the same legal error as in ***NRS Saredon***, in that he reduced the weight to BNG below 10% than he otherwise would have done applying para.174(d) of the NPPF, because it did not meet the new legislative requirement. That involves giving the new legislation retrospective effect, contrary to the transitional provisions in SI 2024 No. 44. Further, he provided legally inadequate reasons for treating BNG below 10% in the way he did.
- 3.5. As to BNG above 10%, which the Inspector assessed as having "only" moderate weight in DL 80, Holgate J found the Inspector's reasoning difficult to follow as to his justification for reaching this conclusion. The judge held the absence of a logical chain of reasoning amounts to irrationality (see e.g. ***R (Law Society) v Lord Chancellor*** [2019] 1 WLR 1649 at [98]). Furthermore, he held this provided a second basis upon which the reasoning in this part of the decision letter was legally inadequate.
- 3.6. The Applicant has reviewed the BNG proposals. For the avoidance of doubt, the current application being considered is not subject to the new mandatory BNG requirements, as it was submitted prior to the February 2024 deadline. The requirement for BNG relevant to the Application is the 1% requirement set out in the NPPF rather than the 10% requirement. The policy does not apply retrospectively. Given the Inspector previously noted some confusion with BNG levels, albeit no questions were advanced in this regard during the previous hearing, the Applicant has reviewed, for thoroughness, the BNG Assessment and has undertaken a further walkover study.

3.7. An updated BNG Assessment has been submitted (Version 3). This has revealed the following gain in habitat units:

- Habitat Units 15.69% gain
- Hedgerow Units 56.29% gain
- Watercourse Units 15.98% gain

3.8. As such, for the redetermination of the Application within the planning balance, the Applicant submits that, more than moderate weight, must be applied to BNG gain on the basis of the HC Judgment. As such, the proposed net gains are significantly above the 1% requirement. In these circumstances, this gain attracts **significant weight** as a benefit within the planning balance undertaken in relation to this planning application.

Ground 4 – Findings Inconsistent with the Appeal Decision

3.9. Holgate J allowed the fourth ground, which related to how the Inspector reached findings which were inconsistent with those of the Appeal Inspector with respect to the indirect effect of the proposals on the AW and the failure to give legally adequate reasons for departing from the findings in the Appeal Decision.

3.10. As set out, it was common ground in the Appeal (as set out at paragraph 6.31 the Statement of Common Ground from the Appeal – see **Appendix J**), that no trees within Prior's Wood would be lost or directly impacted as a result of the proposals. Both the Inspector for the Dismissed Appeal and the Inspector for the Quashed Decision concluded there would be no direct effects on the AW.

3.11. Furthermore, the Appeal Inspector found that the mitigation set out in the Woodland Management Plan would sufficiently address indirect impacts resulting from the development. The Inspector stated (at DL77):

“In addition, I am content from the submitted written evidence and what I heard at the Inquiry, that neither the proposed road or cycleway within the buffer or proposed housing in the vicinity, would lead to indirect effects on the ancient woodland as identified in the Standing Advice, given the proposed measures set out in the Prior's Wood Management Plan” [emphasis added].

3.12. As noted within the HC Judgment (paragraph 150), there were very few differences between the various statutory consultees' feedback regarding the AW between the Application and the appeal scheme, except for the Woodland Trust's reference to cumulative impact, which did not find its way into the Inspector's justification for identifying unacceptable impacts on the AW, as set out in the Quashed Decision. Previous planning decisions are capable of being material considerations in the determination of a subsequent planning application or appeal: see **North Wiltshire District Council v Secretary of State for the Environment (1992) 65 P&CR 137** (at paragraph 145).

- 3.13. Holgate J found that the Inspector failed to give legally adequate reasons for departing from the findings of the Dismissed Appeal Decision in relation to indirect impacts on the trees within the AW, and in particular in failing to identify what he considered those effects to be. As such, he erred in law by adopting an inconsistent approach. His conclusion was not borne out on the technical evidence and where he was minded to disagree with that evidence, elementary fairness would have required him to raise any concerns with the Applicant at the hearing. However, no such concerns were either expressed at the hearing or in the decision letter relating to the Quashed Decision.
- 3.14. At this point, it is appropriate to set out the position at the Dismissed Appeal. The Inspector dealing with the Dismissed Appeal found there was robust evidence to justify a conclusion that no direct or indirect harms would be caused as a result of the proposed development (see paragraph 77 of the Dismissed Appeal decision). The Dismissed Appeal was determined following an inquiry which heard oral evidence of Mr Hyett with regard to arboriculture matters and Mr Hadfield with regard to the ecological impact, including the Woodland Management Plan. They were both cross-examined, which increases the weight to be given to that evidence. No witnesses were put forward by the Council.
- 3.15. The case in the Application is that the physical development remains almost identical to that of the earlier appeal scheme (see overlaid plan at **Appendix K**) but there would be a reduction in the overall homes leading through the pinch point: see **Figure 7** below. These changes would, in fact, lead to a *reduction* in any indirect impacts by reference to air quality and recreation but that was not considered to be of concern by the Inspector dealing with the Dismissed Appeal, notwithstanding this material change.



Figure 7 - Woodland Buffer - Appeal Proposals and Current Proposals Comparison

- 3.16. The wholly erroneous approach of Inspector Kean on the Application was found by Holgate J to have then been taken forward and fed into his planning balance.
- 3.17. As such, within the planning balance undertaken for the redetermination of this s.62A application the position should revert to that which the Appeal Inspector had concluded with regard to the weight applied to the direct and indirect impacts on Prior's Wood, which Appeal Inspector concluded that he was content that the proposals of the Appeal Scheme would not lead to any direct or indirect effects on the ancient woodland (See paragraph 77 of the Appeal Decision).

Ground 2 – Treatment of the provision of land for the expansion of Roseacres Primary School

- 3.18. Holgate J also allowed the second ground, which related to the way in which the Inspector dealt with the weight applied to the Roseacres Primary School extension as a benefit of the scheme, within the Quashed Decision. He held:

“170. The 2022 [appeal] Inspector accepted that the provision of land by Weston for the future expansion of the primary school was one of the significant benefits of that scheme and attracted significant weight (DL 93). That was the weight given to that factor in the overall planning balance.

171. In the s.62A application Weston proposed to provide both the school expansion land and a contribution of £506,993 for primary school provision (paras.2.23 and 2.24 of Weston's Consultation Response Document – September 2023).

172. In his decision letter, the 2023 Inspector said that the land being made available for the expansion of the school is substantially a matter “that would be exacted from the developer as a direct result of the scheme and neutral in weight,” that is, it was not a benefit (DL 77). In other words, the Inspector treated the provision of the expansion land for the school as simply mitigation for the additional demands placed on the education system by the proposed development. In so doing he plainly failed to take into account as an obviously material consideration (a) the contribution of around £0.5m to deal with the effects of the development in addition to the expansion land and (b) the unchallenged finding of the 2022 Inspector that the school expansion land was a significant public benefit. The expansion land was not being provided as merely mitigation of the effects of the proposed development.

*173. This is a further instance where the Inspector ought not to have differed from the conclusion of his colleague in 2022 without addressing that difference with explicit reasons (**North Wiltshire**). In addition, fairness required that he raise the matter with Weston so that it had an opportunity to deal with the point. The Secretary of State has not suggested that this was an issue which had been raised by any participant in the s.62A process so that, in effect, Weston was on notice to deal with it, without the Inspector being obliged to raise it with the parties.*

- 3.19. It should also be noted that the Dismissed Appeal was accompanied by a separate Education Statement of Common Ground ('SoCG') where the Council clearly supported the provision of the school extension land in this location and that was affirmed as part of the second stage of pre-application discussions following the Dismissed Appeal. The Education SoGC is appended at **Appendix L** and the legal Agreement accompanying the Appeal (see **Appendix M**) clearly sets out the addition of the land to be *in addition* to contributions toward additional school places.
- 3.20. As such, ground 2 was upheld on the basis that, within the Quashed Decision, the Inspector deviated from a finding in the Dismissed Appeal Decision without providing legally adequate reasons and without giving the Applicant the opportunity to respond to the point. His conclusion fed into the overall balance and it cannot be that absent the error, the Inspector would inevitably have reached the same decision on the Application.
- 3.21. Accordingly, in the redetermination of the Application, the Applicant submits that **significant weight** should be applied to the school land as a benefit, as determined by the Appeal Inspector. If the new Inspector wishes to deviate from this view, s/he must provide legally adequate reasons.

Ground 6 – Inadequate Reasons

- 3.22. This has been set out above and there is nothing further to add.

Other Material Changes in Circumstances

- 3.23. Now turning to other material changes in circumstances since the Quashed Decision was initially made on the Application in December 2023. These are considered to be:
- The new NPPF (19th December 2023);
 - The 2022 Housing Delivery Test Measurement (19th December 2023);
 - Call in for AW (Consultation Direction 26th January 2024);
 - Biodiversity Net Gain Assessment (12th February 2024);
 - Approval of s.62A Application for Jacks – Ref. S62A/2023/0027 (13th March 2024);
 - UDC Local Housing Needs Assessment (June 2024);
 - The formation of a new Government (5th July 2024);
 - UDC Design Code formerly adopted (July 2024);
 - Ministerial Statement (30th July 2024);
 - Draft NPPF Consultation (30th July 2024);
 - UDC's Draft Reg 19 Local Plan published for consultation (8th August 2024);
 - Updated to UDC's 5-year Housing Land Supply Position (20th August 2024); and,
 - Occupation of the 7 Acres Development (UTT/22/2744/FUL).

The NPPF (December 2023)

- 3.24. On 19th December 2023, the former Government published an updated version of the NPPF, which included a number of changes. Most notably, there was a weakening of the requirements for LPAs to demonstrate that they are delivering sufficient number of homes within their areas.

- 3.25. One of the changes most relevant to the context of this application, as will be discussed below, is the requirement for LPAs to demonstrate only a 4-year supply, where they have an emerging local plan (Regulation 18 or 19) which includes a policy map and proposed allocations towards meeting housing needs.
- 3.26. As noted below all of these changes are proposed to be reversed by the new Government.

Housing Delivery Test Score

- 3.27. On 19th December 2023, the Government published the 2022 Housing Delivery Test score results. This indicated that during the previous three years, UDC's housing delivery against its target was 58%. This falls below the threshold of 75% of the housing requirement over the previous three years, which triggers the presumption in favour of sustainable development in line with footnote 8(b) set out under paragraph 11(d) of the NPPF.
- 3.28. As discussed below, there are no footnote 7 exceptions and as such the tilted balance should be applied in deciding the Application.

Call in for AW

- 3.29. On 26th January 2024, a revised Town and Country Planning (Consultation) (England) Direction 2024 ('the Consultation Direction') was published in response to s.136 of the Levelling up and Regeneration Act 2023.
- 3.30. The Consultation Direction sets out that LPAs are now required to consult the Secretary of State where a development affects AW, which, as set out in the Consultation Direction, means development which would involve the loss or deterioration of AW. Where the LPA considers that potential adverse impacts cannot be mitigated.
- 3.31. As set out above, it is proposed that the impacts on Prior's Wood which arise from the development have been sufficiently mitigated by the proposals of the Application, in line with the Inspector's findings on the Dismissed Appeal. Further, given that Natural England and Place Services (Ecology) raised no objections with the Application, the Consultation Direction has no bearing on the submission or determination.

Biodiversity Net Gain Assessment Requirements#

- 3.32. Since the Quashed Decision was initially made, the 10% BNG requirement has now become mandatory for any new applications that are submitted after 12th February 2024. However, as this is a redetermination, the previous requirements apply. This means there is no set percentage increase required by policy or law. So any increase in BNG even of 1% would be policy compliant. Anything above that 1% must be given proper weight, as Holgate J made clear.
- 3.33. However, for absolute clarity and avoidance of doubt, a new BNG assessment has been undertaken, and shows that all habitats achieve at least 10% BNG, which is in line with the now adopted legislation and policy, albeit this does not apply to the Application.

3.34. In light of the findings set out within the HC Judgment, as discussed above, greater weight than ‘moderate’ should be applied to the proposed BNG as a benefit as such **significant weight** is applied to the proposed BNG.

UDC Local Housing Needs Assessment

3.35. In June 2024, UDC published a Local Housing Needs Assessment (‘LHNA’) to support the Regulation 19 Local Plan. The document provides an overview of the housing needs within the district, including affordable housing.

3.36. A recommended mix is set out on Page 90 of the LHNA document, which is reproduced in **Figure 8** below for ease:

| | LHNA recommended mix | | Proposed Mix | | |
|--------|----------------------|--------------------|------------------|-------------|--------------------|
| | Shared Ownership | Affordable Housing | Shared Ownership | First Homes | Affordable Housing |
| 1-bed | 20% (2) | 25% (7) | 0% (0) | 17% (2) | 25% (7) |
| 2-bed | 45% (6) | 30% (8) | 0% (0) | 51% (6) | 30% (8) |
| 3-bed | 35% (4) | 35% (9) | 17% (2) | 17% (2) | 34% (9) |
| 4+ bed | | 10% (3) | 0% (0) | 0% (0) | 10% (3) |

Figure 8 - Recommended Housing Mix - Local Housing Needs Assessment (June 2024)

3.37. The proposed affordable housing provision has been amended to reflect the up-to-date local housing need requirement as set out above. It is therefore deemed that the proposals affordable provision is inline with the require needs of the district.

New Government

3.38. On 5th July 2024, a new government was formed, following the Labour Party’s victory in the general election. There has been much speculation around the changes which the new Labour Government will bring to the planning industry, which has become more apparent with the Ministerial Statement (see **Appendix N**) and draft NPPF consultation, discussed below.

UDC Design Code

3.39. On 19th July 2024, the UDC Design Code was formerly adopted as a supplementary planning document, which will form a material consideration for any application henceforth. There were draft versions of the document available prior to this, which informed the proposals of the Dismissed Appeal and the proposals of this Application. There is no conflict with any of the Design Coding elements.

3.40. **Appendix O** contains a table summarising how the proposed scheme addresses the requirements of the UDC Design Code.

3.41. The design proposals of the Application are reflective of those which were proposed under the previous Warish Hall Farm Scheme. During the application relating to the Dismissed Appeal, the design of the scheme was subject to various rounds of consultation, which included consultation comments and responses from UDC's former design officer (see comments from 19th October 2021 at **Appendix P** and comments from the same officer on this scheme are reflective of this – see comments from 16th July 2023 at **Appendix Q**). The scheme has been held to be exemplary in this regard. Section 6 of the submitted Design and Access Statement sets out how the design of the scheme has progressed during pre-application discussions.

Ministerial Statement

3.42. On 30th July 2024, the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, the Rt Hon. Angela Rayner MP, made a statement to the House of Commons ('the Ministerial Statement' or 'MS'), which set out the first major steps that were being put in place by the new Labour Government to contribute towards its plan to build more homes that the country desperately needs (see **Appendix N**).

3.43. Firstly, turning to the efforts to restoring and raising housing targets. The MS made it clear that the new Labour Government seeks to ensure that planning focuses on how to deliver the housing area's need, rather than whether to do it at all. As such, it confirmed that the Government is seeking to reverse the December 2023 changes of the previous Government, which loosened the requirement for LPAs to plan for and meet their housing targets. Furthermore, the Government intends to mandate that the revised Standard Method ('SM') is used as the basis for determining LPAs' initial housing requirements in all circumstances.

3.44. Accordingly, the MS confirms the Government's approach to updating the SM and raising the overall levels of these targets from around 300,000 homes per annum to approximately 370,000. The new method requires LPAs to plan for numbers of homes that are proportionate to the size of existing communities, by taking 0.8% of existing stock as a floor, a figure broadly consistent with the average rate of housing growth over recent years. It also then incorporates an uplift based on how out of step house prices are with local incomes, using an affordability multiplier of 0.6%, up from 0.25% in the previous method. This approach means that there is no need for any artificial caps or uplifts. The uplift on affordability for Uttlesford in particular will be impacted drastically by this change due to high incomes within Uttlesford compared to the national average.

3.45. Overall, the MS highlights that the new Labour Government is taking a strong stance on the need to deliver new homes.

Draft National Planning Policy Framework

3.46. The Draft NPPF was published on 30th July 2024, and set out a number of prospective changes to facilitate the objectives set out in the MS discussed above. The consultation on the Draft NPPF closed on 24th September 2024, with the changes likely to be adopted before the end of the year. As such, it is likely to impact the Application, albeit the draft can only be afforded **minimal weight** at this stage until it is published. Relevant extracts from the draft NPPF published for consultation can be found at **Appendix R**.

3.47. One change which is relevant to the Application is the proposal to amend the wording of paragraph 11(d) so that this provision relates to the policies for the supply of land being out of date rather than policies which are most important for determining the application. In the case of UDC the policies most relevant to the supply of land are considered to be out of date (Policies S1, S2, S3, S6, S7, S8, H1, H2 and H3).

3.48. Other changes include:

- i. Paragraphs 61 and 62 have both been amended to capture the proposed change to the SM calculation. This is considered further below.
- ii. Paragraph 66 has been amended to remove the detail on requirements for affordable housing which has been replaced with a requirement to ensure that a mix of affordable is provided to meet identified local needs.
- iii. Paragraph 76(b), formerly paragraph 75, has been amended to change the 10% buffer to a 20% buffer if the LPA has shown significant under delivery of housing over the previous three years.
- iv. Paragraphs 76, 77 and 78 have been removed, which previously set out scenarios in which LPAs would not be required to demonstrate a 5-year housing land supply. This again stresses that the direction of travel is very much towards the need to deliver much-needed housing.

Publication of the UDC Regulation 19 Emerging Local Plan

3.49. Since the original determination of the Application, UDC have since published their Regulation 19 Plan for consultation. The consultation is running between 8th August and 14th October 2024. Extracts of the relevant draft Regulation 19 Policies can be found at **Appendix S**.

3.50. At the Regulation 18 stage, it was proposed that the Site, largely in the form proposed within the application to the south of Prior's Wood, was to be included within the allocation, although there were no draft proposal maps published at that time.

3.51. Chapter 4, spatial strategy confirms the direction of travel for the Regulation 18 in that it sets out that Takeley is a Local Rural Centre and is to accommodate a significant level of growth and that development needs to be of a high quality and conform to local characteristics.

3.52. Core Policy 2 (Meeting Our Housing Needs) sets out the total housing supply targeted for the plan period, which sits at 14,741, of which, 1,540 (around 10%) are on windfall sites. The policy also explains that allocations in Takeley/Priors Green capture 1,506 of this housing supply requirement.

3.53. Chapter 6 sets out that Takeley is a Local Rural Centre which represents the second highest level of services and facilities and provides opportunities to support development: paragraph 6.7.

3.54. Figure 6.1 sets out the South Uttlesford Strategy, including the East Takeley/Little Canfield (including 1,506 dwellings) and the Site is within this allocation and outside of the allocated green space shown on the Strategy Map (see **Figure 9**).

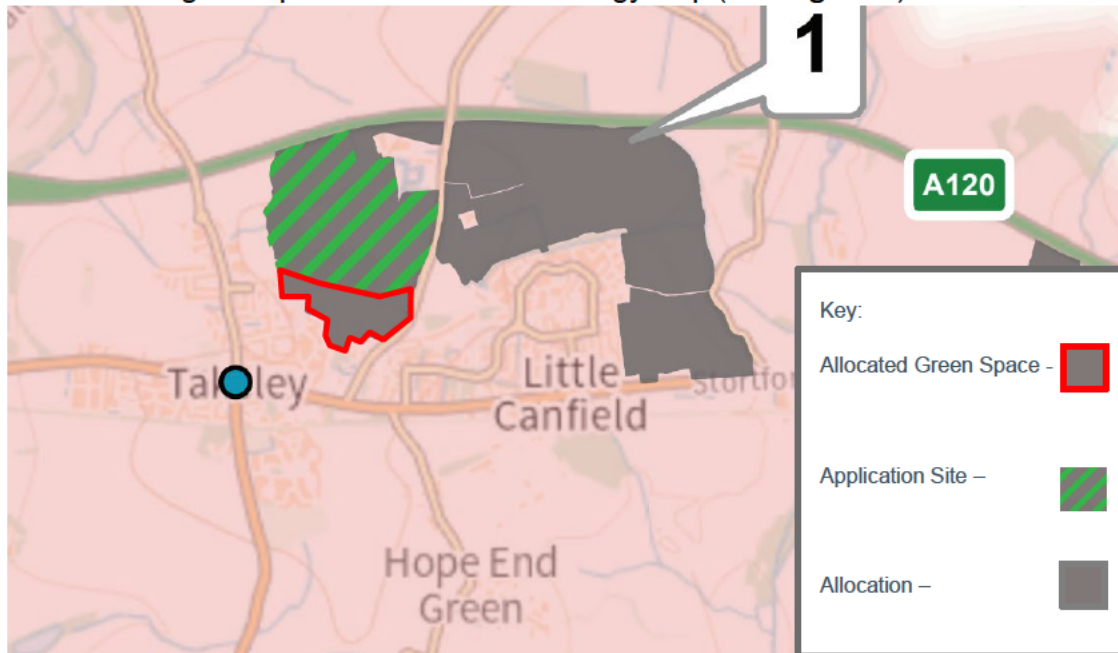


Figure 9 - Extract of the South Uttlesford Area Strategy Map

3.55. Figure 6.3 sets out the detailed allocation for Takeley, which identifies the Site with sustainable transport routes and a pedestrian and cycle access. Further, it dissects the woodland for which a 15m buffer is provided. It is noted that the SANG Strategy prepared by LUC sets refers to development to the south of Priors Wood – see **Appendix T**. This reiterates how the evidence base for the Regulation 19 plan has been prepared on the basis of development coming forward on the Site in some instances.

3.56. Core Policy 40 (Biodiversity and Nature Recovery) sets out that developments will be required to demonstrate 20% BNG. This is above the 10% level of net gain required but for which no justification is provided.

3.57. Core Policy 41 (Landscape Character) sets out the proposals will not be permitted if they would:

- i. cause an unacceptable visual intrusion into the Open Countryside;
- ii. be inconsistent with local character;
- iii. cause coalescence between settlements;
- iv. harm views to distant landmarks and landscapes particularly sensitive to change;
- v. harm the setting of natural and built landmark features; or,
- vi. reduce the historic significance of the landscapes.

3.58. Overall, the emerging local plan identifies Takeley and Prior's Green as an area for future growth with the ability to support around 1,500 new homes. The plan also sets out that around the same amount will be provided by windfall sites. As set out above, the Figure 9 above identifies the Site as allocated, albeit, the allocation itself does not show any development other than sustainable travel links and a footway/cycle way which dissects the woodland. However, the Reg 19 draft plan is clear that the locality is sustainable and can support the growth to facilitate around 1,500 new homes.

- 3.59. As such, the Site benefits from the same merits of sustainability in terms of its location and is in fact more closely related and connected to the existing settlement compared to some of the northeastern parts of the allocation. As such, the Site and the development of 96no. dwellings proposed by the Application would be a suitable windfall option.
- 3.60. It should also be noted that the Applicant has also submitted representations on the Regulation 19 Local Plan

Update to 5 Year Housing Land Supply and The Tilted Balance

- 3.61. As of 20th August 2024, UDC was able to demonstrate a 4.12-year housing supply (**Appendix U**). As UDC now conform with the provision of paragraph 226 of the NPPF (Dec 2023), the supply, which is in surplus of 4 years, is sufficient to ensure that the presumption in favour of sustainable development is not triggered.
- 3.62. However, these circumstances are unlikely to endure as proposed changes within the Draft NPPF remove any reference to a 4-year supply enabling the presumption to be disengaged. As such, should these proposed changes be adopted, UDC would no longer be able to demonstrate a sufficient housing supply, which would trigger the presumption in favour of sustainable development, due to the failure to have a 5-year Housing Land Supply ('5YHLS').
- 3.63. As set out in paragraph 75 of the Quashed Decision, the Inspector found that the heritage harm does not provide a clear reason for refusal, which means the tilted balance is not disengaged. Although this is taken from the quashed decision, we note that this is reflective of the findings set out in the Built Heritage Assessment ('BHA'). It is also noted that within the Quashed Decision, the Inspector disengaged the tilted balance due to the impact upon AW as an irreplaceable habitat. As set out previously, the Inspector in the Dismissed Appeal Decision found that any harm to the AW would be mitigated, and this position remains relevant to this application in light of Holgate J's findings in respect of Ground 4 in the HC Judgment. As such, it cannot be concluded that the proposals would have an impact on an irreplaceable habitat so as to provide a clear reason for refusal.
- 3.64. There are no other footnote 7 exceptions which apply to the Application, which is reflective of the Dismissed Appeal Decision where Inspector McCoy identified heritage as the only footnote exception which was relevant to the Appeal. This context has not changed. As such, the only difference in context from the Dismissed Appeal Decision is the fact that the heritage harm, which the Appeal Inspector found to be less than substantial, has been reduced by way of fewer heritage assets now being affected by the proposals through the removal of the development in the east of Bull Field and Maggots. As such, the position set out in the original BHA submitted with the Application and echoed again by the Inspector in the Quashed Decision (paragraph 75) that the heritage harms do not give a clear reason for refusing the Application remains the same on this redetermination. The tilted balance cannot be disengaged by the footnote 7 exceptions.

Changes to the Standard Method

- 3.65. As part of the proposed changes to the NPPF, there are proposals to make changes to the Standard Method (SM). As a result of the proposed changes to the SM, UDC would increase from 675 to 749, which is an increase of 74.
- 3.66. As this falls below 200, there is no need for the Reg 19 Local Plan to reconsider the housing allocation based on the updated SM. Nonetheless it is still noted that UDC is unable to demonstrate a 5 YHLS.

Compliance with Policy S7 (The Countryside) and S8 (The Countryside Protection Zone)

- 3.67. It is accepted that the proposed development would conflict with the provisions of Policy S7 and S8 insofar that the development is located within the countryside and Countryside Protection Zone ('CPZ').

Policy S7 (Countryside)

- 3.68. Firstly, turning to Policy S7, which defined the countryside as those areas beyond the Green belt, which do not fall within the settlement or other site boundaries. Policy S7 sets out that development in the countryside will only be permitted where it needs to take place or is appropriate to a rural area.
- 3.69. Within his Decision on the Dismissed Appeal, the Inspector affords limited weight to the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan (paragraph 82). It is also noted that a number of recent appeal decisions have reduced the weight afforded to Policy S7.
- 3.70. As set out above, regardless of UDCs HLS position, the policy can be considered out-of-date as a consequence of the most recently published HDT score.
- 3.71. In determining the Dismissed Appeal, the Inspector also noted that moderate weight to the conflict with the last strand of Policy S7, relating to the intrinsic character and beauty of the countryside (paragraph 83). However, as a result of the changes made to the layout of the development within Bull Field, the conflict with the policy has been markedly reduced. Within the proposals of the Application, the notable set back and buffer containing no development has now been extended and will be maintained on the eastern boundary to Smiths Green Lane, which allows for the full appreciation of the countryside character, alongside the planted fringe of the development proposals which have been sensitively designed to sit in this location.
- 3.72. As such, although it is noted that the proposals result in a conflict with Policy S7, the extent of the conflict with Policy S7 is reduced for the reasons explained above.

Policy S8 (Countryside Protection Zone)

- 3.73. Now turning to Policy S8, which designates an area of countryside around Stansted Airport, which is defined on the Policy Map. Development in the Countryside Protection Zone ('CPZ') will only be granted where it is required to be there, or it is appropriate to the rural area. Policy S8 is split into two sections. The first sets out that development will not be permitted where it promotes coalescence between the airport and existing settlements. The second sets out that development will not be permitted where it adversely effects the openness of the zone.
- 3.74. As has been explained previously, there have been a number of recent applications approved for development within the CPZ, including the development of the 7 Acres and Jacks schemes. This outlines that the CPZ is not sacrosanct and that development can take place in the CPZ, where appropriate.
- 3.75. Accordingly, the planning judgment of conflict with Policy S8 needs to be considered based on site proposals and specific circumstances. The notable revisions made to the layout of the development on Bull Field to remove development there have sought to take onboard comments from the Inspector's decision, which seeks to reduce impact on the CPZ, by reducing the area of built form, which in turn reduces the perception of any impact on the openness of the Site. This remains a very small part of a very large area and is directly influenced by the existing settlement.
- 3.76. Within the Decision relating to the Dismissed Appeal, the Appeal Inspector set out at paragraph 32 that, "*the open countryside between the airport and the A120, along with Priors Wood would prevent the proposal resulting in coalescence between the airport and existing development.*". As such, the only part of Policy S8 that the proposals would be in conflict with is in regard to the impact on openness. For the reasons set out above, the open character has been retained by way of removing any development in the east of Bull Field and within Maggots.
- 3.77. Policy S8 requires that, within the CPZ, planning permission will only be granted for development that is required to be there or is appropriate to a rural area. The need for housing is evident from the HDT score and HLS below 5 years. As such, development is required. The lack of currently allocated sites and previously developed/brownfield land means that housing development is required to take place outside of the development limits in order to meet housing needs. In order for development to be located in a sustainable location, the most logical location for this is to be adjacent to existing settlements and in close proximity to services and amenities. The Site is in a location which benefits from these characteristics and as such is appropriate for the development of much needed new homes.
- 3.78. Furthermore, it is noted in the Regulation 19 Strategy that the land to the south of Priors Wood is within the allocation, albeit the detailed allocation shows this as open space. Moreover, there are various examples where the evidence base for the Reg 19 plan has been produced on the basis of development coming forward on the Application Site (such as the SANG land study produced by LUC). As such, the Application Site is a suitable site for the much needed development of housing.

- 3.79. Furthermore, the design of the scheme has gone through ample rounds of consultation to inform the orientation and layout of the scheme as well as the elevational treatments of the housing. This is reflective of the surrounding context, as set out in the submitted DAS. This means that the design of the development has been brought together in a way which makes it suitable to the semi-rural context and accords with the UDC Design Code – See **Appendix O**.

4. Heritage Matters

- 4.1. A BHA was originally submitted as part of the Application. The BHA met the requirements of paragraph 200 of the NPPF and included an assessment of the relevant built heritage assets undertaken in accordance with Historic England guidance provided in *GPA3: The Setting of Heritage Assets*. It was also informed by a number of site visits and historical research.

Background and Context

- 4.2. **Appendix V** contains comments from Essex Place Services Heritage Team (20th October 2021) on the previous Warish Hall Farm Application, which sets out the previously established position on the heritage harms arising from this scheme.

- 4.3. Following the Dismissed Appeal Decision, the proposals the proposals for the development of Bull Field were revised to respond to that decision and comments received following pre-application discussions with Place Services. As such, additional design mitigation measures were embedded to minimise the impact of the development on the relevant heritage assets. These mitigation measures included:

- the removal of all development from the eastern end of Bull Field;
- retention of the eastern part of the Site as a managed agrarian hay meadow;
- the re-establishment of historic hedgerows to screen the western edge of the development and filter views from the east;
- the use of character areas, materials and design features for the new dwellings to respect the local vernacular;
- the retention of a gap/open setting behind the two closest Grade II listed buildings, Beech Cottage and Goar Lodge with proposed development sitting adjacent to the existing development of Roseacres allowing the listed buildings breathing space;
- protection of the existing hedgerows, verges and ditches that run adjacent to Smiths Green Lane;
- the integration of existing public rights of way into the landscape proposals and extant informal routes will also be retained and managed. The proposed treatment of these footpaths has been designed to respond to the rural character of the context and to minimise any potential impact on the setting of the relevant heritage assets.

- 4.4. Consequently, at paragraph 75 of the Quashed Decision, the Inspector found that:

“I continue to afford considerable importance and weight to any heritage harm. However, the less than substantial harm identified to the heritage assets discussed above, judged against the public benefits of the proposal detailed below produces no clear reason for refusal.”

- 4.5. The Applicant agrees with the Inspector’s conclusion in the Quashed Decision that any heritage harm to designated assets is clearly outweighed by the public benefits. That also applies to this redetermination.

Prior's Wood

- 4.6. In paragraph 46 of the Quashed Decision, the Inspector signalled his agreement with a comment made by Historic England in their consultee comments dated 23rd August 2023 (**Appendix W**) stating that he considered Prior's Wood to be an NDHA.
- 4.7. Regardless of this identification of the wood as an NDHA, and as referenced in paragraph 75 of the Quashed Decision, impact on heritage was not considered a reason for refusal.
- 4.8. Instead, the potential indirect impacts upon the AW provided the reason for refusing the development proposed in the tilted balance, based on the protection of such assets by the NPPF in paragraph 180c (now paragraph 186). Consequently, in relation to the Quashed Decision, the Inspector found that, sub-paragraph (i) of paragraph 11(d) would apply and having regard to footnote 7 (which includes irreplaceable habitats) among matters subject to the application of NPPF policies that protect areas or assets of particular importance, the harm that would be occasioned to AW provides a clear reason for refusing the development (paragraphs 85 and 86 of the quashed decision).
- 4.9. Nevertheless, Ground 5 of the applicant's challenge was that the Inspector had erred unlawfully in treating Prior's Wood as an NDHA and had not considered UDC's Local Heritage List Policy in coming to his conclusion. This was rejected by Holgate J, however, this is a matter on which the Applicant has never previously had the opportunity to submit evidence.
- 4.10. Given the relatively lengthy application history for the Site, the Applicant highlights the key points to assist in the re-determination of the Application.
- 4.11. An NDHA is defined by the PPG as:
- '...buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.*
- 'A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets' (Paragraph: 039 Reference ID: 18a-039-20190723).*
- 4.12. It is important to note that not all places that possess any degree of heritage interest have 'enough heritage significance' to be considered NDHAs. It is likely for this reason that many local authorities consider the status of an NDHA to be analogous to inclusion on their local lists allowing the use of either Historic England's guidance or locally adopted criteria for local listing to be used to determine whether or not something should be considered an NDHA.

4.13. This approach is actively encouraged in the latest revision to the PPG, which states that:

'It is important that all non-designated heritage assets are clearly identified as such. In this context, it can be helpful if local planning authorities keep a local list of non-designated heritage assets, incorporating any such assets which are identified by neighbourhood planning bodies' (Paragraph: 040 Reference ID:18a-040-20190723).

4.14. The PPG is clear that, *'[i]rrespective of how they are identified, it is important that the decisions to identify them as non-designated heritage assets are based on sound evidence' (Paragraph: 040 Reference ID: 18a040-0190723).*

4.15. UDC has a recent and detailed local heritage list (**Appendix X**). It also has established criteria for considering whether an asset warrants inclusion on the list (**Appendix Y**). An asset must meet at least two of these criteria to be included.

4.16. Prior's Wood does not appear on either list. It is also important to note that no other wood, site, place, area or landscape is included. Rather, the list is made up of what is more regularly understood to be heritage assets with the majority being buildings with some water pumps, milestones, lampposts and telephone boxes.

4.17. Furthermore, Prior's Wood does not appear on the Historic Environment Record and is not referenced as such by UDC's former conservation advisors, Place Services or their internal heritage officers. Finally, research by the Applicant has failed to identify any other case law or appeal decision that references a woodland or tree as an NDHA.

4.18. It is thus more appropriate and correct, in the Applicant's view, that Prior's Wood be considered in the context of a landscape assessment. Section 5 of this document and the relevant conclusions in the Landscape and Visual Impact Assessment assess the wood in this context.

4.19. Notwithstanding the above, whether Prior's Wood is deemed to be an NDHA or not (which is the Applicant's view), the Inspector deciding the Quashed Decision did so but ultimately, this did not affect his clear view that harm to heritage assets produced no clear reason for refusal (paragraph 75 of the Quashed Decision).

4.20. Consequently, the Applicant maintains the submission that the impact on heritage assets, when weighed against the public benefits of the proposed scheme, should not provide a clear reason for refusal.

Conservation Area

4.21. At paragraph 17 of the Quashed Decision, the Inspector noted that:

'After the hearing concluded Smith's Green conservation area was formally designated in accordance with procedures set out in s69 Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA90). However, I was given sufficient information beforehand to enable my decision to take due account of the potential effect of designation on the proposed development.'

4.22. As referenced above, this did not change Inspector's decision at paragraph 75 of the Quashed Decision that:

“... the less than substantial harm identified to the heritage assets discussed above, judged against the public benefits of the proposal detailed below produces no clear reason for refusal.”

4.23. In this case the Site is separated from the northern end of the conservation area by the eastern side of Bull Field and the existing houses and their plots to the east of Smiths Green Lane.

4.24. UDC's Smiths Green Conservation Area Appraisal ('the CAA') (**Appendix Z**) focuses on the architectural and historic interest to the south within Smiths Green hamlet and notes the increase in density towards the north.

4.25. The CAA states that the arable land has a '*close functional relationship*' (CAA page 35) with Smiths Green, but no evidence is supplied to support this statement. The Applicant is not aware of any such relationship, having found no historic ownership between the assets in the hamlet and the Site, all of which is set out within the supporting documents and main Heritage Statement (see section 3.2 BHA by RPS – June 2023).

4.26. Although the proposed development of Bull Field will change its historic use, the character and appearance of the conservation area will remain appreciable. The alterations to the scheme shown above (see paragraph 4.3) demonstrate how the proposals have been designed to address this historic context.

4.27. In summary, it is worth noting that:

- section 5.5 of the CAA (page 34) discusses the setting of the proposed conservation area; however, it should be noted that the setting of a conservation area is not statutorily protected in the same way as it is for listed buildings;
- The CAA also states that '*Agriculture has played a vital part in the historic development and economy of the settlement*'. However, the Applicant submits this is true of almost every settlement in Essex and is not unique to Smiths Green.

4.28. Section 7.2 of the CAA: Managing future change (page 40) states that there are no opportunity sites within the proposed conservation area or its 'immediate and adjacent environs', which is at odds with NPPF paragraph 206: "*Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.*"

4.29. Section 7.2 of the CAA also discusses the Appeal Decision, describing it as relating to proposed residential development upon the fields adjacent to and north of the Conservation Area seeks to establish that the loss of the agrarian landscape would be harmful to the significance of several listed buildings within Smiths Green (Ref: APP/C1570/W/22/3291524).'

- 4.30. However, the Dismissed Appeal Decision was much more nuanced than this with an assessment and corresponding conclusions drawn for each of the relevant heritage assets within the vicinity of Smiths Green. The potential for the significance of these assets to be impacted depends on the special interest of the individual asset, its location and the nature of any future proposed development, which the Applicant has considered in detail to mitigate the impact of the development proposed
- 4.31. It is also important to note that since the Dismissed Appeal Decision, two applications for development to the northwest of Smiths Green have been approved by PINs i.e. the 7 Acres Permission (Ref: UTT/22/2744/FUL) and the Approved Jacks Section 62A Application (Ref: S62A/2023/0027). This Application provides a connection between the two parcels but provides for clear separation and maintenance of the character of both Takeley and Little Canfield/Smiths Green, given the proposed layout.
- 4.32. The CAA is a comprehensive document intended to be an informative tool for any future change, development and design (page 5). The key is to ensure that it does not inadvertently prohibit or frustrate potential development that will have wider benefits for the area as a whole. This sentiment is echoed in the Regulation 19 Draft Uttlesford Local Plan 2021-2041 (Core Policy 63 (Conservation Areas)).
Draft Uttlesford Local Plan 2021-2041 Publication - Regulation 19 Plan Version
- 4.33. As part of the Regulation 19 Plan, Core Policy 10a identifies a development framework for the Takeley Strategic Allocation (page 91). Within this policy, UDC refers to Prior's Wood as AW and not an NDHA. A Heritage Assessment on the Regulation 19 Local Plan Allocations, which has been published as part of the Regulation 19 evidence base, can be found at **Appendix AA**.
- 4.34. It is worth noting that within UDC's map of the proposed strategic allocation (figure 6.3, page 92), a new 'pedestrian and cycle access route' is shown running through the centre of Prior's Wood with a 'sustainable travel route' running adjacent to the wood severing its current connection to Warish Hall.
- 4.35. The Essex Design Guide for such a 'sustainable travel route' is required to be 6.75m wide to accommodate two-way movement of buses and a 'pedestrian and cycle route' is required to be lit.
- 4.36. The Regulation 19 plan identifies UDC's aspirations for Takeley and clearly includes the proposed changes to Prior's Wood and its context.

5. Landscape Matters

Uttlesford Landscape Character Assessment 2023 ('2023 Assessment')

- 5.1. Since the Application was initially refused, prior to being quashed, the Applicant notes the publication of a new Landscape Character Assessment alongside other evidence-based documents as part of the Local Plan evidence base for the Regulation 19 consultation.
- 5.2. As with the previous 2006 Landscape Character Assessment, the Bull Field site lies within the southern part of the Broxted Farmland Plateau Landscape Character Area ('LCA'), which is covered on pages 142-153 of the 2023 Assessment.
- 5.3. The boundaries of the LCA and the description of its characteristics on pages 143-148 are largely consistent with the 2006 Assessment. At paragraph 5.150, the study notes the presence of large blocks of mixed deciduous woodland dispersed amongst otherwise expansive areas of farmland, and that the woodland is often seen as a distant framework on the horizon.
- 5.4. At paragraphs 5.162 and 5.164, the study notes the effects of Stansted Airport and the A120, respectively, on giving the landscape an urban feel and disrupting rural tranquillity.
- 5.5. Under the heading 'Pressures and forces for change', the study notes that development pressure on the edge of existing settlements, especially Takeley, may be detrimental to rural landscape character and the sense of tranquillity. The Landscape Guidelines include "*Plan to integrate existing urban fringe areas into the landscape, especially the new residential developments at Takeley*".
- 5.6. It is noted that the approved Jacks development (Ref. S62A/2023/0027) and 7 Acres development (Ref. UTT/22/2744/FUL), have changed the landscape context surrounding the Site, forming part of the expansion of Takeley referred to in the new Landscape Character Assessment. This includes the commercial development which has now been delivered on the field to the west of the Site and the forthcoming development to provide 40 new homes to the east of the Site.

Implications for the LVIA

- 5.7. The Landscape and Visual Impact Assessment ('LVIA') originally submitted with the Application (Landscape and Visual Impact Assessment – June 2023) relied on the 2006 Landscape Character Assessment to inform the baseline and the assessment of effects on landscape character. It identified minimal permanent overall effects on the Broxted Farmland Plateau LCA. This would not change as a result of the new Landscape Character Assessment. However, the 2023 Assessment does highlight that "*Recent residential development ... in the south at Takeley and Smiths Green is open to the wider landscape, and therefore has a slightly suburbanising influence*" (at paragraph 5.163), which is a change to the baseline recorded in the 2006 Landscape Character Assessment.

- 5.8. One of the matters considered by the Inspector determining the Dismissed Appeal as well as the Inspector determining the Quashed Decision was how Prior's Wood is perceived within the landscape. Both Inspectors referred to the Wood having a "sense of grandeur" in views across an "agrarian" landscape. Various online dictionaries confirm that "agrarian" simply refers to land in use for farming.
- 5.9. In describing how woodlands are perceived, the 2023 Assessment does not refer to a sense of grandeur or similar. Rather, as noted at paragraph 5.150, it refers to "*blocks of woodland dispersed among expansive areas of farmland, and being seen as a distant framework on the horizon.*" Neither of these is the case for Prior's Wood when seen from the south across Bull Field, due to the presence of the existing urban edge of Takeley immediately south of Bull Field, approximately 150-200 metres south of the Wood, and of recent development immediately west of the wood. From the south, Prior's Wood is not seen within "expansive areas of farmland", nor as a "distant framework on the horizon". Consequently, the proposed development on the western and central parts of Bull Field would not harm what the 2023 Assessment identifies as the important characteristics of the wood.
- 5.10. A perception of Prior's Wood as being within "expansive areas of farmland" is more applicable to views from the north and east, albeit the farmland is severed by the A120 to the north and the presence of existing development along Smiths Green Lane to the east. In longer distance views from the north and north-east, it is seen as part of a "distant framework on the horizon". These characteristics would not be changed by the proposed development on Bull Field. The farmland (agrarian) foreground in views towards the Wood would be retained and, being considerably higher than the rooftops of the proposed development, the role of the wood as seen on the horizon would not change. To the extent that the rooftops of the proposed development might be visible, they would not change how the context of the wood is perceived, given that there are glimpses of existing development on the north edge of Takeley in these views. Consequently, whilst the "sense of grandeur" associated with the wood is not clearly defined by either of the previous Inspectors for the Dismissed Appeal and Quashed Decision or in any policy or guidance document, it follows that the design of the proposed development, in avoiding impacting on these views from the north and east, retains the sense of grandeur of Prior's Wood.
- 5.11. The change in use of the eastern part of Bull Field from arable to hay meadow would not make it any less agrarian. Hay meadows have always played a part in farming, so are as much an agrarian use as arable land. However, in relation to the agrarian landscape north and east of Prior's Wood, we note Framework Plan 3A on page 17 of Appendix 3 to the Regulation 19 Local Plan. This plan shows proposals for a sustainable transport route and a pedestrian & cycle access across the land west of Smiths Green Lane to the north of Prior's Wood. If constructed, these two transport infrastructure features would be visible in views towards Prior's Wood from the north and east.

- 5.12. Appendix 8 to the submitted LVIA contains visualisations of the proposed development from three viewpoints on Smiths Green Lane (pages 99 onwards of the pdf version). The wireframe shows the development would not be visible from viewpoint 1, the northernmost location. From viewpoints 2 and 3, the visualisations give an impression of the location and scale of the proposed housing but were not fully detailed to include features such as the ground modelling and play area adjacent to the development edge and the post and rail fence around the hay meadow. Updated visualisations have been prepared including these features (see **Appendix BB**).

Countryside Protection Zone Study 2024

- 5.13. The Regulation 19 Local Plan evidence base includes a study which reviews the performance of the CPZ (see **Appendix CC**) and recommends changes to its boundary and to the policy wording. The proposed changes to the boundary are shown on the plan on page 16. In the vicinity of Takeley, they include the removal of several areas west of Bull Field and Prior's Wood (north and west of Takeley) which have received planning consent since 2005 and the removal of an area east of Smiths Green Lane (north and east of Little Canfield) which is proposed to be allocated for development. However, land west of Smiths Green Lane, including Bull Field, Prior's Wood and land north and east of Prior's Wood, is shown as remaining within the CPZ. Paragraph 8.7 of the CPZ Study indicates that this area has been retained in the CPZ *"in order to maintain settlement pattern and identity"*. However, as set out in section 7.4.1 of the submitted LVIA, the proposed development could be accommodated without adversely affecting the open character of the CPZ, and section 7.2.3 of the submitted LVIA sets out how the proposed development relates to the existing settlement form and retains the current narrow gap between Smiths Green and Takeley.

6. Transport Matters

- 6.1. The Application retains the same access proposals from Parsonage Road as the earlier Warish Hall Farm Application and those considered in the Dismissed Appeal. However, this Application reduces the number of dwellings relying on this access from 126 to 96. The Dismissed Appeal also included the same land uses for which the 7 Acres Application sought permission, including 3,568sqm of light industrial/flexible employment units.
- 6.2. In considering these highway access proposals as part of the Warish Hall Farm Application and the Dismissed Appeal, the County Highway Authority ('CHA') and the Inspector dealing with the Dismissed Appeal concluded that the proposed means of access from Parsonage Road for all modes was safe and suitable for the scale of development being proposed (see paragraph 102 of the Dismissed Appeal Decision).
- 6.3. As noted above, the 7 Acres Application included the means of access from Parsonage Road that was included in the Dismissed Appeal and found to be suitable for a larger quantum of development than this Application and the 7 Acres Application in combination. The 7 Acres Application has received planning permission and at the time of the quashed decision, was under construction.
- 6.4. The Quashed Decision dealt with transport and highways matters at paragraphs 56 – 62. Paragraph 57 confirmed the evidence from the County Highway Authority that it:
- '...has no objection to the present proposal, provided conditions are attached to any eventual permission. These would secure a construction management plan, improvements to passenger transport and other highways related measures.'*
- 6.5. Paragraph 62 of the Quashed Decision concluded that:
- 'Subject to details submitted pursuant to the proposed conditions, safe and suitable access to the site could be achieved for all users with any significant impacts on the transport network in terms of capacity and congestion, or on highway safety, being cost effectively mitigated. In these respects, the scheme would comply with NPPF, paragraph 110 and LP Policy GEN1.'*
- 6.6. National Highways raised no concerns regarding impact of the proposed development, either in isolation or cumulatively with other known developments, on the operational capacity or safety of the strategic road network.

- 6.7. Although the original decision to refuse this application has now been quashed, it is noted that the Inspector's conclusions within the Quashed Decision regarding highways matters were in line with the findings of the Transport Assessment originally submitted and the consultee comments provided by the relevant statutory consultees who raised no objections to the proposals in regard to highways. As such, the Inspector found no highways reasoning for refusing the application and this remains relevant to the redetermination of the Application, as since the application was initially refused, no other highways issues have arisen.

Changes arisen since the original decision was issued

- 6.8. Since the original decision was issued to refuse the Application, planning application reference S62A/2023/0027 relating to Jacks has been approved. The Jacks application will deliver active travel connections between Smiths Green and the established community centre (including retail and education) in Little Canfield. This means that there is now certainty that active travel infrastructure will be delivered between Parsonage Road (to the west of the Application Site) and the western boundary of the Application Site (through delivery of the 7 Acres scheme (Ref. No. UTT/22/2744/FUL) and between Burgettes Road (to the east of the Application Site) and the eastern boundary of the Application Site (through permission S62A/2023/0027).
- 6.9. Active Travel infrastructure that forms an integral part of the proposed development would connect to both of these extant planning permissions to form a direct east-west active travel corridor between Little Canfield in the east and Parsonage Road in the west. There is no such existing direct, active travel corridor that meets current design requirements for pedestrians and cyclists. This would be a significant benefit to the existing community that would arise directly from the proposed development.

7. Arboriculture Matters

Baseline

- 7.1. An updated survey of the arboricultural features related to the Site was undertaken in June 2023 and in advance of the initial s.62A application submission. Since the 2023 survey update, there have been no significant changes in the arboricultural features of the Site. The baseline survey information and associated arboricultural details submitted as part of the Application are still relevant and appropriate for the redetermination.
- 7.2. Prior's Wood is still regularly accessed by local residents (e.g. walkers and dog walkers) and so is the PROW running along the southern boundary of the woodland.

Prior's Wood as an NDHA

- 7.3. The matter of considering Prior's Wood to be an NDHA is covered in more detail within Section 4. However, from the review undertaken with our Arboriculture and Heritage Consultant, there were no cases found where any specific individual woodland has been determined to be an NDHA in its own right. As already noted above, Prior's Wood does not appear on the UDC local list of NDHA.
- 7.4. Furthermore, in the context of the NPPF, there is no specific need to consider whether a woodland should be considered an NDHA, as the provisions exist through paragraph 186 of the NPPF, where matters relating to irreplaceable habitats are considered.

Prior's Wood (Buffer & Impacts)

- 7.5. As set out above, the HC Judgment upheld ground 4 of the challenge related to consideration of Prior's Wood.
- 7.6. The matter of the appropriateness of the buffer was fully considered by the Appeal Inspector. In addition, no statutory consultees have objected to the proposed buffer (either as part of the original application or this Application, prior to the initial refusal).
- 7.7. The size and application of the buffer was the subject of written evidence submitted by both UDC and the Appellant, as part of the Dismissed Appeal. The Appellant's evidence was also provided orally and subjected to cross examination through the inquiry process.
- 7.8. In order to provide the detailed background to the woodland buffer, the evidence base used, and the approach adopted, a number of additional documents were submitted as part of the Application. These were the '*Proof of Evidence on Arboricultural Matters*' submitted by the Appellant as part of the Dismissed Appeal (see **Appendix DD**), the '*Arboricultural Technical Note - Airspading Investigation*' submitted with the original application and a '*Rebuttal Proof of Evidence*' which sets out in more detail the application of the buffer to Prior's Wood. All these documents have been submitted as part of the Application.

- 7.9. Within the Appeal, the point from where the buffer should be measured was in debate. The Applicant's arboricultural expert, Mr Hyett, set out in detail within the evidence why a 15m buffer was appropriate in this case and why buffers should be measured from the boundary of the woodland and not the canopy edge. Since the Dismissed Appeal, the Standing Advice has been updated to confirm that buffers should be measured '*from the boundary of the woodland*'. (See updated Standing Advice at **Appendix EE**).
- 7.10. The 15m buffer was accepted by the relevant statutory consultees on the previous appeal scheme, as well as also being accepted on the current s.62A scheme.
- 7.11. In the Quashed Decision, the Inspector placed weight on new 'detailed' submissions made by the Woodland Trust with regards to buffers and impacts. However, in his ruling Holgate J stated '*I do not see how the 2023 Inspector could properly say that the Trust's representations in 2023 raised "detailed" concerns (DL 50). They were merely of a broad brush or generalised nature*'. Indeed, it should be noted that the comments were very similar in nature to those submitted in response to the appeal scheme, save for the suggested buffer had been reduced from 50m.
- 7.12. Paragraph 186c of the NPPF sets the test against which applications must be judged, and the test applied is not compliance, or otherwise, with the Standing Advice.
- 7.13. The Quashed Appeal Inspector considered this point in detail. The text within paragraphs 70 to 78 of the Quashed Appeal Decision should be read in full, but the most relevant sections are reproduced below:
- Paragraph 73 - '*Indeed, it is common ground between the Council and the appellant that there is no objection to the technical design of the proposal as a result of any impact on trees, and no trees within Prior's Wood are to be removed or would be impacted on directly as a result of the proposed route through the buffer*'.
 - Paragraph 74 - '*I heard, as agreed in the SoCG, that no trees within Prior's Wood would be removed or would be impacted on directly as a result of the proposed access road and cycle way route within the buffer, including the road layout at the pinch point*'.
 - Paragraph 75 - '*I agree with the Inspector in a previous appeal concerning an issue with strong similarities to this case where that Inspector noted that "some development is proposed within the buffer, through a mixture of road or car parking and re-grading and other landscaping works". In considering the Standing Advice and the recommendation for a 15m buffer, that Inspector found that there was compliance with what is now para 180(c) of the NPPF. This was on the basis that "no above ground built form is proposed in that area, such as housing" and "the level of incursion is relatively minor. I consider that the circumstances of this case are very similar*'.

- Paragraph 76 - *'That Inspector also accepted that the development that would take place would be contrary to the Standing Advice, as is the situation in the appeal before me, but went on to note that it had "been demonstrated that there would be no incursions into the root protection area. From my assessment of this proposal, I consider that there would be no incursion into the root protection area and no harm to trees would result, as set out in the SoCG'.*
- Paragraph 77 - *'I am content from the submitted written evidence and what I heard at the Inquiry, that neither the proposed road or cycleway within the buffer or proposed housing in the vicinity, would lead to indirect effects on the ancient woodland as identified in the Standing Advice'.*

7.14. With regards to the woodland buffer, the Dismissed Appeal Inspector was very clear in his findings within his decision letter dated the 9th August 2022. As such, significant weight should be attached to evidence submitted to the Inquiry and to the findings of the Dismissed Appeal Inspector.

7.15. The previous decision to refuse this application has been quashed on a number of grounds, including the Inspector's inconsistency with the Dismissed Appeal Decision in regard to how the impacts on the AW were dealt with. As such, this application refers directly to the Dismissed Appeal Decision in how the impacts on the AW were dealt with in that instance, which applies in the same way to this application.

Summary

7.16. The approach to Prior's Wood is appropriate and it has been fully tested through the process of the Dismissed appeal where the Inspector found the scheme complied with paragraph 180c (now 186) of the NPPF. The Dismissed Appeal Inspector makes specific reference in his decision letter that it is this paragraph that sets the test against which applications must be judged rather than the Standing Advice.

7.17. In summary, the HC Judgment confirms that the relationship of the development to Prior's Wood as set out in the refused s.62A submission is the same as proposed in the application for the Dismissed Appeal where the Inspector found there were no direct or indirect impacts upon Prior's Wood (see paragraph 77 of the Appeal Decision).

8. Ecology Matters

8.1. In response to the letter from the Planning Inspectorate dated 30th August 2024 (see **Appendix FF**), this section set out a number of updates undertaken since the application was initially refused, in order to ensure the data informing the decision is up to date.

8.2. The various ecology surveys, as set out below:

| Ecology Report | Details | Timescales |
|-----------------------|---|---|
| Ecological Assessment | Walkover survey with assessment of trees for bats and a badger survey | Completed end of September 2024 |
| Reptiles | Reptile refugia tiles (7 surveys) | Completed early November 2024 |
| Dormouse | Dormouse tubes for 10 days | Surveys in September, October and November 2024. Additional surveys in April and May 2025 – can be secured via condition |
| Biodiversity Net Gain | BNG assessment following completion of Ecological Assessment | Undertaken October 2024 |
| Bats | Bat Transect Surveys | Additional surveys undertaken September/October. 2 more surveys in Spring and Summer of 2025 – can be secured via condition |

Figure 10 - Summary of further ecological surveys

8.3. The surveys have been updated as a number of them were considered to be dated, even though it was envisaged the situation will remain largely unchanged from the original surveys. An updated note covering the surveys undertaken to date has been submitted in support of the redetermination of this application prepared by Ecology Solutions (November 2024). The BNG Assessment has also been updated to avoid any confusion around the net gain figures for each habitat, which, unbeknownst to the Applicant and the ecology consultant, the previous Inspector, in dealing with the Quashed Decision, found some issues with, despite clarifications being provided, as set out in the HC Judgment (at paragraph 132).

9. Planning Balance

- 9.1. Having reviewed what has changed in the context of the Application since it was originally refused, including the findings set out in the HC Judgment, this section will set out the planning balance in light of a number of positions regarding the benefits and harms resulting from the proposed development.
- 9.2. The HC Judgment set out that in a number of cases, the Inspector erred in law in his approach to the weight which he has applied to a number of benefits and impacts arising from the proposals, in determining the Quashed Appeal
- 9.3. The HC Judgment found that the Inspector reduced the weight applied to the BNG due to the ‘direction of travel’ of the legislation that had, at the time of the decision, been recently introduced, albeit it did not apply to the Application. In doing so, the Inspector applied moderate weight to the BNG as a benefit. In light of this and the updated BNG assessment showing that all habitats achieve greater than 10% net gain, the weight applied to the BNG should be **substantial**.
- 9.4. The HC Judgment also found that the Inspector erred in law in finding indirect harms to Prior’s Wood, contrary to the Dismissed Appeal Decision, without providing lawfully adequate reasons for this different approach. The Appellant submits the position on the redetermination should be to revert to the position adopted by the Dismissed Appeal Inspector, where the direct and indirect impacts on the woodland were deemed to be sufficiently addressed. These were **not included as a harm** arising from the proposals within the overall planning balance.
- 9.5. Finally, the HC Judgment also found that the Inspector erred in reducing the weight applied to the school extension land as a benefit of the proposed development without providing adequate reasons for this departure. As such, Weston Homes submits again that the position on the redetermination should be to revert to the position adopted by the Dismissed Appeal Inspector: insofar as this land is provided in addition to the Primary Education Contribution requested by the Essex County Council Infrastructure Team in their letter dated 17th August 2023, which seeks a contribution required to address the demand for primary school places which would be created by the proposed development. As such the land is an additional benefit of the scheme, which should thus attract **significant weight** in the planning balance as set out in paragraph 93 of the Appeal Decision.
- 9.6. Overall, the harms arising from the scheme are therefore identified as follows:

| Harm | Weight Attributed | Commentary |
|-----------|-----------------------|--|
| Heritage | Less than substantial | As per the Built Heritage Assessment. Identified harms do not give a clear reason for refusal. |
| Landscape | Moderate | As set out in the Landscape and Visual Impact Assessment |

Figure 11 - Harms arising from the proposed development

- 9.7. These are to be weighed against the following benefits arising from the proposals:

| Benefit | Weight Attributed | Commentary |
|--|--------------------------|---|
| Housing (including affordable housing) | Significant | |
| Land for the extension to Roseacres School | Significant | Consistent with paragraph 93 of the Quashed Appeal Decision |
| Biodiversity Net Gain | Substantial | See discussion above |
| Employment and Economic Activity during construction | Limited | Consistent with paragraph 90 of the Quashed Appeal Decision |
| Woodland Enhancements | Significant | Consistent with paragraph 93 of the Quashed Appeal Decision |
| New cycleway footway provision | Significant | Consistent with paragraph 93 of the Quashed Appeal Decision |
| Provision of open space | Significant | Consistent with paragraph 93 of the Quashed Appeal Decision |

Figure 12 - Benefits arising from the proposed development

- 9.8. As noted above, in all instances, the presumption in favour of sustainable development set out under paragraph 11(d) of the NPPF is relevant due to UDC's Housing Delivery Test ('HDT') score falling below 75% for the previous 3 years. There are also no footnote 7 exceptions to the tilted balance that apply to this application, as discussed above.
- 9.9. Accordingly, in applying the tilted balance in favour of sustainable development, when weighing the less than substantial heritage harm and the moderate harm to landscape which has been identified, these harms would clearly be outweighed by the plethora of benefits listed above, even if the tilted balance did not apply. However, with the tilted balance engaged, the benefits evidently outweigh the harms of the proposed development. Accordingly, planning permission should be granted, in line with the provisions of paragraph 11 of the NPPF.

10. Summary & Conclusions

- 10.1. This Report has been prepared by Weston Homes ('the Applicant') in support of the redetermination of the full planning application submitted under section 62A of the Town and Country Planning Act 1990 in relation to the Land known as Bull Field, Takeley, Essex (Ref. No. S.62A/2023/0019).
- 10.2. The original application was originally refused in December 2023, and has since been quashed following a High Court Challenge. Within the related judgment, the Court has ordered that this application be re-determined.
- 10.3. As part of this process, PINS has invited the applicant to:
- send further representations which may have arisen since the original decision was issued; and/or
 - comment on the specific issue(s) upon which the application decision was quashed.
- 10.4. The Report has provided such details, to inform the new Inspector in making his/her decision on the redetermination of the Application. It should be read in conjunction with the application documents initially submitted with the Application.
- 10.5. In summary, the proposed development is for:
- i. 96 no. new homes; including
 - ii. 39 no. affordable units;
 - iii. new formal and informal open space;
 - iv. improved Public Rights of Way; and
 - v. provision of 1ha of land for the future expansion of Roseacres Primary School.
- 10.6. At the time of the original Application, UDC was able to demonstrate a 4.12-year housing supply. As UDC now conform with the provision of paragraph 226 of the NPPF (Dec 2023), the supply, which is in surplus of 4 years, is enough to ensure that the presumption in favour of sustainable development is not triggered. However, as set out within this report, UDC has a housing delivery test score of 58%, which means that regardless of their housing land supply position, the tilted balance under paragraph 11(d) of the NPPF is triggered and should be applied in the determination of this application, as there are no footnote 7 exceptions to disengage the tilted balance.
- 10.7. The application proposals have been carefully formulated to minimise any potential adverse impact of developing the Site and to maximise the potential public benefits that will be realised and secured. The proposed development would therefore result in a number of significant benefits which would support the objective of sustainable development, by proving economic, social and environmental benefits, as listed below:

(i) Economic Benefits:

- Employment opportunities created through the supply and construction programme (**Limited Weight**);
- Additional spending from new residents within the local economy (**Limited Weight**); and
- Additional Council Tax receipts and New Homes Bonus directed to UDC (**Significant Weight**).

(ii) Social Benefits:

- The provision of 96no. homes, providing a range of types and sizes to meet the identified local housing need and shortfall in supply, including bungalows, apartments, flats above garages (FoGs), terraces and semi-detached dwellings (**Significant Weight**); including
- Provision of 40% policy compliant levels of affordable housing, providing 39no. dwellings, sufficient to meet the Council's need which currently stands at 1299 persons (**Significant Weight**);
- Support for long-term vitality and viability of the local community, including through assistance in sustaining local services and facilities (**Limited Weight**);
- Provision of additional publicly accessible open space, including the provision of formal play space (**Significant Weight**);
- Health Care Contribution to assist in realising the provision of the medical centre approved on the 7 Acres site (**Moderate Weight**);
- Land for the expansion of Roseacres Primary School supported by ECC that will enable the school to expand to 2FE and therefore assist in the supply of school places to be provided (**Significant Weight**).

(iii) Environmental Benefits:

- Provision of high-quality homes as part of a carefully designed scheme within a sustainable location, reducing the need to develop less sustainable, more sensitive sites (**Moderate Weight**);
- Fabric first approach to reduce energy consumption (**Limited Weight**);
- Provision of electric vehicle charge points and allocated cycle parking which promotes sustainable modes of transport (**Limited Weight**);
- Provision of improved pedestrian and cycle connections to increase active travel (**Significant Weight**);
- Use of modern methods of construction to reduce waste, energy and increase environmental performance (**Limited Weight**);
- Absence of gas boilers and carbon-reliant energy provision (**Limited Weight**);
- Biodiversity enhancements and Net Gain (**Significant Weight**);
- Reinstatement of historic native hedgerows (**Moderate Weight**);
- Woodland Enhancement Plan in perpetuity for Prior's Wood including the 1ha extension to Prior's Wood (**Significant Weight**); and
- Hatfield Forest Visitor Management Contribution (**Limited Weight**).

- 10.8. Overall, it is considered that the many evident and varied locational and public benefits of the proposed development clearly outweigh any harm resulting from the development proposed. Considering that the tilted balance is engaged, it is clear, as set out in this Report and the previously submitted application documents, that there are no adverse impacts arising as a result of the proposals which would significantly and demonstrably outweigh the benefits of the proposals, in the context of the provisions of the framework. Accordingly, planning permission should be granted.
- 10.9. A Draft List of Conditions can be found at **Appendix GG**.