

**Land known as Bull Field, Warish Hall Farm, Smiths Green,
Takeley
PINS Ref. No. S62A/2023/0019 [Redetermination]
Uttlesford District Council Ref. No. UTT/23/1583/PINS**

Applicant's Submissions

Introduction:

1. Sir, this application concerns a well-considered and sustainable development that will deliver much-needed homes in a location already recognised as suitable for growth. We will address the key issues in line with paragraph 14 of your IR, with each member of our team focusing on their area of expertise. We have already sent in the list of appearances, but the same is appended again to this note.

2. The Inspector has identified seven Main Issues. As everybody here is aware, this is a redetermination of a quashed decision (“**the Quashed Decision**”) where we raised complaints related to procedural fairness in a s.62A hearing. Before we delve into our main submissions, we just want to highlight some of the points made by Mr Justice Holgate (as he then was) in his judgement: *R (oao Weston Homes Plc.) v SSLUHC* [2024] EWHC 2089 (Admin) (“**HC Judgment**”):
 - a. First, although the inspector has a discretion as to time limits for speaking in a s.62A hearing:
 - i. it remains the duty of the inspector to conduct the proceedings so that each party has a reasonable opportunity to adduce evidence and to make submissions on the material issues, whether identified at the outset or during the course of the hearing:
HC Judgment at [154];

- ii. a party is entitled to make an application for more time to be allocated where inadequate time has been allowed for discussion of a topic: *HC Judgment* at [158] and [162];
 - b. Second, a party is entitled to know the case which he has to meet and have a reasonable opportunity to adduce evidence and make submissions on that case: *HC Judgment* at [155];
 - c. Finally, elementary fairness requires an Inspector to raise with the Applicant at the hearing any concerns he has regarding the technical analysis carried out: *HC Judgment* at [148];
3. There is the additional question as to the materiality of the Quashed Decision. The Court of Appeal has confirmed that if a decision which would otherwise be a material consideration is quashed, that decision is not capable of giving rise to legal effect. But if the decision is quashed for reasons which do not affect the conclusions of the decision-maker on a specific issue, the conclusions on that issue may be a material consideration for subsequent decision-makers: *R (Kinnersley) v Maidstone BC* [2023] EWCA Civ 172 at [30].
4. What does this mean here? In so far as the previous inspector (“**Inspector Kean**”) reached conclusions with respect to the following issues: sustainability (DL19 and DL26); heritage harm producing no clear reason for refusal (DL75); highways and transport (DL56 – DL72) and adequate infrastructure provision (DL 63 to DL 68), the reasons for the quashing do not affect these conclusions and these conclusions may be a material consideration for this Inspector.
5. However, the conclusions regarding Prior’s Wood—specifically, the finding that impacts on the woodland as an irreplaceable habitat provide a clear reason for refusal (DL86)—as well as the weight attached to the land for primary school expansion (DL77) are affected by the reasons for the quashing. As these conclusions are tainted, they cannot be treated as a material consideration for the subsequent decision-maker.
6. That said, even if findings are material, the Inspector is not bound by them and has to form his own fresh judgment.

7. We will leave this here. In the interests of time, we have also set out a broader list of legal principles assisting the Inspector on this redetermination.
8. The Applicant and the consultant team are here to deal with all of Main Issues as well as any new points arising.
9. Inspector Kean's approach to matters of ecology (DL87-90) was central to the quashing of that decision: *HC Judgment* at paras 101, 106, 109, 120–124, 132–134 and 178. However, as this has not been raised as a Main Issue in the IR, our ecologist – Mr Vince Smith Director at Ecology Solutions – does not have prepared remarks. That said, if you require any assistance in this respect, he is present to address any questions or concerns.
10. Mr Poole will now deal with sustainability.

Issue (i)(a) Acceptable Location - Sustainability

11. Turning first to sustainability. The Site abuts the settlement edge of the north of Takeley and is situated to the south of the A120 and Stansted Airport. 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, it benefits from a range of services and facilities.
12. In his Quashed Decision, Inspector Kean acknowledged at paragraph 26 that: *"the site provides in general terms an accessible and sustainable location for some additional new dwelling adjacent to the built up area of Takeley."*
13. Further evidence of this suitability lies in the Council's own plans. The Site sits within a wider allocation proposed in the emerging Local Plan, which envisions the area's growth through new homes, a school, and other infrastructure. This reflects the Council's recognition that the area is not only sustainable now but will become even more so as planned development takes shape.

14. Regarding the first strands of Policies S7 and S8 and the necessity of development in this location, it was agreed in the Statement of Common Ground (“SoCG”) for the appeal that there is insufficient brownfield land available to meet development needs. Consequently, new development must take place on previously undeveloped land.
15. This site is sustainably located, directly adjacent to the existing settlement boundary, making it an appropriate and logical location for growth. Developments like the one proposed should naturally be directed to such areas, where they can contribute to meeting housing needs while integrating with the existing settlement pattern.
16. Mr Crawford will now address character and appearance.

Issue (i) (b) Acceptable Location - Character and Appearance

Introductory point:

- Character & appearance fully assessed in LVIA inc in application docs prepared by LDA Design – compliant with best practice (GLVIA3), assessment has not been challenged by UDC – included visualisations
- Updated visualisations inc as Appendix BB to Addendum Report (Nov 2024) – updates don’t reflect design changes since application but provided to show more detail of landscape treatments, etc

17. Comments about L&V matters generally:

- Area proposed for dev is contained to N by Priors Wood, NW by recent dev at 7 Acres and consented dev both sides of Parsonage Road, W and S by exg built area of Takeley – only scope for effects beyond immediate edge of proposed dev itself is to E and NE
- Compared with scheme at previous appeal, no built dev now proposed in E part of Bull Field or any part of Maggotts Field (N of Bull between P Wood & SGL) – dev set back over 150m from SGL, with space filled by species-rich hay meadow, delivering BNG whilst retaining

agrarian character of land adjacent to Lane – historic hedgerows reinstated between dev edge and hay meadow – in combination, these changes greatly reduce visibility from E and eliminate visibility from area around Warish Hall (visualisation LVIA pdf p.100)

- Design change also means the way P Wood is experienced when seen within rural landscape will be largely unchanged from present – issue concerned appeal Inspector (IR para 24) – now no dev E of Wood (where previously both dev and woodland extension changing historic boundary of wood), so views across hay meadow to Wood – dev also set back W of SE corner of Wood, enabling corner of woodland to continue to be ‘read’ as is now – together, these changes will retain “sense of grandeur” (IR 24) of P Wood as seen from SGL and from PROWs between SGL and Wood
- As in previous appeal scheme, northern edge of dev set back 15m to S of P Wood – serves as buffer to AW (Mr Hyett will confirm lack of harm to Wood) – also provides positive interface between dev and woodland, species-rich planting, accommodating shared foot & cycle path, opps for informal play

18. Due to contained nature of site, effects of any consequence in longer term (once proposed planting established) are limited to site itself and immediate surrounds – LVIA identifies effects of Major and Major-Moderate significance as those “likely to influence the decision”, with Moderate and below being “of lesser concern” (3.2.3) – taking those that meet this threshold:

- Adverse effect on landscape character within site itself inevitable consequence of any gf dev anywhere, so can’t be reason to refuse consent on site which is agreed not valued landscape (NPPF 187a), no landscape designations
- Likewise impact on views from homes and other dev on exg edge of settlement overlooking site
- Fundamental change of visual experience for users of two public footpaths through site – no policy constraint on dev of gf sites containing/adjoining PROWs – so similarly these effects can’t on their own be justification for refusal

- Only other effect identified by LVIA above threshold, where likely to influence planning decision, is on visual amenity of residents on SGL immediately E of Bull Field & Maggotts Field – effect on these views dramatically reduced compared with previous appeal scheme, which proposed housing right up to lane – visualisations (App BB to Addendum Report) show only glimpses of rooftops at year 15 once new planting established – already glimpses of modern dev on edge of Takeley from these locations

Policy S7

- Final element of S7: *“Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set...”*
- “part of countryside within which a dev is set” means considering character of wider landscape, not site itself – LVIA Minimal effect on LCA (Broxted Farmland Plateau) in longer term – so protecting character of countryside
- P Wood brought back into positive management and reinstating part of ancient woodland previously lost – so enhancing character of countryside
- So passes that test –

Policy S8

- End of S8 sets two tests:
- (a) coalescence around airport – appeal Inspector found no coalescence from larger scheme (IR para 32) – Council does not appear to take issue with this test
- (b) whether dev would adversely affect the open characteristics of the CPZ – already referred to strong containment of area proposed for dev – means any adverse effect on open characteristics limited to within site itself, area S of P Wood separated from wider countryside – no effect on open character of wider landscape to N and NE
- So passes test

- New CPZ Study 2024 (App CC, para 8.7) recommends changes to boundary of CPZ around Takeley but proposes retaining Bull Field, Prior’s Wood and some of the adjoining land “*in order to maintain settlement pattern and identity*” – LVIA (7.2.3) confirms proposed development would not compromise settlement form or cause any increase in coalescence between Smiths Green and Takeley

19. Ms Cooke will now address heritage matters.

Issue (ii) Impact on the setting and significance of nearby heritage assets

20. Issues Report references the effect of the development on ‘*the settings of nearby listed buildings*’.

All of the assets listed were included in our assessment work and our application of the GPA 3 Methodology i.e.:

- we identified the assets and their setting that is potentially affected;
- assessed how much the settings and, if the site is part of that setting, contributed to significance, if at all;
- assessed the effects of the proposed development;
- As per the five step process, the Applicant explored and embedded design measures within the scheme to mitigate any potential impact

Background and Context

21. Following the Warish Hall Farm Application appeal decision, the proposals that form the current application were revised to respond to that decision. 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 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 existing public rights of way have been integrated 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.

22. Consequently, in paragraph 75 of the Quashed Decision, Inspector Kean:

“continue[d] 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.”

23. The position now is that:

- myself, Place Services and the Council’s Principal Conservation Officer all agree that of the 12 heritage assets within the vicinity of the Site, there would be a low level of less than substantial harm to the setting of two Grade II listed buildings (Beech Cottage and Goar Lodge) and the potential for this harm to be at the lowest level for one Grade II listed building (Hollow Elm).
- Inspector Kean also found no harm to protected lane or conservation area (para 43 and 44) and any harm to other assets outweighed by benefits and thus no reason for refusal (para 75).
- Historic England have also removed their previous objection.

Priors Wood

- At paragraph 46 of the Bull Field Section 62A Application decision, the Inspector considered Prior's Wood to be a non-designated heritage asset (NDHA).
- 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.

24. Given the relatively lengthy application history for the Site, worth summarising the key points to assist in the re-determination of the application:

- UDC has a recent and detailed local heritage list. It also has established criteria for considering whether an asset warrants inclusion on the list. An asset must meet at least two of these criteria to be included. One of the complaints made by the Applicant in the statutory review was that there had been a failure to apply UDC's local heritage list policy. The judge rejected this Ground on the basis that the policy was not before the Inspector: *HC Judgment* at [166]. The position in this hearing has changed. That policy is now before the Inspector and is an obviously material consideration.
- Prior's Wood does not appear on this list. It is also important to note that there is no other wood, site, place, area or landscape. Rather, the list is made up of what is more regularly understood to be a heritage asset with the majority being buildings with some water pumps, milestones, lampposts and telephone boxes.
- Nor does Prior's Wood appear on the Historic Environment Record and is not referenced as such by UDC's conservation advisors, Place Services.
- Finally, our research has failed to identify any other case law or appeal decision that references a wood as an NDHA.

25. A 'non-designated heritage asset' 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).”

26. i.e. not all places that possess any degree of heritage interest have ‘enough heritage significance’ are 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.

27. 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).

28. 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).

29. It is thus more appropriate that Prior’s Wood be considered in the context of a landscape assessment as per Mr Crawford’s comments and Mr Hyett with reference to Ancient Woodland.

30. Ultimately, whether this Inspector considers Prior’s Wood to be an NDHA or not, Inspector Kean did, and it did not affect his decision that harm to heritage assets produced no clear reason for refusal (paragraph 75 of the Quashed Decision).

31. Consequently, there appears to be a line in the sand that the impact on heritage assets, when weighed against the public benefits of the proposed scheme, is not a reason for refusal.

Conservation Area

32. 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.”

33. As referenced above, this did not change Inspector Kean’s decision at paragraph 75 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.”

34. 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.

35. UDC’s Conservation Area Appraisal focuses on the architectural and historic interest to the south within Smiths Green hamlet and notes the increase in density towards the north.

36. The CAA states that the arable land has a ‘close functional relationship’ 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.

37. Although the proposed development of Bull Field will change its historic use, the character and appearance of the conservation area will remain appreciable.

38. 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’, but this is true of almost every settlement in Essex and is not unique to Smiths Green

39. 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.

40. Section 7.2 of the CAA also discusses the recent Warish Hall Farm Application:

“A recent Appeal Decision for the proposed residential development upon the fields adjacent to and north of the Conservation Area established 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).”

41. However, the 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.

42. It is also important to note that since the Warish Hall Farm Application, two applications for development to the northwest of Smiths Green have been approved by PINs i.e. the 7 Acres Application/Permission Ref: UTT/22/2744/FUL and the Approved Jacks Section 62A Application S62A/2023/0027.

43. The CAA is a comprehensive document which is intended to be an informative tool for *any future change, development and design* (CAA page 5). The key is to ensure that it does not inadvertently prohibit or frustrate potential development that will come with wider benefits for the area as a whole. This sentiment is echoed in the Regulation 19 Draft Uttlesford Local Plan 2021-2041.

Hollow Elm

44. The significance of Hollow Elm Cottage is predominately derived from its historic, architectural and artistic interest.

45. There is both inter-visibility and co-visibility between the listed building and the Site, which is indicative of the wider historic rural setting, which the historic maps show has undergone little change over the centuries.

46. The currently proposed placement of the developable area to the western part of the Site means the *'the sense of tranquillity'* and relationship between the cottage and Priors Wood is maintained.
47. The landscape proposals show that the eastern most parcel of the Site beyond the reinstated historic hedgerow, west of Smiths Green Lane is to be retained as undeveloped field and will be managed as a hay meadow. As the land will not be subject to intensive agricultural use, the hedgerow margins will also not be subject to regular maintenance requirements and will enable the existing hedgerow to grow up and form an established roadside hedgerow as there currently is on the eastern side of Smiths Green Lane opposite the Site.
48. The mitigation measures included in the revised proposals, notably the removal of any proposed development in the eastern part, the reestablishment of the historic hedgerows to filter views and the use of orientation, density and materials in the character areas in the rural edge character area means that the current proposed development of the Site is considered to cause the *lowest* level of less than substantial harm to the significance of Hollow Elm Cottage.
49. This is supported in the pre-application response from Place Services, which states that *'For Hollow Elm Cottage there is the potential for this harm to be at the lowest level subject to a detailed landscaping plan (avoiding the creation of many footpaths etc) (1st December 2022).'*
50. And again this was confirmed in consultee comments for the submitted scheme in August 2023 this year with the Officer making specific reference to:
- The reinstatement of the historic hedgerow on the western edge of the site to screen the development and reduce visibility from the east.
 - Character areas designed in response to local vernacular which *provide a more appropriate scale and identity in keeping with existing development that surrounds the Site.*
 - Landscaping to the eastern boundary of the Site meets the edge of the Smiths Green hamlet and provides a substantial buffer to soften the edge of the proposed development.

- Integration of existing Public Rights of Way is acceptable in Heritage terms with connectivity to Smiths Green maintained.

Goar Lodge and Beech Cottage

51. The significance of these heritage assets is predominately derived from their historic, architectural and artistic interest as evidenced in some of the surviving historic fabric.

52. Inspector McCoy found that:

“Their shared setting is made up of the rural character of the large open grassed areas and verges of Smiths Green Lane. This is apparent when travelling south towards Smiths Green in terms of the transition from the agrarian fields of Bull Field and Maggots to the dwellings of the historic hamlet. This gives the historic context of these listed buildings” (paragraph 46 of the Appeal Decision).

53. The proposed developable area to the west of the Site means that the historic context of large open grassed verges and the transition from the agrarian fields to Smiths Green hamlet will be retained.

54. The Site lies on the northern boundary of the domestic settings of these heritage assets. Although there is a mature hedgerow separating them, the Site contributes to the appreciation of the wider historic rural context of these listed buildings.

55. The proposed development which is nearest to these assets includes the Rural Edge character area. This includes dwellings of a looser grain and lower ridgeline (including bungalows). The proposed dwellings are also separated from the listed buildings by a green buffer. The existing mid-20th century development of Roseacres is visible in this setting and thus the proposed development will present as a high quality addition to the existing context.

56. Nonetheless it will change the existing context to some extent and thus the proposed development is considered to cause a low level of less than substantial harm to the significance of Goar Lodge and Beech Cottage.

57. This is supported by the pre-application response from Place Services which states that the *“proposed development ...would be a low level of less than substantial harm to the setting and significance of the adjacent heritage assets [Beech Cottage and Goar Lodge].”*

58. And again, in consultee comments from the conservation officer for the submitted scheme which says that *“[t]he Council considers that the proposal results in less than substantial harm to the significance of the heritage assets and is at the low end of the scale.”*

59. Again para 75 of Quashed Decision is that that heritage impact not reason for refusal.

60. Mr Hyett will now address matters relating to the Ancient Woodland.

Issue (iii) Effects on the Nearby Ancient Woodland

61. Effects that form part of the consideration are both direct (e.g. loss) or indirect (e.g. increased footfall).

62. The test to be applied is set out within what is now paragraph 193(c) of the NPPF, that being: will the development result in the loss or deterioration of an ancient woodland. It is important to confirm that compliance, or otherwise, with the Standing Advice is not the test to apply. So, an incursion into a notional woodland buffer does not result in automatic noncompliance with paragraph 193(c) of the NPPF.

63. With regards to direct effects, woodland loss, the previous appeal inspector clearly states his findings within in his decision (DL73):

“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”

64. During the appeal Inquiry, the matter of buffers (size and application) and the matter of potential indirect effects was the subject of written evidence submitted by both UDC and the Applicant. Evidence was also provided orally and subjected to cross-examination and questions from the

Inspector through the more stringent process. The Appeal Inspector drew a clear and firm conclusion on this matter (at DL77):

“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”

65. Moving to the Quashed Decision. Inspector Kean came to the view that contrary to the expert view of the statutory consultees, contrary to the statement of common ground between the Applicant and UDC (agreeing there would be no loss of woodland) and Contrary to the previous Appeal Decision, that the proposed development would not be in accordance with paragraph 193(c), or 186 (c) as it was at the time.

66. The reasoning applied in the Quashed Decision was:

- a. firstly, that the Appeal Inspector’s findings focused more on direct impacts. Clearly, this is inconsistent with paragraph 77 of the Appeal Decision, and
- b. secondly, the Woodland Trust (a non-statutory consultee) raised detailed concerns about the proposed scheme.

67. The High Court judgement ruled on both of these points.

68. First, Mr Justice Holgate found that Inspector Kean failed to justify his departure from the previous Inspector’s findings, breaching the principle of consistency in decision-making as set out in *North Wiltshire* (Ground 4). As no new evidence has emerged to support a different conclusion, the Applicant’s position remains that the scheme will have no direct or indirect impact on the Woodland.

69. Second, the judge also ruled that Inspector Kean was wrong to claim that the Woodland Trust had provided “detailed submissions.” Mr Justice Holgate stated that he “*did not see how the 2023 Inspector could properly say that the Trust’s representations in 2023 raised ‘detailed’ concerns. They were merely of a broad brush or generalised nature.*” Crucially, the Woodland Trust’s position

has not materially changed since the 2022 appeal. This strongly indicates that there is no valid basis for departing from the conclusions of the previous Appeal Decision.

70. It is important to emphasise that throughout the appeal scheme and both s.62A applications (the original and the redetermination), no statutory consultee has objected to the development on the basis of its impact on Prior's Wood. Furthermore, the HC Judgment confirms that the relationship between the development and Prior's Wood in the current s.62A submission is identical to that in the 2022 application—except that the number of dwellings has now been reduced. Given that the Appeal Inspector previously found no direct or indirect impacts on the woodland, this further reinforces that no different conclusion should be reached in this redetermination.

71. Finally, the proposals include the expansion of Prior's Wood as well the provision of a long-term and ecologically sensitive woodland management plan.

72. Mr Russell will now address transport and highways matters.

Issue (iv) Transport and Highways Matters

73. The Appeal Decision found no transport or highways issues with the scheme and the reduced number of units in this application means any impact is even lower. Paragraph 62 of the Quashed Decision confirmed that the proposals are acceptable in this regard.

74. No objections have been received from any statutory highways consultee, Essex County Council, National Highways, Manchester Airport Group and Active Travel England.

75. Additionally, the scheme delivers improved active travel links, which will provide east-west pedestrian and cycle connections not only for new residents but for the wider community.

76. Mr Poole will now address infrastructure and the planning balance.

Issue (v) Infrastructure and Facilities

77. The scheme brings tangible infrastructure benefits:

- a. First, it safeguards land for the future expansion of Roseacres Primary School. The 2022 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). Inspector Kean gave this only neutral weight (DL77), Mr Justice Holgate upheld our Ground that Inspector Kean had wrongly differed from the conclusion of his colleague without addressing that difference with explicit reasons (Ground 2). The Applicant's position is that significant weight must be restored to this benefit.
- b. Additional benefits include:
 - i. new and improved active travel connections;
 - ii. extensive open space available to both new and existing residents,.

78. Finally, the Unilateral Undertaking, which was submitted on 28 January 2025, was drafted on the basis of the earlier Unilateral Undertaking relating to the Quashed Decision and has been updated to reflect any further obligations requested by statutory consultees during the consultation undertaken for the redetermination of this application. The Applicant is happy to address any further questions.

Issue (vii) Planning balance

79. The planning balance is clear. Only two harms remain:

- a. Harm to character and appearance which are limited to the site itself and the immediate surroundings which would arise from any greenfield development site;
- b. less than substantial harm to heritage assets at the low end of the scale.

80. These must be weighed against the following benefits of the scheme, all of which attract significant weight,

- a. Biodiversity Net Gain exceeding 10%, well above the policy requirement of 1%;

- b. The provision of land for the school expansion;
- c. The provision of market and affordable housing in the context of a housing crisis;
- d. The expansion and management of Prior's Wood;
- e. New active travel routes;
- f. Open space provided on Site.

81. The NPPF recognises the importance of protecting heritage assets and the character and appearance of the countryside, but it also prioritises housing delivery, provision of infrastructure and enhancing the natural environment through Biodiversity Net Gain and other measures.

82. In a straightforward planning balance, the benefits of this scheme clearly outweigh its limited harms.

Issue (vi) The 'tilted balance'

83. In their latest submission, the Applicant has set out an updated HLS calculation in light of the latest changes to the standard method. This has led to a decrease in the Council's 5YHLS to 3.46years, which the Council has not disputed. Consequently, the tilted balance under paragraph 11(d) of the NPPF must apply.

84. Further, Uttlesford's housing delivery over the past three years has fallen below 75%, triggering the tilted balance independently.

85. The HC Judgment means the previous Inspector's conclusions related to the ancient woodland cannot stand. In addition, once heritage is also considered, it is clear that there are no "strong" reasons for refusing the development that would disengage the tilted balance under paragraph 11(d)(i) of the NPPF.

86. Furthermore, the limited impacts would not “significantly and demonstrably” outweigh the benefits and so the tilted balance is not disengaged by the provision of paragraph 11(d)(ii).

87. In short, while the scheme already passes a straight planning balance, the tilted balance only reinforces that this appeal should be allowed without further delay.

6 February 2025

Appendix A – List of Appearances

The following professionals are attending the hearing on behalf of the Applicant:

1. **Joel Semakula** of Counsel | Landmark Chambers

Planning

2. **David Poole** BA (Hons) MA MRTPI, Senior Planning Manager | Weston Homes
3. **Jarrold Spencer** BA (Hons), MA, Town Planner | Weston Homes

Landscape and Character

4. **Charles Crawford** MA(Cantab) DipLA CMLI, Director | LDA Design

Heritage

5. **Jennifer Cooke** BA (Hons) PgDL, MA, IHBC, Director | Smith Jenkins

Highways and Transport

6. **John Russell** BEng (Hons) CMILT, Director | Motion

Arboriculture

7. **Richard Hyett** MSc, BSc (Hons), MICFor, MArborA, Director | Barton Hyett Associates Ltd

Ecology

8. **Vince Smith** MSc MCIEEM, Director | Ecology Solutions