

Planning Statement

For Mixed Use Development

• Pagham South, Pagham, West Sussex •

On behalf of Hanbury (PM) Ltd • December 2016 • Reference 5109

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Executive summary

This Planning Statement has been prepared by Hunter Page Planning, on behalf of Hanbury Properties, to support an outline planning application for mixed use development at Pagham South, Pagham. The development proposal comprises up to 400 residential dwellings, a care home, a Local Centre which provides much needed services and facilities, a primary school, and informal and formal sports and recreation space including allotments. The proposal also includes vehicular and pedestrian access, informal open space with children's play space, significant landscaping and associated infrastructure.

The application is submitted at the time when the Council does not have an up-to-date Development Plan. Furthermore, the Council cannot currently demonstrate a 5 year supply of housing, which means that the housing policies in the adopted Local Plan are out-of-date in accordance with the National Planning Policy Framework (NPPF). In light of this, housing applications should be considered in accordance with the presumption in favour of sustainable development, which states that applications should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Section 7 of the Statement sets out the planning considerations and weighs up the planning balance, providing the necessary justification for the proposal. The proposal represents sustainable development in accordance with the 3 dimensions set out within the NPPF and results in significant benefits, as follows:

- The proposal will meet the **economic** dimension by providing a deliverable housing construction project which in turn will deliver wealth and prosperity to the local economy. In addition to this, the increase in population will also help sustain the existing services and facilities in the local area and the proposed facilities will also generate additional jobs, with care, retail, and education being key employment generators. The new facilities will support the creation of an estimated 160 net additional full time equivalent jobs once operational.
- In terms of the **social** dimension, the proposed development provides a valuable supply of new housing in an area where there is a clear and pressing need for new housing. The proposal will deliver a mix of house sizes, types and tenures, including a care home, retirement housing (including bungalows) and affordable housing. The application site is in a sustainable and accessible location close to existing services and facilities, and the proposal

will also deliver community facilities that are required in the locality, thus supporting its health, social and cultural well-being.

- In respect of the **environmental** dimension, whilst it is acknowledged that the site is currently greenfield, the proposal includes significant amounts of attractive landscaping throughout the site, including large areas of Public Open Space (POS). The proposed development will deliver significant biodiversity enhancements through increased tree planting, introducing a range of habitats and through creating Sustainable Urban Drainage Solutions (SUDS) linkages in the western area of the site. The site's location in relative proximity to Pagham Harbour SPA is acknowledged, but any adverse impacts can be mitigated successfully. The site is in a strategic gap but the impact upon this is concluded to be negligible as the site does not contribute to its purpose. The proposal would result in the loss of BMV agricultural land which results in some environmental harm.

In this context, the proposal represents sustainable development against the three dimensions highlighted above and furthermore, the site is available and the development would be immediately deliverable. The limited harm that arises from the loss of some BMV agricultural land does not significantly and demonstrably outweigh the benefits of the proposal. As such, in line with Paragraph 14 of the NPPF, permission should be granted.

1.0 Introduction

Document Aim

- 1.1 This Planning Statement has been prepared by Hunter Page Planning, on behalf of Hanbury Properties, to support an outline planning application for mixed use development at Pagham South, Pagham.
- 1.2 The development proposal comprises the following:
- Up to 400 residential dwellings;
 - A care home with up to 70 beds;
 - A Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace which could include local shops and cafes including a small convenience store (up to 500sqm), primary care facilities (GP surgery), and facilities for the young (crèche/youth centre) and elderly (day centre);
 - Provision of land for a single entry primary school (with sufficient space to ensure that it is expandable to 2 form entry (2FE));
 - Provision of land for a scout hut;
 - Safeguarding of land to help link the site to the Pagham Harbour Cycle Route; and
 - Other community uses including public open space and allotments.
- 1.3 The proposal also includes vehicular and pedestrian access, significant landscaping and associated infrastructure.
- 1.4 This Statement details the proposed development and robustly justifies the scheme against the relevant planning policies and material considerations.

Background

- 1.5 The application is submitted at the time when the Council does not have an up-to-date Development Plan. Furthermore, the Council cannot currently demonstrate a 5 year supply of housing, which means that the housing policies in the adopted Local Plan are not up to

date. In light of this, housing applications should be considered in accordance with the presumption in favour of sustainable development which states that applications should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 1.6 This application is being made in co-ordination with the promotion of the site through the emerging Arun District Local Plan 2011-2031. The Local Plan has been submitted to the Secretary of State for Examination. However, the Inspector agreed that the Council should suspend the Examination whilst further work is carried out to test a higher housing requirement figure. The Council's previously assessed housing requirement figure of 580 dwellings per annum has increased, on recommendation from the Inspector, to 845 dwellings per annum. This has further increased as a result of Updated Housing Needs Evidence (September 2016), which identifies the objectively assessed needs (OAN) as 919 dwellings per annum. The Council is currently looking for site options to meet this uplift in housing and Pagham South is identified as a potential option for development going forward. Nevertheless, the weight to be given to the emerging Local Plan at this stage is limited.
- 1.7 The Site has been subject to an Environmental Impact Assessment (EIA) Screening Direction from the Secretary of State (**appendix 1**). It was confirmed that the Secretary of State does not consider that the proposal is likely to have significant effects on the environment, and accordingly, is not 'EIA development' within the meaning of the 2011 Regulations.

Statement Structure

- 1.8 Following this introduction, **Section 2** provides an overview of the site and surrounding area, including the relevant planning history. **Section 3** details the consultation that has been carried out prior to the submission of the application, and the proposed development is introduced at **Section 4**. Draft heads of terms are set out at **Section 5**; the planning policy context is outlined at **Section 6** before the proposed development is subsequently assessed against the identified relevant planning policies and material considerations at **Section 7**. **Section 8** provides detail on the deliverability of the site, prior to conclusions being drawn at **Section 9**.
- 1.9 This Planning Statement should be read in conjunction with the following supporting information:

- Supporting plans prepared by Davies Landscape Architects;
- Design and Access Statement prepared by Davies Landscape Architects;
- Landscape and Visual Impact Assessment prepared by Davies Landscape Architects;
- Ecological Appraisal prepared by Ecology Solutions;
- Habitats Regulations Assessment prepared by Ecology Solutions;
- Arboricultural Impact Assessment & Tree Protection Plan prepared by Bosky Trees;
- Transport Assessment prepared by Highgate Transportation;
- Community Involvement Statement prepared by JBP;
- Flood Risk Assessment and Development Drainage Strategy prepared by MJA Consulting;
- Agricultural Land Classification and Soil Resources Assessment prepared by Reading Agricultural Consultants Ltd;
- Archaeological Desk Based Assessment and Heritage Statement prepared by ArcDas;
- Socio-Economic Report prepared by Hardisty Jones;
- Noise and Air Quality Assessment prepared by AcousticAir; and
- Contamination Letter prepared by Constructive Evaluation.

2.0 The Application Site

Site Location

- 2.1 The site falls within the administrative area of Arun District Council and is located to the north-west of the medium-sized village of Pagham, outside the built-up area boundary. The existing built-up area lies adjacent to the site's eastern boundary.
- 2.2 The site is bound by Pagham Lane to the east, Summer Lane to the north, and open countryside to the south and west. The site lies south of the land to the north of Summer Lane which has planning permission for 90 houses (reference P/58/15/OUT). As part of this permission the area of land to the northeast of the proposed site will become and an Area of Natural Open Green Space (ANOGS) and public amenity area.

Site Description

- 2.3 The site comprises three parcels of land, extending to approximately 23ha. It consists of flat agricultural fields, is of an irregular shape and is bound by the boundaries discussed above.
- 2.4 An existing country lane, which doubles up as a Public Right of Way (PROW) (ref. 101), runs east-west through the centre of the site. Various gated vehicular access points off Summer Lane and Horns Lane, provide other existing access points.

Designations

- 2.5 The site is situated within the Strategic Gap between Pagham and Selsey, as defined in the Existing Local Plan and the Local Plan 2011-2031 Publication Version. The primary purpose of this designation is to prevent the merging of settlements. However, Pagham is more than 2 miles from Selsey and Sidlesham, therefore the development of the site would not compromise this function. This is considered in detail in section 7 of this Statement.
- 2.6 No other landscape or environmental designations wash over the site. The site is situated within Pagham Harbour buffer zone B which requires all residential developments to undertake access management measures to create green space for recreation. Despite the location near Pagham Harbour Special Protection Area (SPA), there is scope to provide enhancements to biodiversity to off-set any potential impacts of development, as set out later within this Statement.

- 2.7 Two PROWs provide access from the site towards a wider footpath network to the west. Two public footpaths are located along the sites northern boundary (FP100) and along part of the western boundary (FP101). FP101 also dissects the site from east to west through the centre of the site (as above), before heading southwards along the western boundary.

Surrounding Area

- 2.8 As stated above, the site lies on the western fringes of the coastal village of Pagham. Bognor Regis High Street is located approximately 4.4km south-east, whilst Chichester is approximately 7km north.
- 2.9 Residential development lies immediately to the east of the site, along with associated uses such as community facilities and convenience stores. As above, the parcel of land adjacent to the site's northern boundary has planning permission for up to 90 dwellings. Beyond the north-eastern corner of the site is the existing village hall and an area with consent for use as a Public Open Space (POS), granted as part of the above outline planning permission.
- 2.10 There are a range of services and facilities within close proximity of the site, including Rose Green Infant and Junior Schools; Village Hall, GP surgery, churches, a number of small convenience stores; Post Office; public houses; and sports and recreation clubs.
- 2.11 Bognor Regis and Chichester offer a wider range of services and facilities, including supermarkets, hospitals, leisure centres and secondary schools, as well as employment opportunities.
- 2.12 Pagham is characterised by its seaside location, with Pagham Harbour located approximately 0.7km south of the site. The site lies within the Nyetimber area of Pagham, which was previously a separate village before being subsumed by Pagham. There is a variety of dwelling types and sizes within the locality and there is no particular building material which defines the local vernacular.

Accessibility

- 2.13 Pagham Road is sited on a bus route with existing bus stops close to the junction with Summer Lane, as well as south of the Village Hall and north of the junction with Sea Way. These bus stops are served by route number 600, which is operated by Stagecoach as a new, comprehensive and high quality service between Chichester and Bognor Regis. This bus

service operates from early morning into the evening at 20 minute intervals Monday to Saturday, with an hourly service after 1900 hours. It also operates as an hourly service on Sundays.

- 2.14 Bognor Regis Rail Station is located approximately 4.6km east of the site and provides direct services to destinations such as London Victoria, Horsham and Littlehampton. Bus route 600 also provides access to Chichester Rail Station, which includes direct services to a number of locations, including London, Gatwick, Brighton, Portsmouth and Southampton.
- 2.15 There are a number of PROWs within the vicinity, providing good access to the surrounding countryside and the seafront. PROW 101 provides access from the village to the footpath network to the west.
- 2.16 The site is approximately 7km from the Chichester bypass (A27) which is a direct route to Brighton, Worthing, Portsmouth, Waring and Southampton.

Planning History

- 2.17 Arun District Council's planning applications record indicates that there have been no previous planning applications on the site in question.
- 2.18 As referenced above, outline application for the erection of 90 No. dwellings with associated access & open space (reference P/58/15/OUT) was approved on land to the north in September 2016.

3.0 Consultation

- 3.1 The Applicant and the appointed consultant team have undertaken a variety of consultation methods which have informed the proposals. Full details of the pre-application consultation with the community is contained within the Community Involvement Statement (CIS) but a summary is provided below.

Arun District Council

- 3.2 Discussions were held with planning policy officers in **June 2016** regarding the site and the potential for it to be included in the emerging Local Plan. Representations were made following this meeting demonstrating the deliverability of the site for a mixed use scheme. Discussions were also held with Natural England and West Sussex County Council (WSCC) at this stage who did not raise any objection to the principle of 400 dwellings in this location.
- 3.3 On **8th September 2016**, a pre-application meeting was held with Arun District Council officers, including Claire Potts (Strategic Development Team Leader), Joe Russell-Wells (Environmental Services and Emergency Planning Manager) and Gareth Ryman (Ecologist). The Applicant and its design team explained the background to the scheme and the design principles that have informed the layout, including discussions with the Parish Council and the local community.
- 3.4 In respect of landscape, discussions related to the buffers around the boundaries, open space standards and playing pitch standards, as set out in the Council's updated evidence base for the emerging Local Plan. Officers confirmed that the quantum of open space should be clearly identified in the application documents/plans.
- 3.5 In respect of ecology, results of the ecological surveys were discussed as well as potential mitigation/enhancement measures that could be introduced across the site. Furthermore, the impact on the SPA was discussed, whereby the Applicant's ecologist set out the discussions that had taken place to date with Natural England.
- 3.6 A detailed pre-application response was received on the 18th October (**appendix 2**) which considers the principle of the development as well as key matters for consideration. The pre-application response concludes that there is a lack of an adequate housing land supply in Arun District, and whilst the site is outside the settlement boundary, it is considered suitable

in principle for the proposed development of housing, school and community facilities, because of its accessibility to facilities, job opportunities and public transport. The pre-application response highlights technical matters which would need to be satisfactorily addressed within the planning submission, as well as validation requirements. This includes the need to take a co-ordinated approach to consider the cumulative impact of this proposal as well as other potential developments in the area, and ensure a joint approach to infrastructure provision.

Pagham Parish Council and Stakeholders

- 3.7 On 23rd August 2016 the Applicant and the design team presented the scheme to local stakeholders and the Parish Council and displayed an iteration of the layout. Discussions primarily related to the community facilities on offer and what is needed in the village. Particular concerns relate to traffic impact, pedestrian and cycle connectivity and flooding, which have been addressed comprehensively within the application package.

Public Consultation

- 3.8 On 6th September 2016, a public exhibition was held at Pagham Village Hall for members of the community. Full details of this exhibition can be found within the accompanying Community Involvement Statement.
- 3.9 Between 180 and 200 local residents attended the exhibition, and 76 feedback forms were collected from the exhibition with more arriving by post.
- 3.10 Key findings from the exhibition were as follows:
- The biggest challenges facing Pagham as a place to work and live include protection of wildlife and habitats and traffic levels on and around Pagham Road; (63%).
 - New housing that is most appropriate for the Village included smaller homes suitable for older residents and downsizers and family homes;
 - Local residents were concerned about the increased pressure on local facilities and services, and although healthcare provision was scored highly in terms of new community facilities. There was also concern about who would take responsibility for providing these and the ability to source healthcare professionals;

- The most important benefits from the development for local residents are getting the right mix and types of homes while providing for cyclist and enhancing public open space wherever possible;
- Community facilities which scored most favourably with residents include the provision of more healthcare facilities (30%), new cycle routes (27%) and new and improved schools for local children (26%);
- Most questions and comments from local residents were in relation to traffic concerns, speeding traffic and the provision of parking for new residents. Residents were keen to know about any road improvement work that could be taken as part of the development;
- Flooding and the existing water/sewage network was raised as a concern, including existing problems with the network and the capacity for the proposed development.

4.0 Proposed Development

- 4.1 The full details of the proposal are set out within the accompanying Design and Access Statement prepared by Davies Landscape Architects. The application package also includes a range of technical information, as listed in Section 1 above, which provides the necessary justification against which to consider the proposal.

Scope of the Outline Application

- 4.2 The planning application seeks outline planning permission for mixed use development at Pagham South, Pagham. The proposed development will provide a variety of mix of uses, and the proposed development comprises the following:

- Up to 400 dwellings including affordable housing in line with Arun District Council's Policy. The dwellings will include a mix of house types and sizes, including retirement housing;
- A care home with up to 70 beds;
- A Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace which could include local shops and cafes including a small convenience store (up to 500sqm), primary care facilities (GP surgery), and facilities for the young (crèche/youth centre) and elderly (day centre).
- Provision of land for a primary school (1FE with sufficient space to ensure that it is expandable to 2FE);
- Provision of land for a scout hut;
- The safeguarding of land to help link the site to the Pagham Harbour Cycle Route; and
- Other community uses including public open space and allotments.

- 4.3 At this stage only matters relating to access are to be considered, with layout, scale, appearance and landscaping to be determined by future reserved matters applications.

- 4.4 The intended land uses and their proposed locations across the application site are shown in the Illustrative Masterplan, and described fully below.

Development Framework

- 4.5 A development framework has been prepared in order to provide adequate certainty in the form of development that will come forward. Furthermore, the proposal is accompanied by Parameter Plans which can be used as guiding design principles at the reserved matters stage.
- 4.6 Subject to the granting outline proposal, subsequent reserved matters applications will determine the specific design and siting of dwellings and other uses within each development parcel, as well as other matters of detail not covered at the outline stage.
- 4.7 The accompanying Design and Access Statement sets out the full details of the development proposed, as well as design influences.

Land Use and Quantum

- 4.8 In summary, the proposed development comprises the following elements:

Development Quantum	
Land Use	Quantum
Residential	Total dwellings: Up to 400
Care Home (C2)	Up to 70 beds
Mixed Use Local Centre	2000 sqm
Primary School	2.04 Ha (1FE with ability to expand to 2FE)
Open Space	5.36ha of amenity/biodiversity space, 0.74ha of sports provision, up to 20 allotments and 1ha of land to be given over to Pagham Scouts.

Residential

- 4.9 Up to a total of 400 residential units will be provided is a mixture of dwelling types and sizes, including affordable housing. The residential development will be situated within the development parcels as defined on the masterplan. Detailed layouts for these parcels, as well as design of individual units including private amenity space, will be worked up at reserved matters stage.

Open Market Housing

- 4.10 The mix of open market housing proposed follows the mix identified in the Council's pre-application response, which is as follows:

	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms	Total
Market Housing	5-10%	40-45%	35-40%	10-15%	
Illustrative Masterplan shows	14	112	112	42	280

- 4.11 It is proposed that some of the market housing will be for retirement housing, although the exact breakdown of this is yet to be determined.

Affordable Housing

- 4.12 It is understood that Arun District experiences high levels of housing need and housing affordability is a major issue locally due to the relationship between house prices and household income. The market therefore excludes many people seeking access to housing in the district and as a result, the Council continues to enable an appropriate level affordable housing. At the end of September 2016 there were around 1000 households in housing need on the Council's housing register.
- 4.13 The proposal includes 30% affordable housing in line with the Council's standards (120 units). The tenure of the affordable housing is yet to be agreed with the Council but it is proposed that the tenure follows the mix identified in the pre-application response: 70% rented and 30% intermediate housing.
- 4.14 It is proposed for the affordable housing to be delivered in line with the housing mix identified in the pre-application response (which is taken from the Council's Updated Housing Needs Evidence, September 2016):

	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms	Total
Intermediate Housing	15-20%	50-55%	25-30%	0-5%	
Illustrative Masterplan shows	7	19	10	0	36

Affordable Rented	35-40%	35-40%	15-20%	5-10%	
Illustrative Masterplan shows	33	34	13	4	84

- 4.15 The tenure split and housing mix being proposed is consistent with that being sought from the Council and in line with the evidence base set out within the Council's Updated Housing Needs Evidence. The proposed illustrative masterplan affords the flexibility to provide a range of homes that reflects ADC's policy for affordable housing.
- 4.16 Layout is a matter for detailed consideration; however, affordable housing will be integrated into the overall development into clusters of a maximum of 10-15 dwellings at the reserved matters stage. At least one of the rented affordable dwellings fully wheelchair accessible (to be determined at the detailed design stage).
- 4.17 It is expected that the site will be an attractive proposition for registered providers and the applicant will engage with the Council's preferred registered partners at the detailed design stage.

Local Centre and Community Facilities

- 4.18 A local centre will provide the majority of the community services and facilities. The exact uses will be determined at the detailed design stage, although the anticipated uses fall within uses classes A1/A2/A3/D1/sui generis. The community hub will be for a maximum of 2000sqm of A1/A2/A3/D1/sui generis floorspace.
- 4.19 In addition, land for a single form entry primary school will be provided as part of the proposed development (with sufficient space to expand to 2FE if required), as well as land and a hut for the Scouts. The intended location of these uses are shown on the masterplan.

Open Space and Green Infrastructure

- 4.20 The landscape framework plan indicates over 5.36ha of public amenity space, 0.74ha of sports provision, up to 20 allotments and 1ha of land to be given over to Pagham Scouts. The site comprises a number of different typologies of open space, including natural and semi-natural greenspace, children's playspace, formal sports provision and allotments. Existing trees, hedgerows and waterbodies will be retained as far as possible and the proposals include significant planting across the site as well as biodiversity enhancements.

Sustainable Drainage

4.21 With respect to land drainage, it is proposed to adopt appropriate Sustainable Urban Drainage Systems within the proposals. This will help to:

- Improve surface water drainage and reduce additional runoff;
- Improve water quality from runoff; and
- Reduce flood risk to downstream areas.

4.22 On site Sustainable Urban Drainage Systems (SUDS) features will include permeable paving and roadside swales, ditches and ponds, as set out in the accompanying Flood Risk Assessment and Development Drainage Strategy.

Access and Movement Strategy

4.23 Access into the application site will be achieved via 2 new access points of Pagham Road; the first serving the north of the site, and the second serving the southern part of the site.

4.24 Access and movement throughout the site is a matter reserved for later determination as part of a reserved matters submission relating to layout. However, the illustrative masterplan shows broad brush desire lines for pedestrian, cycle and vehicular movement.

4.25 New footways will be provided within the site in order to maximise the permeability of the site for pedestrians and linkages to the existing village and its facilities.

4.26 The existing PROWs will be incorporated as part of the layout, and proposals include the provision of a 2m footway adjacent to Pagham Road, with new pedestrian crossing points to improve access to bus stops. In respect of cycling, the proposal will help to bring forward a dedicated cycle route between Pagham and Chichester by providing land, encouraging the use of cycling in the area.

4.27 A PROW breaks the site in half and crosses from west-to-east; pedestrian and cycle linkages are proposed between the north and southern parcels of the site, ensuring permeability across the site.

- 4.28 Whilst a matter for future consideration, the principles of the residential street network will be based on guidance in Manual for Streets, to ensure low traffic speeds. Levels and details of car parking will be discussed with Arun DC at the detailed design stage.

Design and Access Considerations

- 4.29 The accompanying Design and Access Statement (DAS) considers the design rational which has informed the proposals.

- 4.30 Although layout, appearance and scale are being reserved for future consideration, the following design principles will be adopted in delivering the proposed development:

- Setting the development within green infrastructure which compliments the character of the area and returns open views and connections to the countryside;
- Providing a minimum 10m buffer between residential development and important drainage facilities to the north, west and south;
- Conserving and enhancing the distinctive character and setting of Pagham;
- Providing a wide landscape buffer to the western edge to provide a green broken edge to development with space for SUDS, recreational routes and biodiversity;
- Establishing new vegetation features by the planting of hedgerows and hedge trees along roadsides, which are suitable to the coastal environment;
- Providing an extensive SUDS scheme and associated features to be integrated into the informal open space network;
- Extending the biodiversity opportunity area into the informal open space; and
- Ensuring existing vegetation boundaries are retained and enhanced.

- 4.31 Vehicular access into the site will be obtained via two new junctions with Pagham Road. In addition, it is proposed to provide good pedestrian and cycle links with the consented scheme of 90 dwellings. The existing PROW which bisects the site will be retained.

- 4.32 The Design and Access Statement demonstrates that a holistic and joined-up approach has been taken to the principles set out in the proposal.

5.0 Draft Heads of Terms

- 5.1 The Applicant acknowledges that Planning Obligations will be required in this case so that any off-site impacts from the proposals are appropriately mitigated against.
- 5.2 In accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010, planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development proposed.
- 5.3 The proposal will include the provision of affordable housing, in accordance with emerging policy H SP2. The size and mix of tenure will be agreed with the Local Planning Authority (LPA).
- 5.4 The open space and allotments will also be secured through a legal agreement. Land will also be provided on site for a single form entry school (expandable to 2FE) and scout hut, and additional land will be provided towards the provision of a cycle path between Pagham and Chichester.
- 5.5 In relation to Pagham Harbour SPA, the Council will seek a financial contribution per residential unit in respect of Pagham Harbour strategic access management measures for sites within the defined Zone B (400m-5km of the SSSI). The Applicant is committed to the securing of an appropriate financial contribution.
- 5.6 It is also anticipated that contributions will be sought for the following:
- Libraries;
 - Leisure/Formal Sports;
 - Fire and Rescue; and
 - Highways.
- 5.7 The Applicant will continue to liaise with the LPA regarding the Heads of Terms in order to agree the nature and extent of the obligations/contributions required.

6.0 Planning Policy Context

- 6.1 This section identifies the relevant planning policies within the Development Plan for Arun District, in-line with Section 38(6) of the Planning and Compulsory Purchase Act (2004). Due regard is also had for material considerations relevant to the proposed development, including the National Planning Policy Framework (NPPF) and its accompanying Planning Practice Guidance (PPG).

Policy Context

- 6.2 The Adopted Local Plan for Arun District comprises of the saved policies of the Arun District Local Plan 2003. This Plan sets out planning policies to guide development within the District up to 2011. As such the Local Plan is time-expired and its policies should only be afforded weight in accordance with their consistency with the NPPF, in-line with Paragraph 215 of the NPPF.
- 6.3 Arun District is currently in the process of preparing a new local plan, the Arun District Local Plan 2011-2029, to replace the now time-expired 2003 Local Plan and guide development within the District up to 2029. This Plan was submitted for Examination in Public in January 2015. The Examination was suspended by the Inspector in February 2016 to allow the Council to undertake the further work that he has set out, which includes finding sites to meet the increased housing need identified by the updated Objectively Assessed Needs (OAN). The Council's previously assessed housing requirement figure of 580 dwellings per annum has increased, as a result of Updated Housing Needs Evidence (September 2016), to 919 dwellings per annum.
- 6.4 The NPPF states at paragraph 216 that weight should be given to relevant policies in emerging plans according to:
- The stage of preparation of the emerging plan
 - The extent to which there are unresolved objections
 - The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

- 6.5 The policies of the emerging plan can only be afforded limited weight at this stage. Nevertheless, the policies of the Publication Version are set out below.
- 6.6 Work is currently taking place on producing the Pagham Neighbourhood Development Plan, which will form part of the Local Plan once adopted. The Neighbourhood Development Plan was withdrawn from Examination in December 2014, and an amended pre-submission document was consulted upon between October and November 2015 under Regulation 14 (Neighbourhood Plan Regulations 2012). The policies of the Neighbourhood Plan are based on the previous OAN figure identified in the submission version of the Local Plan. Given the early stages of preparation, and considering the Plan has not yet gone through a formal Examination process, limited weight can be attributed to the Neighbourhood Plan at this stage.
- 6.7 With regard to material considerations, the NPPF was published in March 2012 and comprises the principal national planning policy document. It sets out the Government's overarching planning policies for England and states how these are expected to be applied. The accompanying PPG was launched in March 2014 and constitutes an online resource that seeks to provide more detail of how the policies within the NPPF should be applied.
- 6.8 The relevant policies within the above documents will be considered in turn below, under the appropriate headings.

Adopted Development Plan

Arun District Local Plan 2003

- 6.9 **Policy GEN2** states that development will not be permitted outside of the built-up area boundaries unless it is consistent with all other Local Plan policies.
- 6.10 The protection of the Countryside is the subject of **Policy GEN3**, which states that the *'countryside will be safeguarded for its own sake'*. In accordance with this policy, development will not be permitted in these locations unless the proposal:
- i. Meets the operational needs of agriculture, forestry, the extraction of minerals or the deposit of waste; or
 - ii. Is for quiet, informal recreation; or

- iii. Is for the diversification of the rural economy; or
 - iv. Is essential for road schemes; or
 - v. Is in accordance with a policy in Sections 2 and 3 of the Plan, referring to a specific use or type of development.
- 6.11 The committee report for planning application ref. P/58/15/OUT highlights that the NPPF is less restrictive than Policy GEN3 in relation to protecting the countryside, instead seeking for the intrinsic character and beauty of the countryside to be recognised through development. Furthermore, the Council cannot currently demonstrate a 5 year supply of housing (see below) and therefore, and relevant policies for the supply of housing should not be considered up-to-date. In this context, the above policies should not be considered up-to-date.
- 6.12 **Policy GEN7** concerns the form of new development and seeks for schemes to display a high quality design and layout. It goes on to state that development proposals involving new buildings must be accompanied by an illustrated written analysis of the site and its immediate setting, together with its relationship with the relevant townscape, landscape, wildlife and movement characteristics of the wider area.
- 6.13 A requirement to provide the infrastructure necessary for the development in a timely manner is set out at **Policy GEN8**.
- 6.14 Foul and surface water drainage are the subject of **Policy GEN9**, which stipulates that developments must not increase the risk of flooding on-site or elsewhere, and consideration should be given to SUDS.
- 6.15 **Policy GEN12** highlights that developments should not exceed the Council's parking standards.
- 6.16 **Policy GEN15** relates to cycling and walking and states that the Council will encourage and support the development of safe cycle and footpath networks. Where appropriate, new development will be required to provide safe and attractive facilities for cyclists and pedestrians, both within the site and in the form of links to the surrounding area.
- 6.17 **Policy GEN18** concerns crime prevention and states that new developments must incorporate satisfactory crime prevention measures within a high quality design and layout.

- 6.18 The POS requirements are set out at **Policy GEN20**, which stipulates that developments must provide 2.4ha per 1,000 people.
- 6.19 **Policy GEN29** highlights that development will only be permitted on sites which contain semi-natural habitats, features of nature conservation interest, or within wildlife corridors, where these can be largely retained and sympathetically incorporated into the scheme.
- 6.20 **Policies GEN32 and GEN33** relate to noise and light pollution and requires planning applications to consider these issues.
- 6.21 **Policy Area 10** outlines the strategic gaps, which are identified on the proposals map, are to be maintained and protected. One of the identified gaps is between Pagham and Selsey, and the site subject of this application lies within this designation.
- 6.22 In-line with the policy, proposed developments within strategic gaps will be subject to rigorous examination, and will only be allowed if:
- i. It is demonstrated to be necessary to meet the requirements of, or is consistent with, other policies of the Development Plan; and
 - ii. It would not compromise, either individually or cumulatively, the objectives and fundamental integrity of the strategic gap; and
 - iii. Attention is given to the long term enhancement of the landscape, amenity and conservation value within the gap and, where possible, to the improvement of public access.

(Our underlining)

- 6.23 **Policy Area 13** relates to Sites of International Importance for Nature Conservation, of which Pagham Harbour is identified. The policy states that proposals within, or are likely to affect such sites will be subject to the most rigorous examination.

Emerging Plans

Arun District Local Plan 2011-2029

- 6.24 **Policy SD SP2** concerns built-up area boundaries, and highlights that development outside the built-up area boundaries apart from the Strategic, Site Specific and Broad Allocations,

development or redevelopment will not be permitted unless it is consistent with other Local Plan policies.

- 6.25 The countryside is considered at **Policy C SP1** which mirrors adopted Local Plan policy GEN2, although green infrastructure has been added as an acceptable form of development. It goes on to state that the Council will take into account cumulative impact of development in the consideration of planning applications. In addition, to ensure better management of the rural-urban fringe in those areas where significant new development is proposed, it states that early consideration will need to be given to landscape and biodiversity enhancement, woodland management, recreation provision and access routes.
- 6.26 Major development is expected to retain and enhance a site's green infrastructure assets, in-line with **Policy GI SP1**.
- 6.27 Gaps between settlements is the subject of **Policy SD SP3**, which continues to identify the strategic gap between Pagham and Selsey to be protected. Development within the gaps will only be permitted where:
- a) It would not undermine the physical and/or visual separation between settlements;
 - b) It would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development;
 - c) It cannot be located elsewhere;
 - d) It maintains the character of the undeveloped coast; and
 - e) It enhances the green infrastructure functions of the gap and takes account of opportunities identified in the Green Infrastructure Study, 2012.
- 6.28 **Policy LAN DM1** seeks to protect landscape character and states that development will be permitted where that landscape character is conserved or enhanced; the development pattern of the settlement is respected and distinct identity and setting of the settlement is taken into account; and it does not negatively impact on views into and out of South Downs National Park.
- 6.29 **Policy RET SP1** is concerned with retail provision and highlights that village and suburban centres, including shopping parades and standalone shops form an important resource for

businesses, visitors and residents. The expansion and additional provision of such facilities to a scale appropriate to the existing settlement or the planned expansion of that settlement will be welcomed by the Council provided that it adds to the range and accessibility of goods and services.

- 6.30 **Policy SO DM1** highlights that the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term.
- 6.31 Housing delivery is considered at **Policy H SP1** which outlines that Pagham should deliver 100 units of the total housing requirement, above and beyond strategic allocations. It is important to note that this is a minimum figure. Furthermore, this figure is based on a housing requirement of 580 dwellings per annum. Updated housing needs evidence has highlights that the OAN figure for Arun District Council is 919 dwellings per annum which represents a significant increase from the 580 dwellings per annum originally proposed in the Local Plan. As such, the requirement for Pagham identified at this policy must also be increased significantly. As such, the weight to be given to this policy is extremely limited at this stage.
- 6.32 Developments of 10 or more dwellings are required to provide a balanced mix of market and affordable housing, in accordance with **Policy H DM1**.
- 6.33 With regard to affordable housing thresholds, **Policy H SP2** requires developments of 15 or more units to provide 30% as affordable houses.
- 6.34 **Policy H DM2** relates to independent living and care homes and states new and extended independent living and care homes will be permitted where applications can demonstrate the following and where the proposal is consistent with all other Local Plan policies:
- a) The scheme is located within the Built Up Area Boundary
 - b) The scheme shall be easily accessible either by foot or public transport, to community and social facilities e.g. shops, post offices, healthcare, community facilities
 - c) The design of the scheme shall be such that it can be easily adapted to the varying needs of the users of the scheme

- d) The design and scale of the scheme shall be appropriate to the local context
- e) Amenity space shall be provided
- f) Overall, the scheme should be located where it would support and encourage the continuation of a healthy, active lifestyle

- 6.35 **Policy D SP1** relates to design and expects all developments to be of good quality and demonstrate a high standard of design. It states that all development proposals must consider the efficient use of land, layout, landscape and its setting, density, mix, scale, massing, materials, finish, architectural details and nearby habitats
- 6.36 **Policy D DM1** highlights that when considering an application for development, the Council will have regard to: character, appearance, impact, innovation, adaptability, crime prevention, trees and woodland, solar gain, public realm, layout -- movement and legibility, public art, density and scale.
- 6.37 External space standards are set out at **Policies D DM3**. It highlights the private amenity space required for each type of unit.
- 6.38 **Policy ECC SP1** highlights that the Council will support development which is located and appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding; water stress; health impacts as a result of extreme temperatures and a decline in the quality of habitats and richness of biodiversity. **Policy ECC SP2** states that all major developments must produce 10% of the total predicted energy requirements from renewable or low carbon energy generation on-site.
- 6.39 **Policy HWB SP1** highlights that all development shall be designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities. It states that where new health, recreation and leisure facilities are planned, these shall be located along public transport corridors that are easily accessible to members of the wider community.
- 6.40 Open space, sport and recreation are considered at **Policy OSR DM1**, which outlines that all new developments must make a contribution commensurate with the additional population being generated. **Policy OSR SP1** highlights that the Council will encourage the development of sites as allotments.

6.41 In terms of transport, developments which achieve the following will be supported (**policy T SP1**):

- Designed to reduce the need to travel by car, improving access to public transport services;
- Gives priority to pedestrian and cycle movements;
- Protects committed and indicative lines of major road schemes;
- Incorporates appropriate levels of parking, in-line with West Sussex County Council guidance; and
- Is supported by an effective and deliverable Transport Assessment.

6.42 **Policy T DM1** relates to sustainable travel and PROWs, and requires new developments to:

- Be located within easy access of established public transport services; pedestrian and cycle networks; and green infrastructure networks which link to key destinations;
- Where applicable, contribute to the extension of public transport services;
- Make provision for cycling facilities, namely parking, to meet the County Council standards;
- Contribute towards the provision of a joined up cycle network.

6.43 **Policy HER DM1** requires proposals affecting statutory Listed Buildings will be required to protect the setting of the building.

6.44 The natural environment is considered at **Policy ENV SP1**, which illustrates the District Council's aim to encourage and promote the conservation and enhancement of biodiversity and the natural environment through the development process.

6.45 Relating specifically to Pagham Harbour, **Policy ENV DM2** states that residential development within Zone B (400m to 5km from the SPA) which is likely to have an impact on Pagham Harbour will be required to:

- i. Undertake access management measures; and
 - ii. Create easily accessible new green spaces for recreation within or adjacent to the development site, or make development contributions towards the provision of green spaces to serve the area.
- 6.46 The protection of trees on site is considered within Policy **ENV DM4**. The policy identifies the requirement for a tree constraints plan, arboricultural impact assessment and tree protection plan as part of any proposals. Tree constraints should be considered at early stage in the design process.
- 6.47 **Policy ENV DM5** seeks for developments to achieve a net gain in biodiversity and protect existing habitats on site.
- 6.48 **Policy W SP1** states that development will be encouraged to make active use of surface water as a design feature and permitted where it identifies measures to improve and enhance waterbodies, coastal habitats or provides additional flood relief.
- 6.49 SUDS provision is considered at **Policy W DM3**, which seeks for all developments to identify opportunities to incorporate a range of SUDS, and incorporate these within the private areas of development.
- 6.50 **Policy HWB SP1** Health & wellbeing promotes the design of healthy communities which will provide accessible open space, sports and recreation facilities (including outdoor fitness equipment) safe and easily accessible walking and cycling routes and the close proximity of multi-use community buildings.
- 6.51 **Policy QE DM1** relates to Noise Pollution and **Policy QE DM2** provides policy on the aspect of potential light pollution. At this outline stage consideration towards minimising impacts upon neighbours and the wider landscape will be outlined in broad detail within the DAS with detailed proposals forming part of the Reserved Matters.

Pagham Neighbourhood Development Plan (Pre-submission version September 2015)

- 6.52 **Policy 1** of the pre-submission Neighbourhood Plan (September 2015) directs development proposals within the Built Up Area Boundary, and states that development proposals outside of the Built Up Area Boundary will be required to conform to development plan policy in respect of the control of development in the countryside.

- 6.53 In respect of housing allocations, the Plan allocates 90 dwellings at Summer Lane and 35 units to the South of Inglenook Hotel (**Policy 2**).
- 6.54 Paragraph 4.17 highlights that the Arun Local Plan (Summer 2013) proposed a target of 100 homes at Pagham. It goes on to state that whilst this provision cannot yet be regarded as a target for the PNP, given the Arun Local Plan has not been examined, its reasoning and evidence are helpful in guiding the PNP housing policies.
- 6.55 **Policy 3** requires the scale, density, massing, height, landscape design, layout and materials of all development proposals, including alterations to existing buildings, to reflect and enhance the architectural and historic character and scale of the surrounding buildings and landscape, as defined in the adopted Pagham Village Design Statement (VDS). It also asks that planning applications includes a flood risk assessment to demonstrate how a scheme will not increase pluvial or fluvial flood risk on any adjoining land.
- 6.56 Open spaces are considered at **Policy 4**, which states that opportunities should be made to encourage the provision of new open space and linkages between them, ideally to be provided on-site as part of a scheme.
- 6.57 **Policy 8** highlights that the NP will support proposals for new educational uses, provided they:
- i. are located within or immediately adjoining the Built Up Area Boundary, as shown on the Proposals Map and are closer to the geographic centre of Pagham parish than the existing uses;
 - ii. are accessible to the local community by foot, cycle and car;
 - iii. and are part of a larger, integrated community facility comprising local leisure and recreation facilities for the benefit of the whole community.
- 6.58 It goes on to state that proposals that depend upon major housing development that are outside the Built Up Area Boundary as defined in Policy 1 for the provision of land and/or financial contributions will not be supported.
- 6.59 **Proposal 3** is concerned with promoting local shops and states that the Parish Council will support initiatives on High Street renewal and encourages local traders and other partners

to bring forward proposals to improve the vitality and viability of the Pagham Road and The Parade village centres.

6.60 **Proposal 5** concerns sustainable transport, and will promote proposals:

- iv. To manage traffic speeds in Pagham Road;
- v. To improve the junction at Pagham Road and Sefter Road;
- vi. To improve and expand public, private and voluntary transport services to Bognor Regis, Chichester, out of town shopping centres, local hospitals and other medical centres;
- vii. To protect and improve car parking at the Shopping Centres in Pagham and Nyetimber, the Beach and at Pagham Harbour;
- viii. To promote cycling by establishing viable routes towards North Mundham, Chichester and Bognor Regis

Material Considerations

National Planning Policy Framework

6.61 **Paragraph 6** of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Economic, social and environmental are identified as the three dimensions of sustainability at **Paragraph 7**, before **Paragraph 8** outlines that gains should be sought across all three dimensions.

6.62 **Paragraph 14** outlines the presumption in favour of sustainable development sits at the heart of the NPPF. This illustrates that where relevant development plan policies are out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies within the NPPF indicate that the development should be restricted.

6.63 The NPPF is underlined by 12 Core Planning Principles which are set out at **Paragraph 17**. The following are of relevance to this application:

- Principle 3 – proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local

places the community needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. [...]

- Principle 4 – always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings.
- Principle 5 – take account of different roles and character of different areas, [...] recognising the intrinsic character and beauty of the countryside [...].
- Principle 11 – actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are, or can be made sustainable.

(Our underlining)

6.64 With regard to transport, **Paragraph 32** states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. It goes on to state that plans and decisions should take into account whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.65 **Paragraph 38** states that for larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties.

- 6.66 **Paragraph 47** sets out that Local Planning Authorities (LPAs) should ‘*boost significantly the supply of housing*’ and should maintain a rolling 5 year supply of ‘*deliverable*’ housing land for their local authority area. **Footnote 11** states, in part, that ‘*to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.*’
- 6.67 **Paragraph 49** highlights housing applications should be considered in the context of the presumption in favour of sustainable development. It goes on to state that policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
- 6.68 **Paragraph 50** requires new residential developments to provide a range of housing types and tenures in order to help create sustainable, inclusive and mixed communities. This includes planning for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).
- 6.69 **Chapter 7** considers what constitutes good design. It requires developments to establish a strong sense of place; respond to local character and history; reflect the identity of local surroundings and materials; and achieve developments that are visually attractive as a result of good architecture and appropriate landscaping. In essence, the NPPF looks for the design of new developments to add to the overall quality of the area for the lifetime of the development.
- 6.70 **Chapter 8** is concerned with promoting healthy communities. **Paragraph 69** states that planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. **Paragraph 70** highlights that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments. Furthermore **paragraph 73** recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

- 6.71 **Paragraph 103** asks LPAs to ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
- 6.72 The Government's intention for the planning system to contribute to and enhance the natural and local environment is set out at **Paragraph 109**. This should be achieved by, amongst others, protecting and enhancing valued landscapes; recognising the wider benefits of ecosystem services; and minimising impacts on biodiversity and providing net gains in biodiversity where possible.
- 6.73 **Paragraph 112** states that local planning authorities should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
- 6.74 **Paragraph 118** seeks to conserve and enhance biodiversity by adequately mitigating any unavoidable harm to biodiversity; making the most of opportunities to incorporate biodiversity in and around development; and providing SPA with the same protection as European sites.
- 6.75 **Paragraph 132** states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.
- 6.76 With regard to decision-taking, **Paragraph 187** states that LPAs should look for solutions rather than problems, and that applications for sustainable developments should be approved where possible.
- 6.77 In terms of the weight that can be afforded to planning policies of existing plans, weight should be given according to the policy's consistency with the NPPF according to **Paragraph 215**.

Planning Practice Guidance

- 6.78 The guidance note titled 'Natural Environment' explores landscape; biodiversity and ecosystems; green infrastructure; and brownfield land, soils and agricultural land. Of particular relevance to this proposal is its explanation of the key issues in implementing policy to protect biodiversity and provision of green infrastructure.

- 6.79 In accordance with **Paragraph 16** (ref ID. 8-016-20140612) biodiversity impact should inform all stages of development. An ecological survey is necessary if the type and location of development are such that may have a significant impact on biodiversity.
- 6.80 **Paragraph 17** (ref ID. 8-017-20140306) highlights that development can also provide opportunities to maintain and enhance biodiversity. Methods to achieve this should include:
- Habitat restoration, re-creation and expansion;
 - Improved links between existing sites;
 - Buffering of existing important sites;
 - New biodiversity features within development; and
 - Securing management for long-term enhancements.
- 6.81 **Paragraph 18** (ref ID. 8-018-20140306) highlights that where significant harm cannot be wholly avoided, mitigation and compensation should be sought in order to minimise the harm. If mitigation or compensation cannot be provided planning permission will be refused.
- 6.82 With regard to green infrastructure, **Paragraph 32** (ref ID. 8-03202160211) states that planning proposals should incorporate green infrastructure in-line with local and neighbourhood plans.
- 6.83 Further design guidance, to supplement that within Chapter 7 of the NPPF, is provided within the guidance note titled 'Design'. **Paragraph 1** (ref ID. 26-001-20140306) states that good design is about creating buildings which look good and last well, as well as responding to the identity of a place. Well-designed places are discussed at **Paragraph 15** (ref ID. 26-015-20140306) which states that they should be functional; support mixed uses and tendencies; include successful public spaces; be adaptable and resilient; have a distinctive character; be attractive; and encourage ease of movement.

7.0 Planning Considerations

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 7.2 This section assesses the proposal against the relevant Development Plan Policies and any material considerations before summarising the planning policy position in the planning balance section.

Principle of Development

Housing Policies and Housing Land Supply

- 7.3 The site lies outside but adjacent to the built-up area of Pagham, where development is strictly controlled in accordance with adopted Local Plan policies GEN2 and GEN3. However, the pre-application response for the site acknowledges that the housing policies within the development plan date back to 2003 and were only relevant for the period 2001 - 2011. In this respect, the built-up area boundaries have reduced weight as they are time expired since they do not relate to housing provision beyond 2011.
- 7.4 Furthermore, the weight to be given to adopted policies needs to be considered in accordance with the degree of consistency with NPPF policies. Paragraph 49 of the NPPF highlights that policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
- 7.5 The pre-application response highlights that the Council cannot currently demonstrate a 5 year housing land supply, and in accordance with paragraph 49 of the NPPF, housing policies within the development plan cannot be considered up to date. The report to the 6th December 2016 Local Plan Sub-Committee confirms that the Council can only currently demonstrate a 2.12 years supply of housing. This represents a significant shortfall against the District's housing needs and therefore the provision of housing must be seen as a significant benefit of the proposal.

- 7.6 The implications of a lack of 5 year housing land supply is considered in a recent officers report to committee¹ on 2nd November 2016, where it is stated:

'However, it must be considered that the Local Planning Authority are unable to demonstrate an adequate 5 year supply of housing land as required by paragraph 49 of the NPPF. Furthermore, the Examination into the emerging Local Plan was suspended by the Planning Inspector on the grounds that the Council's Objectively Assessed Housing Need (OAN) should be reviewed higher than that proposed in the Local Plan (580 units p.a). The Council will therefore need to identify more suitable land supply to meet additional housing requirements. The OAN figure has now been increased to 919 units per annum as of October 2016. Additional strategic sites are currently being assessed and allocated in order to meet this higher figure.'

The NPPG has provided clear guidance on the issue of the weight that can be given to both the adopted local plan and emerging or made Neighbourhood Plans where the District Council cannot demonstrate the 5 year supply of deliverable housing sites. Therefore the adopted development plan policies relating to housing supply are out of date and the emerging Local Plan policies carry limited weight at this time. The relevant policies in relation to development outside of the built area boundary within the Angmering Neighbourhood Plan can also not be considered up to date as they do not reflect the Council's updated OAN.'

- 7.7 Paragraph 49 of the NPPF states that housing applications should be considered in accordance with the presumption in favour of sustainable development which is set out at Paragraph 14. This highlights that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.8 Sustainable Development has 3 dimensions: economic, social and environmental. The proposal is in a sustainable location close to existing services and facilities and it is considered that the proposal would represent sustainable development against the 3 dimensions. This is acknowledged in the pre-application response where it is stated that the *'site could represent a sustainable urban extension to the existing built-up area boundary'*. This section of the Planning Statement assesses all planning considerations relevant to the decision making process, before the planning balance section assesses the sustainability of the site as a whole, sets out the benefits of the proposals and any potential adverse impacts in line with the above policy test.

¹ Land between New Place Bungalow & Arundel Road Angmering (A/131/16/OUT)

- 7.9 In terms of emerging planning policy, given the stage of preparation and the need for additional housing sites as defined by the Inspector, it is considered that only limited weight can be given to the housing policies of the emerging Local Plan and Neighbourhood Plan at this stage. Nevertheless, as part of the Council's work assessing additional housing sites through the emerging Local Plan, the Council has identified Pagham South as an option for development which is likely to be taken forward into the main modifications which will be consulted on next year. Whilst the background work regarding potential housing allocations is still ongoing, it is evident that the Council is considering this site as a potential option to deliver the additional housing required.

Strategic Gap

- 7.10 The site and land surrounding it defined as a 'strategic gap' between Pagham and Selsey covered by adopted Policy Area 10. Policy Area 10 highlights that strategic gaps will be maintained and protected and proposals for development will be subject to the most rigorous examination. It goes on to state that development will only be permitted if:
- i. it is demonstrated to be necessary to meet the requirements of, or is consistent with, other policies of the Development Plan; and
 - ii. it would not compromise, either individually or cumulatively, the objectives and fundamental integrity of the strategic gap; and
 - iii. attention is given to the long term enhancement of the landscape, amenity and conservation value within the gap and, where possible, to the improvement of public access.
- 7.11 The 2006 Arun Landscape Study (produced for Arun District Council by Hankinson Duckett Associates) carried out an appraisal of the gaps and concluded that the Pagham and Selsey gap currently includes extensive areas to the north of Church Lane (i.e. the parcel covering the site) which form separate and distinct character areas with little or no intervisibility with Pagham Harbour. The study highlighted that since these areas do not contribute to the physical or visual separation between settlements it is proposed to omit land to the north of Church Lane from the Gap.

- 7.12 Despite the above, this policy is taken forward to the emerging Local Plan Policy SD SP3, and the proposed designation covers the site. Nevertheless, this policy is yet to be tested through examination, and therefore can only be given limited weight.
- 7.13 In respect of strategic gaps, reference must be made to *Suffolk District Council v Hopkins Homes Ltd & Secretary of State for Communities and Local Government* and *Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government* [2016] EWCA Civ 168.
- 7.14 The key conclusion from the Court of Appeal is that Paragraph 49 should be interpreted widely, and it applies to all policies which are restrictive of where development can go. The Court of Appeal rejected the narrow interpretation of Paragraph 49 which suggested that it only applies to policies solely regarded with the quantum and distribution of housing as argued for by Cheshire East Council, and instead highlights that an LPA cannot demonstrate a five year supply of housing its settlement boundary policies, green gap policies and countryside policies cannot be judged as up to date. In this context, Policy Area 10 should be considered out-of-date in accordance with the NPPF.
- 7.15 A number of more recent appeal decisions² highlight that whilst Strategic Gap/Green Gap policies are out-of-date and therefore applications should be considered in accordance with Paragraph 14 of the NPPF, weight should still be given to the purpose and function of the designation.
- 7.16 One of the relevant appeal decisions in respect of Strategic Gaps is the appeal at land to the rear of Cheerbrook Road, Willaston, Cheshire (APP/R0660/W/15/3134631 dated 7th September – **appendix 3**) which relates to a development of up to 100 homes situated within the Nantwich/Willaston Green Gap. In this case, the Inspector states (paragraphs 15 and 16):

'15. Whilst the purpose of the Green Gap could be considered to be consistent with the NPPF, the boundaries on which policy NE.4 relies were established by the Local Plan and sought to provide sufficient land for 7,600 dwellings for the period up to 2011 and were not intended to meet the housing needs of Crewe and Nantwich beyond that period. The emerging plan seeks to deliver at least 36,000 dwellings over the plan period, albeit over a larger geographical area than the Local Plan. The boundaries on which policy NE.4 is predicated were fixed having regard to the need to accommodate the development planned for in the Local Plan and therefore are inextricably linked with the housing requirements within it.

² Including APP/L2630/W/15/3007004, APP/P1560/W/16/3150967, and APP/P1560/W/15/3140113

As a consequence, housing land outside of the built-up area boundaries will inevitably be required to meet the post-2011 housing needs. Accordingly the boundaries on which policy NE.4 relies are time expired and policy NE.4 is out of date on its own terms. It also conflicts with the Framework's determination to meet development needs and significantly boost the supply of housing. I therefore afford limited weight to the Green Gap boundaries as defined by policy NE.4.

16. I am aware that policy PG 5 of the emerging plan includes the retention of gaps between settlements in order to maintain the definition and separation of existing communities and the individual character of such settlements. The supporting text explains that the spatial extent of the open countryside, which includes the Green Gaps is as defined by the saved policies of the Local Plan until detailed boundaries are established through the Cheshire East Local Plan. Whether this approach is found sound will be a matter for the examining inspector and will be assessed in the context of the available housing land supply. However at the present time, the Council accepts that it does not have a five year supply of housing land and that there has been a considerable shortfall in housing delivery in recent years. Therefore whilst I accept that the aims of policy NE.4 are not inconsistent with the NPPF, the boundaries on which it relies restrict the supply of housing and conflict with the NPPF.'

- 7.17 In terms of the aim/purpose of the Strategic Gap covering the application site, the supporting text for Policy Area 10 highlights that the purpose is to prevent coalescence and retain the separate identity and amenity of settlements and to protect the undeveloped coastline. In this case, the policy relates to the gap between Pagham and Selsey. Selsey is situated to the south-west of Pagham, and the site is approximately 4.6 km from the edge of Selsey (roundabout at Chichester Road and Manor Road). The site sits on the north-west side of Pagham and therefore development would not encroach towards Selsey. Furthermore, the site is physically and functionally separated from Selsey due to the intervening development at Church Farm and the lack of connections between the two settlements. As such, it is not considered that the site contributes towards the purpose of the strategic gap as highlighted above. This is consistent with the conclusions of the 2006 Landscape Study which concludes that this parcel of land does not contribute to the physical or visual separation between settlements
- 7.18 In respect of Policy Area 10, the policy is considered out-of-date given the housing land supply position. Despite this, the proposal would not compromise, either individually or cumulatively, the objectives and fundamental integrity of the strategic gap. Furthermore, the proposal provides significant landscaping and public open space across the site, enhancing its amenity value. The proposal is therefore consistent with the adopted Local Plan in this respect.

Housing

- 7.19 The delivery of housing on the application site will make a significant contribution to the fulfilment of the Council's objectively assessed need for market and affordable housing in the District, and will help to reduce the existing significant shortfall in the Council's 5 year housing land supply. Therefore, the proposals will ensure that Arun District plays its role in boosting significantly the supply of housing as required by paragraph 47 of the Framework.
- 7.20 A mix of dwelling types and tenures will be provided as requested by emerging Local Plan policy H DM1. Whilst the exact mix is yet to be determined, the indicative mix includes the provision of 1, 2, 3, 4 and 5 bed properties, in line with the Updated Housing Needs Evidence (September 2016). Furthermore, the proposal will include the provision of 30% affordable housing, in accordance with emerging policy H SP2. The mix and tenure of affordable housing is consistent with the Updated Housing Needs Evidence, as set out in section 4.
- 7.21 The pre-application response highlights that there is high demand for affordable housing throughout Arun District for both rent and low cost home ownership. At the end of September 2016 there were around 1000 households in housing need on the Council's housing register. As such, the proposed development will contribute towards this identified need.
- 7.22 Furthermore, it is envisaged that the 400 homes will include some extra-care style housing, retirement housing and bungalows. Furthermore, a care home (class C2) is proposed.
- 7.23 Paragraph 12.6.1 of the emerging Local Plan states that Arun has one of the highest older populations (people aged 60+) when compared to other local authority areas within the County. Policy H DM2 supports independent living and care homes where development is in accessible locations, and where design and scale is appropriate to the site context, and amenity space is provided. The proposal is consistent with these requirements. The policy also requires that these are located within the Built up Area Boundary, but as above, this aspect of the policy can be given very little weight given the housing land supply and emerging Local Plan position.
- 7.24 The specialist housing needs is set out in the Updated Housing Needs Evidence (September 2016), prepared by GL Hearn. The report identifies that the population of older persons is expected to grow significantly over the plan period, increasing by 55%. A growing older population of older persons, particularly for those aged in their 70s, 80s and above, is

projected to result in an increased need for specialist accommodation for older persons. The report identifies a need for 2,257 units (113 per annum) of specialist accommodation over the plan period, such as sheltered or extra care provision. In addition there is a need for 991 residential care/nursing home bedspaces (50 per annum). This need is for C2 accommodation, and is separate and additional to the overall need/OAN for housing.

- 7.25 As such, it is evident that the proposals meet a mix of housing sizes and types and contribute towards the need identified in the evidence base to the emerging Local Plan.

Community Facilities

- 7.26 The proposed masterplan includes the provision of a mix of uses at a local centre, as well as other community uses across the site. The precise scale and nature of these facilities will be determined through subsequent applications; however, the application proposes the following community facilities:

- A Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace which could include local shops and cafes including a small convenience store (up to 500sqm), primary care facilities (GP surgery), and facilities for the young (crèche/youth centre) and elderly (day centre).
- Provision of land for a single entry primary school (with sufficient space to ensure it is expandable to 2FE;
- Provision of land for a scout hut;
- Safeguarding of land to help link the site to the Pagham Harbour Cycle Route; and
- Other community uses including public open space and allotments.

- 7.27 The proposed community facilities will meet the needs of the existing and proposed community. As part of the Evidence Base for the emerging Local Plan, Hampshire Services has prepared an Infrastructure Capacity Study and Delivery Plan (August 2016) on behalf of the Council which analyses the infrastructure implications of a number of potential growth scenarios to inform the development strategy. In this document, Pagham South is identified as being able to provide 600 units, and the infrastructure set out is reflective of this number. This document gives a useful summary of the infrastructure which is needed in the area,

although it is noted that there should be some reduction as a result of a smaller development being proposed.

- 7.28 A joint Infrastructure Delivery Plan has also been prepared to ensure that the necessary infrastructure can be delivered at Pagham, generated from the proposed developments at Pagham South and Pagham North. This Infrastructure Delivery Plan is considered further under the cumulative impacts section below.

Education

- 7.29 In terms of education, the Infrastructure Capacity Study and Delivery Plan analyses how Arun District's residential growth strategy would impact upon existing Primary and Secondary School capacity and the requirements for new education infrastructure provision as a result of the increased local population. The report highlights that the area is served by Rose Green primary school, which is currently at capacity and oversubscribed. It is also at the County's preferred maximum size of three forms of entry (3FE). It goes on to state that development in this area would bring forward a need for a single form entry primary school, expandable to 2 form entry.
- 7.30 The masterplan provides a centrally located suitable area of land within the site to be provided to WSCC to provide an on-site 1-form entry primary school (with sufficient land to expand to a 2FE) to meet the needs of the Development and the surroundings. The exact scale and nature of facilities will be determined through the progression of on-going discussions with Officers at the Council. However, the site proposed for the school is at the centre of the site, adjacent to the Local Centre and recreation space so it is in a readily accessible location which will also benefit from these adjacent uses.
- 7.31 Policy 8 of the Neighbourhood Plan concerns education facilities. The policy supports new educational uses within or adjacent to the built up area boundary; however, it highlights that proposals that depend upon major housing development that are outside the Built Up Area Boundary will not be supported. The supporting text goes on to state that there is no primary school in Pagham and that parents have been at risk of losing school place allocations. It highlights that provision of an infant/junior school would assist in community development and cohesion and sustainability, and would also provide the opportunity to reduce travel distances for parents and promote sustainable transport options. Whilst the

policy has limited weight at this stage, it highlights the current under provision of school places in Pagham which would need to be addressed through new development.

- 7.32 This was also highlighted at the Public Exhibition, where new/improved schools for local children was highlighted as a key priority for the development (see Community Involvement Statement).

Primary Care

- 7.33 The Infrastructure Capacity Study and Delivery Plan (August 2016) also identifies that whilst West Meads surgery has capacity in the short term, development of 600 homes would put the facility at critical point and potentially compromise care in the area. It goes on to state that current infrastructure will need upgrading and expanding. Whilst the proposal relates to 400 homes rather than 600, the proposed local centre includes space to ensure the delivery of a GP Surgery if deemed to be necessary by ongoing work by NHS West Sussex Clinical Commissioning Group.

- 7.34 Furthermore, pressure on public services was raised as a key issue at the Public Exhibition, with the provision of more local healthcare facilities being raised as the main thing that the public would want to see delivered with the development.

Community Hub

- 7.35 Whilst the exact make-up of the community hub is to be determined at a later date, it is anticipated that the community hub will also provide a day centre for the elderly, which will complement the provision of a care home and retirement housing on site and benefit the existing community.

- 7.36 As part of the evidence gathering for the emerging Neighbourhood Plan, steering/focus groups were set up. The Closing Report of the Social and Wellbeing Focus Group highlights that *'the elderly would also appreciate a bank and bakery in the village, and there was much enthusiasm for a Day Centre offering various activities, talks and demonstrations as well as hot food and a social meeting venue. The surgery Practice Manager stated that such a centre would have a positive impact on the health and wellbeing of the elderly, resulting in fewer visits to the doctor.'*

- 7.37 The report goes on to highlight that the young people interviewed wished for more designated meeting areas where they would not cause undue noise or disruption. The conclusion of the report is that *'there is a strong desire for more facilities in Pagham for the elderly and young people. Additional housing would make these interventions even more important, along with a new school and an expanded doctors' surgery.'*
- 7.38 The proposals for the community hub provide the ability to offer facilities for the elderly, as above, and also include the potential for youth provision and a crèche to complement the pre-school at the Village Hall. The proposals also include provision a potential relocation site for the scouts, including a hut and outside space. The community facilities proposed therefore meet the needs identified as part of the neighbourhood plan evidence base and encourage social cohesion.
- 7.39 The community hub also includes the ability to provide small local shops and cafes. Policy RET SP1 recognises the importance of shopping parades and standalone shops for businesses, visitors and residents and supports additional provision of such facilities to a scale appropriate to the existing settlement or the planned expansion of that settlement. The provision of retail as part of the community hub is considered appropriate in the context of its intended role and function in serving the new local community.

Open Space/Formal Sports Provision

- 7.40 On behalf of Arun District Council, Knight, Kavanagh & Page Ltd have prepared a series of documents as part of the evidence base for the emerging Local Plan which assess the Play, Open Space and Built Sports supply and demand within the District. The Playing Pitch Strategy (August 2016) summarises the findings of the Playing Pitch Assessment Report (August 2016), which concludes that in West Arun there is currently a need for youth and mini football pitches, which will increase as a result of future demand. Some of this need can be met through the provision of formal pitch provision at Pagham South.
- 7.41 The proposal therefore contributes towards promoting healthy communities, as set out in policies HWB SP1 and OSR DM1 of the emerging Local Plan and Chapter 8 of the NPPF.
- 7.42 The Councils Open Space Assessment Report (September 2016) highlights that there is a need for natural and semi-natural greenspace and allotments. Both these typologies of open space are to be provided on site, contributing to the current shortfall across the District. The need for allotments was also highlighted by the Infrastructure Focus Group as

part of the Neighbourhood Plan evidence gathering, where it states in the final report that over 200 people believe there is a very important need to provide allotments locally. This is also highlighted within the responses to the Public Exhibition where the provision of allotments was the 4th most favoured facility that the public would like to see delivered with any proposal.

- 7.43 The proposal therefore meets policy 4 of the emerging Neighbourhood Plan and policies OSR DM1 and OSR SP1 of the emerging Local Plan, as well as the evidence base identified above.

Pagham to Chichester Cycle Link

- 7.44 The proposal also includes the provision of land towards a dedicated cycle route between Pagham and Chichester. The provision of a cycle route between Pagham and Chichester is a key priority of the Neighbourhood Plan, set out at Proposal 5. It states that the Parish Council will promote proposals to promote cycling by establishing viable routes towards North Mundham, Chichester and Bognor Regis. The supporting text goes on to highlight that it is a commitment to cycling as a viable, safe, attractive and sustainable transport mode. This will be pursued by adaptation and enhancement of existing provision, ensuring a viable link with any agreed development and safe routes towards Selsey, Chichester and Bognor Regis. As such, this is viewed as a key priority for the area, which can be partly facilitated through this development. The Parish Council and WSCC will need to facilitate the remainder of this route, outside any land within the landowner's boundaries.
- 7.45 The results of the Public Exhibition also highlight that this is a key local facility that the public would like to see delivered with any proposal on this site.

Design and Layout

- 7.46 Although design is not a matter to be considered at this stage, the developer is committed to providing an attractive mixed-use scheme which complements the character of the surrounding area. The built development will be sympathetically interspersed by green infrastructure corridors to create a pleasant living environment within the scheme, which will be easy to navigate through the provision of a simple, yet effective, road and footpath network.
- 7.47 As set out within the accompanying Design and Access Statement, the development framework has primarily derived from a 'landscape led' approach and is considered to

provide the most efficient layout in terms of creating a balance between deliverability, an appropriate density and a high quality layout and design within a significant landscape setting and framework. As an initial constraint all key landscape features have been retained and incorporated into the public realm to provide key focal points, structure, and habitat connectivity and allow the easy management and longevity of these features.

- 7.48 The design of the buildings will be developed in detail through the reserved matters stage, however it is considered that the materials used will reflect the key local characteristics identified within the Village Design Statement, such as the inclusion of traditional materials such as cobble, slate and flint.
- 7.49 Although it is proposed to provide a mix of house styles and sizes, the majority of homes will be small to medium sized two and three bedroom homes suitable for smaller households and families. Building heights will be predominantly 2 storey, although 2.5 storey buildings will be considered and some bungalows will be provided. The local centre is also proposed to be up to 3 storey. This will provide an attractive variety in roofscape across the site.
- 7.50 The scale and massing of the proposals will be designed to reflect the pattern and character of housing along Summer Lane and Pagham Lane, reducing and becoming more broken towards the western edge to provide a suitable transition between the current urban edge and the proposed semi-rural boundary.
- 7.51 The proposal is considered to be of a high quality design and effectively reflects the identity of the surrounding area. As such the proposed development is consistent with Policy GEN7 of the adopted Local Plan; Chapter 7 of the NPPF; and Policies D SP1 and D DM1 of the emerging Local Plan.

Natural Environment

Landscape Impact

- 7.52 The accompanying Landscape and Visual Impact Assessment (LVIA) concludes that whilst the development will result in a change from a semi-rural field to a developed site, the proposals are considered to have a positive impact upon the current quantity and condition of key landscape and biodiversity opportunities and connectivity.

- 7.53 The ongoing management of the site and its boundaries, in particular to the west and the 'Green Spine' will provide a positive benefit and increase in key landscape features and habitats in comparison to the current arable baseline. This will also have positive benefit on the longevity of the landscape framework. The proposed western buffer will provide a strong and defensible settlement boundary that has a wide native transition zone between open rural fields to the low density broken village edge. This is a positive improvement to the existing settlement edge.
- 7.54 Landscape impacts are restricted to the immediate locality and are viewed in context with a suburban boundary and existing moderate scaled form. The existing topography, vegetation and built form within the village reduces the current impact upon these limited experiences.
- 7.55 Visual impacts are restricted to very limited and localised impacts, with the main impact being to Footpath 101 which runs through the site. Experiences of the site are restricted to receptors along Summer Lane, Pagham Road and Church Lane or footpaths abutting/crossing the site.
- 7.56 Overall it is considered that the site can be assimilated into the existing landscape with only localised impacts. The locating of the development within a well-considered landscaped framework provides for opportunities to provide an attractive and well defined setting to the edge of settlement and a notable increase in recreation and public open space as well as significant habitat and landscape feature longevity.
- 7.57 Early consideration has been given to landscape and biodiversity enhancement and recreation provision and access routes, in line with C SP1 of the emerging Local Plan. Furthermore, the proposal is consistent with emerging Policy LAN DM1 as the landscape character of the site has been conserved and enhanced where possible and development pattern of the settlement has been respected.

Biodiversity

- 7.58 GEN 29 of the adopted Local Plan, policy ENV DM5 of the emerging plan, and paragraph 118 of the NPPF seeks for developments to achieve a net gain in biodiversity and protect existing habitats on site.
- 7.59 Specific ecological surveys were carried out at the application site between May and September 2016. The survey work included an extended Phase 1 habitat survey, undertaken

to ascertain the general ecological value of the land contained within the boundaries of the site and to identify the main habitats and associated plant species. In addition, a suite of specific ecological surveys were undertaken for breeding birds, Bats, badgers, Water Vole, Otter, Dormouse and reptiles. Assessments were also undertaken in relation to the suitability of the habitats present for amphibians and invertebrates. The Ecological Appraisal also considers specific surveys undertaken previously in relation to wintering birds and Great Crested Newts.

- 7.60 The majority of the site is of limited ecological value comprising species poor arable land. Boundary features, consist of ditches, trees and hedgerows. These boundary features are of some ecological value when considered in the context of the application site and its surrounds.
- 7.61 The application site is of some value to foraging bat species and several trees have been identified which have some potential to support roosting bats. During specific surveys, a variety of birds were recorded within and in the immediate surrounds of the application site, although not all were considered to be breeding within the application site itself. Such breeding activity was, in the main, confined to vegetated boundary features although the presence of breeding Skylark was noted in arable habitat in the north of the application site. With regard to wintering birds, specific and detailed surveys did not record any significant use of the application site by any species, however third party sources have indicated that the application site is used by Brent Geese (a species recorded as using surrounding habitat during the detailed surveys) as a foraging / loafing resource. Common Lizard, Grass Snake and Slow Worm were all recorded within suitable habitat in the application site, principally located at the field boundaries and the site is expected to support a range of common invertebrate species.
- 7.62 Key habitat feature are to be retained and enhanced through the proposals and any losses to habitats at the application site will be more than compensated for through the delivery of a significant area of greenspace, with the proposals including new grassland and tree planting and enhancements to wetland features and hedgerows. New habitat creation will facilitate mitigation and enhancement measures for faunal species including bats, birds and common reptiles, in line with the policies referenced above.
- 7.63 Policy 13 of the adopted Local Plan and Policy ENV DM2 of the emerging Local Plan relates to Pagham Harbour SPA. Policy ENV DM2 states that residential development within Zone B

(400m to 5km from the SPA) which is likely to have an impact on Pagham Harbour will be required to:

- i. Undertake access management measures. These measures shall include wardening, access management and site protection, habitat improvements and monitoring of wildlife and visitor numbers.; and
- ii. Create easily accessible new green spaces for recreation within or adjacent to the development site, or make development contributions towards the provision of green spaces to serve the area. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between housing areas and new and existing green space in order to discourage car use.

7.64 Due consideration has been given to the implications of the proposals on the Pagham Harbour SPA. In particular, it has been necessary to assess the potential for likely significant effects to arise in relation to the SPA/Ramsar site, when the proposals are considered both alone and in combination with other plans/projects. In this regard, Natural England have been specifically consulted and it has confirmed that subject to the delivery of suitable mitigation, no likely significant effects would arise.

7.65 The mitigation to be delivered in relation to the Pagham Harbour SSSI/SPA/Ramsar site includes a financial contribution towards strategic level visitor access management initiatives at the designated site itself. Further, the proposals deliver a significant area of informal open space for use by new and existing residents as a recreation resource (including dog walking) and boundary features are to be enhanced to provide a visual screen, preventing a significant increase in disturbance to wintering Brent Geese which may utilise habitat to the north and west of the application site. Secondary measures to be delivered are centred on awareness raising and include signage and homeowner welcome packs describing the sensitivities of the designated sites and the alternative recreation resources available.

7.66 Overall it is considered that the proposals will lead to a net gain in the ecological value of the Site and that the proposals fully conform to the relevant legislative and planning policy framework pursuant to ecology and nature conservation.

Best and Most Versatile Agricultural Land

- 7.67 Paragraph 112 of the NPPF highlights that that LPAs should take into account the economic and other benefits of the (BMV) land, and that where possible only land of lower quality should be used for development. Policy SO DM1 of the emerging Local Plan highlight that the development of BMV land for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term.
- 7.68 As above, this policy could be deemed to be a restrictive policy and therefore in the context of the judgement referenced above³, should not be considered up-to-date due to the Council's housing land supply position.
- 7.69 The site is primarily grade 2 agricultural land, with land to the west being grade 3. All of the land adjacent to the built up area of Pagham, and between Pagham and Bognor Regis is Grade 2 agricultural land and much of the land in the District falls within grade 1 – 3 agricultural land. The application is accompanied by an assessment of BMV land which concludes that 71% of the site is Grade 2, with 29% being Grade 3a.
- 7.70 Whilst it is acknowledged that the loss of grade 2 agricultural land would represent some harm, the loss would be relatively small given that the land within the District is of similar quality. The ALC Report acknowledges that approximately 67% of the region is of best and most versatile quality, of which 55% is of Grades 2 and 3a. The loss of 20.5ha of such land at Pagham would represent a reduction of 0.14% of BMV land in the District. This is not considered to be a significant loss.
- 7.71 Furthermore, some of the land of this quality will be required to meet the housing needs of the District, as acknowledged by the Council in the assessment of potential housing options, where the majority of the site options identified fall within grade 1 to 3 agricultural land. It would be very difficult not to use high grade land if further housing is to be built on greenfield land in the district.
- 7.72 In respect of this application, the weight to the loss of BMV agricultural land would not outweigh the benefits of housing given the urgent need for housing identified above. This is

³ Suffolk District Council v Hopkins Homes Ltd & Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government [2016] EWCA Civ 168.

consistent with recent appeal decisions by Inspectors and the Secretary of State, whereby only limited weight has been given to harm resulting from loss of BMV land. Recent appeals include the Secretary of State decision at Land north east of Elsenham, Essex (APP/C1570/A/14/2219018) and Land to the rear of Cheerbrook Road, Willaston, Cheshire (APP/R0660/W/15/3136431 – referenced above at included at **appendix 3**).

- 7.73 Whilst the appeal at land north-east of Elsenham, Essex (**appendix 4**) was dismissed, only limited weight was given to the loss of BMV land in the planning balance. The Secretary of State highlighted at paragraph 34 that *‘that the loss of BMV land caused by the development would be contrary to LP policy ENV5 and this weighs against the proposal. He gives limited weight to harm through the loss of BMV agricultural land and to conflict with LP Policy ENV5 as there are no substantial areas of lower grade land close to existing settlements in Uttlesford.’* In the Inspector’s report, it is stated at paragraph 8.18 that the district is predominantly rural, with limited areas of brownfield land, so greenfield land must be used. It goes on to state that *‘the loss of 33-43ha of BMV agricultural land would only amount to some 0.053-0.069% of the total in Uttlesford and there is no lower grade land close to existing settlements. It is not a differentiating factor and there would be no conflict with the policy objectives.’*
- 7.74 At the appeal at Land to the rear of Cheerbrook Road, Willaston, Cheshire, the Inspector states at Paragraph 27 that *‘the loss would be relatively small, and the Council acknowledges that much of the land within the borough is of similar quality and that some of it will be required to meet housing needs. At the inquiry the Council conceded that whilst the loss of BMV land weighs against the proposal, it is not a determinative factor in this appeal. I share this view.’*
- 7.75 At the recent appeal at Land South of Ford Lane and East of North End Road in Yapton, which falls within Arun District (APP/C3810/A/14/2228260 – **appendix 5**), it was agreed by the LPA through the Statement of Common Ground that the LPA raised no objection to the loss of agricultural land in that case. The Secretary of State concluded that *‘the loss of countryside and productive agricultural land counts against the scheme’* but agreed with the inspector *‘that the weight given to this, and to the conflict with ADLP policy GEN3 and NP policy E1, should take into account the fact that such land would be lost to housing both under the YNP locations and elsewhere in the district in any event if its housing needs are to be met.’*

- 7.76 In this regard and in accordance with Policy SO DM1, the need for the development in this case outweighs the need to protect such land in the long term, particularly given the significant BMV land across the District which would be unaffected by this development.

Other considerations

- 7.77 Policies GEN32 and GEN33 of the Adopted Local Plan and Policies QE DM1 and DM2 of the Publication Version of the Local Plan relate to noise and light pollution.
- 7.78 In terms of noise, the application is accompanied by a Noise Survey which highlights that the predominant noise for the site was traffic using Pagham Road. None of the noise levels were considered to be high, and they were all lower than levels that are commonly encountered at approved developments adjacent to transportation routes. Consequently, acceptable noise standards can be readily achieved using practicable forms of noise mitigation. As such, the future residents of the proposed scheme would not be adversely affected in terms of noise, in line with the above referenced policies.
- 7.79 In terms of lighting, the accompanying Design and Access Statement considers the existing baseline position along Pagham Road and sets out an overarching lighting scheme which will need to be adhered to at detailed design stage. The proposals minimise potential glare and spillage and ensure that there are no adverse impact on neighbouring uses or the wider landscape, in line with the policies referenced above.

Historic Environment

- 7.80 The accompanying Archaeology and Heritage Statement considers the impact of the proposals on archaeology as well as identifies the Listed Buildings in the vicinity of the site.
- 7.81 The report identifies low to possibly moderate potential for possible archaeological activity and finds from the Bronze Age, Iron Age, Romano-British, Anglo-Saxon and medieval periods and moderate to possibly high potential for archaeological activity and finds from the post-medieval period to be made on this assessment site. The report concludes that the indicated level of archaeological resource within the proposed development area should not be viewed as a significant constraint to development.
- 7.82 The review of designated and non-designated heritage assets for the site and surrounding area concludes there is no anticipated physical impact on any recorded assets within the site

and its environs and neutral impact in terms of setting on the designated and non-designated assets within the study area. The proposal therefore protects the setting of the Listed Buildings in the vicinity of the site, in line with emerging policy HER DM1 and Chapter 12 of the NPPF.

Highways and Access

- 7.83 Paragraph 38 of the NPPF states that for larger scale residential developments planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties.
- 7.84 Policy Gen 15 of the adopted Local Plan, T SP1 and T DM1 of the emerging Local Plan and Paragraph 32 of the NPPF seek to ensure that proposals prioritise safe walking and cycling routes, provide safe access points, and take opportunities to reduce the need to travel by car.
- 7.85 The site is located in close proximity to many services and facilities. It is well connected to the existing footway and PROW network which connects the village to the beach and wider countryside. It is also well served by bus route number 600 providing regular connections to Chichester and Bognor Regis, which both offer a wider range of facilities. Bus route 600 also provides access to Chichester rail station, which includes direct services to a number of locations including London, Gatwick, Brighton, Portsmouth and Southampton. There is also a rail station at Bognor Regis.
- 7.86 The site is therefore in an accessible location, close to many services and facilities; as such, residents would not be reliant on the car to access day-to-day services and facilities. Furthermore, community facilities are provided on site, to reduce this further. The existing PROWs will be incorporated as part of the layout, and proposals include the provision of a 2m footway adjacent to Pagham Road, with new pedestrian crossing points to improve access to bus stops. In respect of cycling, the proposal will help to bring forward a dedicated cycle route between Pagham and Chichester by providing land, encouraging the use of cycling in the area.
- 7.87 In line with planning policy, the Development is supported by a Transport Assessment (TA) which fully assesses the existing conditions, the proposed vehicular and pedestrian/cycle

access points assesses the likely impacts of the proposed development, identifying any mitigation measures required to ensure the proposals are acceptable in planning terms.

- 7.88 Two access points are proposed from Pagham Road, the first serving the north of the site, and the second serving the southern part of the site. A PROW breaks the site in half and crosses from west-to-east; pedestrian and cycle linkages are proposed between the north and southern parcels of the site. The access points have been agreed in principle with WSCC Highways during pre-application discussions.
- 7.89 Junction capacity assessments have been undertaken at a number of junctions to determine the performance of the surrounding highway network and its ability to accommodate the proposed additional peak hour traffic.
- 7.90 The Transport Assessment concludes that that the Pagham South development traffic will not create a highway safety issue, and can be accommodated on the local and wider highway network without detriment. The Travel Plan measures proposed to support the development are suitable, and will help to improve sustainability of the site by encouraging new and existing residents to walk, cycle and reduce car miles travelled. The Transport Assessment confirms that no further mitigation measures are required.
- 7.91 The TA concludes that the proposed development is considered to be acceptable in highways and transport terms and it would not have a detrimental impact on the operation of the local highway or transport networks or highway safety and would not have a severe residual impact in accordance with Paragraph 32 of the NPPF.

Flood Risk and Drainage

- 7.92 Adopted Local Plan Policy GEN9, emerging Local Plan policy W DM2 and Chapter 10 of the NPPF are concerned with Flood Risk and seek to ensure that development does not increase the risk of flooding. Policy W DM3 seeks to encourage the use of SUDS.
- 7.93 The accompanying Flood Risk Assessment (FRA) concludes that the development of this site would not create or increase the risk of flooding from all potential sources, nor would it increase the risk of flooding to any offsite parties and land for the lifetime of the development.

- 7.94 The parts of the site where residential development is proposed are located within lowest flood risk category 'Flood Zone 1' for the lifetime of the development, assessed as having a less than 1 in 1000 annual probability of flooding from a main river in each year.
- 7.95 Separate drainage systems are proposed for the surface water runoff and foul flows generated by the development. Surface water runoff from impermeable areas at the new development will be managed via the use of SUDS) with a controlled discharge from the site into the existing watercourses that bound the site. The peak rate of surface water runoff from the site will be restricted to a maximum of the existing greenfield runoff rate.
- 7.96 All storm attenuation volumes have been designed to accommodate the 100year+40% storm event required for each catchment within the development area. This strategy will not only ensure that the peak rate of surface water runoff from the site post development will be no greater than the existing greenfield runoff rate for all equivalent rainfall events, but will also provide a high level of betterment in peak rates of runoff over existing conditions during intense rainfall events.
- 7.97 The proposed residential development area currently lies within Flood Zone 1. However, the predicted flood levels for 2115 including for climate change increase the tidal floodplain into an area within the southern end of the site. It is intended to raise ground and finished floor levels in the southern area of the site to protect against future tidal flooding. The Environment Agency has confirmed that as the floodplain is tidal and not fluvial flood compensation works are not required.
- 7.98 Foul flows will discharge from the site via a pumped main directly to Pagham Waste Water Treatment Works. This will ensure that the proposed development has a 'no detriment' impact on the foul sewer system within Pagham and does not create a flood risk and surcharge.

Cumulative Impacts

- 7.99 The Council is currently assessing potential site allocations for inclusion within the emerging Local Plan. The application site comprises of the majority of land known as 'Pagham South'. 'Pagham North' is also being assessed as a potential allocation. As such, the Council has highlighted the following in the pre-application response:

As this site is one of a cluster of sites being considered through the Local Plan process at Pagham (Pagham North and Pagham South) the proposal has to be

acceptable both as a 'stand-alone' proposal and in conjunction with the other sites in the cluster. There will be infrastructure requirements when the sites are considered together as potential strategic allocation/s which are in the process of being finalised... As set out at the joint site meeting, progressing sites in Pagham individually with no joined up thinking, particularly on infrastructure provision, will delay the determination of individual applications.

7.100 At the time of writing, the two planning applications being pursued at Pagham North are as follows:

Scheme	Location	Applicant	Description of Development
Land West of Hook Lane, Pagham	Pagham North	Hallam Land (promoted by LRM Planning)	Outline planning application for the construction of up to 300 new homes, an 80 bed care home (C2), a 2form entry primary school (D1), a day nursery (D1), formation of new vehicular access onto Hook Lane and Pagham Road, new pedestrian and cycle linkages, green infrastructure, drainage infrastructure and ancillary infrastructure.
Land North of Sefter Road, Pagham	Pagham North	Taylor Wimpey (promoted by Barton Willmore)	Up to 280 dwellings, provision of land for a replacement scout hut, land for an Ambulance Community Response Post facility and land for a 1FE Primary school.

7.101 The Applicant has been in discussion with the promoters of the above sites, and have been working together in order to assess the impacts of the proposed developments cumulatively. A joint Infrastructure Delivery Plan has been prepared which identifies and demonstrates how the cumulative infrastructure required for all three developments can be secured and delivered in a timely fashion for the wider Pagham area, should all three applications be approved.

7.102 Cumulative Impacts have also been assessed in the accompanying technical reports prepared in support of the application.

7.103 It has been demonstrated above that the proposals at Pagham South, taken individually, deliver a number of community facilities/services against an identified need, and addresses any potential impacts effectively. However, the proposals also are acceptable when considered cumulatively with the other proposed developments, as the cumulative impacts of the proposals have been jointly assessed and mitigated effectively, as set out in the Infrastructure Delivery Plan.

Sustainability and the Planning Balance

- 7.104 Paragraph 14 sets out the presumption in favour of sustainable development, and states that for decision taking, development proposals that accord with the development plan should be approved without delay; and where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies indicate that development should be restricted.
- 7.105 The adopted development plan for Arun District was only ever intended to cover the period to 2011, and therefore, the development strategy set out is time-expired. Furthermore, the LPA cannot currently demonstrate a 5 year supply of housing. As such, the policies for the supply of housing are out of date and the presumption in favour sustainable development should apply; planning permission should be therefore be granted unless any adverse impacts significantly and demonstrably outweigh the benefits.
- 7.106 In terms of the three dimensions of sustainable development are set out at Paragraph 7 of the NPPF, the proposed development would meet the economic dimension by providing a deliverable housing construction project which in turn will deliver wealth and prosperity to the local economy. Construction of the Proposed Development will include an investment of £89 million which will support 661 net additional person years of employment and wages of £19.5 million in the local area, spread across the five-year construction period. During the operational phase, the proposed facilities will also generate additional jobs, with care, retail, and education being key employment generators. This is in line with the definition of 'economic development' as set out in the NPPF. The creation of new facilities will support the creation of an estimated 160 net additional FTE jobs for residents of Arun District, supporting annual wages in excess of £3 million. Further employment will be safeguarded and supported through increased fiscal revenues to local government to fund local services. This is estimated at approximately £1.3 million per annum over the period when New Homes Bonus is payable.
- 7.107 In terms of the social role, the proposed development provides a valuable supply of new housing in an area where there is a clear and pressing need for new housing. The proposal will deliver a mix of house sizes, types and tenures, including a care home, retirement housing (including bungalows) and affordable housing. The application site is in a

sustainable and accessible location close to existing services and facilities, and the proposal will also deliver significant community facilities that are required in the locality, as demonstrated above. The proposal reflects the community's needs and support its health, social and cultural well-being in line with the social dimension of sustainable development. Even taken in combination with other potential developments in the area, the proposal does not result in any cumulative impacts that cannot be effectively mitigated.

- 7.108 In respect of the environmental dimension, whilst it is acknowledged that the site is currently greenfield, the proposal includes significant amounts of attractive landscaping throughout the site, including large areas of Public Open Space (POS). The proposed development will deliver significant biodiversity enhancements through increased tree planting, introducing a range of habitats, and through creating SUDS linkages in the western area of the site. The site's location in relative proximity to Pagham Harbour SPA is acknowledged, but any adverse impacts have been mitigated through a financial contribution towards the strategic level mitigation project and the above environmental benefits which will be delivered. Furthermore, the impact on the strategic gap is concluded to be negligible as the site does not contribute to its purpose. The proposal would result in the loss of BMV agricultural land which results in some environmental harm.
- 7.109 In light of the above assessment, it is considered that the proposal represents sustainable development against the 3 dimensions set out in the NPPF, both individually, and when considering other potential developments in the area. There are also significant benefits from the proposal as identified above. The limited harm that arises from the loss of some BMV agricultural land does not significantly and demonstrably outweigh the benefits of the proposal. As such, and in line with Paragraph 14, permission should be granted.

8.0 Deliverability

8.1 Paragraph 47 of the National Planning Policy Framework (NPPF) highlights the following:

'To boost significantly the supply of housing, local planning authorities should:

- 'use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;*
- 'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;*
- 'identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15.'*

8.2 Footnotes 11 and 12 provide some additional information and highlights that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.

8.3 In line with paragraph 47 of the NPPF, it is important to demonstrate that the proposed development is deliverable and can come forward in the short-term. This section provides details with regard to the deliverability of the proposed scheme.

Available

8.4 The site is un-used, in single ownership, and is being actively promoted by a developer. There are no legal arrangements, complex land ownership or significant constraints which could limit development. It can, therefore, be considered to be available now. The site is therefore immediately developable.

Suitable

- 8.5 As set out in this statement and the accompanying technical reports, the application site has no physical constraints that would prevent or delay development coming forward. The site is suitably and sustainably located for residential development with good accessibility to local services, facilities and employment opportunities via foot and other sustainable modes of transport. Accordingly, the site is clearly a suitable location for residential development.
- 8.6 The 2016 HELAA sets out that the eastern parcel of site reference 117 could be considered as having future housing potential because of its accessibility to facilities, job opportunities and public transport, and because there are no insurmountable constraints. The site being promoted for 400 dwellings is the eastern parcel of the wider site 117. The HELAA goes on to state that the site could contribute to the creation of a sustainable, mixed community.

Achievable

- 8.7 This site adjacent to the urban area is in a location that developers find attractive to bring forward housing sites for development. Residential development represents a viable future use for the site which can be delivered quickly. As such, development of the site can be considered achievable.
- 8.8 The 2016 HELAA highlights that there is no economic reason why the site should not be financially viable given that the alternative land use is agricultural, taking account of any community gain package, including affordable housing and other S.106 obligations, as well as abnormal development costs.

9.0 Conclusion

- 9.1 This Planning Statement has been prepared by Hunter Page Planning, on behalf of Hanbury Properties, to support an outline planning application for mixed use development at Pagham South, Pagham. The development proposal comprises up to 400 residential dwellings, a care home, a Local Centre which provides much needed services and facilities, a primary school, and informal and formal sports and recreation space including allotments. The proposal also includes vehicular and pedestrian access, informal open space with children's play space, significant landscaping and associated infrastructure.
- 9.2 This Planning Statement considers all relevant adopted local policy, the emerging forward strategy for Arun District, and other relevant guidance contained within the NPPF and concludes that the proposal is compliant with it.
- 9.3 The Council currently does not have an up-to-date Development Plan and is unable to demonstrate a 5 year supply of deliverable housing land. Accordingly, the development proposals must be considered in the context of the Framework which is a positive and enabling document, seeking to facilitate sustainable development and growth. Indeed, the Framework sets a 'pro-growth' agenda; there is a clear and firm commitment to supporting and securing sustainable housing growth.
- 9.4 Therefore, applications for sustainable development should be approved wherever possible, consistent with an overarching approach that demands a 'presumption in favour of sustainable development' (paragraph 14). This states that where policies are out-of-date (as is the case here), planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 9.5 This Planning Statement has demonstrated that the proposed development constitutes sustainable development and delivers a significant number of benefits. Overall, the benefits that result from the development include:
- Provision of much needed housing to contribute towards the requirements and economic and social needs of the District. The housing will assist in reducing the significant shortfall in the Council's housing land supply position and will help 'boost

significantly the supply of housing'. The proposal will also help with the delivery of the increased housing targets set by the Inspector.

- Development of the site is immediately deliverable, with the site being immediately available, suitable and achievable for development.
- Provision of a mix of house sizes, types and tenures to meet the needs of all community groups, including retirement housing (including bungalows), care home, family housing and affordable housing, of which there is an identified need.
- Provision of significant community facilities that are required in the locality, including a school, primary care, facilities for the youth and elderly, informal recreation space and formal sports provision and allotments.
- The site has been identified within the emerging Arun Local Plan as a suitable strategic development site, and the application proposal will help bring forward development which is located at an identified sustainable location.
- The proposal will result in the creation of jobs during the construction phase and also will also generate additional jobs once complete, with care, retail, and education being key employment generators.
- The proposal includes significant amounts of attractive landscaping throughout the site, including large areas of Public Open Space (POS). The proposed development will deliver significant biodiversity enhancements through increased tree planting, introducing a range of habitats and through creating SUDS linkages in the western area of the site.

9.6 In terms of potential adverse impacts, the site is located in relatively close proximity to Pagham Harbour SPA; however, any adverse impacts can be effectively mitigated through a financial contribution towards the strategic level mitigation project and through biodiversity enhancements delivered on site (as above). The site is situated in the Strategic Gap, but as set out in section 6, this designation is out-of-date as the Council cannot demonstrate a 5 year housing land supply. Furthermore, the site does not contribute to its overall purpose of preventing coalescence of Pagham and Selsey, and therefore any impact on the strategic gap is concluded to be negligible. The proposal would result in the loss of some BMV agricultural land; however, much of the land within the District is of similar quality and the Council

acknowledges that land of this quality will be required to meet the housing needs of the District.

- 9.7 The cumulative impacts of the proposal in combination with the proposed developments at Pagham South have been considered and a Joint Infrastructure Plan has been prepared. This demonstrates how the cumulative infrastructure required for all three developments can be secured and delivered in a timely fashion for the wider Pagham area, should all three applications be approved.
- 9.8 In terms of the balancing exercise at paragraph 14 of the NPPF, the only potential adverse impact in this case is from the loss of BMV agricultural land. However, given the context above, this would not significantly and demonstrably outweigh the considerable number of benefits that would arise from this development, as listed above. It is, therefore, requested that Arun District Council support the proposal in line with Paragraph 14 of the NPPF, and grant outline planning permission accordingly.

Appendix 1

Screening Direction Secretary of State



Department for
Communities and
Local Government

Jenny Henderson
Senior Planner
Hunterpage Planning

Via e-mail only:

Please ask for: Karen Partridge

Tel: 0303 44 48030

Email:

Our ref: NPCU/EIASCR/Y3805/76884

18 October 2016

Dear Jenny Henderson

Request for a Screening Direction

Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as amended

Proposal for a maximum of 400 dwellings including community hub, food store and sports pitch on land south of Summer Lane and west of Pagham Road, Pagham.

I refer to your request, made on behalf of your client, dated 27 July 2016, made under 5(7) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011(S.I. 2011/1824) as amended (S.I. 2015/660) ("the 2011 Regulations") for the Secretary of State's screening direction the matter of whether or not the above development is 'EIA development' within the meaning of the 2011 Regulations.

The above development falls within the description at paragraph 10 (b) - Urban development projects of Schedule 2 to the 2011 Regulations. Therefore, the Secretary of State considers the proposal to be 'Schedule 2 development' within the meaning of the 2011 Regulations.

In preparing this screening direction, the Secretary of State has had regard to Planning Practice Guidance. This advises (Paragraph: 057 Reference ID: 4-057-20140306) that the key issues to consider are the physical scale of such development and the potential increase in traffic, emissions and noise.

Having taken into account the selection criteria in Schedule 3 to the 2011 Regulations the Secretary of State does not consider that the proposal is likely to have significant effects on the environment. See the attached written statement which gives the reasons for the direction as required by 4(7) of the EIA Regulations.

National Planning Casework Unit
Department for Communities and Local Government
5 St Philips Place
Colmore Row
Birmingham B3 2PW

Accordingly, in exercise of the powers conferred on him by regulation 6(4) of the 2011 Regulations, the Secretary of State hereby directs that the proposed development described in your request and the documents submitted with it, **is not 'EIA development'** within the meaning of the 2011 Regulations.

Any permitted development rights which your client's proposal may enjoy under the Town and Country Planning (General Permitted Development) Order 2015 (SI 596) as amended are therefore unaffected.

You will bear in mind that the Secretary of State's opinion on the likelihood of the development having significant environmental effects is reached only for the purposes of this direction.

I am sending a copy of this letter and the written statement to Claire Potts at Arun District Council.

Yours sincerely



Karen Partridge

(With the authority of the Secretary of State)

Appendix 2

Pre-application Response



Hunter Page Planning (FAO Jenny Henderson)
Thornbury House
18 High Street
Cheltenham
Gloucestershire
GL50 1DZ

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF
Planning General Enquiries
Tel: (01903) 737756 Fax: (01903) 730442
Dx: 57406 Littlehampton
Minicom: 01903 732765
e-mail: planning@arun.gov.uk
website: www.arun.gov.uk/planning

Your Ref:

Our Ref: PAA/152/16/

Please ask for: Claire Potts

01903 737698

18 October 2016

Dear Ms Henderson

Pre-Application Advice

Mixed-use development comprising of:

- Up to 400 homes;
- Provision of affordable homes, retirement and residential care accommodation with 40-50 bed spaces;
- Local Centre and community hub to include health facilities, creche, Day Centre and retail provision;
- Community sport facilities; and
- Significant landscaping and informal recreation space.

Land south of Summer Lane, Pagham

I write regarding the above matter and your enquiry received on 22nd August 2016.

Description Of Proposed Development

From the details submitted, I understand that the proposal is for 400 dwellings on a 20 ha site of which 30% would be affordable with a mix of house types and sizes, including retirement housing. A care home with up to 60 beds would also be included. A Local Centre to include local shops and cafes including a foodstore (approx. 500sqm) primary care facilities (GP surgery/ pharmacy) and facilities for the young (youth centre/creche) and elderly (day centre). The scheme also proposes formal sports provision, informal public open space and allotments. Access would be from Pagham Road. It would also include a single form entry primary school and provision of land for a scout hut. The proposed development would be set within green infrastructure and include planting and a wide landscape buffer to the western edge with space for SuDs, footpaths and biodiversity.

Description Of Site

The existing land use is a greenfield site in agricultural use, adjacent to the built up area of Pagham on the eastern side of the site. To the west lies further agricultural land and Pagham Harbour. There is a footpath to the north of the site, along Summer Lane, and a footpath which crosses the site from east to west, and leads towards Pagham Harbour.

The majority of surrounding land uses to the east are residential which would be affected by the development, as would users of the surrounding network of footpaths/ PROWs.

decpaa

The majority of the site lies in Flood Zone 1, with a small proportion to the south of the site in Flood Zone 3. Drainage ditches surround and cross the site.

At the closest point the site is approximately 480m from the boundaries of the Pagham Harbour SSSI. The site is with a 5km zone from Pagham Harbour. The Harbour is also designated as a Special Protection Area and Ramsar Site.

Description Of Locality

The site is located to the west of Pagham Road in a rural location, with a clear eastern boundary formed of hedging and trees behind a ditch feature. To the east, Pagham Road is a residential street comprising predominately detached 1 - 1 1/2 storey bungalows with large plots which are set back from the highway with gardens to the front. There is also a smaller number of 2 storey properties.

There is a bus stop on Pagham Road and the existing village hall lies directly north of the site. There are listed properties to the south of the site: The Old Cottage, Church Lane; the Church Farm Holiday Village; and White Rock, 21 Pagham Road. The Forge and The Smithy on Barton Close to the north-east of the site are also listed, as is Martin's Cottage on Summer Lane.

Planning Issues

The following issues have been identified for consideration.

- Principle
- Design
- Neighbour Amenity
- Amenity Space Provision
- Bin Storage
- Affordable Housing
- Highways, Transport and Parking
- Sustainability
- Sustainable Construction
- Flooding/Drainage
- Listed Building(s)
- Open Space Provision
- Light Pollution
- Noise Pollution
- Contamination
- Infrastructure Provision
- Biodiversity
- Protected Species
- Sites of Nature Conservation Importance
- Sites of National Conservation Importance
- Sites of International Conservation Importance
- Crime
- Loss of Agricultural Land
- Landscape Impact
- Archaeology

Relevant Planning History

P/74/16/EIS	Scoping opinion for re-development comprising of 400 dwellings, community hub, foodstore & sports pitch	Scoping Issued 04-08-2016
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Comment On Site History

A Screening Opinion was issued on 30 June 2016 confirming that the proposal would require an Environmental Impact Assessment. A Scoping Opinion was subsequently issued on 4 August 2016 setting out the scope of the Environmental Statement. The applicant has requested that the Secretary of State issue a Screening Direction in relation to the proposal and this is awaited.

Relevant Policies - the following policies are considered relevant to your proposal:

Arun District Local Plan:	AREA10	Strategic Gaps
	DEV26	Criteria for Retail Development
	DEV27	Retail Development Outside the Principal Shopping Areas
	ERETDM1	RET DM1 Retail Development
	ERETSP1	RET SP1 Hierarchy of Centres
	GEN11	Inland Flooding
	AREA13	Sites of International Importance for Nature Conservation
	DEV18	Affordable Housing Outside the Built Up Area
	DEV17	Affordable Housing
	ECSP1	C SP1 Countryside
	EDDM1	D DM1 Aspects of Form and Design Quality
	EDDM2	D DM2 Internal Space Standards
	EDDM3	D DM3 External Space Standards
	EDSP1	D SP1 Design
	EECCDM1	ECC DM1 Renewable Energy
	EECCSP1	ECC SP1 Adapting to Climate Change
	EECCSP2	ECC SP2 Energy and climate change mitigation
	EENVDM1	ENV DM1 Designated Sites of Biodiversity or Geological Imp
	EENVDM2	ENV DM2 Pagham Harbour
	EENVDM4	ENV DM4 Protection of Trees
	EENVDM5	ENV DM5 Development and Biodiversity
	EENVSP1	ENV SP1 Natural Environment
	HERDM1	HER DM1 Listed Buildings
	HERSP1	HER SP1 The Historic Environment
	EHSP1	H SP1 Strategic housing, parish and town council allocations
	EHSP2	H SP2 Affordable Housing
	HWBSP1	HWB SP1 Health & Wellbeing
	EINFSP1	INF SP1 Infrastructure provision and implementation
	ELANDM1	LAN DM1 Protection of Landscape Character
	EQEDM1	QE DM1 Noise Pollution
	EQEDM2	QE DM2 Light Pollution
	EQEDM3	QE DM3 Air Pollution
	ESDSP1	SD SP1 Sustainable Development
	ESDSP2	SD SP2 Built -Up Area Boundary
	EWDM1	W DM1 Water Supply & Quality
	EWDM2	W DM2 Flood Risk
	EWDM3	W DM3 Sustainable Urban Drainage Systems
	EWSP1	W SP1 Water
	GEN12	Parking in New Development
	GEN14	Public Transport
	GEN15	Cycling and Walking
	GEN18	Crime Prevention

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GEN2	Built-up Area Boundary
GEN20	Provision of Public Open Space within New Development
GEN21	Renewable Energy
GEN23	The Water Environment
GEN25	Water Resources
GEN26	Water Quality
GEN28	Trees and Woodlands
GEN29	Nature and Conservation Across the District
GEN3	Protection of the Countryside
GEN32	Noise Pollution
GEN33	Light Pollution
GEN34	Air Pollution
GEN5	Provision of New Residential Development
GEN7	The Form of New Development
GEN8	Development and the Provision of Infrastructure
GEN9	Foul and Surface Water Drainage
INFORMSW	Standard Southern Water Capacity Check
CC	
NPPG	National Planning Practice Guidance
SPD1	Open Space & Recreation Standards

Planning policy guidance NPPF National Planning Policy Framework

Principle

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. Using this as a starting point the development plan in Arun District consists of the Arun Local Plan 2003 and any relevant made Neighbourhood Plans. In the event of conflicts between policies in these plans or with Government policy, it is the most recent policy which takes precedence. With this in mind the National Planning Policy Framework (NPPF), which was issued in March 2012, is materially relevant and should be afforded significant weight.

DEVELOPMENT PLAN - 2003 LOCAL PLAN

The 2003 Local Plan Proposals Map identifies that the application site is located outside of (but adjacent to) the existing built-up area boundary of Pagham. As such, saved policies GEN2 and GEN3 are relevant. These policies seek to focus development within the built-up areas, and safeguard the land outside the built up areas (referred to as the countryside for policy purposes). The built-up area boundaries were drawn for the purposes of defining the built-up areas and countryside having regard to the need to identify within the built-up areas (or on allocated sites) the required number of dwellings for the plan period (up to 2011).

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The NPPF was published in March 2012. One of the aims is to significantly boost the supply of housing. This framework is the most recently adopted national policy and is an important material consideration in this case.

Paragraph 14 confirms that, at the heart of the guidance is a 'presumption in favour of sustainable development'. This is in accordance with the three dimensional approach to include economic, social and environmental considerations as set out in paragraph 7. For decision-taking, this presumption in favour means that planning applications that comply with the development plan must be approved without delay. Secondly, where the development plan is absent, silent or out of date, planning permission should be granted unless "any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole; or specific policies in this framework indicate development should be restricted".

This does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with Local Plan policies. If the adverse impacts of the proposal (such as harm to the intrinsic character and beauty of the countryside or severe impacts to the local highway network) significantly and demonstrably outweigh the benefits, then planning permission should still be refused.

Paragraph 47 sets out that Local Planning Authorities should use their evidence base to ensure that their Local Plans meet the objectively assessed needs for market and affordable housing as well as identifying sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% buffer to ensure choice and competition in land marketing. Or a 20% buffer where there has been a record of persistent under delivery. The Council's most recent evidence on housing need in the district recommends a full objectively assessed need of 919 dwellings per year (as at October 2016).

Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing sites. These 'relevant policies' are contained within the 2003 Local Plan (GEN2 and GEN5) and the weight to be afforded to these policies has been discussed above.

It is also noted that a recent (17/03/16) Court of Appeal decision (Richborough Estates Partnerships LLP v Cheshire East Borough Council and Secretary of State for Communities & Local Government) clarified the meaning of the requirements of paragraph 49 such that these relevant policies should not just be limited to those covering the amount and distribution of new housing but also any other development plan policies that seek to restrict housing in certain parts of a district. This could therefore include, for example, settlement boundary policies, countryside protection policies, policies for conserving landscapes and policies for the conservation of wildlife. In the case of the Arun Local Plan, it could therefore be argued that the strategic & green gap policies should not be considered to be up-to-date.

Paragraph 215 of the NPPF ensures that the Arun District Local Plan 2003 carries weight as a development plan document and due weight can be given to the plan according to the level of consistency with the NPPF and the various policies within the Framework. The weight of the Local Plan policies can be assessed according to their level of consistency with the relevant policies in the National Planning Policy Framework.

PUBLICATION VERSION LOCAL PLAN 2011 - 2031

Progress towards adoption of the emerging Local Plan has been suspended pending updating the Plan to seek to accommodate higher housing numbers (previously set at 845 dwellings per year). Policies within this Plan can only be afforded very limited weight at this time.

Policy H SP1 establishes strategic housing, parish and town allocations. The policy states "All Neighbourhood Plans shall provide for the stated number of housing units with respect to their Parish and Town Council areas. It should be noted that these are minimum allocations. The figure for Pagham was 100.

Following the suspension of the examination, the Council are examining and assessing further potential strategic housing allocations. This site is within an area known as 'Pagham South' as part of the assessment process. This work has not yet been concluded.

SUSTAINABILITY AND SUITABILITY OF LOCATION FOR HOUSING DEVELOPMENT

Government Planning policy is to encourage appropriate development in a location that will enable a reduction in the need to travel, particularly by private car and that planning should contribute to reducing emissions and reduce climatic change.

The site is considered to be well-related to the existing developed area to the east of Pagham Road which is primarily in residential use but with a school, village hall and open spaces. Nearest shops are considered to be the Tesco Express on Pagham Road to the north east or the Co-op on Rose Green Road further to the north east. It is also noted that there are a couple of public houses and other shops on Pagham Road. There are bus stops on Pagham Road at the east of the site and on Hook Lane towards north-east.

Pagham Road has a pedestrian footpath on the eastern side and will therefore provide a safe walking route from the site towards facilities to the east and north.

HOUSING LAND SUPPLY

Without the post 2011 housing strategy being adopted as part of a Development Plan, the Council should consider the full objectively assessed need (OAN) against a 'policy off' position. This means that the full OAN for the District should be considered without any policy constraints being applied, such as affordable housing, employment provision or market influences. Therefore, if the Council were to consider its housing supply against a 'policy off' requirement, it would not be able to meet its OAN. A January 2016 report to the Local Plan Sub-Committee confirms that the supply is only 3.32 years.

Whether or not the Council is able to demonstrate an adequate housing land supply is only one material consideration to be weighed up in determining whether there is 'significant and demonstrable harm' alongside all other considerations associated with individual proposals.

Given the above position, in accordance with paragraph 49 of the NPPF, housing policies within the development plan could not be considered up to date. In the case of Arun, housing policies within the development plan date back to 2003 and were relevant for the period 2001 - 2011. The Council will be reliant upon the delivery of new strategic sites in order to maintain the supply of suitable housing and the allocations have been agreed to take forward under the publication version of the Local Plan, supplemented by any additional strategic allocations which are currently being tested.

PAGHAM NEIGHBOURHOOD PLAN

In December 2014, the Pagham Neighbourhood Plan was withdrawn from the examination process in order to produce further studies in respect of the impact on the Pagham Harbour SPA/Ramsar Site. This work has been completed and the Regulation 14 'pre-submission consultation & publicity' stage was undertaken between 02/10/15 and 13/11/15. It is therefore necessary, in accordance with paragraph 216 of the NPPF, it is necessary to have regard to the Draft Neighbourhood Plan as a material planning consideration.

The Draft Plan sets out housing allocations for the area for the period 2014-2019. However, the allocation set out in Policy 2 is for approximately 125 dwellings located on two sites on Pagham Road. However, it is noted that paragraph 4.29 of the postamble to Policy 2 states that:

"There are sites that may be suitable for housing and other uses not allocated within this plan that may come forward as windfall sites within the Plan period. Where this occurs these will be required to be acceptable in terms of impacts on the designated site of Pagham Harbour; flood risk; density and design; landscaping and impacts on the sensitive landscape and suitable with

regard to utility and highways infrastructure."

I am unable to include the draft Neighbourhood Plan policies in the policy list within this letter. However, I list below those which I consider to be relevant to your proposal:

Policy 1: A Spatial Plan for the Parish;
Policy 2: Housing Site Allocations;
Policy 3: Housing Design;
Policy 9: Agricultural Land;
Proposal 2: Inland Flood Protection;
Proposal 3: Promoting Local Shops;
Proposal 5: Sustainable Transport; and
Proposal 6: Infrastructure Projects.

The recent Secretary of State decision in relation to Land to the South of Ford Lane, East of North End Road, should also be noted (APP/C3810/A/14/2228260). In the decision, the Secretary of State has disagreed with the appeal Inspector's conclusions that the appeal be allowed and planning permission be granted. The proposal was for 100 dwellings on land outside the built up area boundary in the made Yapton Neighbourhood Plan. The decision appears to run contrary to the advice in the NPPG referenced above; that the housing policies of a NP should not be considered up to date where there is no demonstrable 5 year housing land supply. ADC are seeking legal advice on the implications of this decision for similar sites outside the built up area boundary of made NP. Although the Pagham NP is not yet 'made', the decision may have implications for this site when it is.

SUMMARY

The NPPF requires there to be a presumption in favour of the proposals which are located in a sustainable location. Although the site lies outside of the built up area boundary, it is considered to be well related to existing urban development and located close to local services & facilities. It is not considered that the site would be entirely car reliant and that people can walk, cycle or use buses to reach local facilities. It is considered therefore that this site could represent a sustainable urban extension to the existing built-up area boundary.

The Council acknowledges that it cannot demonstrate a 5-year housing land supply and, accordingly, that a housing proposal which would be sustainable development should be granted planning permission unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits. Potential adverse impacts could, but are not limited to, include harm to the landscape, to the highway network and to ecological interests including the Pagham Harbour SPA.

As this site is one of a cluster of sites being considered through the Local Plan process at Pagham (Pagham North and Pagham South) the proposal has to be acceptable both as a 'stand alone' proposal and in conjunction with the other sites in the cluster. There will be infrastructure requirements when the sites are considered together as potential strategic allocation/s which are in the process of being finalised. An indication of the likely requirements is set out in the infrastructure section below but the latest information available should be used to inform any application and will be used to make a recommendation. As discussed at the pre-application meeting a suitable mechanism needs to be found to ensure that bringing this proposal forward as a stand alone site will not jeopardise the delivery of the infrastructure that will be necessary for the cluster of sites as a whole. As set out at the joint site meeting, progressing sites in Pagham individually with no joined up thinking, particularly on infrastructure provision, will delay the determination of individual applications.

Design

Planning Policies support the efficient and effective use of land. Policy GEN7(i) requires new

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developments to respond positively to the identified characteristics of a particular site to create developments which respect local characteristics. The NPPF further indicates that more intensive development is not always appropriate and that design which is inappropriate in its context should not be accepted. Furthermore new development should be well integrated with and complement the local area in terms of, for example, layout.

The initial Development Framework Plan shows northern and southern parts to the site, with the school and recreation area, and a local centre in-between the two parts. Locating the retail and service centre towards the centre of the site and close to the existing village hall is logical and means that it is accessible for the residents to the north and south, as well as for existing residents to the east. A north/south cycle route through the site is welcomed and the application should show clearly how this links to other developments and right of way around the site. The location of the retirement accommodation nearest to the local centre will ensure that residents are able to access services and facilities on foot.

As discussed at the meeting, whereas it is usually desirable to have an active frontage of properties onto an existing road, like Pagham Road, the existence of a strong boundary hedgerow with trees along the eastern boundary of the site means that this would not be practicable in this case. Therefore it was agreed that a reinforcing of this boundary and provision of a linear green space with footpath would be acceptable in this location.

The green corridor to the western boundary of the site, combining SuDS features and informal footpaths/ recreation will soften the appearance of the site when viewed from open fields and footpaths to the west of the site. The use of a 'rural edge' type of built form (more informal, lower density) facing the western boundary will also help (e.g. at Kingley Gate, Littlehampton). Any higher density dwellings over 2 storeys should be located towards the centre of each of the plots.

Without seeing any details of the proposed dwelling design, elevations etc, I'm not able to comment on whether the quality of design aspects will be met. As this is a large site, it would be beneficial to have a phasing plan for the site and a set of design principles at the outline stage. A phasing plan would ensure that the infrastructure and SuDs etc are delivered in a co-ordinated way that works for each phase and the site as a whole. Design principles would provide a point of reference for reserved matters applications as they come forward for each phase or parcel of land. This can be done by producing a 'design code' document to show the different character areas of the site in terms of plot design, layout, housetypes, public realm, density standards, parking requirements and landscape framework. This will ensure that there are guiding principles for the site as a whole.

Neighbour Amenity

Arun District Local Plan Policy GEN7 indicates planning permission will only be granted for schemes displaying high quality design and layout. It further indicates development will be permitted if it takes into account impact on adjoining occupiers, land, use or property. The NPPF further indicates that good design should contribute positively to making places better for people.

I am unable given the current level of detail to comment on this aspect. However, I do not consider it likely that there will be any adverse overlooking/overshadowing impacts to existing local residents particularly if buffer planting is provided between the site and the dwellings along Pagham Road to the east and the new development to the north.

In this case, it is considered that the proposed development would be acceptable on the residential amenities of neighbouring properties.

Amenity Space Provision

The NPPF indicates that good design should contribute positively to making places better for

people. It also encourages the creation of places, streets and spaces which meet the needs of people are visually attractive, safe, accessible, functional, inclusive, have their own distinctive identity and maintain and improve local character.

Policy GEN7 of the Arun District Local Plan further indicates that development will be permitted provided that amongst other considerations the proposal creates attractive places and spaces with the needs of people in mind. On this basis, well designed and adequate amenity space provision for residents is considered essential to meet the policy requirements of the local plan and Central Government Advice.

Policy D DM3 of the Arun Local Plan 2011 - 2031 (Publication Version) (October 2014) sets out the Council's external space standards and despite not being an adopted policy is being used for development management purposes and has been subject to testing at appeal.

There are two requirements to the policy. Firstly, a minimum rear garden depth of 10m. This is to (a) ensure that rear gardens are usable spaces and (b) to provide for a 20m back to back distance between dwellings. This depth standard may be relaxed if there is no back to back arrangement (and no realistic possibility of a future back to back arrangement) and where the garden is sufficiently wide so as to exceed the area requirement. The second requirement concerns the area of the private rear garden. The standards are as follows:

2 bedroom terraced - 50m²;
3 bedroom terraced - 65m²;
Small Semi or Detached (3 bed max) - 85m²; and
Large Semi or Detached - 100m².

Bin Storage

The following is provided for your information:

For all new residential development including flat conversions, the applicant must show bin storage/collection provision as follows:-

Each unit should be provided with the equivalent of 240 litres of residual waste storage/bins. For flats, the communal/bulk bins can be used on the basis of 240 litres of residual waste storage/bin per flat. Alternatively one 240 litre wheelie bin for each property can be provided.

The same amount of storage space/bins for recyclable materials is required to be provided.

Where bin stores are adjacent to the access road serving the development or across a parking area there will need to be a road up to full highway standards and an indemnity provided for the Council's contractors to pass across servicing. The access of this type provided must be accessible/passable for collection schedules i.e. no parking or other obstruction.

The maximum pulling distances allowed under Health and Safety legislation are 10 metres 1100 litre bins and 50 meters for 240 litre bins.

It is recommended that if any communal provision is located near or adjacent to the highway, it will be suitably enclosed and landscaped so that the maximum pulling distances and vehicle access requirements are complied with.

It should also be noted that Emerging Local Plan Policy D DM3 states that "External areas also need to include adequate space for recyclable and non-recyclable waste storage".

Affordable Housing

Affordable Housing Policy requirements

The Council aims to ensure that 30% affordable housing is achieved on all new residential developments in the district where more than 15 units are proposed. The tenure of the affordable housing is to be agreed with the Council but a split of 70% rented and 30% intermediate housing is initially sought.

Housing Need

There is high demand for affordable housing throughout the Arun District for both rent and low cost home ownership. At the end of September 2016 there were around 1000 households in housing need on the Council's housing register.

Property sizes design and mix

The applicants should ensure that the quantum of affordable housing is broadly delivered as follows:

	1 bedroom	2 bedrooms	3 bedrooms	4+ bedrooms
Market	5-10%	40-45%	35-40%	10-15%
Intermediate Homes	15-20%	50-55%	25-30%	0-5%
Affordable Rented	35-40%	35-40%	15-20%	5-10%

The applicants should seek to make at least one of the rented affordable dwellings fully wheelchair accessible.

The intermediate housing (shared ownership) dwellings should comprise of a mix of 1, 2 and 3 bed dwellings - 4 bed dwellings are not recommended.

Integration - The affordable housing should be integrated into the overall development into clusters of a maximum of 10-15 dwellings.

Housing Need

There is high demand for affordable housing throughout the Arun District for both rent and low cost home ownership. At the end of September 2016 there were around 1000 households in housing need on the Council's housing register.

S106 considerations

The Council would not support capped percentage transfer values to a provider of affordable housing being applied to the affordable housing dwellings.

The Council would request that the applicants engage with one of our preferred registered partners for the acquisition of the affordable housing.

At present, the Council would not support the inclusion of Starter Homes as an affordable housing product as there are no published regulations setting out how these would operate as a new affordable tenure type.

Summary

In terms of the provision of affordable housing there is no objection in principle but an Affordable Housing Statement is required in order to understand the detail of the 30% affordable housing on the site.

Highways Transport And Parking

Planning policies allow for the safe movement of pedestrians and vehicles, giving priority to pedestrians, and car parking.

Car parking requirements will vary according to accessibility of the site to public transport or services, or location within a town centre. Some Guidance is provided within Appendix 2 Parking Standards of the Arun District Local Plan. With respect to parking, please note that we use the West Sussex Parking Demand Calculator in order to calculate the likely parking demand for new development. You can access this calculator through the West Sussex County Council website, see this webpage:

<https://www.westsussex.gov.uk/roads-and-travel/information-for-developers/pre-application-advice-for-roads-and-transport/>

As set out in the Scoping Opinion, the Local Highway Authority has advised that the impact on the local highway network should be reviewed as part of a transport assessment (TA). The scope of the TA would need to be agreed with the Local Highway Authority. The TA would then inform any respective elements of the ES. It is not considered that the impact of the increase in vehicular movements from this site alone would be significant in the context of the EIA regulations, however, there is the potential for significant impacts on the local community from increased traffic associated with this proposal, when combined with other proposed or planned development within the area, therefore the TA should be incorporated as a chapter within the ES and should link in with the cumulative impacts section of the ES.

The emerging Transport Study for the Local Plan will also be identifying requirements for improvements in relation to the road network in the Pagham area if the Pagham North and Pagham South sites were to be allocated as strategic sites in the Local Plan. Any transport assessments to be submitted for this application will need to take into account the relevant findings of the Local Plan Study to make sure that the application contributes to wider transport improvements that may be necessary to ensure that the impact of the development on the local road network is acceptable in isolation and in combination with other potential development in the area.

As set out in the infrastructure section, the proposal needs to clearly demonstrate how it will contribute to the required infrastructure provision, as a stand-alone scheme and as part of a larger strategic development to ensure that adequate mitigation is delivered.

Sustainability

Government planning policy is to encourage appropriate development in a location that will enable a reduction in the need to travel, particularly by private car and that planning should contribute to reduce emissions and reduce climatic change.

The proposed development is considered to be sustainable due to the proximity to essential facilities, availability and close proximity of public transport. Provision of the local centre and school within the site will also help reduce the use of private cars.

Sustainable Construction

Tackling climatic change is a key government priority for the planning system. Applicants for planning permission should consider how well their proposals for development contribute to the Governments ambition of a low carbon economy and how well adapted they are for expected effects of climatic change. Applicants should consider provision of renewable energy in the form high level insulation, rainwater harvesting a general minimal energy use, including Carbon Dioxide reduction.

Flooding

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The NPPF requires development not to give rise to an unacceptable risk of flooding detrimental to human health or property. There are requirements regarding the submission of a Flood Risk Assessment (FRA) and Sequential test documentation. The relevant requirements for these are dependent upon the designated flood zone that the site is located within. The Environment Agency website details designated flood zones.

As set out in the Scoping Opinion in relation to flood risk, the Environment Agency have advised that a Flood Risk Assessment (FRA) will need to be submitted with any forthcoming application, therefore, this can be submitted as supporting documentation to the application and not part of the ES. The additional guidance given on the content of the FRA should be noted when preparing the document, particularly the need to assess surface water runoff and demonstrate that it can be designed to accommodate greenfield run off rates.

In addition to the comments below, the Strategic Surface Water Management Study findings (Stage 2) identifies key constraints and opportunities for the site, as well as suggested solutions. The application should demonstrate how the proposed SuDs scheme takes the findings and suggested solutions into account and provides any necessary links with solutions for Pagham north.

Foul drainage

As set out in the Scoping Opinion, in relation to foul drainage Southern Water has provided the following comments:

- Due to the size of the development an assessment is required to ascertain an appropriate point of connection to the foul and surface water sewerage network, in order to protect existing premises from the impact of sewage flooding.
- Southern Water's current sewerage/water records show that there is 375 mm foul rising main within the proposed development site. No new development/building works will be permitted to be constructed over or within 4.0, either side of the foul rising main.
- In addition due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer/s now deemed to be public could be crossing the above property.
- Southern Water does not supply water to this area.

Pagham Waste Water Treatment Works serves the Pagham area, and discharges to Pagham Rife, which feeds into the Pagham Harbour SPA/Ramsar site. Therefore the capacity of the Waste Water Treatment Works (WwTW) and whether the proposal can be accommodated will need to be considered in relation to water quality impacts (see NE response in relation to scope of 'Information for HRA').

Due to the linkages with Pagham Harbour SPA/Ramsar and any cumulative impacts from proposed development in the area on the capacity of the WwTW it is considered that foul drainage is within the scope of the ES, to be addressed through a Foul and Surface Water Drainage Statement as a chapter within the ES.

Surface Water Drainage

ADC Drainage Officers have provided advice and notes in relation to the surface water drainage. Any proposed surface water drainage scheme will need to consider the use of sustainable drainage principles (SuDS). Infiltration should be investigated, but if not found to be viable then discharge to a watercourse restricted to greenfield runoff rates may be acceptable. SuDS can be used to mimic natural runoff and reduce pollution. It is not considered that this should be within the ES but the issues within the advice should be addressed through the documentation to be submitted with the planning application.

In addition to the above advice provided for the Scoping Opinion, ADC Drainage Engineers have provided the following advice on surface water drainage:

Any proposed surface water drainage scheme will need to consider the use of sustainable drainage principles (SuDS).

SuDS Selection

The design will need to follow the hierarchy of preference for different types of surface water drainage systems as set out in Approved Document H of the Building Regulations and the Sustainable Urban Drainage System (SUDS) Manual produced by CIRIA. This means that the developer must first consider the discharge of surface water into an infiltration device (eg. soakaway, basin, swale, permeable paving etc) before considering any other method.

Infiltration Drainage Design

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE 365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 30% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design will need to include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. Supplementary guidance notes are also enclosed for information.

Maintenance details for all surface water drainage features will be required, including type and frequency of maintenance and the responsible party. Any ditches or watercourses on site are to retain a three metre easement. All ditches and watercourses on the site to be maintained in accordance with riparian responsibilities.

Listed Building

In considering whether to grant planning permission for development that affects a listed building or its setting, the Council shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The scheme will need to consider and address any impacts on the setting of the listed buildings detailed above.

Protected Trees

Planning policies seek to protect the environment and avoid damage to protected trees. BS 5837 : 2005 sets out standards for 'Trees in Relation to construction - Recommendations'.

ADC's Tree Officer has made the following comments:

Site Visit:

The land which is proposed for development is currently farm fields. There is a linear grouping of mature Poplars of value in the landscape which are located close to Church Barton House but other than this there is nothing along the western red line boundary to the site. There is a significant amount of valuable trees along the eastern boundary to the site abutting Pagham Road - Ash; Field Maple; Sycamore and Oak which are semi-mature to early mature trees arranged in a linear belt at the back edge of the verge alongside the field boundary.

Conclusions :

I would wish to see the above mentioned groupings of trees given adequate consideration and protection during the development process.

Looking at the plans submitted - DLA.1731.L001.03.RevA & DLA.1731.L001.03.RevA & DLA.1731.L001.02.RevA they all seem to show a landscape buffer strip around the boundaries which would see these trees adequately respected and allow for their unhindered future growth and development without them conflicting with development.

Recommendations:

When this application is submitted the applicants employ an arboricultural expert to survey all of the trees and prepare an Arboricultural Impact Assessment and Method Statement Report inclusive of a Tree Constraints Plan and a Tree Protection Plan - based on an accurate Topographical Survey of the site.

Open Space Provision

A well designed scheme is required to incorporate well thought out areas of open space, existing landscape features such as mature trees and hedgerows, appropriate new planting, provision of children's play areas and car parking, and a mechanism for long-term management of the developing landscape. It is vital that the landscape scheme maximises the biodiversity of the site by the inclusion of native species and retention of a variety of habitats.

Comments from ADC's Greenspace Officer in relation to open space:

Public Open Space

"Developments of this scale and proposed dwellings are expected to provide open space on site. The Council's SPG guidelines which apply to developments of houses and are based broadly upon the National Playing Fields Association's (NPFA) "Six Acre Standard". Under superseded Fields in Trust guidelines (FIT) this requires that 3.2 hectares of open space are provided for every 1,000 people i.e. 32 square metres of open space per person. We would require confirmation of the areas of public open space being proposed with this development. As there are potentially 400 dwellings proposed for this site, then provision of LAPs, LEAP, landscaped open space (inc informal rec) as a minimum would be sought on site with the addition of NEAP contribution and formal sport/ Multi-Use Games Area (MUGA) to be confirmed. The detailing of this to be approved by the LPA.

The open space typologies would need to be clearly defined, so as to assess use and provision. A joined up approach across interested parties would ensure the maximum aims and delivery of the provision is met.

A management plan would also be sought for the forward maintenance of the public open space, detailing regime and responsibility. Where there is potential for POS to be taken on by the Local Authority then a commuted sum payment would be required towards the maintenance of these where provided on site. Section 106 monies in addition for infrastructure/leisure provision would need to be concluded. The emergence of the draft Local Plan will provide further guidelines."

Whilst it is noted that the scheme proposes to include a playing field, the cumulative requirement for the Pagham north and this site should be considered to ensure the correct provision in the most appropriate location.

Light Pollution

Planning policies emphasise the need to consider the impact of light on neighbouring uses and wider landscape. Light levels should be the minimum required for security and working purposes, and minimise potential glare and spillage. As this is currently a countryside site and which borders onto other areas of open countryside, you will need to submit a lighting assessment with the application.

ADC's Environmental Health officer has made the following comments:

Any future planning application should need to address the lighting provisions and timings for the recreation area if appropriate and for any sports pitches.

Noise Pollution

Noise and Odour

Local Plan policies and the NPPF emphasise that noise sensitive development will not be permitted if its users would be affected by proposed noise generating uses. You should have regard to this in terms of the potential relationship between residential dwellings and the potential local shopping centre.

As set out in the Scoping Opinion, Natural England has advised that noise disturbance caused during the construction can be ruled out as not having an impact on Pagham Harbour SPA or the Solent to Dorset SPA.

As set out in the Scoping Opinion, Environmental Health have commented that an assessment of the potential noise impacts from existing noise sources on future residents would need to be assessed, taking into account road noise and other noise sources. They have also raised the need for noise and dust during the construction phase to be controlled through a Construction Management Plan.

Based on this information it is not considered necessary to include the required information as a separate chapter within the ES, but any cumulative impacts in relation to noise, vibration, air quality and dust from this proposal when combined with other proposed or planned development within the area should be covered in the cumulative impacts section of the ES.

Environmental Health have also made the following comments in relation to the pre-application advice:

"Environmental Health would not have any objections to this application. However we would ask that in any future planning application the applicant address the following points:

1. Assessment of any noise which may impact future residents - in particular the residential units above the retail outlets (deliveries/type of retail outlet/hours of operation etc), but also including any times of use of the proposed recreation area.
2. Assessment of whether the sewage works to the north-west of the site are likely to have any impact on the development in terms of odour.
3. Information regarding the noise levels which will be achieved within the dwellings - with reference to BS8233:2014.
4. Consideration of the Primary School and it's outside space with reference to proximity of outside play areas (and noise) to residential units."

Contamination

National planning policy emphasises that development on or close proximity to hazardous sites or contaminated land will be permitted provided the Council is satisfied that appropriate remedial measures can be or have been undertaken in respect of human health and groundwater.

ADC's Environmental Health Officer (Pollution) has made the following comments:

The majority of the site is greenfield and is unlikely to contain potential sources of contamination. However, in areas in the north of the site there is the potential for contamination. Meadowsweet engineering works exists adjacent to some of the proposed housing and the residential development of Brooks End required hydrocarbon contamination to be remediated it was formerly a garage. This may have caused contamination to move offsite.

Infrastructure Provision

The Council will seek fair and reasonable contributions to be made by the landowners or developers towards the cost of infrastructure, service or amenity provision, to meet the needs of the occupiers or users of the development. This proposal would generate a requirement in the form of infrastructure provision for County education services, social services, fire service and public open space provision. Details of the required County service provision can be found on the West Sussex County website.

On schemes of 10 or more dwellings, the Council will consult with West Sussex County Council to establish whether there are any infrastructure requirements. Typically this takes the form of contributions to be provided through a Section 106 legal agreement relating to education, childcare, fire & rescue and libraries.

I am unable to clarify the likely contributions with you at this time as I am unable to consult with West Sussex on a pre-application enquiry. However, you may wish to contact them direct. The information below gives an indication of emerging requirements for infrastructure based on a scenario of 600 dwellings at 'Pagham South'.

Primary care:

The current Infrastructure Delivery Plan (IDP) for the emerging Local Plan states that based on 600 dwellings the West Mead surgery would be put at a critical point and potentially compromise care in the area. Short term re-structuring of sites and services in the area is part of on-going planning, but this site is a step change to working baseline. Bognor Health Centre re-provision may part solve this, but current infrastructure will need upgrading and expanding.

Education:

The IDP recognises that the Rose Green primary school which currently is at capacity and oversubscribed. Development in this area would require a 1 FE primary school expandable to 2FE and the cumulative impact on the secondary school could result in the need for a 1FE expansion.

Libraries:

The area is currently served by a mobile library, but the level of development in this area would require a Tier 7 facility.

Consideration should also be given to the need for indoor sport / community centre provision in relation to this site and this should be within the same building.

Work on infrastructure requirements for strategic sites is currently still being finalised for the modifications to the Local Plan, therefore, the requirements above are subject to change and the latest information should be referred to when the application is submitted. As set out in the transport section, the proposal needs to clearly demonstrate how it will contribute to the required infrastructure provision, as a stand-alone scheme and in conjunction with other potential strategic sites in the area, specifically sites known collectively as 'Pagham North'.

Biodiversity

Planning policies indicate that developments should aim to maintain and enhance, restore or add to biodiversity and geological resources of the area. An ecological report will need to be submitted setting out the biodiversity present, how biodiversity impacts can be avoided, appropriate mitigation measures and if necessary, compensation measures in the absence of mitigation and how biodiversity gains can be made. All ecological surveys need to be undertaken by a suitably qualified ecologist and at the right time of year and for the right duration.

The following information is set out in the Scoping Opinion but set out here for completeness:

In relation to biodiversity, the Environment Agency has provided the following comments:

- It should be noted that the Environment Agency would require full updated ecological surveys for protected species for the site.
- These should include particular focus on water voles which are known to have strong populations locally, and should include other likely present species at this location such as reptiles, bats, badgers etc.
- Fragmentation and isolation of habitats within the development site should be avoided. Connectivity through and around the site is particularly key in this area, being situated adjacent to a site recognised for its nature conservation importance. (Pagham Harbour SSSI)
- Proposals for habitat enhancements and habitat creation are encouraged in the development plans, including the retention and enhancement of existing wetland features.

Natural England (NE) has advised the application should thoroughly assess the potential for the proposal to affect designated nature conservation sites. The development site is in close proximity to the Pagham Harbour Special Protection Area (SPA) and Ramsar Site and the Solent to Dorset Coast SPA.

Whilst the proposal is not directly connected with, or necessary to, the management of a European site, there are potential pathways for the proposal to impact on the Pagham Harbour SPA/Ramsar, and hence, unless mitigation measures are included, there is the potential for a likely significant impact on the designated sites.

NE therefore recommends that the application should include a report to address impacts upon the Pagham Harbour SPA/Ramsar entitled 'Information for Habitats Regulations Assessment' either as a chapter in an ES or as a stand alone document. The information to be covered by this document is set out in full in the NE advice and should be referred to when compiling this chapter.

NE has also recommended that as Pagham Harbour is also a designated SSSI and Marine Conservation Zone (MCZ), consideration of the impacts on the bird interest features of the SSSI, and any mitigation, if necessary, in addition to that mentioned above for internationally designated sites, should be included in any Environmental Assessment for this proposal.

In relation to the MCZ, NE advise that provided any potential water quality impacts relating to Pagham Waste Water Treatment Works (WWTW) can be addressed, the MCZ is unlikely to be affected by the proposal.

NE advice on protected species recommends that the area likely to be affected by the proposal should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES. The NE advice also covers habitats and species of principal importance and contacts for local records.

ADC Ecologist has provided the following advice which relates to the Scoping Opinion and pre-

application advice:

"We would expect the EIA for the site to not only look at the onsite ecological impacts that the proposed development but also any off site impacts and how the site sits within the wider landscape where possible the loss of habitat and habitat connectivity should be avoided or at least compensated for. Having a connected network of streams, ponds ditches and hedgerows through the site with linear connectivity to similar offsite habitats. An additional benefit of these habitats is that they also act as SUDS providing drainage. We would also expect an invasive species surveys to be undertaken, this may lead on further mitigation measures needing to be implemented. One off site enhancement that could be applicable would be to look at installing a sand martin barrel at the RSPB site at Pagham Harbour.

Both the construction phase and ongoing impacts should be considered and mitigated for when appropriate. Potential sustainability issues should be included along possible mitigation measures to alleviate not just the site overall but also at the scale of unit by unit basis e.g. water butts and composting units. Where possible amphibian Tunnels (or similar construct), and other Road tunnels for wildlife (supporting evidence) should be used where applicable to increase habitat connectivity for vertebrates.

The proposed development is also within the SPA zone of influence for Pagham harbour SPA zone of influence, with any net increase in the number of dwellings resulting in a payment needing to be paid the Pagham harbour disturbance mitigation scheme. As part of the EIA for the site we require an extended phase one habitat survey to be undertaken, with the following surveys needing to be undertaken or at least a rational of why they are not needed (these will be scrutinised) watervole surveys, National vegetation classification (NVC) survey, hedgerow survey, barn owl survey, great crested newt surveys, reptile surveys, breeding bird surveys, static and transect bat surveys roosts and commuting routes, aquatic and terrestrial invertebrate surveys (where appropriate), this is not an exhaustive list depending on the results of the results of the extended phase one habitat further types of species surveys maybe required.

Clearance of suitable nesting bird habitat (i.e. removal of trees, hedging, dense shrubs and dismantling / demolition of any building) should ideally be undertaken outside the breeding bird season, i.e. should be undertaken in the period September to February inclusive. Should it prove necessary to clear bird nesting habitat during the bird nesting season, then a pre-works check for nesting birds should be undertaken, by a CIEEM ecologist (with 24 hours of any works). If any active nests are found, activities (e.g. tree felling / vegetation clearance / building dismantling / demolition) should cease and an appropriate buffer zone should be established. This buffer zone should be left intact until it has been confirmed that the young have fledged and the nest is no longer in use.

We would like to see the placement of 50 nesting opportunities for birds (species such as swallows, swifts and housemartins). Along with 10 bat roosting structures being made integral to the building(s), this should include at least 2 structures applicable to void flying species of bat (e.g. Long eared and Horseshoe species). Appropriate designs can be found in the publication "Designing for Biodiversity: A technical guide for new and existing buildings". We would prefer these nesting and roosting structures to be integral to the building.

Ecological advice should be sort in when deciding where and which of these structures should be placed for maximum effectiveness, because thermal tolerances of each species are very important.

Lighting will need to be kept to a minimum, as lighting levels have a effects on nocturnal species such as bats, flying invertebrates and various mammal species.

We ask that applicants/consultants please share their survey results with Sussex biodiversity

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records centre."

Please also note the section on the Council's website entitled "Planning Obligations" (specifically the "Contribution for Access Management at Pagham Harbour" section): <http://www.arun.gov.uk/planning-obligations>.

This sets out a financial contribution of £1,275 per residential unit in respect of Pagham Harbour strategic access management measures for sites within the defined Zone B (400m-5km of the SSSI). Part of the site is also within Zone A. It is considered that this contribution represents the minimum requirement of Policy ENV DM2 of the Emerging Local Plan which could be included as part of a package of mitigation measures.

Crime

Planning policies encourage quality design, layout, landscaping and lighting of new development to help reduce the risk of crime. Please have regard to the need to design out crime when preparing your application submission. We will consult with Sussex Police on any planning application for this site.

Loss Of Agricultural Land

The presence of best and most versatile land (defined as land in grades 1,2 and 3a of the Agricultural Land Classification), should be taken into account alongside other sustainability considerations when determining planning applications.

As set out in the Scoping Opinion, the site contains grade 2 agricultural land, and this chapter of the ES should consider the impacts of the proposal on the protection of best and most versatile agricultural land (as set out in paragraph 112 of the NPPF). It should also consider the ecosystem services that the natural environment provides and how this will be enhanced in accordance with paragraph 109 of the NPPF.

There is no current Local Plan policy referring to the protection of agricultural land. Instead, we would refer to Emerging Local Plan policy SO DM1.

Landscape

Planning policies emphasise that the conservation of the natural beauty of the landscape and countryside should be given great weight in development control decisions.

Comments from ADC's Greenspace Officer:

The siting of this proposed development must be in consideration of its proximity to Pagham Harbour SSSI and LNR also to the far reaching views from the SDNP (South Downs National Park) rising to the north. It must also consider the siting in proximity to the properties bordering to the north, east and south/east of the proposal.

The proposed site has been identified to have medium capacity for housing development and an EIA being required. In order to clearly assess the cumulative impact of the development then a LVIA with Landscape strategy information would need to be submitted to provide details of the proposed landscaping including proposals for the long term maintenance and management. Local landscape character areas should be mapped at a scale appropriate to the development site along with any management plans or strategies pertaining to the area. The EIA should include seasonal variations with both summer and winter photographs within the visual assessment from the main locations identified.

The EIA should detail the measures to ensure the building design will be of a high standard, detail of layout options and justification of the selected option regarding landscape impact and benefit.

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Liaison with Natural England may be beneficial in the identification of issues in relation to the nearby Pagham Harbour Site. Consideration must be given to the landscape impact of any raised features across the floodplain area.

Landscape/Tree protection

The application site sits within an open rural fringe which has far reaching views. Consideration must be given to the retention of any existing vegetation to the periphery and to be mindful of any construction or site trafficking which may affect existing and neighbouring vegetation which would need to be protected. Any tree works to the site to be in agreement with Arun District Councils tree officer. Root protection Areas (RPA) should extend into the development site and to those in neighbouring land. Before construction, a tree protection scheme must be in place for any retained trees including trees whose root protection areas fall within the construction zone from neighbouring land. This should be in accordance with BS 5837:2012 'Trees in relation to construction' Any removed trees should be mitigated for allowing for inclusion of native species for biodiversity purposes and fitting to the semi-rural setting. A Tree and Hedgerow survey, Arboricultural Impact Statement and detailed tree survey information should also include an assessment of existing hedgerows in respect of whether they are 'important' and of ecological value.

Forming part of the application a full landscape scheme should be submitted for approval, detailing species choice, position, densities and size at time of planting. This should be plotted in plan and list form and in relation to the trees and vegetation to be retained in the locale, so that a clear picture of the proposals can be seen. These details are required to assure the adjacent land setting is maintained, the setting is uncompromised and the proposals are appropriate within the proposed setting.

This development sits in an open site where important field boundaries would need to be maintained, enhanced and improved. Long term management of the developing landscape would need to be considered. The landscape scheme should maximise the biodiversity of the site with the inclusion of native species and the retention of a variety of habitats. An ecological report detailing biodiversity, habitat and tree survey should be included within the planning application.

As set out in the Scoping Opinion the extent of the impact on the landscape will depend on an assessment of the sensitivity and capacity of the landscape to accommodate large scale development. The site lies within the Manhood Peninsula Landscape Character Area (West Sussex Landscape Character Assessment). The landscape is mainly open and flat and therefore is sensitive to development on the edges of existing settlements. The location has been identified as having a 'medium' capacity for housing development. ADC Landscape Officers have advised that a Landscape and Visual Impact Assessment should be included within the ES to assess the cumulative impact of the development.

Details regarding local landscape character areas should be mapped at a scale appropriate to the development site and any relevant management plans or strategies pertaining to the area. The ES should include assessments of visual effects on the surrounding area and landscape together with any physical effects on the development, such as changes in topography and a full assessment of the potential impacts of the development on local landscape character using landscape assessment methodologies.

The ES should include details of both summer and winter photographs within the visual assessment from the main points that have been identified, additional locations/sites which may be visible from Pagham Harbour and PROWs should be included

The ES should detail the measures to be taken to ensure the building design will be of high standard, as well as detail of layout alternatives together with justification of the selected option in

terms of landscape impact and benefit.

Green Infrastructure strategies should be included for both within the site and to encourage access to the countryside.

Consideration must be given to the landscape impact of any raised features across the floodplain area. A Tree and Hedgerow Survey and Arboricultural Impact Statement should also include an assessment of existing hedgerows in respect on whether they are 'important' or of ecological value.

Archaeology

Archaeological remains are a fragile and finite resource. The Council has set out in detail policy within a Supplementary Planning Guidance "Archaeology" adopted September 2003 which is available on the Council's website. Permission will not be granted for development that would be harmful to the significant archaeological interest of the site.

The site is within an Amber Archaeological Notification Area therefore a Historic Environment Record search will need to be undertaken and the heritage assets assessed using appropriate expertise. Where development is proposed on a site which has the potential to include heritage assets with archaeological interest (having consulted the HER) an archaeological assessment must accompany planning applications that are submitted. Unless the HER search reveals significant archaeological interest, this should be scoped out of the ES. We would consult with CDC Archaeology regarding this proposal and it may be necessary to impose an archaeological watching brief condition.

Bin Storage

The following is provided for your information:

For all new residential development including flat conversions, the applicant must show bin storage/collection provision as follows:-

Each unit should be provided with the equivalent of 240 litres of residual waste storage/bins. For flats, the communal/bulk bins can be used on the basis of 240 litres of residual waste storage/bin per flat. Alternatively one 240 litre wheelie bin for each property can be provided.

The same amount of storage space/bins for recyclable materials is required to be provided.

Where bin stores are adjacent to the access road serving the development or across a parking area there will need to be a road up to full highway standards and an indemnity provided for the Council's contractors to pass across servicing. The access of this type provided must be accessible/passable for collection schedules i.e. no parking or other obstruction.

The maximum pulling distances allowed under Health and Safety legislation are 10 metres 1100 litre bins and 50 meters for 240 litre bins.

It is recommended that if any communal provision is located near or adjacent to the highway, it will be suitably enclosed and landscaped so that the maximum pulling distances and vehicle access requirements are complied with.

It should also be noted that Emerging Local Plan Policy D DM3 states that "External areas also need to include adequate space for recyclable and non-recyclable waste storage".

Suggested External Consultees:

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Conclusion

In summary, there is a lack of an adequate housing land supply in Arun District. The site is outside the settlement boundary and within the strategic gap, but adjoining existing development to the east. However, the site is considered suitable in principle for the proposed development of housing, school and community facilities, because of its accessibility to facilities, job opportunities and public transport. Therefore, subject to the satisfactory resolution of the issues referred above, as well as any issues that may be raised through pre-application discussions with the Local Highway Authority or any other consultee, it is our opinion that if an application were to be submitted for up to 400 dwellings, local centre and school, it would be likely to be approved in principle.

However, ADC would also need to be assured that a co-ordinated approach has been taken to the mitigation of impacts and provision of infrastructure between this site and 'Pagham North'. Without this assurance, it will prove difficult to support. An updated Masterplan and clear phasing plan, showing how early delivery of this site has been considered in relation to Pagham North, including infrastructure delivery and phasing, would assist. Collaboration between the parties involved is necessary to demonstrate that the sites can work together.

All of the above references to the emerging Local Plan policies are subject to change as emerging evidence is finalised and incorporated into the modifications. There is a risk that standards and requirements will be amended over the next few months. A delay in submission until the modifications to the Local Plan will go before Council to be agreed, would enable the application to fully reflect the most up to date evidence and policy direction. It would also enable clarity on the infrastructure requirements that go alongside each potential strategic site.

Follow Up Meeting

If you require a follow up meeting to discuss this pre-application and advice, you will need to forward a written request together with a fee for £200 made payable to Arun District Council.

Making an Application

If you decide to proceed with making an application you will need to quote the reference number for this advice in the pre-application advice section of the relevant application form. This will ensure that the application receives priority and a speedy validation process.

You will also need to submit the following documentation/information:

Fully completed and signed Application Form with full description of the proposal.
Ownership Certificate and Agricultural Land Declaration
Design and Access Statement
Correct Fee
Location Plan (1:1250)
Site / Block Plan (1:500)
Elevations (Existing and Proposed)
Floor Plans (Existing and Proposed)
Roof Plans
Environmental Statement

Additionally the following documents will need to be provided:

Please note that the Council has a Local Validation Requirements List and you should refer to it before submitting your application. Failure to provide the required documentation and to complete the Validation Checklist and the Biodiversity Checklist will result in the application

being treated as incomplete and delay the validation of the planning application.

Having looked through the Local Validation Requirements List, I would suggest that the following additional documents will be required:

- Affordable Housing Agreement
- Affordable Housing Statement
- Biodiversity Survey and Report
- Land Contamination Assessment
- Economic Development Statement
- Flood Risk Assessment
- Foul and Surface Water Drainage Statement
- Land Engineering Works Statement
- Landscaping Visual Impact Assessment and Strategy
- Lighting Assessment
- Noise/ Extraction Statement
- Bin Storage and Collection Provision
- Parking Plan
- Planning Application Summary
- Masterplan/ Framework/ Design Codes
- Transport Assessment/ Travel Plan
- Transport Statement
- Tree Survey and Arboricultural Report
- Historic Environment Record Search
- Pagham Harbour Access Management Contribution Legal Agreement
- Heritage Statement

You should be aware that any advice given by the Council in relation to pre-application advice will be based on the case Officer's professional judgement and will not constitute a formal response or decision of the Council with regard to any future planning applications. Any views or opinions expressed are given without prejudice to the consideration by the Council of any formal planning application which will be subject to wider consultation and publicity. Although the case officer may indicate the likely outcome of a formal planning application, no guarantees can or will be given about the decision that will be made on any such application. Any further correspondence will be at the Case Officer's discretion depending on the nature of the further enquiry. It may be necessary to submit a further pre-application advice request. Please note this advice only relates to planning and does not relate to any other legislation which may or may not apply such as Building Regulations. You will need to carry out your own checks to determine whether any other consents or permissions are required.

I trust this is of assistance to you.

Yours sincerely



Karl Roberts
Director Planning & Economic Regeneration

Appendix 3

Appeal at Land to the rear of Cheerbrook Road,
Willaston, Cheshire

Appeal Decision

Inquiry held on 12-14 July 2016

Site visit made on 14 July 2016

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 7 September 2016

Appeal Ref: APP/R0660/W/15/3136431

Land to the rear of Cheerbrook Road, Willaston, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wainhomes (North West) Ltd against the decision of Cheshire East Council.
 - The application Ref 14/5825N, dated 19 December 2014, was refused by notice dated 16 April 2015.
 - The development proposed is a residential development of up to 120 dwellings with access and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of up to 100 dwellings with access and associated works at Land to the rear of Cheerbrook Road, Willaston, Cheshire in accordance with the terms of the application, Ref 14/5825N, dated 19 December 2014, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The description above is taken from the application form, however, during the course of the application the number of dwellings was amended to 100 dwellings, and I have considered the proposal accordingly.
3. The proposal is an outline application with all matters, except the access, reserved for subsequent approval. The appellant submitted a plan showing how the development might be accommodated, but the plan is for illustrative purposes only and there could be alternative layouts for the site. It nevertheless provides a useful guide when considering the proposal before me.
4. The third reason for refusal related to the failure of the Transport Assessment to take account of other committed development within the area. This matter was addressed by way of *Technical Note 1: Highway Matters* (TN1), dated March 2016. On the basis of this additional information and the highway works specified within it, the Council is satisfied that the proposal would not have an adverse impact on the highway network. Notwithstanding this, some local residents remain concerned about the highway implications of the proposal, and I address these concerns below.

5. The appellant submitted an agreement under S106 of the Act. This covenants to provide affordable housing, public open space, a management plan, a bus pass contribution, and an education contribution.

Main Issues

6. I consider the main issues to be the effect of the proposal on:
 - The objectives of the Green Gap and the visual character of the landscape;
 - The supply of the Best and Most Versatile Agricultural Land; and
 - Whether having regard to the housing land supply position and all other relevant considerations, the proposal would be sustainable development.

Reasons

7. The appeal site is an agricultural field about 4.4 hectares in area. It is situated outside, but adjacent to the settlement boundary for Willaston. There are number of trees and hedgerows to the boundary of the site. Four of these trees are safeguarded by a Tree Preservation Order (TPO).
8. The land immediately to the south of the site is in the appellant's ownership and is currently being developed for residential purposes. The appeal scheme would use the recently constructed access with Cheerbrook Road. The site is bound by the railway line to the north, Lettie Spenser Playing Fields to the east, and the residential properties of the Fields. The land to the west of the site is in agricultural use. The western boundary of the site would broadly align with the western boundary of the dwellings at Beech Tree Close and would largely infill the part of Willaston that extends between Park Road and Cheerbrook Road.

Development Plan

9. The development plan is the *Crewe and Nantwich Replacement Local Plan 2011* (adopted 2005). This provides the development strategy for the area for the period up to 2011. A number of policies, including those relevant to this appeal, were formally saved by virtue of a direction from the Secretary of State. Paragraph 215 of the National Planning Policy Framework (NPPF) provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
10. The Cheshire East Local Plan Strategy was submitted for examination in May 2014. The examining inspector issued interim views in November 2014 and December 2015. Following public consultation on revisions to the submission version of the plan, further hearings are scheduled for September 2016. On the basis of the submitted evidence it is unclear whether there remain unresolved objections to the plan, and having regard to the stage it has reached I afford it limited weight.
11. The parties agree that the Council cannot demonstrate a five year supply of housing land and therefore, in accordance with paragraph 49 of the NPPF, the policies for the supply of housing should not be considered up to date. In the

light of the Richborough Judgement¹ the parties agree that policies NE.4, NE.2, and NE.12 are policies for the supply of housing. Accordingly the weight to be afforded to these policies is reduced.

Green Gap

12. The appeal site lies within the Nantwich/Willaston Green Gap as defined by policy NE.4 of the Local Plan. It is adjoined on three sides by the settlement boundary. Policy NE.4 states that new buildings will not be permitted in the Green Gaps where they would result in the erosion of the physical gap between built up areas, or adversely affect the visual character of the landscape. The aim of the policy is to maintain the definition and separation between existing communities and to prevent the settlements of Crewe, Willaston, Wistaston, Nantwich, Haslington and Shavington from merging. Exceptions to the policy will only be considered where it can be demonstrated that no suitable alternative location is available.
13. The Green Gap varies in width from 1380 metres (where the appeal site is located) to 458 metres at its narrowest point. The appeal proposal would reduce the width of the gap by about 270 metres and would therefore erode the gap contrary to policy NE.4. Notwithstanding this, Willaston and Nantwich would still be separated by a distance of about 1110 metres and would remain physically separate. The extent of the separation would remain greater than is evident in other many other parts of the gap and there would be no inter-visibility between the settlements.
14. The Council state that the Green Gap is essential in order to maintain the separate identity of Nantwich, a historic market town and Willaston, a satellite of Crewe with its own sense of local identity. This aim is consistent with paragraph 17 of the NPPF in so far as it seeks to take account of the different roles and character of different areas and the social role of sustainability, which includes supporting strong, vibrant and healthy communities.
15. Whilst the purpose of the Green Gap could be considered to be consistent with the NPPF, the boundaries on which policy NE.4 relies were established by the Local Plan and sought to provide sufficient land for 7,600 dwellings for the period up to 2011 and were not intended to meet the housing needs of Crewe and Nantwich beyond that period. The emerging plan seeks to deliver at least 36,000 dwellings over the plan period, albeit over a larger geographical area than the Local Plan. The boundaries on which policy NE.4 is predicated were fixed having regard to the need to accommodate the development planned for in the Local Plan and therefore are inextricably linked with the housing requirements within it. As a consequence, housing land outside of the built-up area boundaries will inevitably be required to meet the post-2011 housing needs. Accordingly the boundaries on which policy NE.4 relies are time expired and policy NE.4 is out of date on its own terms. It also conflicts with the Framework's determination to meet development needs and significantly boost the supply of housing. I therefore afford limited weight to the Green Gap boundaries as defined by policy NE.4.
16. I am aware that policy PG 5 of the emerging plan includes the retention of gaps between settlements in order to maintain the definition and separation of

¹ Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG / Richborough Estates Partnership LLP v Cheshire East BC & SSCLG [2016] EWCA Civ 168

existing communities and the individual character of such settlements. The supporting text explains that the spatial extent of the open countryside, which includes the Green Gaps is as defined by the saved policies of the Local Plan until detailed boundaries are established through the Cheshire East Local Plan. Whether this approach is found sound will be a matter for the examining inspector and will be assessed in the context of the available housing land supply. However at the present time, the Council accepts that it does not have a five year supply of housing land and that there has been a considerable shortfall in housing delivery in recent years. Therefore whilst I accept that the aims of policy NE.4 are not inconsistent with the NPPF, the boundaries on which it relies restrict the supply of housing and conflict with the NPPF.

17. I acknowledge that in the case of the Park Road appeal² it was found that the development of that site, which lies to the north west of the appeal site, would contribute to a perceived narrowing of the Green Gap. However, the current proposal would not have a similar effect due to the considerably greater width of the gap at this point and its greater distance from FP10 and the A51.
18. I have some sympathy for the Council's view that the cumulative nibbling away of the gap could eventually negate its purpose, particularly in the light of the development pressure in this part of the borough. Nonetheless, although the proposal would erode the gap between the built up areas of Nantwich and Willaston, contrary to policy NE.4, given the extent of the separation within this part of the Green Gap, I am satisfied the proposal would not materially compromise the purpose of the gap.
19. The second criterion of policy NE.4 resists proposals that would adversely affect the visual character of the landscape. Whilst the proposed development would be noticeable in private views from the rear of properties adjoining the site, the parties agree that the most significant public views are those from the Lettie Spenser Playing Fields and from Footpath FP10 which is situated to the west of the appeal site and separated from it by a distance of about 300 metres.
20. Views of the proposed development from the adjacent playing fields would be limited to some extent by the existing hedgerow, which it is intended to retain. Although there are a number of gaps in the hedgerow, supplementary planting would enhance the screening currently provided by the hedge. The illustrative layout indicates an area of public open space adjacent to the boundary with the playing field, which together with additional boundary planting would provide a buffer between the proposed dwellings and the playing field. Although those using the playing field would be aware of the proposed dwellings on the appeal site, much of the playing field is adjoined by residential development or the railway line. Therefore whilst there would be a noticeable change in the character and appearance of the appeal site, having regard to the surrounding residential development, including that to the north of the railway line, and the relatively contained nature of the appeal site, I consider that the proposal would not significantly harm the visual character of the landscape when viewed from the playing fields.
21. Views from footpath FP10, which runs close to the A51 would be filtered by some of the existing trees. The proposal includes a 10 metre deep landscape buffer along the western boundary which would filter the views of the proposed

² APP/R0660/W/15/3011872

housing. The proposed development would be noticeable in distant views from FP 10. Such views would be confined to a short section of the footpath. Although the dwellings may be discernible in such views, in the context of the existing built development and the proposed landscaped buffer, they would not significantly reduce the perceived extent of the gap. Pedestrians using the footpath would not perceive any significant reduction in the extent of the Green Gap.

22. Due to the boundary hedgerow, and its distance from the appeal site, views from the A51 would be both fleeting and glimpsed. The current lack of inter-visibility between Nantwich and Willaston would be maintained. Overall, I conclude that whilst the proposal would erode the Green Gap, it would nevertheless comply with the objectives of policy NE.4 and would not significantly harm the visual character of the landscape.
23. The site also lies within the open countryside where Local Plan policy NE.2 restricts development to that which is essential for agriculture, forestry, outdoor recreation and other specified development. The appellant does not dispute that the appeal proposal falls outside of these exceptions.
24. In so far as it seeks to protect the character and amenity of the countryside, policy NE.2 could be considered to be consistent with the NPPF, one of the core principles of which is to safeguard the intrinsic character and beauty of the countryside. However the NPPF does not seek to protect all countryside from development but focuses on valued and distinctive landscapes, therefore policy NE.2 is more restrictive than the NPPF. In addition, for the reasons given above, the boundaries on which it relies cannot be considered to be up to date. As such the weight to be afforded to policy NE.2 is significantly reduced.

Agricultural Land

25. The appeal site comprises Grade 2 agricultural land. Policy NE.12 seeks to protect the Best and Most Versatile (BMV) agricultural land and states that the development of such land will not be permitted other than in certain circumstances.
26. The NPPF provides that the economic and other benefits of BMV land should be taken into account and that areas of poorer quality land should be used in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary.
27. The loss of BMV land is undesirable and unsustainable in that it is a finite resource. Nevertheless, the loss would be relatively small, and the Council acknowledges that much of the land within the borough is of similar quality and that some of it will be required to meet housing needs. At the inquiry the Council conceded that whilst the loss of BMV land weighs against the proposal, it is not a determinative factor in this appeal. I share this view.

Sustainable Development

28. Sustainable development is at the heart of the NPPF. There is no specific definition of sustainable development in the NPPF, but the Ministerial Foreword to the NPPF states that it is about positive growth – making economic, environmental and social progress for this and future generations.

29. Economically, the development would bring short-term advantages in respect of jobs during the construction period. In the longer term it would increase household spending within the borough. It would also support economic growth through the provision of housing and the creation of jobs in local services to meet the additional demands arising from the development. The proposal would also add to the number of economically active residents within Cheshire East.
30. The environmental role contributes to protecting and enhancing the natural, built and historic environment. A Tree Preservation Order covers part of the site. These trees will all remain as part of the development scheme. The proposal would however, result in the loss of BMV agricultural land and would erode the Green Gap to a limited extent.
31. The appeal site is accessible to local shops and services, including schools. Therefore having regard to public transport services in the area, including Nantwich Station, I conclude that the appeal site occupies an accessible location.
32. Some local residents remain concerned that the proposal would unacceptably add to the traffic using Cheerbrook Road and could potentially be a safety risk to children walking to school. It was also suggested that the sight lines at the entrance to the site were incorrectly drawn and therefore visibility at the entrance to the site would be inadequate.
33. The additional information provided by the appellant proposes improvements to the Crewe Road/A51 Nantwich Bypass/Park Road roundabout (the Peacock roundabout). The Council consider that this roundabout currently operates beyond capacity and that the proposal would add to the delay. It is satisfied that the measures proposed by the appellant would mitigate the effect of the proposal on the roundabout. TN1 also noted that there would be an additional delay at the Crewe Road/Willaston Road junction during the morning peak hour, however the extent of the additional delay was considered to be within acceptable limits. Subject to the improvements at Peacock roundabout the Highway Authority does not object to the proposal. On the basis of the available evidence I have no reason to reach a different conclusion.
34. The appeal proposal would use the recently constructed access to the adjacent development. The sight lines in respect of this access have previously been approved by the Highway Authority. The appellant explained that the correct position for the sightlines was dependant on the position of the 'give way' marking. The access had been designed to achieve the maximum visibility possible (2.4 m x 60 m), but, regardless of its position, it would nonetheless achieve a minimum visibility of 40 metres. This evidence was not disputed by the Council or the Highway Authority. On the basis of the available evidence I am satisfied that the proposal would make satisfactory provision for safe access to the proposal.
35. The *TN2: Public Transport* update submitted by the appellant provides details of bus routes within the locality and the distance of the appeal site from the various bus stops. It indicates that there are 5 bus stops within 10 minutes walking distance of the site. These routes provide services between Willaston and Crewe, Nantwich and Chester. The walking distances have been calculated from the closest part of the site, nevertheless I consider that even those areas furthest from the bus stop would still be within acceptable walking distance.

Moreover, the S106 includes the provision of public transport vouchers for each dwelling, in the form of three x 4 weekly travel cards. These vouchers would encourage future occupants to use public transport. In addition, the appellant's adjacent development included a financial contribution towards the provision of cycle ways/footways, street lighting and bus shelters. These measures will improve the pedestrian environment. Therefore although the appeal proposal would be likely to involve a degree of reliance on the use of a car, there are alternative modes of transport available to residents and taking account of the proximity of employment opportunities in Crewe and Nantwich journeys by car would not necessarily be lengthy.

36. The Council acknowledges that it does not have a 5 year housing land supply. At the present time there is a housing requirement of 1,800 dwellings per annum (dpa) and an existing shortfall of 5,089 dwellings. The Council's preferred approach is to spread the shortfall over the first eight years of the emerging plan which it describes as the Sedgepool Approach. On this basis, including the 20% buffer required by the NPPF due to persistent under-delivery, there would be an annual housing requirement for 2,923 dpa. If the shortfall were to be made up in the first five years of the plan period the requirement would increase to 3,381 dpa.
37. Regardless of the approach adopted it is clear that there is a long standing and pressing need for additional dwellings within Cheshire East. The appeal proposal would make a significant contribution towards meeting this need and would also provide up to 30 affordable dwellings. It would broaden the range and tenure of dwellings available within Cheshire East and assist with meeting the need for affordable housing. It would therefore contribute to the social role of sustainability by providing the supply of housing required to meet the needs of present and future generations.
38. I conclude that looked at in the round, the proposal would be economically, environmentally and socially sustainable.

Other Matters

39. The local community is currently preparing a Neighbourhood Plan. However this is at a very early stage of preparation and therefore I am unable to afford it any weight.
40. The Agreement under S106 provides for 30% of the dwellings to be affordable. This would be consistent with the aims of the Local Plan and would help to meet the considerable need for affordable housing within Cheshire East. It would also be consistent with paragraph 50 of the NPPF which seeks to deliver a wide choice of high quality homes and create sustainable, inclusive and mixed communities.
41. The provision of a play area, an area of public open space and arrangements for its future management is consistent with policy RT.3 and is necessary to help meet the recreational needs arising from future residents. The educational needs contribution is required to meet any Special Educational Needs(SEN) of children residing within the scheme. There is an existing shortfall of SEN places and the proposed development would add to this shortfall. The contribution would be used to provide additional or alternative accommodation at one of the SEN schools within Cheshire East. The contribution has been calculated in a formula based on the anticipated SEN

needs arising from the scheme and the cost of providing the required number of places. The contribution towards bus passes is consistent with the aim of Local Plan policy TRAN.1 which seeks to increase the use of public transport and will also assist with mitigating the impact of the proposal on the local highway network.

42. In each case I am satisfied that the obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to it. They would therefore comply with the tests within the NPPF and the Community Infrastructure Levy (CIL) Regulations 122 and 123(3) and I have taken them into account in reaching my decision.

Overall Planning Balance

43. Paragraph 14 of the NPPF states that where the development plan is absent, silent, or the relevant policies are out of date, permission should be granted for development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole, or specific policies within it indicate that development should be restricted.
44. For the reasons given above the policies for the supply of housing, namely NE.2, NE.4 and NE.12 are out of date, both on their own terms and because the Council cannot demonstrate a five year supply of housing land. There would be some harm arising from the encroachment of the development on the Green Gap and the countryside, contrary to policies NE.4 and NE.2. However, for the reasons given above, in the particular circumstances of this appeal the proposal would not compromise the purposes of the Green Gap or materially harm to the character and appearance of the countryside. There would also be some environmental harm arising from the loss of BMV land. Balanced against this, the proposal would be sustainable development and would deliver a number of significant benefits, including the provision of affordable and market housing.
45. I acknowledge that the Council is taking steps to address the housing land supply situation, these include the possibility of releasing Green Belt land in the north of the District. Nevertheless, at the present time the existing shortfall is substantial and there is an urgent and pressing need for additional homes. I therefore conclude that any adverse impacts of the proposal do not significantly and demonstrably outweigh benefits, when assessed against the policies within the Framework as a whole.
46. Although I have found that the proposal conflicts with the development plan, the material considerations in respect of this appeal, including the NPPF, the lack of a five year housing land supply and the fact that the development plan is out of date taken together warrant a decision other than in accordance with the Plan.

Conditions

47. I have considered the suggested conditions in the light of discussions at the inquiry, the advice at paragraphs 203 and 206 of the NPPF and the PPG. I agree that reserved matters need to be submitted for approval. The proposed development will use the access provided for the adjacent development and

this has been implemented. Therefore a condition requiring the access to be provided in accordance with the submitted plan is not necessary.

48. I consider a phasing plan to be unnecessary, in that other conditions allow for details and /or infrastructure to be delivered in a phased manner should this be necessary. Due to the change in levels across the site, details of existing and proposed levels should be submitted. A scheme for the disposal of surface water, in accordance with the principles within the submitted Flood Risk Assessment, is necessary in order to ensure that the proposed dwellings would not be at risk of flooding or increase the risk of flooding elsewhere.
49. The proposal should be implemented in accordance with the submitted Arboricultural Impact Assessment and Method Statement in order to ensure that the trees and hedgerows on the site are safeguarded. Details of proposed external lighting should be submitted for approval to avoid disturbance to bat species and other wildlife, and in the interests of the appearance of the development. In the interests of biodiversity, construction works during the bird nesting season should be limited and habitat mitigation for hedgehogs should be provided.
50. In order to safeguard the amenity of surrounding residents and to limit the effect of the proposal on the highway network, an Environmental Management Plan should be submitted. A Travel Plan should be submitted in the interests of sustainability. For the same reason, the dwellings should be provided with an Electric Vehicle charging point. A scheme for the protection of the proposed dwellings from rail traffic noise is required in order to ensure satisfactory living conditions. A scheme for the improvement to the Peacock roundabout is required in order to ensure that the proposal does not have an adverse impact on traffic flows within the surrounding area.
51. A contaminated land survey was not submitted at the time of the application and there is potential that the site is contaminated. Therefore a condition therefore a condition requiring the investigation and assessment of the extent of any contamination, and measures for its remediation is required.

Conclusion

56. For the reasons given above, I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White QC	Of Counsel
He called	
Stephen Harris	
Nicolas Folland	
Amjid Khan	

FOR THE LOCAL PLANNING AUTHORITY:

Scott Lyness	Of Counsel
He called	
Richard Taylor	Cheshire East Council

INTERESTED PERSONS:

Councillor Ward
Martin Langhorn

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Letter dated 17 June 2016 notifying interested parties of the arrangements for the inquiry
- 2 Committee report : land to the rear of 46 Chestnut Avenue, Shavington submitted by appellant
- 3 Submission on behalf of Maurice Ward (Willaston Parish Council)
- 4 Submission on behalf of Sarah Poachin (Willaston Parish Council)
- 5 Submission on behalf of Martin Langhorn (Willaston Parish Council)
- 5 CIL Compliance Note submitted by Council
- 7 Technical Note 2: Public Transport Update submitted by appellant
- 8 S106 Agreement submitted by the appellant
- 9 Suggested Noise condition submitted jointly

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Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No dwelling on any phase of the development shall be occupied until the access for the proposed phase of development, as shown on drawing no. AO86806-SK001 has been constructed in accordance with construction details that have been agreed in writing by the Local Planning Authority.
- 5) Details of existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development and site works a detailed scheme for the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall include:
 - (i) A scheme of attenuation measures for on site storage and regulated discharge;
 - (ii) Surface water run off shall not exceed the run off from the undeveloped site and not increase the risk of flooding off- site, including the adjacent railway line;
 - (iii) Surface water must drain separate from the foul waters, and no surface water should discharge directly or indirectly into the existing foul or combined sewerage systems ;
 - (iv) Any surface water draining to the public surface water sewer must restricted to a maximum flow of 9 litres per second.The approved drainage scheme shall be completed prior to first occupation of the development.
- 7) The development shall be implemented in accordance with the submitted TBS Landscape Architects Arboricultural Impact Assessment and Method Statement, dated May 2014.

- 8) The protective fencing shown on Tree Protection Plan 4780.02 shall be erected on site prior to the commencement of development and retained for the duration of the construction works.
- 9) The precise details of any proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall take into account any ecological mitigation measures as identified in the ERAP Consultant Ecologist Ecological Survey and Assessment, dated May 2014. All external lighting shall be installed in accordance with the approved details.
- 10) No construction works in any phase of development shall take place between 1st March and 31st August in any year, until a detailed survey of nesting birds has been submitted to the Local Planning Authority, and a 4m exclusion zone established around any nest found. No development of that phase shall take place within the exclusion zone until a report confirming the completion of nesting has been submitted to and approved in writing by the Local Planning Authority.
- 11) A detailed scheme of measures, including the incorporation of gaps into the design of garden or boundary fencing, to enable access by Hedgehogs in accordance with paragraph 5.5 of the ERAP Consultant Ecologist Ecological Survey and Assessment, dated May 2014, shall be submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details and thereafter retained.
- 12) No development shall take place, until an Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. It shall provide for:
 - i) the parking of vehicles of site operatives and visitors.
 - ii) the hours of construction work and deliveries.
 - iii) loading and unloading of plant and materials.
 - iv) storage of plant and materials used in constructing the development.
 - v) wheel washing facilities.
 - vi) Details of any piling required including, method (best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties), hours, duration, prior notification to the occupiers of potentially affected properties.
 - vii) Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint.
 - viii) Mitigation measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, a detailed specification of plant and equipment to be used and construction traffic routes.
 - ix) Waste Management: There shall be no burning of materials on site during construction.
 - x) A scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.

- 13) No phase of development shall be occupied until a Travel Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include, inter alia, a timetable for implementation and provision for monitoring and review. No part of any phase shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation after occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented in accordance with the approved scheme of monitoring and review as long as any part of the phase of development is occupied.
- 14) Prior to the occupation of the dwelling to which it relates each garage shall be provided an Electric Vehicle Charging Point. The charging point shall thereafter be permanently retained.
- 15) No development shall commence until a noise mitigation scheme for protecting the proposed dwellings from rail traffic noise in accordance with the recommendations of the Martec Environmental Consultants Noise Assessment, dated December 2014 has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any dwellings to which they relate are occupied.
- 16) Development shall not begin until a Scheme to deal with any contamination of the site has been submitted to and approved in writing by the local planning authority. The Scheme shall include an investigation and assessment to identify the extent of any contamination and the measures to be taken to avoid risk to the development, its users, and the surrounding environment when the site is developed. Development shall not commence until the relevant measures approved in the scheme have been implemented.
- 17) Prior to the commencement of development a scheme for the improvement of the Peacock Roundabout, in accordance with the details shown on plan number A086806-SK005 RevA , together with a programme of implementation, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and programme of implementation.

Appendix 4

Appeal at land north-east of Elsenham, Essex



Department for
Communities and
Local Government

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

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

25 August 2016

Dear Sir,

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

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

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

3. On 19 February 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

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

Procedural Matters

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

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

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

Policy considerations

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

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

Main considerations

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

Five year housing land supply

Objectively Assessed Needs (OAN)

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

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

Backlog/shortfall

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

Buffer

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

Affordable housing

22. The Secretary of State agrees with the Inspector, for the reasons given at IR15.19-20 that a shortfall in affordable housing should not mean that a substantially greater target should be set for overall housing need or for establishing whether or not the Council has a 5 year HLS. He concludes that neither the Framework nor the PPG suggest that the affordable housing needs need to be met in full in the OAN, on the grounds that this may produce a figure which has no prospect of being delivered in practice. However, he further agrees with the Inspector at IR15.21 that the benefits of affordable housing weigh heavily regardless of whether or not the Council can demonstrate a 5 year HLS.

Employment

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

Windfalls

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

Lapse rate

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

Class C2 Uses

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

Delivery

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

Conclusions on five year HLS

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

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

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

Conclusions on NPPF14

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

The effect of the proposals on:

(a) Prematurity

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

(b) Character and appearance

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

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

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

(d) Transport sustainability/accessibility

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

(e) Traffic impacts/free flow of traffic

36. The Secretary of State has carefully considered the Inspector's analysis of traffic impacts/free flow of traffic (IR 15.78-15.92), conclusions on journey times (IR 15.93) and conclusions on highways strategy (IR 15.94-15.99). The Secretary of State agrees with the Inspector for the reasons given that while the impact on Stansted Mountfitchet would be significantly less than the LP Inspector anticipated, for similar reasons, it would still be substantial (IR15.96).
37. The Secretary of State has carefully considered the Inspector's analysis of the benefits of public transport improvements (IR15.97-98). The Secretary of State agrees with the Inspector that the likely extent of shift in traffic from Stansted Road to Hall Road does not show that significant impact on Stansted Mountfitchet would be averted. He agrees with the Inspector that the probability is that this would amount to substantial harm. However, he agrees with the Inspector that as there would probably be a useful modal shift and as there is limited evidence of increased risk to highway safety that the residual cumulative impacts on sustainable transport modes, highway safety, and the transport network when taken as a whole would not reach the threshold of severe such that the development should be prevented on transport grounds alone (IR15.98).
38. The Secretary of State agrees with the Inspector at IR15.99 that even if the increase in congestion would not amount to a severe impact, it remains the case that the scheme would bring significant volumes of additional traffic to a village at a significant distance from employment and services. The Secretary of State further agrees with the Inspector that it is unlikely that traffic could be accommodated on the surrounding roads, contrary to LP Policy GEN1, and that this weighs heavily against the scheme (IR 15.99).

(f) Countryside Protection Zone (CPZ)

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

Design

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

Benefits

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

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

Sustainable development

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

Conditions and Obligations

43. The Secretary of State has considered the Inspector's comments at IR13 and IR13.5-6 on planning conditions and the schedule of conditions he recommends at Appendix C of his report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal.
44. The Secretary of State has carefully considered the s106 agreement, the Inspector's analysis at IR14.1-14.2 and IR 14.6-14.7, national policy set out at paragraphs 203-205 of the Framework, the relevant PPG, and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
45. The Secretary of State agrees with the Inspector for the reasons given that the covenants and obligations within the s106 agreement comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.
46. The Secretary of State observes that the date of the planning obligation and the date of the Inspector's Report both pre-date the commencement of CIL regulation 123 (as amended). On 19 October 2015 the Secretary of State wrote to the Council to clarify that the proposed planning obligations conform with the CIL Regulations 2010, Regulation 123(3) as amended, concerning limitations on the use of planning obligations in the determination of planning applications and appeals.
47. Regulation 123(3) falls to be considered in relation to primary education provision at Elsenham. The Council advise that the scheme provides for a site on the development site for a primary school and to provide a financial contribution which will ensure that a new primary school is constructed. Therefore, the Council consider that this is a standalone infrastructure project and confirm that the use of pooled contributions would not be required with other contributions already secured for the area being used to deliver an extension to the existing primary school which is not on the appeal site. Having carefully considered the evidence and the Council's responses on this issue, the Secretary of State agrees with the Council for the reasons given in their responses and considers that they are contributions for site specific projects.
48. However, the Secretary of State does not consider that the s106 agreement overcomes his reasons for deciding that the appeal should be dismissed for reasons which are unrelated to the adequacy of the section 106 obligations, as set out in this decision letter.

Balance

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

Overall Balance and Conclusions

50. In deciding this appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Secretary of State agrees with the Inspector's conclusions on the development plan at IR 15.107. Having regard to these and to all other relevant matters, the Secretary of State concludes that the proposal does not comply with the development plan as a whole because of the identified conflict with LP policies S7 and ENV5. The Secretary of State has then gone on to consider whether there are any material considerations that would justify deciding the case other than in accordance with the development plan.
51. The Secretary of State agrees with the Inspector that the LP housing policies written to apply until 2011 are now out of date (IR 15.108). He agrees with the Inspector that the LP policies which refer to development limits and boundaries, such as policies S1 and S3, are in conflict with the Framework and should be given limited weight (IR 15.108). He agrees with the Inspector that other saved LP policies should be afforded weight in line with Paragraph 215 Framework (IR 15.108), and he affords them moderate weight given their partial consistency with the Framework.
52. The Secretary of State has carefully considered the Inspector's overall conclusions (IR 15.108-15.112.) He agrees with the Inspector and gives substantial weight to the provision of affordable housing (IR15.110). He agrees with the Inspector that the provision of market housing would have attracted significant weight, but he reduces this to modest weight as he has concluded that the Council have established a 5 year HLS, and because only a proportion of the housing will be completed in the first five years (IR 15.110). He agrees with the Inspector and attaches moderate weight to the economic benefits offered by the proposal and limited weight to the potential for good design (IR15.108). Against this, the Secretary of State weighs the harm to the character and appearance of the countryside, to which he attributes limited weight. He agrees with the Inspector and gives limited weight to the loss of BMV agricultural land (IR 15.110). The Secretary of State agrees with the Inspector that the substantial impact on the surrounding road network weighs heavily against the proposal (IR15.111). He gives significant weight to the conflict with Policy S7, and further limited weight to the conflict with Policy ENV5.
53. The Secretary of State concludes, in agreement with the Inspector (IR15.111) that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (IR 15.111) and as such the proposal does not amount to sustainable development. The Secretary of State therefore concludes that the appeal should fail.

Formal Decision

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

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

Right to challenge the decision

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

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

Yours faithfully

Philip Barber

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A

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

Report to the Secretary of State for Communities and Local Government

by David Nicholson RIBA IHBC

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

Date: 18 May 2015

TOWN AND COUNTRY PLANNING ACT 1990

UTTLESFORD DISTRICT COUNCIL

APPEALS MADE BY

L S EASTON PARK INVESTMENTS LIMITED

FAIRFIELD (ELSENHAM) LIMITED

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

Land west of Great Dunmow, Essex

Land north east of Elsenham, Essex

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

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GLOSSARY

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

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

Land west of Great Dunmow, Essex

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

Summary of Recommendation: the appeal should be dismissed

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

Land north east of Elsenham, Essex

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

Summary of Recommendation: the appeal should be dismissed

1. Procedural Matters

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

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

² See Decision Notices, main files for each appeal

³ Attachment to email dated 13 September 2014

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

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

2. The Sites and Surroundings

General

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

⁴ at ID1, ID14a, b and c

⁵ ID57 dated 20 November 2014

⁶ ID68 and ID69

⁷ See ID71

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

⁹ Hutchinson in XX by Warren and Meakins p47 para 5.43

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

Appeal A

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

¹⁰ CDB3 para 4.4.

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

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

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

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

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

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

Appeal B

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

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

¹⁶ Revised DAS s3 p40

¹⁷ ES appendix 1.2

¹⁸ See site plan and other bundle of drawings at ID32

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

²⁰ CDD1

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

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

²³ Copsey para 7.45 and appendix PDC/2

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

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

3. Planning Policy

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

²⁴ See TA fig 5.3

²⁵ CDA1

²⁶ CDA2

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

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

Draft Local Plan

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

²⁷ See Hutchinson rebuttal revised table at para 2.32

²⁸ CDC12

²⁹ See CDA4

³⁰ CD14-CD17

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

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

³¹ ID69

³² See also ID5 and ID5a

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

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

4. Planning History

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

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

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

³⁵ Hutchinson in XX

³⁶ See CDG1 paras 10.10-10.14

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

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

5. The Appeal Proposals

Appeal A

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

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

³⁸ Planning Permission ref UTT/11/1473/FUL

³⁹ See the SoCG on highways ID23

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

⁴¹ ID 62 dated November 2014

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

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

Appeal B

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

⁴² Ls closing para 67

⁴³ Ibid figure 2.28 p34

⁴⁴ ID23

⁴⁵ ID61

⁴⁶ Ibid para 8.16

⁴⁷ ID52

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

⁴⁹ By Bird, ID61

⁵⁰ See document and drawing list in the SoCG ID46

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

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

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

⁵² Essex County Council as Highways Authority

⁵³ TAA, July 2013, s20 and TAA

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

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

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

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

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

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

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

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

⁵⁵ Shown on ID35

⁵⁶ See TA paras 5.2.16-18

⁵⁷ TAA Table 2-9 page 15

⁵⁸ TAA s12.3

⁵⁹ TAA s20

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

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

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

6. The Case for UTTLESFORD DISTRICT COUNCIL

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

⁶⁰ TA 12.4.1-12.4.2 and TAA 4.1.2

⁶¹ in ID54

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

⁶³ TAA appendix B; Id59 Table 1 p2

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

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

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

Application to this appeal

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

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

⁶⁶ Ibid paragraph 54

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

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

⁶⁹ Meakins in XX by HW

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

Objectively assessed need (OAN)

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

⁷⁰ Meakins IC, his evidence says 125-210

⁷¹ Report paragraphs 1-13-1.15 and ID21

⁷² Meakins proof 3.18(i)

⁷³ Meakins proof 3.18(ii)

Alternative modelling exercise

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

Affordable housing

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

Conclusion on OAN

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

Shortfall/backlog

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

⁷⁴ by Barton Willmore

⁷⁵ Meakins in XX

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

⁷⁷ Entitled 'Jobs' in phase 6

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

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

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

Lapse rate

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

Buffer

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

*Use Class C2: residential institutions*⁸⁶

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

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

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

⁸¹ 5,052 divided by 11 years

⁸² Meakins in XX

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

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

⁸⁵ *Thaxted, Flitch Green and Bentfield Green*

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

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

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

Windfalls

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

Conclusion on HLS

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

Highways

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

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

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

⁸⁸ Identified at Meakins table 6 p26

⁸⁹ Footpath 36-15, according to Bird

⁹⁰ Anderson in answer to IQ

⁹¹ Hutchinson to IQ

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

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

Buses

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

Landscape

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

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

⁹³ Wilkinson in ReX

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

⁹⁵ Of 400m in ID13b p11

⁹⁶ Toyne in XX re proof paragraph 17

⁹⁷ As argued by Toyne in XX by Storah

⁹⁸ Toyne IC

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

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

BMV agricultural land

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

Conclusions and planning balance

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

Further comments

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

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

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

¹⁰⁰ Toyne paragraph 3.28

¹⁰¹ Ibid 3.36, 3.41 and 6.65

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

¹⁰² Meakins proof 3.20

¹⁰³ See Table 1 calculation

¹⁰⁴ Table 2A to ID70

¹⁰⁵ See NPPF, PPG and Table 1

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

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

- 6.40 These projections would result in a revised average annual housing requirement of 506 dwellings. However, following withdrawal of its draft LP, the Council has accepted the LP Inspector's recommendation and that 580 dpa is a sound figure for calculating a 5 year HLS.
- 6.41 UDC has carried out an initial appraisal of these projections and notes that they provide a lower estimate than the Edge Analytics Phase 6 report and calculated that this would result in an annual housing figure of 557. Nevertheless, until the latest version of the Edge Analytics reports and SHMA are published, UDC will continue to use the figure of 580 but the latest figures are a clear demonstration that the Council's 5 year HLS is robust.

7. The Case for Land Securities

Appeal A

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

Formalities

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

Decision-making structure

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

¹⁰⁶ Council's opening paras 6 and 10

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

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

Presumption in favour of sustainable development

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

¹⁰⁸ Hutchinson

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

¹¹⁰ [2014] EWHC 2636

¹¹¹ Ibid

¹¹² [2013] EWHC 3058 (Admin) paragraph 37

¹¹³ *Dartford* paragraphs 52 and 54

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

Out-of-date

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

Character and appearance

¹¹⁴ CDA2 page 1

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

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

¹¹⁷ CDA4 NPPF compatibility assessment

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

¹¹⁹ NPPF 17.5

¹²⁰ CDA4 pp8-9

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

¹²² Acknowledged by Storah for PCsA in XX by Warren

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

¹²³ Hutchinson para 6.32

¹²⁴ Toyne's LVIA, confirmed by Hutchinson in XX

¹²⁵ Hutchinson IC re ID2

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

¹²⁷ Ibid paragraph 6.19 p88

¹²⁸ All important hedgerow (under the Hedgerow Regulations 1997) would be retained; Toyne paragraph 6.19 p88

¹²⁹ ID11

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

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

Design

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

BMV agricultural land

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

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

¹³² Toyne in XX by Cannon and Storah

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

¹³⁴ Anderson IC and IQ

¹³⁵ ID27A

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

Minerals

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

Ecology

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

Highway safety

¹³⁶ The evidence of Toyne and Anderson

¹³⁷ Hutchinson proof paragraph 6.37 p31 of UDC1

¹³⁸ Meakins appendix 2 p21

¹³⁹ Hutchinson XX and Meakins appendix 2 p2-7

¹⁴⁰ Meakins appendix 1 p9 paragraph 5.3

¹⁴¹ Paragraph 3

¹⁴² ID49

¹⁴³ Fleming proof s15

¹⁴⁴ By Dr Gordon

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

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

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

Accessibility and sustainability

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

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

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

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

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

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

¹⁴⁷ Wilkinson's evidence and XX

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

¹⁴⁹ By Bird, ID61

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

¹⁵¹ NPPF 29 and 32

¹⁵² Ibid para 32.3

¹⁵³ Paras 1.22-1.25

¹⁵⁴ Corrected orally in closing

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

Housing land supply (HLS)

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

¹⁵⁵ ID23 para 1.20; ID09 and Wilkinson in XX

¹⁵⁶ Ecological SoCG ID50 para 38

¹⁵⁷ See the Agreed statement on housing numbers ID6

¹⁵⁸ The Phase 6 report by Edge Analytics

¹⁵⁹ At paras 3-030 and 2a-015

¹⁶⁰ Hutchinson

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

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

Scheme benefits

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

Balancing exercise

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

Appeal B

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

¹⁶² Para 3-035

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

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

¹⁶⁵ CDG9 DL14 and IR8.55

¹⁶⁶ Meakins IC

¹⁶⁷ CDA1 paras 2.2.1, 13.1 and Policy S1

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

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

¹⁶⁹ PCsB in closing

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

¹⁷¹ TAA s5 p20

¹⁷² ID41 and the DAS, September 2013 para 3.10 p49

¹⁷³ Plan TFP/RT/1

¹⁷⁴ Table 12.4 p35

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

¹⁷⁶ Bamber and Dean

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

- 7.38 With regard to sustainability, Elsenham has serious difficulties given its position in the settlement hierarchy for the district. The station will not address the severe road shortcomings or assist with shopping or school trips, the proposed bus service would make little difference and its viability is uncertain. Existing facilities in Elsenham are limited so that main food shopping would require a trip to Bishop's Stortford. There are no nearby cycle routes and Hall Road would become even less suitable with faster traffic speeds.
- 7.39 The form of development would be arbitrary, rather than based on any existing feature, and depend on new planting. Finally, LS raised the matter of prematurity but, given subsequent events, I do not summarise this here.

Further comments

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

- 7.40 The Inspector's findings reinforce the inability of UDC to demonstrate a 5 year HLS and the unsuitability of the Elsenham for development. His finding that the emerging LP is unsound because of its inadequate supply means that no reliance can be put on the Council's figure of 523 dpa and the principle of increasing this is consistent with the evidence submitted by LS. The only properly assessed OANs are those put forward by LS and TFP. The lowest figure to test, as put forward by the LP Inspector, is now 580 but even this is too low.
- 7.41 Despite his conclusion, UDC should still be assessed as a 20% authority. This is because replacing 523 with 580 means that UDC has only met its requirements for 3 out of the last 14 years¹⁷⁸ and not at all since the LP was adopted in 2011. It has under-delivered 1,288 dwellings since 2000/01 and at least 289 since 2011/12. Even using UDC's figures, it has only met the requirement in 6 out of the last 14 years which amounts to an under-delivery of 309 dwellings. On either basis, this is a persistent under-delivery.
- 7.42 With regard to Elsenham, the Inspector has endorsed the objections that the s78 scheme would be premature¹⁷⁹, that it would not represent sustainable development, and that the surrounding highway network is unsuitable. In particular, he did not give significant weight to the train station as few journeys are undertaken by train, public transport connectivity and journey times to facilities are poor, and the line itself is an obstacle to integration. The latter could become much worse if the crossing is closed. He found it unclear as to whether it was feasible to widen the Hall Road, and these comments, as

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

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

¹⁷⁹ Ibid paragraph 2.3

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

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

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

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

8. The Case for The Fairfield Partnership¹⁸⁰

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

The appeal site

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

The proposal

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

¹⁸⁰ Fairfield (Elsenham) Limited

¹⁸¹ ID 65 paras 24-28

¹⁸² Ibid paras 29-35

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

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

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

The LPA's position

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

The Issues

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

Policy and approach

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

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

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

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

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

¹⁸⁸ IDs14

¹⁸⁹ ID46

¹⁹⁰ CDA2

¹⁹¹ NPPF paragraph 196

¹⁹² Ibid paras 14, 47 and 197

¹⁹³ See Gardner's proof para 6.5

¹⁹⁴ Ibid 6.4

¹⁹⁵ Ibid appendix GP/3

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

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

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

HLS

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

¹⁹⁶ Ibid 5.4 to 5.22, IC and XX

¹⁹⁷ See CDA4

¹⁹⁸ Para 1 of PPS7

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

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

²⁰¹ Wilkinson in answer to IQs

²⁰² Horsfall further rebuttal and Bird in XX

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

²⁰⁴ ID6 but now see tables with further comments

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

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

Character and appearance

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

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

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

²⁰⁷ See Copsey 6.25-6.50

²⁰⁸ Ref. ID 3-035-20140306

²⁰⁹ CDG9 para 8.46

²¹⁰ Wigley's wild assertion in closing para 17

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

²¹² Ibid proof 5.2.3 and 5.4.3

²¹³ Including the former poultry units and sandpits

²¹⁴ Tregay proof s3.3 and CDF28 para 21.49

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

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

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

Airport CPZ

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

BMV agricultural land

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

Transport sustainability

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

²¹⁶ Toyne

²¹⁷ Toyne appendix 7 and Tregay rebuttal s3.1

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

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

²²⁰ Copsey proof 7.26-7.29

²²¹ Ibid 7.41-7.50

²²² Copsey IC

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

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

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

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

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

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

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

8.22.1 it would use an existing viable service;

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

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

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

²²⁶ Gardner proof 6.18

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

²²⁸ Horsfall s3.3

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

Traffic impacts

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

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

²³⁰ The TGM Group ID53

²³¹ TA s4.2 and Horsfall s3.4

²³² Bamber 4.104-4.105

²³³ See Bird 8.1-8.6 and CDE15

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

²³⁵ See ID47 s3

²³⁶ See CDF28 paras 19.24 and 21.81-21.95

²³⁷ See Horsfall's proof and the TA work

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

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

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

²³⁹ Horsfall rebuttal 2.1.4

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

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

²⁴² ID33

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

²⁴⁴ Ibid 4.28

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

²⁴⁶ TAA appendix B, email dated 6 June 2013

²⁴⁷ TAA s2

²⁴⁸ Horsfall rebuttal 2.4.6

²⁴⁹ TA s10

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

²⁵¹ TA s10 and TAA s20

²⁵² Ibid s10.4 and Horsfall 3.7.5

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

8.34 With regard to this test it should be noted that:

8.34.1 PCsB acknowledged that it was not realistic²⁶²;

²⁵³ Section 10

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

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

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

²⁵⁷ TAA s33

²⁵⁸ Through Bamber

²⁵⁹ Horsfall 34.1.2 and in XX; also TA 5.3.6

²⁶⁰ TAA appendix R and s34

²⁶¹ Horsfall in XX

²⁶² Bamber XX

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

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

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

²⁶³ Wigley closing 43

²⁶⁴ Ibid 44

²⁶⁵ TA 10.5.1

²⁶⁶ TAA s18 and 18.1.5 in particular

²⁶⁷ Horsfall XX by Wigley

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

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

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

²⁷⁰ ID42A

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

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

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

²⁷⁴ SoCG appendix 2 using the WSP methodology

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

²⁷⁶ TA 5.2.18 and Bird in XX

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

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

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

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

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

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

²⁸¹ TAA s19

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

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

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

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

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

²⁸⁷ Bamber 38-40 and Bird 8.41-8.43

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

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

Balance on sustainable development

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

Further comments

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

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

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

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

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

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

²⁹⁰ Correct tables to Hutchinson rebuttal 22 September 2014

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

²⁹² PPG ref. ID: 2a-020-20140306

²⁹³ Paragraphs IR8.46 and d/l 14

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

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

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

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

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

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

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

²⁹⁵ Part 8 paragraph 1

²⁹⁶ TA s5.5

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

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

²⁹⁷ CDA3

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

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

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

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

Statutory duty and planning balance

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

²⁹⁸ See the evidence of McKendry-Gray

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

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

5 year HLS

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

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

³⁰¹ ID50

³⁰² See NPPF 30 and 34

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

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

³⁰⁵ ID6

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

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

³⁰⁸ Gardner's evidence

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

Transport and highway matters

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

³⁰⁹ ID6

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

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

³¹² POPGROUP version 4 – see CDC17 at 1.7

³¹³ Meakins evidence

³¹⁴ CDC17 1.12-1.15

³¹⁵ By Meakins

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

³¹⁷ Table to Hutchinson rebuttal 2.32

³¹⁸ Ibid compared with ID6

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

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

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

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

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

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

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

³²² TA p9 para 1.4.1.2 and p50 para 10.1.2

³²³ ID44 letter dated 19 September 2013

³²⁴ See CDE15 and Horsfall 1.1.8-1.1.9

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

³²⁶ Ibid

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

³²⁸ Ibid

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

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

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

³³⁰ TAA s34 p102

³³¹ Acknowledged by Horsfall

³³² Confirmed by Horsfall

³³³ Accepted by Horsfall in XX

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

³³⁵ See TA 10.2.10 p52

³³⁶ ID37 pp1-9

³³⁷ Ibid pp10, 10A

³³⁸ By Horsfall

³³⁹ ID33 table 5 of Agreed statement on Highway Matters

³⁴⁰ TA p54 and TAA p53

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

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

³⁴¹ By Horsfall

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

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

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

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

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

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

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

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

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

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

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

³⁵³ See Wigley closing para 57 for details

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

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

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

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

³⁵⁴ Horsfall's position in ID34

³⁵⁵ and a stopping up order – TA 5.2.18 p24

³⁵⁶ Transport chapter

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

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

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

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

³⁶¹ TA para 5.6.3 p29

³⁶² ES March 2013 para 11.4.1

³⁶³ CDE15 March 2014 p19

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

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

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

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

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

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

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

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

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

³⁶⁷ ID59

³⁶⁸ ID58

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

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

³⁷¹ Ibid bullet 3 and footnotes 2 and 4

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

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

Further comments

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

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

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

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

³⁷⁴ Bundle at ID70

11. The Cases for interested parties³⁷⁵

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

Appeal A

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

Appeal B

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

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

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

12. Written Representations³⁷⁶

Appeal A

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

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

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

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

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

³⁷⁶ See red folders on main files

³⁷⁷ to PINS on 19 September 2014

³⁷⁸ Proof from Martin Orr dated August 2014

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

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

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

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

Appeal B

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

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

³⁷⁹ Letter to PINS dated 18 September 2014

13. Conditions

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

Appeal A

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

Appeal B

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

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

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

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

14. Obligations

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

Appeal A

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

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

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

Appeal B

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

³⁸² ID48 for TFP

15. Inspector's Conclusions

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

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

Main considerations

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

Appeal A

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

Appeal B

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

Conclusions common to both appeals

Five year housing land supply (HLS)

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

OBJECTIVELY ASSESSED NEEDS (OAN)

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

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

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

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

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

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

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

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

BACKLOG/ SHORTFALL

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

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

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

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

BUFFER

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

AFFORDABLE HOUSING

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

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

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

EMPLOYMENT

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

WINDFALLS

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

LAPSE RATE

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

CLASS C2 USES

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

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

DELIVERY

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

CONCLUSIONS ON FIVE YEAR HLS

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

CONCLUSIONS ON NPPF 14

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

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

Appeal A

Character and appearance/landscape

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

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

BMV agricultural land

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

Ecology

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

Mineral resources

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

Accessibility

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

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

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

Design

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

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

Benefits

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

Sustainable development

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

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

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

Balance

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

Appeal B

Prematurity

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

Character and appearance

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

BMV agricultural land

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

Transport sustainability/accessibility

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

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

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

Traffic impacts/free flow of traffic

EXISTING TRAFFIC PATTERNS

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

PROPOSALS

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

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

[5.14 7.33 8.30-8.32 10.12 10.15]

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

JOURNEY TIMES

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

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

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

EFFECTS

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

EQUILIBRIUM

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

Conclusions on journey times

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

Conclusions on the highways strategy

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

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

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

CPZ

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

Design

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

Benefits

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

Balance

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

Sustainable development

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

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

Conclusions on the development plan

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

Overall conclusions

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

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

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

16. Recommendations

16.1 Appeal A should be dismissed.

16.2 Appeal B should be dismissed.

David Nicholson

INSPECTOR

Appendix A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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

FOR LAND SECURITIES (APPELLANT APPEAL A):

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

FOR THE FAIRFIELD PARTNERSHIP (APPELLANT APPEAL B):

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

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

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

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

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

INTERESTED PERSONS:

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

Appendix B

LIST OF INQUIRY DOCUMENTS

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

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

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

LIST OF CORE DOCUMENTS

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

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

Others

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

Highway Documents

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

Documents provided by Fairfield (TFP)

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

Other documents

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

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

Appendix C

Schedule of conditions for Appeal A

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

No development shall take place until the above Site Wide Masterplan details have been approved and the development shall be carried out in accordance with the Site Wide Masterplan as approved, subject to any amendments or modifications which may from time to time be approved in writing by the local planning authority. Reserved matters submissions that are subsequently submitted for approval shall be in compliance with the Site Wide Masterplan.
3. Infrastructure submissions, to consist of advance earthworks and infrastructure works and advance structural landscaping may be submitted prior to the approval of the reserved matters submissions. Such details shall accord with the Development Parameters (see condition 4) and Site Wide Masterplan (see condition 2) and shall be submitted to and approved by the LPA . Any such submissions shall be supported by plans at an appropriate scale, which show:

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

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

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

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

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

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

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

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

A) The CEMP shall provide for:

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

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

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

- Use of protective fences, exclusion barriers and warning signs.
- On-going protected species surveys to inform Method Statements and to monitor the effectiveness of the CEMP mitigation measures.

10. A Biodiversity Management Plan (BMP) shall be submitted to, and be approved in writing by, the LPA prior to commencement of the development. The development shall be carried out in accordance with the Plan. The content of the BMP shall include the following.

- Description and evaluation of features to be managed, including but not limited to, protected wildlife sites, protected animal species, trees and other habitat features, bat flyways and commuting routes and farmland.
- Ecological trends and constraints on site that might influence management.
- An appropriate summary of best practice/scientific research in relation to biodiversity mitigation and conservation, including, but not limited to, transportation corridors and lighting in relation to bats and other wildlife, farmland bird conservation, protected species conservation.
- Aims and objectives of management measures.
- Appropriate management options for achieving aims and objectives, to include but not limited to the provision of effective bat and wildlife transportation corridor crossings, new habitat creation and farmland management to enhance the local area for farmland birds and other wildlife.
- Prescriptions for management actions, including, but not limited to, details of bat and wildlife transportation corridor crossings, new habitat creation and farmland management.
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organization responsible for the implementation of plan.
- Ongoing monitoring and remedial measures.

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

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

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

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

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

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

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

The details shall include information on:

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

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

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

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

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

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

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

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

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

Schedule of conditions for Appeal B

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

providing for the handling and treatment of foul water from the development have been approved by the LPA in conjunction with the sewerage undertaker. The scheme shall thereafter be implemented as approved.

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

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

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

11. No phase of the development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site for that phase has been submitted to and approved, in writing, by the LPA :
- 1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - any potentially unacceptable risks arising from contamination at the site.
 - 2. A site investigation scheme, based on (1) including review of risk of gas or leachate contamination, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- Any changes to these components require the express written consent of the LPA. The scheme shall be implemented as approved.
12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA . The remediation strategy shall be implemented as approved.
13. No infiltration of surface water drainage into the ground is permitted other than as identified in the Surface Water and SUDs Design Statement in the Environmental Impact Assessment, Volume 2 Chapter 14, or otherwise other

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

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

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

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

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

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



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Appendix 5

Appeal at Land South of Ford Lane and East of
North End Road, Yapton



Department for
Communities and
Local Government

Mr Paul Collins
Phoenix Planning Consultancy
Forum House
Stirling Road
Chichester
PO19 7DN

Our Ref: APP/C3810/A/14/2228260

13 September 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL
KEITH LANGMEAD LIMITED
LAND TO THE SOUTH OF FORD LANE, EAST OF NORTH END ROAD, YAPTON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Nicholson RIBA IHBC, who carried out an inquiry between 7-10 July 2015 into your client's appeal against a decision of Arun District Council ('the Council') to refuse outline planning permission with some matters reserved for 4.5 hectares of residential development comprising 3.4 hectares of land for up to 100 dwellings (up to 30 (30%) affordable housing) together with 1.1 hectares of land set aside for public open space and strategic landscaping and 2.2 hectares of public open space and green corridors with vehicle access from Ford Lane and pedestrian/cycle access only from North End Road, in accordance with application Ref Y/60/14/OUT, dated 27 June 2014.
2. The appeal was recovered for the Secretary of State's determination on 8 September 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development of over 10 dwellings in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. An application for an award of costs in regard to this appeal was made by the appellant against the Council. This application is the subject of a separate costs decision letter, also being issued today.

Department for Communities and Local Government
Planning Central Casework Division,
3rd Floor, South East Quarter
Fry Building
2 Marsham Street
London, SW1P 4DP

Tel: 0303 444 2853
Email: PCC@communities.gsi.gov.uk

5. The Secretary of State has had regard to correspondence submitted too late to be considered by the Inspector, as set out in the Annex to this letter. He has carefully considered these representations but, as they do not raise new matters that have affected his decision, he has not considered it necessary to circulate them to all parties.
6. On 9 May the Secretary of State wrote to the appellant and the Council seeking further representations. The matter was:

the implications, if any, of the Court of appeal judgment in the cases of Suffolk District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government [2016] EWCA Civ 168.
7. As the representations were circulated to the parties the Secretary of State has not found it necessary to reproduce them here. Copies of all representations received can be made available on written request to the address at the foot of the first page of this letter.

Policy and Statutory considerations

8. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Arun District Local Plan (ADLP) adopted in 2003, and the Yapton Neighbourhood Plan (YNP) made on 5 November 2014. The Secretary of State agrees that the most relevant policies in this case are those set out by the Inspector at IR3.3-4 and IR3.14-16.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework'), the planning guidance published in March 2014 and the Community Infrastructure Levy (CIL) Regulations 2010 as amended and the Guidance on Neighbourhood Planning issued 19 May 2016.
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, pursuant to section 72(1) of the LBCA Act.

Main issues

11. The Secretary of State agrees with the Inspector that the main considerations in this appeal are those set out at IR11.1.

Development plan context

12. The Secretary of State has noted the Inspector's assessment of the Development Plan context as set out at IR11.2-3. He agrees that the relevant elements of the Development Plan are those set out at IR11.2.

Arun Local Plan

13. The Secretary of State agrees that the proposals would conflict with ADLP policies GEN2 and GEN3 (IR11.4). He notes that it is agreed that the Council cannot demonstrate a 5 year housing land supply (HLS). As such he agrees with the Inspector (IR11.4) that these policies cannot be considered up to date pursuant to paragraph 49 of the Framework. He notes the Inspector's conclusions at IR11.5 but does not agree with his interpretation. In considering the provisions of paragraph 14 of the Framework he concludes that the paragraph should be used as part of the assessment of whether the development is sustainable. However, he agrees with the Inspector, that given the directions in paragraphs 49 and 215 of the Framework only limited weight should be given to the conflict with these policies.

Emerging Local Plan

14. The Secretary of State has considered the emerging Local Plan (eLP) against the provisions of paragraph 216 of the Framework. He notes its early stage of preparation, the unresolved objections to it, and its significant shortfall in its OAN, contrary to the Framework. He further agrees that there is no certainty as to where future housing allocations will be made by the eLP.

The Yapton Neighbourhood Plan

15. The Secretary of State has carefully noted the Inspector's analysis at IR11.7-16 but he does not agree with his conclusions. He agrees with the Inspector (IR11.8) that the housing policies in the eLP are at an early stage. He notes that the Independent examiner found the Yapton Neighbourhood Plan sound (IR11.9), and he thus finds it complies with the Framework. He notes that Policy H1 states that "additional allocations will be made if the emerging Arun Local Plan requires such action or if the identified housing sites do not proceed." As such he concludes that while the YNP is currently underpinned by an outdated OAN (IR11.9), Policy H1 has flexibility to allow any shortfall in housing supply to be met. As such he gives significant weight to the housing policies of the YNP.
16. The Secretary of State finds that the proposal is in conflict with Policy BB1, as it is not in the built up area boundary and does not fall within any of the exemptions listed in the policy. He agrees that policy BB1 is out of date (IR11.10) in the absence of a 5 year HLS. However, given his conclusions on Policy H1 at paragraph 15 above he gives it significant weight. The Secretary of State considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question. Consequently, in view of Framework paragraphs 198 and 185, and his guidance on neighbourhood planning that this is the case even in the absence of a 5 year housing land supply, the Secretary of State places very substantial negative weight on the conflict between the proposal and policy BB1.
17. He further disagrees that the weight to be given to this conflict would be reduced even further although this decision is issued after 12 months from the YNP being made, because he concludes that the Inspector has misinterpreted paragraph 214 of the Framework, as the 12 month period applies to the publication of the Framework itself, not the YNP.
18. The Secretary of State agrees that Yapton is one of the most sustainable settlements in the District, and that the site is in a sustainable location for additional housing (IR11.11). He notes that no evidence was given as to the probability that the allocations identified

in the YNP, or elsewhere in the district, will come forward within 5 years. He agrees that there is no conflict with YNP policy H1, for the grounds set out by the Inspector at IR11.11. However, he does not agree with the Inspector's conclusion that, given the only conflict is with YNP policy BB1, the weight to be given to conflict with the YNP as a whole should be no more than limited for the reasons set out at paragraphs 15-16 above.

19. The Secretary of State has noted the Inspector's conclusions at IR11.12. However, he does not agree that the potential delay to the provision of additional housing means that priority should not be given to policy BB1, given his findings on neighbourhood planning and taking into account the provisions of paragraph 198 of the Framework.
20. The Secretary of State disagrees with the Inspector at IR11.13 that no weight can be given to the suggestion that the YNP has made adequate provision for housing land, and that policy BB1 is partially compliant with the Framework, for the reasons given at paragraphs 15-16 above. The Secretary of State has given careful consideration to the Inspector's observations at IR11.15.1-11.15-17. However, he does not agree with the Inspector's conclusions at IR11.16 that the weight to be given to the need for additional housing in Arun district, including Yapton, should be given considerably more weight when balanced against YNP policy BB1, given his findings on neighbourhood planning.

Landscape

21. For the reasons set out at IR11.17-8 the Secretary of State agrees that the overall effect on the landscape character of the site itself would be harmful. However, for the reasons given at IR11.19 he agrees that, subject to conditions requiring buffer planting, there is little sound evidence that there would be harm beyond the immediate area. He gives this limited weight.
22. The Secretary of State accepts, for the reasons set out by the Inspector at IR11.20 that the documentation provided by the appellant on the impact on landscape character is adequate.
23. For the reasons given at IR11.21 the Secretary of State agrees that the impact of the scheme on the views of church towers should be given limited weight.
24. The Secretary of State has given careful consideration to the Inspector's analysis at IR11.7-24. The Secretary of State further agrees that, subject to reserved matters, there would be no conflict with ADLP policy GEN7. He agrees that other than the loss of open countryside at the edge of a settlement there would be no significant harm to the character and appearance of the area or the wider landscape, or conflict with paragraph 17 of the Framework. However, he does not agree (IR11.25) that the conflict with the YNP and the conflict with ADLP policies GEN2 and GEN3 and any harm to the countryside by way of policy should not outweigh the benefits of additional housing and affordable housing, given his findings on Neighbourhood Planning.

Heritage

25. For the reasons given by the Inspector at IR11.27-30 the Secretary of State agrees that that there is no evidence that the significance of St Mary's Church would be harmed by the proposal. He further agrees, for the reasons set out at IR11.31, that the information provided by the appellant on the settings of heritage assets is comprehensive and the level of analysis is enough for a proper assessment of the setting. He agrees that the scheme would not impact on Church House and Park Lodge, for the reasons given at IR11.32.

26. The Secretary of State therefore concludes that the contribution which the setting makes to the significance of St Mary's church would be unaffected by the changes within an area of that setting in which only part of the church tower can be experienced. As such he agrees with the Inspector (IR11.33) that the proposal would preserve the special architectural and historic interest of St. Mary's Church and its setting, and that thus the tests in paragraphs 132-134 of the Framework are not relevant and that the proposals would accord with s66 of the LBCA. He further agrees that there would be no conflict with the relevant eLP policies or with YNP policy E9.

Conservation Area

27. The Secretary of State has paid special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area, in line with his duty under s72(1) of the LB Act. For the reasons set out at IR 11.34-36 the Secretary of State agrees that, subject to reserved matters, the scheme would not affect the significance of this designated heritage asset or the character or appearance of the conservation area, which would be preserved. He further concludes that it would accord with historic environment policy in the Framework and that paragraphs 133-4 of the Framework would not apply. He agrees with the Inspector that YNP policy E8 is not relevant as it relates to development within the conservation area.

Archaeology

28. The Secretary of State considers that the level of information provided in the Archaeology Statement was adequate and would comply with paragraph 141 of the Framework. For the reasons given at IR11.37-41 he concludes that a pre-condition requiring further archaeological investigation would be proportionate while safeguarding possible remains. Subject to such a condition, the Secretary of State concludes that the scheme would accord with ADLP policy AREA17. He also agrees that applying a condition would comply with paragraph 128 of the Framework.

Benefits

29. The Secretary of State has considered the Inspector's conclusions at IR 11.43 and agrees that the provision of up to 100 dwellings, up to 30% of which would be affordable, would be benefits of considerable weight. He further notes that the site is agreed to be a sustainable location (IR11.44). He has considered the Inspector's consideration of landscaping at IR11.45, and agrees that while the potential benefits of these would be advantageous, they should more properly be considered as mitigation than as benefits.

Other matters

30. The Inspector has considered the engagement with the community with regard to this application, as discussed by the Inspector at IR11.46, and concludes for the reasons given that this was adequate.
31. The Secretary of State notes that the statutory authorities have assessed any additional pressures on infrastructure, roads and the school as acceptable subject to conditions and contributions. He further notes the Inspector's conclusions (IR11.46) that traffic congestion at school drop-off and pick-up times were not exceptional for roads outside a school in southern England.
32. The Secretary of State has considered the Inspector's comments (IR11.47) that no evidence was put forward at the inquiry that the site provides any significant habitat for either protected or non-protected species other than in the field margins where the trees

and hedges would be retained and enhanced. As such he agrees that there would be no conflict with YNP policies E3, E4, E5 and E6.

Overall conclusions

33. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that, for the reasons outlined above, the appeal proposal is not in accordance with the Development Plan as a whole, including the Neighbourhood Plan, given the conflicts he finds with policies BB1, E1, GEN2 and GEN3. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal. The district does not have a 5 year supply of deliverable housing sites so paragraph 49 of the Framework is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
34. The Secretary of State has considered the Inspector's conclusion at IR11.48, and agrees for the reasons given that the site is in a sustainable location. He further agrees that, subject to mitigation, the proposal would not cause any significant harm to the landscape or biodiversity (IR11.49). He agrees that the loss of countryside and productive agricultural land counts against the scheme but agrees that the weight given to this, and to the conflict with SDLP policy GEN3 and NP policy E1, should take into account the fact that such land would be lost to housing both under the YNP locations and elsewhere in the district in any event if its housing needs are to be met. He further agrees for the reasons set out above that there would be no harm to heritage assets, and no conflict with adopted PSG criterion 2.3 with regard to the effect on a conservation area.
35. The Secretary of State agrees that only limited weight can be given to its detailed design and the benefits which should flow from conditions and the obligation should be more properly considered as mitigation (IR11.50). He further agrees that the illustrative layout, which could be required through reserved matters, indicates a scheme which would be well integrated, legible and permeable by walking and cycling, and agrees that some weight should be given to this. Overall he finds, in agreement with the Inspector, that the environmental effects would be neutral.
36. The Secretary of State has noted the Inspector's conclusions at IR11.51 and IR11.55. However, he does not agree, given his findings on neighbourhood planning. As such, he weighs the harms caused by conflict with the YNP and the provisions of paragraph 198 of the Framework against the benefits of the proposal, as set out by the Neighbourhood Planning Guidance he has issued. He gives very substantial weight to this conflict. As such he concludes that the proposal does not comply with the social element of sustainability, and he gives very substantial weight to this against the proposal.
37. The Secretary of State gives significant weight to the benefits of the provision of housing, and further significant weight to the provision of affordable housing. He also gives moderate weight to the fact that the proposed development is in a sustainable location.
38. Against this he gives very substantial weight to the conflict with YNP policy BB1, in line with the provisions of paragraph 198 of the Framework, given his conclusions on neighbourhood planning. He gives limited weight to the adverse impact to the character

and appearance of the field, and further limited weight to the loss of agricultural land. He gives moderate weight to the conflict with ADLP policies GEN1 and GEN2.

39. He therefore concludes that the identified adverse impacts of this proposal would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework taken as a whole. The Secretary of State concludes that the appeal should fail.

Conditions

40. Having considered the Inspector's reasoning and conclusions on conditions, as set out at IR9.1-7, and the conditions which he proposes in Annex C to the IR, the Secretary of State is satisfied that, in the form recommended by the Inspector, they are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. However, he does not consider that they overcome his reasons for dismissing this appeal.

Obligations

41. The Secretary of State agrees with the Inspector that the contributions outlined at IR10.1-8 are all necessary to make the development acceptable in planning terms (IR10.2) and that the s106 would meet the tests set out in regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010. However, he does not consider that they overcome his reasons for dismissing this appeal.

Formal Decision

42. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission with some matters reserved for 4.5 hectares of residential development comprising 3.4 hectares of land for up to 100 dwellings (up to 30 (30%) affordable housing) together with 1.1 hectares of land set aside for public open space and strategic landscaping and 2.2 hectares of public open space and green corridors with vehicle access from Ford Lane and pedestrian/cycle access only from North End Road, in accordance with application Ref Y/60/14/OUT, dated 27 June 2014.

Right to challenge the decision

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after that date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
44. A copy of this letter has been sent to Arun District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Phil Barber

Authorised by Secretary of State to sign in that behalf

ANNEX

Representations received too late to be considered by the Inspector

Name	Date of correspondence
J M Williams	Undated
Paul Every	Undated
Joshua McClelland	Undated
G Weymouth	Undated
N R Roberts	Undated
M J Walker	Undated
Robina Every	Undated
Sean B Murphy M.B.E.	Undated
Timothy Calnan	Undated
Angela Picknell	Undated
Richard Roberts	Undated
Julie McClelland	Undated
Alison Newman	Undated
Ella M Page	Undated
Anne Brearley-Smith	Undated
Mr & Mrs C M Thomas	Undated
Peter J. Sargent	Undated
D Harley	Undated
D & A Pannett	Undated
C & S Taylor	Undated
K. M Chenery and S.L Heaver	Undated
Mr & Mrs R R Neaven	Undated
Marilyn & Paul Hammerton	Undated
A.V.Boxall	Undated
Nick, Julie, Thomas & Emelia Hopkins	Undated
P.E.Mills	Undated
E Cordingley	Undated
E.M Godber	Undated
Jon McClelland	Undated
Julie McClelland	Undated
John Knight	Undated
S A Coomber & Barbara Coomber	Undated
Elle & Graham Coomber	Undated
G V Aldis	Undated
Mrs J E Lott	Undated
Mr P Collins	24 June 16

Report to the Secretary of State for Communities and Local Government

by David Nicholson RIBA IHBC

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

Date: 7 October 2015

TOWN AND COUNTRY PLANNING ACT 1990

ARUN DISTRICT COUNCIL

APPEAL MADE BY

KEITH LANGMEAD LTD.

Inquiry held on 7-10 July 2015

Land to the south of Ford Lane, east of North End Road, Yapton

File Ref: APP/C3810/A/14/2228260

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GLOSSARY

ADC	Arun District Council
ADLP	Arun District Local Plan
Ax	Appendix
CD	Core document
CLG	Communities and Local Government
DAS	Design and Access Statement
dpa	dwellings per annum
EIA	Environmental Impact Assessment
EiP	Examination in Public
HLS	Housing Land Supply
ID	Inquiry Document
IR	Inspector's Report
LB&CA	Listed Buildings and Conservation Areas
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
MEMP	Mitigation, Enhancement and Management Plan
NPPF	National Planning Policy Framework
OAN	objectively assessed needs
POS	Public open space
ReX	Re-examination
RfR	Reason for Refusal
S66	Section 66 of the Planning (LB&CA) Act 1990
S106	Section 106 of the Town and Country Planning Act 1990
SHLAA	Strategic Housing Land Availability Assessment
SoCG	Statement of Common Ground
SoS	Secretary of State
T&CP	Town and Country Planning
WSCC	West Sussex County Council
XX	cross-examination

File Ref: APP/ C3810/ A/ 14/ 2228260

Land to the south of Ford Lane, east of North End Road, Yapton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Keith Langmead Ltd. against the decision of Arun District Council.
- The application Ref Y/60/14/OUT, dated 27 June 2014, was refused by notice dated 2 October 2014.
- The development proposed is: Outline planning application with some matters reserved for 4.5 hectares of residential development comprising 3.4 hectares of land for up to 100 dwellings (up to 30 (30%) affordable housing) together with 1.1 hectares of land set aside for public open space and strategic landscaping and 2.2 hectares of public open space and green corridors with vehicle access from Ford Lane and pedestrian/cycle access only from North End Road.¹

Summary of Recommendation: the appeal should be allowed

1. Procedural Matters

- 1.1 At the Inquiry an application for costs was made by Keith Langmead Ltd. against Arun District Council. This application is the subject of a separate Report.
- 1.2 Determination of the appeals was recovered by the Secretary of State (SoS) by way of a direction². The reason for this direction was because the appeal involves a proposal for residential development of over 10 units in areas where a neighbourhood plan (NP) proposal has been made.
- 1.3 A planning obligation in the form of a Unilateral Undertaking was submitted pursuant to section 106 (s106) of the Town and Country Planning (T&CP) Act 1990. I deal with its contents below.
- 1.4 The application was made in outline form except for access. All other matters (appearance, landscaping, layout and scale) were reserved. The application was refused by the Council for 8 reasons³. UDC withdrew its objections with regard to reason for refusal (RfR) 7 on receipt of the s106 obligation. RfR 8 was withdrawn by the Council on 18 December 2014 as the parties agreed that the proposed affordable housing could be secured by means of a condition (see below).
- 1.5 In a screening direction⁴, under the T&CP (Environmental Impact Assessment) (EIA) Regulations 2011, the SoS directed that the development is not EIA development.
- 1.6 The Inquiry sat for 4 days on 7-10 July 2015. I carried out an unaccompanied site visit of the surrounding area before the Inquiry and I conducted an accompanied site visit on 10 July 2015. I saw the traffic near the school before and after 08.45 on 8 July and at around 15.00 on 10 July 2015.

¹ The full description notes that: This application is a Departure from the Development Plan

² Made under Section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 on 17 November 2014.

³ See Decision Notice, main file

⁴ Dated 9 January 2015, main file

- 1.7 The Examination Inspector at the emerging Arun Local Plan (eLP) arranged a Procedural Meeting on 16 July 2015, after the last sitting day of this Inquiry, and issued a detailed statement (see below). I held the Inquiry open until 31 July 2015 for any further representations on this meeting, on any objections made to relevant eLP policies, and on the distribution of housing in the eLP. Following the LP Inspector's conclusions and the further representations⁵, I gave instructions for the Inquiry to be closed on 5 August 2015⁶. I summarise the LP Inspector's conclusions in s3 below and the additional comments for each party at the end of each of their cases.

2. The Site and Surroundings

- 2.1 Yapton lies between Barnham, Littlehampton and Bognor Regis. As well as the plan of the appeal site in the application drawings⁷, maps of Yapton can be found in the Design and Access Statement (DAS)⁸ and at the back of the eLP⁹. Relevant features are shown on ID4 and ID5.
- 2.2 It is common ground that Yapton has a range of services within walking distance of the site, including two GP surgeries and a primary school¹⁰. It has a small business base¹¹. The nearest railway station is two miles away at Barnham. The village is served by bus routes from Littlehampton to Bognor Regis and Chichester and from Yapton to Bognor Regis¹². There is a level crossing on North End Road as it heads out of the village to the north.
- 2.3 The site comprises a 6.7 hectare (ha) field between North End Road, Ford Lane and footpath 358. There is essentially ribbon development along North End Road while most of Ford Lane runs between fields. The southern boundary to the site also borders the businesses at the Orchard Business Park and the rear gardens to several houses along Church Lane. It follows that roughly half the site perimeter adjoins existing development and the other half is next to other fields. Further details are set out in the Joint SoCG¹³.
- 2.4 Public footpath 357 crosses the appeal site diagonally from its south-eastern tip (where it joins Public footpath 358) to the north-western corner where it connects to Ford Lane. Public Footpath 358/359 starts in Church Lane as a narrow twitten¹⁴ and continues in a straight line northwards towards its junction with Ford Lane along the eastern boundary of the site and the historic field boundary¹⁵. Footpaths 356 and 359 continue these paths beyond the site. The site lies some 4.36km from the Council's South Downs viewpoint¹⁶.

⁵ Inquiry Document (ID) 27 a&b

⁶ ID28

⁷ See folder on main file

⁸ Core document (CD) 7

⁹ CD19

¹⁰ CD20: Yapton Neighbourhood Plan pp 7-8

¹¹ Ibid para 8.3

¹² Ibid paras 11.5-11.7

¹³ ID14a

¹⁴ a Sussex term for a narrow path between two walls or hedges

¹⁵ See footpath numbers on the OS extract at Collins Ax E1

¹⁶ ID24

- 2.5 The site lies within the Chichester to Yapton Coastal Plain¹⁷ whose characteristics include low lying flat open landscape and long views. In the Arun Landscape Study¹⁸, commissioned to assess the constraints of green field land to accommodate future development, the site is within Landscape Character Area (LCA) 29: North of Yapton Coastal Plain, which is noted as having minor areas of woodland and a minor contribution to the setting of Yapton. It was assessed as of substantial landscape sensitivity but slight landscape value producing a landscape capacity of low/medium. Of the 45 LCAs, only 8 were assessed as having greater capacity with 23 having only low or negligible capacity.
- 2.6 At the local level, the Council agreed¹⁹ that the site's character type was intensive arable farmland with relatively large fields across relatively flat landform. However, it went on to argue that the site itself was most closely akin to that with field boundaries which tend to be ditches and/or fences and weak/remnant hedgerow with few mature trees and long views to the Downs to the north, rather than that of having a well developed structure of hedges, shaws, copses and woodland which break up views across it and give a sense of large scale enclosure.
- 2.7 It is common ground that the site comprises agricultural land which, according to the Soil and Agricultural Land Assessment Study²⁰, is classified as being of Grade 2 quality and the LPA raises no objection to the loss of agricultural land. It is also common ground that the appeal site is not subject to any surface water flood risk as it is situated in Zone 1, as classified by the Environment Agency, and that foul water drainage can be disposed of via the Ford Wastewater Treatment works which serves this part of Yapton. On my site visit I stopped and closed my eyes, as requested, to listen to a skylark.
- 2.8 St. Mary's Church, believed to date from the late 12th to early 13th centuries with few alterations²¹, is listed at Grade I. It is mostly of flint and its tower is surmounted by a shingled timber spirelet of pyramidal form; this is a typical Sussex feature known as a Sussex cap²². The churchyard is surrounded by trees which provide particularly dense cover to the rear between the church and the appeal site. The church tower can be seen above the trees from the site and beyond. Two other listed buildings on the south side of Church Lane are Church House, across the road from the church lych gate, and Park Lodge, further west along Church Lane. The Council raised no concerns with regard to the settings of these other two buildings.
- 2.9 The Yapton (Church Lane) Conservation Area²³ was designated in 1994 and is fairly tightly drawn around the church, Church Farm House and the two listed buildings on the south side of Church Lane. The description identifies its loose grouping of buildings, high substantial flint boundary walling, mature

¹⁷ Sheet SC9 of the West Sussex Land Management Guidelines at McKenzie Ax EDP2 and Collins Ax E6

¹⁸ CD17

¹⁹ McKenzie Ax EDP2: Landscape Character Assessment, paras A2.17-2.20

²⁰ CD35 published by Arun District Council in March 2013

²¹ See the little guide book at ID21 p3

²² Ibid p11

²³ CD27: Description and map; Dr Wightman's appendix 1; and Collins's appendix F

landscaping and chimneys as important features. Church Farm House is an unlisted residential property within the conservation area. The appeal site touches the northern boundary of the Conservation Area where it borders part of the extended garden to Church Farm House beyond the churchyard.

- 2.10 The Yapton Manor/Place print²⁴ provides persuasive evidence that the building once stood to the east of the appeal site, behind Church Farm House, and I was shown an undulation in the field outside the site which might have been the location of its ha-ha or other earthworks. Burndell Road, with a development site at on the eastern side of the village, was subject to an Archaeological Evaluation²⁵.

3. Planning Policy

- 3.1 The T&CP Act 1990, the Planning and Compulsory Purchase Act 2004, the Localism Act 2011, the Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are particularly relevant.
- 3.2 Following the revocation of the WSCC Structure Plan and the South East Regional Plan, the only relevant part of the development plan for the area now comprises the Arun District Local Plan (ADLP), adopted in 2003²⁶ and with many policies saved in 2007, and the Yapton Neighbourhood Plan (YNP) which was made on 5 November 2014. The site is close to, but outside, the built-up area boundaries in the ADLP and in the YNP.
- 3.3 All relevant policies are listed in the SoCG. Particularly pertinent are saved ADLP policies GEN2, GEN3, and GEN7(ii). Policy GEN2 does not permit development outside the built-up area boundaries defined in the ADLP. Policy GEN3 defines areas outside the built-up area boundaries as countryside where development will not be permitted other than in specific circumstances. Policy GEN5 makes provision for new dwellings up to 2011 but the Plan makes no policy provisions in terms of housing allocations to meet the housing requirements for the district beyond 2011. Policy GEN7 sets criteria for development which should display high quality design and layout including, at criterion (ii), that it should respond positively to the characteristics of the area to create attractive places and spaces and respect local distinctiveness.
- 3.4 ADLP policy AREA2 only permits development which would preserve or enhance the character or appearance of a conservation area or its setting. ADLP policy AREA17 does not permit development which would harm the significant archaeological interest of a site and, where the presence of remains is known or suspected, requires an assessment of the site before the application is determined. Where this shows that preservation in situ is not justified, conditions may be attached to require investigation before development starts.

²⁴ ID16, as provided in the evidence of Vicky Newman and the No Yap-town group

²⁵ CD16

²⁶ Core Document (CD)18

Emerging Arun Local Plan (eLP)

- 3.5 The eLP 2011-2029 Publication Version is dated October 2014²⁷. At the time that the application was refused, the Council's timetable for this was for pre-submission publication (Regulation 19) in October - December 2014; submission in Jan 2015; examination in April/May 2015; Inspector's Report during August 2015; and adoption in September 2015. The consultation exercise attracted representations raising objections on legal compliance and soundness grounds in respect of all the relevant draft policies in this appeal. The RfRs assert conflict with emerging policies SD SP2, H SP1, C SP1, LAN DM1, HER DM1, HER DM3, HER DM6 and INF SP1. Given my conclusions on the eLP (below), I do not summarise these policies here.
- 3.6 The LP Inspector convened a meeting for 16 July 2015, after all evidence at the Inquiry had been heard. He issued a discussion note²⁸ before the meeting explaining that its purpose was to consider the implications for the future progress of the examination on the issue of 'the full objectively assessed needs (OAN) for market and affordable housing' with reference to the requirement in NPPF 47. He referred to the discrepancy between the OAN figure of 580 dwellings per annum (dpa), in the submitted eLP, and the figures of 786 dpa and 758 dpa, the first in an appeal in December 2014, and the second in a study by G L Hearn Ltd (Hearn report)²⁹.
- 3.7 The Council met on 17 June 2015 and considered whether to proceed with the figure of 580, withdraw the eLP and prepare a replacement plan based on 758 dpa, or to seek suspension. It resolved to ask the LP Inspector to agree to suspend the eLP for six months in order to put forward an OAN of 641 dpa as an interim measure pending a longer review.
- 3.8 In his conclusions after the Procedural Meeting³⁰, the LP Inspector set out the Council's position and summarised the duties, in NPPF 47 and PPG ref ID 2a 016 20150227, to meet the full OAN as informed by the latest available information. He then explained his concerns with the Council's approach as first, that a 30% increase would be a meaningful change following the 2011 census, and second that no OAN figures/methodologies had been tested at examination as representations were only made with regard to the 580 dpa. Given the findings of the Hearn report, he was not convinced that it would be sound or appropriate to proceed on the basis of a figure of 641 dpa. Moreover, he considered that planning to meet a target limited to 641 dpa could prejudice more sustainable strategies including any which might follow the announcement of an Arundel bypass. He did not view suspension for six months as effective protection against 'planning by appeal' as the Hearn report would continue to be raised to argue that the plan was out of date even at adoption.

²⁷ CD19

²⁸ ID26a

²⁹ CD22: Committee report dealing with GL Hearn report 'Objectively Assessed Housing Need: Arun District', March 2015

³⁰ ID26b

- 3.9 The eLP Inspector noted the suggestion in the committee reports³¹ that withdrawal to pursue the full OAN would effectively render all of the NPs immediately out of date. He felt that this was to overstate the position but acknowledged that changes in the amount of development provided for by the eLP could result in certain parts of some NPs being superseded or in need of revision and that NPPF 184 is clear that NPs should not promote less development than that set out in an up-to-date LP. He noted that Arun's NPs have emerged at a time when the adopted ADLP has been growing increasingly out of date, finding the marked lack of synchronisation between the eLP and the NPs to be unfortunate. Finally on this point, he found that ruling out sound judgements on strategic matters which should be set out in the LP, in order to avoid the possibility that resultant policies might not fit with some NPs, would not meet the tests in NPPF 182.
- 3.10 In conclusion, he found that suspension as suggested would not be an appropriate option. However, he went on to consider whether suspension for more than six months could provide a faster option for achieving a sound plan than withdrawal. He therefore invited the Council to consider a 12-18 month suspension with a view to examining the issue of the OAN as soon as possible following representations on the basis of 758 dpa. Any consideration of reasonable alternatives would need to avoid any appearance of pre-determination or over-reliance on the sustainability assessment accompanying the submitted plan.

Yapton Neighbourhood Plan (YNP)

- 3.11 An Examination into the YNP was held in June 2014 and the Examiner's Report is dated 17 August 2014. The referendum version, reflecting the Examiners recommendations, was published in late September 2014³². A referendum was held on 23 October 2014 and the results were as follows: 724 votes cast (22.13% turnout), 681 votes cast in favour of a Yes (94.45%) and 40 votes cast in favour of no (5.55%). At a Full Council meeting on 5 November 2014, Arun District Council resolved to 'make' the YNP which means that it has been brought into legal force, and forms part of the statutory development plan.
- 3.12 The Independent Examiner considered a representation that it should not proceed to referendum until the new ADLP has been adopted. He noted that the adoption process would have established the objectively assessed housing needs for Arun District but was satisfied that the YNP had been prepared in a proportionate and responsible way, as set out in the PPG, to the extent that the qualifying body and the LPA should discuss and aim to agree the relationship between policies in the various plans³³.
- 3.13 He accepted that if the adopted policies of the eLP are different from those which underpin the YNP then they would take precedence and that the qualifying body might wish to carry out a review of the YNP. Finally, in considering the development plan context, he recognised the importance of flexibility and the ability of the YNP to contribute towards the District's

³¹ To the Local Plan Sub-Committee and the Full Council – see ID26 para 11 and 14

³² CD20 and CD21

³³ CD21 para 3.8 and PPG Ref ID 41-009-20140306

objectively assessed housing needs and made recommended modifications accordingly.

- 3.14 All relevant YNP policies are listed in the SoCG. Those with a particular bearing on this appeal are: policy BB1, which does not permit development outside the built-up area boundary except in certain circumstances which do not apply here. Policy E8 which echoes the national and local requirements for conservation areas but makes no reference to development within their settings. Policy E9 concerns the loss of listed buildings of structures of character. YNP policies E3, E4, E5 and E6 are concerned with natural habitats, trees and shrubs, biodiversity and green infrastructure.
- 3.15 The first objective of the YNP, based on figures taken from the eLP, is to provide for a minimum of 100 new dwellings. Policy H1 identifies that the minimum housing requirement for Yapton will be established by the eLP. It notes that additional allocations will be made if the eLP requires such action or if the identified housing sites do not proceed. The policy justification adds that the Community Survey³⁴ showed 58% support for 'control' over housing development in order to prevent children from having to leave the village. Housing and development were seen by the authors of the Survey as the key component of the YNP³⁵.
- 3.16 The YNP identifies two housing allocations within its boundary for Yapton (policies SA1 and SA2) which could yield 95 dwellings and states that, with sites in the planning pipeline, this would total 208 dwellings³⁶. The Council pointed out that the allocated sites are in different landscape character areas to the appeal site³⁷. The YNP notes that all the land surrounding the village is either classed as grade 1 or grade 2 agricultural land³⁸. YNP policy E1 is to refuse development on grade 1 and grade 2 agricultural land unless allocated under policies SA1 and SA2 or required by policy H1 to meet the needs in the Plan area.

Housing position

- 3.17 It was common ground at the Inquiry³⁹ that the Council could not demonstrate a 5 year HLS. It was also agreed that the appropriate buffer under NPPF 47 is 20% and that the OAN for 2014-2019 is at least 3,790 (5x758) plus a past shortfall of 712. The precise calculation depends on the order of calculation for the buffer, but the requirement was agreed to be roughly 2,000 more than the deliverable supply over the 5 year period. On the basis of this agreement, no evidence was put forward as to the likelihood that this supply would come forward and be developed within 5 years and my report and recommendations proceed on this basis. The maximum available HLS was agreed to be either 3.01 or 2.92 years.

³⁴ ID22 section 3 Q4

³⁵ ID22 s3 Housing comments

³⁶ CD20 – YNP paras 6.4-6.5. See also ID15

³⁷ ID24

³⁸ CD20 para 6.14

³⁹ ID14b HLS SoCG

Other policy

- 3.18 Adopted Supplementary Planning Guidance (SPG) for conservation areas sets criteria for development within them. Criterion 2.3 expects a high standard for new development both within or affecting the setting of a conservation area. Historic England (HE), Historic Environment Good Practice Advice in Planning Note 3 – The Setting of Heritage Assets⁴⁰ provides a step by step approach to settings and proportionate decision taking.

4. The Proposals

- 4.1 The submitted application comprised several documents, plans and supporting information⁴¹. The scheme would include a housing development, with affordable housing, and public open space between the conservation area and the proposed housing. There would be strategic landscaping along its boundaries and on either side of retained footpath 357. Landscaping described as green corridors would be focused around retained footpath 358 and the south east of the site adjoining the village. Vehicular access would be from Ford Lane and pedestrian/cycle access only from North End Road. All existing hedges and trees on the site are proposed to be retained and enhanced. All these details would be subject to conditions controlling reserved matters. An earlier application for 250 houses, over a larger site, went to appeal but was withdrawn.
- 4.2 Four statements of common ground (SoCGs) were agreed: (a) Joint; (b) housing land supply (HLS); (c) Conditions & obligations; and (4) Archaeology⁴². Agreed matters include that:
- Yapton is a sustainable location for housing growth of the scale proposed (up to 100 houses);
 - the appeal site lies outside the built up area of Yapton as defined by “saved” Arun District Local Plan 2003 (ADLP) Policy GEN 2 but is nonetheless in a sustainable location being immediately adjacent to the settlement boundary of Yapton and close to a range of services and facilities that are all within walking and cycling distance;
 - none of the appeal site is subject to any specific national or local adopted/emerging landscape, heritage or ecological designation but is in the “countryside” for the purposes of ADLP Policy GEN 3;
 - the access from Ford Lane and all other proposed highway works have been agreed by the West Sussex County Highway Authority, the Highways Agency and Network Rail (subject to the imposition of relevant and suitably worded conditions) and the Council raised no objections in these regards; and

⁴⁰ CD26

⁴¹ Including Application Forms; A Planning Statement (including a Design and Access Statement [DAS], Affordable Housing Statement, Flood Risk and Drainage Strategy, Heritage Statement and Archaeology Statement); Transport Assessment; Arboricultural Survey; Extended Phase I Habitat Survey; Location Plan drawing no. 200B; Proposed Indicative Layout/open space proposals: drawing no. 201C; Illustrative Strategic Landscape/open space proposals: drawing no. 202B; Means of access drawing no. 130431-10A; and a Photographic Survey.

⁴² Inquiry Document ID14 a-d

- the Flood Risk Assessment and Drainage Strategy has been agreed by the Environment Agency, Southern Water Services and the Council's Drainage Engineers.

4.3 The appeal site forms part of the larger site which was the subject of a previous application⁴³ for which there was pre-submission consultation as described in its Statement of Community Involvement.

5. The Case for the LPA

- 5.1 The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. This comprises the ADLP and the YNP. The latter is very recent and up-to-date, went through the proper process of consultation and enjoys the support of the local community. The Independent Examiner concluded that, as a whole, the YNP was in conformity with the ADLP⁴⁴. He considered whether the plan should proceed before adoption of the eLP but was satisfied that it had been prepared in a proportionate and responsible way as set out in PPG. Planning permission should not normally be granted which would conflict with a plan which has been brought into force (NPPF 198).
- 5.2 Relevant policies include ADLP policies GEN2, GEN3, GEN7 and AREA2. Various policies in the eLP are relevant, as is YNP policy BB1. The YNP allocates housing sites as it is entitled to do. Considerable weight should be given to the emerging plan, which is at an advanced stage⁴⁵, in accordance with NPPF 216. There are few objections to it other than to housing policies. Already 50% more planning permissions have been granted in Yapton than were allocated in the YNP⁴⁶. Yapton is doing its bit to provide housing in the district.
- 5.3 Four recent SoS decisions⁴⁷ emphasise the importance he attaches to NPs. In *Broughton Astley* he found that conflict with the NP would significantly and demonstrably outweigh the benefits in terms of increasing housing land supply. At *Winslow* he found that, once made part of the development plan NPs should be upheld as an effective means to shape and direct development in the neighbourhood planning area. At *Sedlescombe* the SoS found limited adverse impact but concluded that granting permission would undermine the NP process. Although there was no 5 year HLS at *Earls Barton*, the SoS found a proposed development to be in clear conflict with the emerging NP.
- 5.4 The YNP is a government front runner, with public funding and considerable public support. 3½ years of hard work by 12 volunteers has gone into it⁴⁸. Allowing the appeal would undermine the principles of localism and the belief that future development could be shaped through NPs. It would undermine neighbourhood planning around the country. The government has confirmed⁴⁹

⁴³ Council ref. Y/99/13

⁴⁴ CD21 para 3.4

⁴⁵ Conceded in XX but ultimately a matter for the decision maker – see *Woodcock* paras 105 and 112

⁴⁶ See ID15

⁴⁷ Weatherhead appendices 6 and 7, 8, 9 and 10 respectively

⁴⁸ Andy Faulkner for the Parish Council

⁴⁹ Mr Boles in a Parliamentary Debate

that the weight to be given an emerging NP is in no way contingent on the status of the LP.

Landscape

- 5.5 While undesignated, protecting and enhancing a valued landscape is a requirement of the NPPF and this was further supported by a ministerial letter⁵⁰. Weight can be given to an undesignated landscape⁵¹. The Arun Landscape Study assessed the site's capacity for development as low to medium as a result of a combination of factors including the small amount of woodland, the local topography, the contribution to the setting of the village and the loss of broad long views to the South Downs and Arundel. This accords with the decision at *Westbourne*⁵² that harm to the local landscape would outweigh any environmental gains.
- 5.6 The appellant has not made a proper assessment of the impact on landscape character or submitted a Landscape and Visual Impact Assessment (LVIA) in accordance with the LVIA guidelines⁵³ as noted in the Council's response, its screening opinion, and the evidence of its landscape witness⁵⁴. Considerable weight should therefore be given to the Council's visual appraisal which identifies harm to key visual receptors including: walkers on public rights of way in the South Downs National Park; local residents on Church Lane and North End Road; passengers on the railway line; road users on Ford Lane; and walkers on footpaths 356, 357, 358 and 359. The scheme would cause clear harm as a result of its 'suburbanising' impact.

Heritage assets

- 5.7 Two key assets would be harmed. St. Mary's Church, believed to date from the 12th century, is listed at Grade I and its tower is a distinctive feature. Views of church towers are recognised in the 'West Sussex Landscape Land Management Guidelines' as a key characteristic of the coastal plain⁵⁵. The Church Lane Conservation Area is adjacent to part of the appeal site. In both cases it is the setting which would be harmed. Setting is defined⁵⁶ as 'the surroundings in which a heritage asset is experienced'. Inadequate assessment has been made of the settings⁵⁷ contrary to NPPF 128, PPG⁵⁸, and Historic Environment Good Practice Advice in Planning Note 3. Historic England advice⁵⁹ and eLP policies HER DM1(d) and HER DM3(i). The

⁵⁰ From Brandon Lewis MP, as Minister of State for Housing and Planning, to the Chief Executive of The Planning Inspectorate, dated 27 March 2015, McKenzie Ax EDP6

⁵¹ *Bishops Tachbrook* paras 23, 24, 26, 30 and 31

⁵² CD32 para 30

⁵³ The third edition of Guidelines for Landscape and Visual Impact Assessment (GLVIA3) was published by the Landscape Institute on 17 April 2013.

⁵⁴ CD10, CD15 and McKenzie

⁵⁵ See sheet SC9 at Collins Ax E6

⁵⁶ In the glossary to the NPPF

⁵⁷ See the evidence of Dr Wightman

⁵⁸ PPG: Conserving and Enhancing the Historic Environment. Ref. ID: 18a-013-20140306

⁵⁹ CD26. Historic England document, published March 2015: Historic Environment Good Practice Advice in Planning Note 3 – The Setting of heritage Assets.

Consultation Response from English Heritage⁶⁰ acknowledges that the appellant's evidence constitutes a 'slightly more thorough assessment'.

- 5.8 Statutory duties⁶¹ apply to listed buildings and conservation areas. Recent case law⁶² has emphasised that, for listed buildings, this requires 'considerable importance and weight' to be given the desirability of preserving their setting such that there is a tilted balance even where the harm would not be substantial. Here, there would be harm to the rural tranquillity of the setting in which the church and conservation area are experienced⁶³. Views of the church tower from existing footpaths would be harmed by the surrounding housing estate. The historic character of this setting would be replaced with a domestic suburban one which would harm the significance of the assets.
- 5.9 The importance of the setting of the conservation area is set out in the Appeal Decision for Church House⁶⁴. In the case of *Mordue* the Court found that the Inspector failed to give reasons demonstrating that he had given considerable weight to the harm to the settings of each of the listed buildings that he found would be harmed to some extent.

Archaeology

- 5.10 Where necessary, NPPF 128 requires developers to submit a field evaluation for sites which have the potential to include heritage assets with archaeological interest. The Council's evidence of the residual finds on the site⁶⁵, the review of the data in the Sussex Historic Environment Record and neighbouring evaluations⁶⁶ should be preferred to that of the appellant which has simply assembled documents without analysis. In these circumstances a planning condition would be insufficient to deal with the archaeological potential and this was the view of the county archaeologist⁶⁷. Rather, an archaeological evaluation should be carried out prior to determining the appeal, as happened for the application at Burndell Road in Yapton⁶⁸.

Other material considerations

- 5.11 Weight should be given to the considerable number of objections⁶⁹, the number of residents who attended the Inquiry⁷⁰, and the submissions by these and the Yapton Parish Council. Local feeling was summed up in the statement from Nick Gibb MP: 'If localism and the drive to encourage and support the new wave of planning policy through NPs and community involvement is ever to thrive and develop into meaningful policy then Yapton's NP must be allowed to carry the weight it derives.'

⁶⁰ CD13

⁶¹ Under s66 and s72 of the Listed Buildings and Conservation Areas (LB&CA) Act 1990

⁶² *Barnwell Manor* followed by *Forge Field* and *Mordue*

⁶³ The evidence of Dr Wightman

⁶⁴ CD28. Land at Church House. Ref. APP/C3810/A/08/2090433

⁶⁵ As shown to the Inquiry by Mr Burn from 4 walkovers and at his photos 1 and 2

⁶⁶ By Cotswold Archaeology at Goodhew Close, Yapton

⁶⁷ CD11

⁶⁸ CD16

⁶⁹ The report to committee, CD6, identifies 369 letters of objection to the original planning application.

⁷⁰ Approximately 31 on Day 1

Public benefits

- 5.12 These include the provision of housing where the Council cannot demonstrate a 5 year HLS. Affordable housing is a clear benefit. However, these benefits would apply to any development for additional housing on the edge of any settlement in the district. There are no demonstrable heritage benefits⁷¹. Weighed against the clear harm to landscape, heritage assets and potential archaeological remains, the benefits would not outweigh the harm identified by the Council's expert witnesses.

Planning balance

- 5.13 NPPF 14 is not engaged as the proposal would not amount to sustainable development⁷². The scheme would be in clear conflict with the YNP and local housing policies. It would cause less than substantial harm to designated heritage assets and environmental harm to the character of the area. Despite the benefits of additional housing, on balance, the proposals would be contrary to the NPPF and would not constitute sustainable development. In the alternative, NPPF 14 footnote 9 applies and the harm to the heritage assets would outweigh any presumption in favour of the development. In *Broughton Astley* the SoS found that conflict with the NP was not beyond the range of reasonable planning judgement.

Additional comments

- 5.14 Following the procedural meeting into the eLP, the Examining Inspector issued a note suggesting suspension for some 12-18 months so that the Council could undertake the necessary work with regard to the objectively assessed housing needs for the district. There were previously objections to eLP policies LAN DM1, H SP1, SD SP2, C SP1, HER DM1, HER DM3 and HER DM6. The Parish allocations are the result of several components. The plan does not rely on revisiting the NP allocations but will review the strategic allocations.

6. The Case for Keith Langmead Ltd.

- 6.1 The main issues cover: character and appearance with regard to the development plan, the settings of listed buildings, the conservation area, archaeological remains, sustainable development, and the tilted balance in NPPF 14 when assessed against the NPPF as a whole.

Housing land supply (HLS)

- 6.2 RfR1 was predicated on the Council being able to demonstrate a 5 year HLS through the strategic locations in the eLP and the allocations in the Referendum Version of the YNP. The YNP is now a made plan with its policies BB1 and H1 based on the housing requirements in the eLP. The Council subsequently⁷³ advised that it could no longer demonstrate a 5 year HLS. It is now agreed that the supply is around 3 years. Despite objections, the Council

⁷¹ As made clear by EH (as was) in CD13A. In fact the Council's closing refers to 'environmental' benefits but the email uses the word 'heritage' and defers to the LPA to judge whether other public benefits exist.

⁷² See *William Davis*, para 37, within ID7

⁷³ December 2014 – see Joint SoCG at CD5

submitted the eLP for examination in January 2015. In February 2015, two appeal decisions⁷⁴ left no doubt that the housing figures in the eLP were inadequate and in March the eLP Examination Inspector made clear that there were major issues over the soundness of the plan (see update below).

- 6.3 Consequently, neither the eLP nor the YNP make sufficient provision for housing. With regard to the housing policies at least, only limited weight should be applied to the eLP. While Yapton has more than 100 dwellings being built or with recent planning permission, this number is included within the Council's figure which only amounts to around a 3 year supply compared with the NPPF requirement of 5 years plus a 20% buffer. The new ALP will need to make provision for higher numbers. As Yapton is one of the more sustainable locations in the District, it is likely that the YNP will need to be reviewed.
- 6.4 Significant amounts of greenfield land beyond settlement boundaries will be required to meet the housing requirements of the District in any event. The YNP allocations are for land in agricultural use. It follows that none of the housing policies in the eLP or in the YNP are up to date. The PPG advises that NPs may be prepared in advance of the adoption of a LP. However, where the housing policies are out-of-date, a NP made in advance of adoption is plainly in a potentially more fragile position. NPPF 198 provides that permission should not normally be granted if it would conflict with a NP. However, it is not a normal situation for a recently made NP to be not up-to-date on account of the Council not being able to demonstrate a 5 year HLS. The position in Arun and Yapton is not normal.
- 6.5 With regard to other SoS decisions concerning NPs, in *Broughton Astley*⁷⁵ the allocated sites, leading to a combined total of 648 dwellings, significantly exceeded the CS requirement of 400 dwellings, quite unlike the situation at Yapton. *Sedlescombe*⁷⁶ concerned an emerging plan and prematurity is not an issue in this appeal. Furthermore, all the cases cited predate *Woodcock*⁷⁷ from which it is clear that policies BB1 and H1 of the YNP are not up to date, as defined by NPPF 49, despite being recently made as the LPA does not have a 5 year HLS.

Character and appearance

- 6.6 The Council's allegations are that the scheme would constitute a significant encroachment into the countryside, on a site not well related to the settlement, which would harm the visual amenities of the location and the character of the area.
- 6.7 On the first point, it should be noted that ADLP countryside policies GEN2 and GEN3 have been found to be out-of-date and inconsistent with the NPPF (see *Westergate*) while there would be no conflict with policy GEN7, criterion (ii) or otherwise. Only limited weight should be given to the relevant eLP policies which all have substantial unresolved objections. As above, YNP policy BB1 is also out of date. While the Council's landscaping witness would have done

⁷⁴ in *Westergate* - Collins AxD p175-225

⁷⁵ Weatherhead Ax 6, IR para 45 and DL para 17

⁷⁶ Ibid Ax 9

⁷⁷ ID7, divider 9, dated 1 May 2015

things differently, that is not the test. The appellant's witness has sufficient experience and expertise to assess the landscape and visual issues. Save for the single viewpoint on the South Downs⁷⁸, it was agreed that the effects would be localised and no other material receptor had been omitted.

- 6.8 The late suggestions, that inadequate information had been submitted to assess the scheme, and that biodiversity would be harmed, were without merit and at odds with the SoCGs. The site is not in any gap. The rationale for strategic landscaping is clear and could be secured by the suggested conditions. The site is not a valued landscape as defined by NPPF 109 and interpreted in *Leonard Stanley*⁷⁹. It was acknowledged that the development would change the character of the area and have some impact on the visual amenities of the locality, as would any edge of settlement countryside site. Here this harm would be very limited in these terms and would not significantly and demonstrably outweigh the benefits of the scheme. It is common ground that the site is well related to the settlement.

Heritage

- 6.9 RfR3 is misconceived in suggesting that insufficient information was submitted. It was never suggested that the appellant's witness did not have the experience or expertise to judge these matters in accordance with NPPF 128 and HE guidance. Although there are several listed buildings in the vicinity, it is common ground that of these only the effect on the church was at issue.

St Mary's church

- 6.10 It is acknowledged that the site is within the setting of the church. However, the setting makes a limited contribution to the significance of the church as a heritage asset as there is limited historical, physical or visual relationship. A small proportion of the church tower is visible from the site but that does not equate to contributing to its significance as a heritage asset. The scheme would ensure that the visual relationship, such as it does exist, would be maintained and so the setting would be preserved in accordance with s66 of the LB&CA Act. A setting is not a heritage asset in its own right and it is only the contribution to significance which matters. The Council has wrongly conflated visibility with harm. If there would be any harm at all it would be less than substantial. In fact, the scheme has been designed to respect the significance of the church. In any event, the s66 test need not be of overriding importance as found at *Razors Farm*⁸⁰ and *East of Hawton*⁸¹ and elsewhere⁸². The balancing exercise must still be carried out taking account of the considerable weight to be given to the social and economic benefits of market and affordable housing, where there is a substantial shortfall, and the environmental benefits of public open space and landscaping.
- 6.11 The tilted balance in favour of sustainable development in NPPF 14 does not apply where specific policies indicate otherwise (footnote 9) including

⁷⁸ McKenzie viewpoint 1

⁷⁹ Collins AxD p 226 and as upheld in *Stroud v SSCLG & Gladman*: ID7/14

⁸⁰ ID7/12, IR 10.50

⁸¹ DI7/13, D/L para 21

⁸² *Old Guildford Road* and *Kingsland Haines*

designated heritage assets. The Council argued that this exclusion applied even when the harm would be less than substantial⁸³. The correct interpretation should be that footnote 9 should only apply to impact on a listed building or conservation area which would cause substantial harm or total loss of significance. Then the presumption in favour of granting permission would be lost and, as set out in NPPF 133, consent should be refused. Otherwise the balance in NPPF 134 and NPPF 14 should remain. This is clear from every other instance in footnote 9 where another specific policy in the NPPF applies⁸⁴. It is also consistent with the approach to footnote 9 in *Razor's Farm*.

Conservation area

6.12 None of the appeal site is within the Church Lane Conservation Area. It is historically, physically and visually separated from the conservation area by intervening modern development and tree cover. It does not form part of the setting of the conservation area for the purposes of the NPPF. The Council is again wrong to conflate (limited) visibility with harm. The design of the scheme, and the proposed public open space in particular, would preserve any contribution that the site might make to the significance of the conservation area as a designated heritage asset, including any views towards Church Farm House. In the event that there would be any harm to the character of appearance of the conservation area, the test in s72, and appropriate balancing exercise, should be applied in the same way as s66 at *Razors Farm* and *East of Hawton*. Finally on this point, the Council⁸⁵ accepted that there would be no conflict with YNP policy E8.

Archaeology

6.13 There is no issue as to the potential archaeological interest in the site. The SoCG for Archaeology⁸⁶ makes clear that the matter could be dealt with by a condition⁸⁷. There was no credible basis for the Council taking up Inquiry time arguing that work should be carried out before determining the appeal. The appellant has submitted the relevant information⁸⁸, including maps and descriptions of the parkland to Yapton Place/Manor⁸⁹, and the Council submitted nothing that was materially different. The suggested pre-commencement condition could protect any remains, even something as dramatic as the suggested Roman villa. The evidence of the Council's archaeological witness was misconceived, unjustified and counter-productive. Applying the suggested conditions would also be consistent with the similar situation in *Westergate*.

⁸³ Citing the *Bishops Tachbrook* decision para 45 – McKenzie Ax 4

⁸⁴ Listed in detail in para 50 of the closing

⁸⁵ Dr Whiteman in XX

⁸⁶ ID11 – as suggested by the Council and agreed between the parties

⁸⁷ See also the findings of the SoS and Inspectors with regard to post decision archaeology conditions at *Westergate 175-225*, *Old Guildford Road 241*, and *Land at Kingsland Laines 259*

⁸⁸ The HER, regression maps, British History Online etc.

⁸⁹ Collins at appendix F1 paras 48-50 pp 430-431 and F2 pp 439-445

Sustainable development

- 6.14 The scheme would meet the social and economic dimensions of sustainability within the definition in the NPPF. The claim that it would not satisfy the environmental dimension, due to the existence of alleged landscape and heritage harm and the conflict with the YNP, is misconceived. Even if some harm or conflict did arise, it would be necessary to balance this with the benefits of the scheme. It is common ground that Yapton is a sustainable location for housing growth of the scale proposed (up to 100 houses) and the Council has welcomed the proposed provision of 30% affordable housing. While outside the defined built up area in the development plan⁹⁰ it is nonetheless in a sustainable location relative to the settlement being both adjacent to the boundary and close to a range of services, facilities and employment.
- 6.15 Subject to conditions, the access is acceptable to the local Highway Authority, there are no landscape, heritage or ecological designations affecting the site and it is in Zone 1 for flooding as classified by the Environment Agency. The site is Grade 2 agricultural land but the district is bound to lose some such land to meet its housing needs and it is common ground that the Council raises no objection for this reason⁹¹. The site does not provide any habitat for protected or even non-protected species other than in the field margins where the trees and hedges would be retained. The provision of significant levels of open space and landscaping would have a significant positive ecological impact⁹². The scheme would therefore also deliver environmental benefits.

Balance

- 6.16 Relevant ADLP policies and the housing policies of the YNP are not up to date. The presumption in favour of sustainable development in NPPF 14 applies. Any adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. The scheme should therefore be granted permission.

Conclusion

- 6.17 The scheme would minimise impact on the character and visual amenities of the locality, preserve the setting of the church and the character and appearance of the conservation area. It would provide a high quality residential development in an extensively landscaped publicly accessible parkland setting that would relate to its surroundings and provide ready access to local services and facilities. Housing is needed now to address the 5 year HLS deficit and the difficulties in delivering affordable housing. The proposals would bring many social, economic and environmental benefits to the local community and so permission should be granted.

⁹⁰ Under both ADLP policy GEN2 and YNP policy BB1, and therefore in the countryside for the purposes of ADLP policy GEN3

⁹¹ CD35 pp1-2; 29-33; and Fig 10. SoCG para 8.

⁹² Officer's Report at CD6 and Collins Ax A p59

Additional comments

- 6.18 With regard to the procedural meeting, there is no written report to committee, there are no minutes and no further response from the eLP Inspector and so the Council's comments⁹³ are speculative. Whether the eLP is suspended for 12-18 months or withdrawn, no more than extremely limited weight can be given to the eLP policies cited in the RfRs.
- 6.19 There were 453 representations regarding the eLP policies referred to by the Council in its RfRs, many of which have yet to be considered by the LP Inspector. While the distribution of housing allocations amongst parishes is a matter of record, these figures should no longer be relied upon. The comment that the NP allocations would not be revisited is not credible given the LP Inspector's comments⁹⁴. Rather, these figures will need to be reviewed, as predicted by the Independent Examiner, and the outcome of this is impossible to predict at this stage.

7. The Cases for Interested Parties⁹⁵

- 7.1 Many of the representations echoed the concerns which are more fully articulated by the Council above so I do not repeat them.
- 7.2 **Hilary Flynn** read out a statement on behalf of **Nick Gibb MP** for Bognor Regis and Littlehampton. This highlights local opposition, the YNP and the fact that this site was never considered by the NP group. The YNP identified sufficient new homes against the draft LP allocation and, if localism and NPs are to thrive, then the YNP must be allowed to carry the weight it deserves. In addition, the proposals would fail to meet key policy criteria in the NPPF, including that for heritage assets, as well as saved ADLP and eLP policies. The appellant has not engaged with the community affected, there have been large scale developments in this small village already and this speculative scheme is deeply unpopular with the local community.
- 7.3 **Andy Faulkner** introduced the representations by the **Yapton Parish Council**⁹⁶. He referred to the requirement in the Localism Act that consultation should take place prior to submitting an application having regard to any advice from the LPA about local good practice. The submission was endorsed by the new Clerk to the Parish Council, **Andrew Gardner**.
- 7.4 **Tricia Wales**, a representative of the YNP Group, argued that if the YNP is disregarded it would set a precedent all over the country. It would become another worthless piece of paper and neighbourhood planning would become another empty sound-bite. She advised that the focus of the YNP was to prevent housing on agricultural or greenfield land and that any development allowed should be small, around 30-40 houses, and not allow sprawl. The group reluctantly agreed to allocations for 100 houses when it became apparent that there was not enough brownfield land.

⁹³ By Mr Weatherhead on 31 July 2015.

⁹⁴ Paras 11-15 and 17-23 of his letter dated 28 July 2015, ID26b

⁹⁵ At ID17a, b and c except for Nick Gibb MP at ID10 and those of the Parish Council (below)

⁹⁶ ID12

- 7.5 **Vicky Newman**, of Church Farm House, read a statement on behalf of the community group, **No Yap-town** which represents residents throughout the village⁹⁷. This highlighted some of the points in the group's written submission. She explained that local opinion was strongly against large scale housing, preferring small infill as advocated by the YNP. She emphasised three areas of concern:
- a) First that the site is outside the YNP and fails to meet its policies. The YNP must be allowed to carry the weight it deserves. She quoted from SoS Decisions⁹⁸ and highlighted the Decision in Devizes where the SoS found that the need for housing would not outweigh the conflict with the NP.
 - b) Second, the appellant's failure to engage with the community.
 - c) Third, the loss of valuable open space which forms the backdrop to the church and conservation area and the historic boundary to the village. This would fail the NPPF test to conserve the historic environment.
- 7.6 The group asked that the YNP be properly considered and given the weight it deserves, together with the many adverse impacts which would outweigh the suggested benefits.
- 7.7 **John Mills**, local resident, stressed in his statement the conflict with several ADLP policies. With regard to sustainability, he argued that the scheme would not supply land of the right type in the right place or at the right time. It would not reflect the community's needs or protect the natural, built or historic environment. The site is currently productive agricultural land and so the scheme would be contrary to policy. The YNP has allocated the 100 dwellings in the emerging LP with a 20% buffer. It was overwhelmingly agreed at referendum. Although there was a public presentation with regard to an earlier scheme, the appellant declined to engage with the YNP or the Parish Council over this application.
- 7.8 Traffic flows from the site are constrained to the north by the level crossings at North End Road and Station Road. The former is considered to pose a significant risk requiring reduced train speeds. The Traffic Assessment (TA) is based on a previous, older statement. It is Network Rail's intention to make the level crossing at North End Road fully gated which would have a dramatic effect on traffic flows and movement. It is totally unrealistic to say that there would be no increase in traffic through Church Lane/Road when this is already used as a rat run. With existing committed developments, the scheme would put additional pressures on infrastructure, roads and the school.
- 7.9 Ford Lane is a rural unclassified road with 'T' junctions at both ends and which is subject to flooding. Photographic evidence shows the extent and depth of flooding. The Travel Plan is purely aspirational, with little real meaning, and so the scheme would not be truly sustainable.

⁹⁷ In XX she clarified that its members were a group of concerned residents, with no formal structure, who were welcome to turn up at her house. They amounted to an email list of around 132 people.

⁹⁸ At Harrogate on 2 July 2015

- 7.10 More dwellings have been approved and some of the Yapton allocation has commenced. Another has been approved subject to a s106 Agreement. The Olive Branch pub will shortly be converted to flats. The needs of Yapton can be met through small sites without the need for this development. The community of Yapton wish their village to remain exactly that.
- 7.11 **Margaret Sarson** read Mr Sarson's letter which recalled the days when his eldest daughter would ride past his house bareback, leading a string of horses down to the beach, when he would play football in the middle of the road with his boys, or when he would lie under his car with his legs stretched out into the road. Now it can take minutes to cross the overused roads. His plea also raised concerns over light pollution and loss of agricultural land.
- 7.12 **Mary Kinnersley** highlighted the principle of local democracy and argued that there was no need for parkland. She was concerned that further development would follow and took issue with the sustainability of the site with regard to public transport and local employment.

8. Written representations⁹⁹

Many of the written representations also echoed the Council's major concerns.

- 8.1 The **Yapton Parish Council** submitted its original objection and additional comments as well as being represented by Messrs. Faulkner and Gardner. These set out its policy objections with regard to the ADLP, the eLP and the YNP. It referred to the Strategic Housing Land Availability Assessment (SHLAA) carried out in 2009 which rejected the site as: 'too remote and inaccessible from village facilities'. An adjacent site was also rejected in 2012. It pointed to a loss of employment in the village, the unreliability of bus services and the risks associated with the level crossing.
- 8.2 It reported that there was unanimous opposition at a well attended public meeting and dismissed the suggestion that the volume of representations was as a result of one resident. It argued that the land is all top grade agricultural land and pointed out that it is currently all used for crop production. It reported that the SHLAA Ford Eco Town site 71 for 5,000 homes, of which this site would have been part, was rejected. The Eco town site was never considered to be suitable for development in smaller packages because of the perceived infrastructure benefits which a larger development could finance.

Additional points made by **a variety of writers** are summarised below.

- 8.2.1 The appeal ignores the YNP and eLP.
- 8.2.2 The landowner failed to engage with Yapton's residents.
- 8.2.3 It would not be sustainable in terms of infrastructure or community facilities.
- 8.2.4 Increased traffic would be detrimental to both North End Road and the level crossing.
- 8.2.5 The school is full.

⁹⁹ See red folder with main file

- 8.2.6 The site is top grade agricultural land.
- 8.2.7 There are new housing developments in two other areas nearby.
- 8.2.8 The site floods in very wet weather.
- 8.2.9 The surgeries and pharmacy are beyond capacity.
- 8.2.10 The village offers limited employment.
- 8.2.11 There is already public land in Yapton so a green space is not needed.
- 8.2.12 The access would be dangerous.
- 8.2.13 The traffic chaos in the vicinity of the school has to be seen to be believed.
- 8.2.14 It is a back-door attempt to gain approval for 250 houses.
- 8.2.15 It would make a mockery of the hours of hard work put into the YNP.
- 8.2.16 The village shop cannot be extended and is not satisfactory as it is.
- 8.2.17 Questions have been raised over the sewage system.
- 8.2.18 It is wrong to suggest that there is only one objector who is rallying protests.
- 8.2.19 Bus services are limited and there is no public transport to Ford Station.
- 8.2.20 The village is willing to take its share of the burden of new housing providing it remains in proportion.
- 8.2.21 There are no pavements in Ford Lane.
- 8.2.22 Lorries sometimes have to mount the kerb to get past school traffic.
- 8.2.23 Nearby Walberton should shoulder proportionately more of the burden.
- 8.2.24 Whilst it is difficult to argue against the need for more houses to be built in England in general it is easy to argue against this proposal.

9. Conditions

- 9.1 A Schedule of conditions was discussed and was mostly agreed between the Council and the appellant¹⁰⁰. The suggested conditions were discussed at the Inquiry and, following a few changes, these are set out at Appendix C. Except as explained below, should planning permission be granted for the proposals, for the reasons accompanying the attached conditions, I recommend that they should be imposed.
- 9.2 As well as for the reason given, as the distinction between access within the site (which is not reserved) and layout (which is reserved) is not always clear, condition 4 is also required for the avoidance of doubt. Although landscaping is reserved, condition 5 is needed as it covers retention, protection, biodiversity, management and timing.

¹⁰⁰ ID19 and ID25

- 9.3 As the negatively worded condition for affordable housing has been discussed with the appellant, as no financial contribution would be necessary and as it would meet the six tests in NPPF 206, it would be acceptable. To maximise the probability that the affordable housing would meet local needs, suitable criteria should be part of the scheme and the condition must have a retention clause. While access is not reserved, a condition is necessary to control full details.
- 9.4 In the Archaeology SoCG¹⁰¹, the Council accepted that the matter [archaeological field evaluation into the potential impact on archaeological remains] could be undertaken post decision by virtue of the suggested condition. However, unhelpfully, it went on to argue that the scheme should be refused as best practice means that it is appropriate for evaluation to be undertaken prior to a decision. For the reasons set out below, I have found that, in principle, a condition would be adequate but I recommend that, for greater precision, the fuller condition suggested at the Inquiry (ID19), with a minor amendment for clarity, should be adopted.
- 9.5 It was common ground that the TA proposals (in response to requests from and agreements with the Highway Agency, Network Rail and the WSCC Highway Authority) for off-site highway works comprising improvements for North End Road, the Lake Lane/Yapton Lane junction to the north of Yapton Railway Crossing and the junction of Yapton Lane with the A27 could be controlled and delivered by way of conditions. Although there is a statutory right to a foul water sewerage connection¹⁰², a condition requiring the details is reasonable.
- 9.6 The requirement for a Travel Plan (TP) lacks any specific targets, such as numerical goals for modal shift, and there is nothing to suggest that the measures in the TP would involve more than the provision of information. As argued by interested parties, it would be largely aspirational. Nevertheless, given the lack of objection from the Highways Authority and the Council's agreement that the scheme is in a relatively sustainable location, the condition would be adequate to reinforce the argument that the proposals would amount to sustainable development.
- 9.7 In addition to the suggested conditions, to allow the scheme to be as set out in the description of development as discussed at the Inquiry, and as this was the basis for my considerations, a condition is required to limit development to 100 dwellings.

10. Obligation

- 10.1 The planning obligation¹⁰³ contains provisions for contributions to be paid to the Council (ADC) and to the County Council (WSCC). The ADC contributions would go towards Artificial Pitches, the NHS, the Sports Hall and the Swimming Pool. Those payable to WSCC would be for Fire and Rescue, Highways, the Library and for Primary Education. There would also be a requirement for Fire Hydrants.

¹⁰¹ ID14d

¹⁰² *Barratt Homes Limited v Dwr Cymru Cyfyngedig (Welsh Water)* [2009] UKSC 13, para 59

¹⁰³ ID2

- 10.2 ADC has provided justification for the contributions and calculations for the amounts sought under the Community Infrastructure Levy (CIL) Regulations and the NPPF¹⁰⁴. WSCC also provided a justification¹⁰⁵. Both were satisfied that the undertakings would comply with the relevant tests for planning obligations in that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. For the reasons given, I agree with this assessment except as set out below.
- 10.3 The transitional period under CIL Regulation 123(3) (as amended), ended nationally on 6 April 2015. After this, s106 planning obligations designed to collect pooled contributions ('tariffs') may not lawfully be used to fund infrastructure which could be funded from the CIL. From that date only very limited pooled contributions (for up to five separate planning obligations relating to planning permissions granted within the charging authority's area) will be permitted towards infrastructure which could be funded from the CIL. As consideration by the SoS may take a little longer, in the event that the appeal is to be allowed, it might, in theory, be necessary to revert to ADC to establish whether or not the limit has been exceeded at that time. However, at the time of the Inquiry, the justification explained that none of the contributions would come near to the limit of five.
- 10.4 Clause 12 provides that if there is an express finding within the Decision that one or more of the obligations in the Undertaking does not meet the statutory tests in CIL Regulation 122 or 123 then that obligation would not take effect. Should ADC adopt a Charging Schedule prior to planning permission being granted, then the owner would be released from any obligations which relate to an item included on that list of infrastructure. The Obligation refers to the decision of the Planning Inspector, whereas this will be made by the SoS, but the difference is of no consequence.
- 10.5 The Artificial Pitches Contribution would be put towards the cost of funding additional 3G artificial turf pitches at Littlehampton Leisure Centre. This is a costed project for the leisure centre serving the catchment area. The Sports Hall contribution would be towards a major makeover of the same centre to increase activity space and provide a better experience. The Swimming Pool Contribution would be put towards increasing the pool capacity there from 6 to 8 lanes. All these would satisfy the CIL tests. On the other hand, no detailed justification was put forward for the NHS Contribution and no defence for this was offered in evidence. Consequently, the NHS contribution would not meet the statutory tests and I recommend that it should not take effect.
- 10.6 The Highways Contributions would be put towards a traffic regulation order for a 20 mph speed limit in Church Lane where there is limited footway provision. The local primary schools are over capacity and the Primary School Contribution would be used to extend provision at Yapton Primary School in accordance with WSCC's published document: Planning School Places 2015. The Library Contribution would be for a 'Tier 7' service whereby a shared facility is used for a click and collect service. As the development would

¹⁰⁴ ID3

¹⁰⁵ CD24

increase the population in the village, it would increase the demand for this service.

- 10.7 The Fire and Rescue contribution would be intended for Community Fire Link supplementary smoke alarms within the Parish of Yapton. While standard smoke alarms would be fitted to the new houses, these additional specialist alarms would be for vulnerable people. I note that there is no detailed costing for this, no identification of the likely number of such devices which might be required and no explanation of how additional houses would recreate a need for further alarms for existing houses. I conclude that the Fire and Rescue contribution would not meet the statutory tests and I recommend that it should not take effect.
- 10.8 The Fire Hydrants would be to provide access for fire brigade vehicles and would be provided at the owner's expense rather than by a financial contribution. These would satisfy the relevant tests.

11. Inspector's Conclusions

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

Main considerations

11.1 The main considerations in this appeal are as follows:

- i) the effects of the proposals on the character and appearance of the area, with regard to the development plan and its landscape value;
- ii) whether the proposals would preserve the special architectural and historic interest of the listed building of St. Mary's Church and its setting;
- iii) whether the proposals would preserve or enhance the character or appearance of the setting of the Church Lane Conservation Area;
- iv) the effects of the proposals on potential archaeological remains;
- v) whether the proposals would amount to sustainable development as set out in the National Planning Policy Framework (NPPF), having regard to the above matters and any benefits of the scheme.

Development plan context

11.2 Two elements of the development plan are relevant: the extant policies of the Arun Local Plan (ADLP), adopted in 2003 and saved in 2007, and the Yapton Neighbourhood Plan (YNP), which was 'made' on 5 November 2014. These provide the starting point for the appeal which should be determined in accordance with the development plan unless material considerations indicate otherwise. [3.2]

11.3 The NPPF is a material consideration. It says so in paragraph 2 (NPPF 2). It acknowledges the primacy of the development plan in planning decisions, in NPPF 2 and NPPF 11-12, but goes on to emphasise the need for an up to date LP. At the heart of the NPPF is a presumption in favour of sustainable development, defined as NPPF 18-219 taken as a whole. It follows that it is necessary to assess whether or not the scheme would amount to sustainable development and, if so, balance the weight to be given to its benefits against the conflict with the relevant policies in the development plan.

Arun Local Plan (ADLP)

11.4 The proposals would conflict with ADLP policies GEN2 and GEN3. The ADLP is now rather dated. It is common ground that the Council cannot demonstrate a 5 year housing land supply (HLS). Following the LP Inspector's conclusions, significantly more housing land in sustainable locations will need to be found within the next 12-18 months. In these circumstances, under NPPF 49, relevant policies for the supply of housing should not be considered up-to-date. Moreover, the Council can at best demonstrate 3 years HLS. [3.3]

11.5 ADLP policies GEN2 and GEN3 are policies for the supply of housing. They are not only dated but are not up-to-date under NPPF 49. This was confirmed in the *Westergate* appeals. Under NPPF 14, these policies are

therefore out-of-date. In the event that it is found the proposals would amount to sustainable development, the tilted balance in NPPF 14 would apply and the scheme should only be refused if adverse impacts would significantly and demonstrably outweigh the benefits. Given the directions in NPPF 49 and NPPF 215, only limited weight should be given to conflict with ADLP policies GEN2 and GEN3. If the only conflict with the development plan arose from these two out-of-date policies, a favourable conclusion with regard to the NPPF should outweigh any such conflict and the scheme should be allowed. [3.3][5.13][6.5][6.7]

Emerging Local Plan (eLP)

- 11.6 For the reasons set out in the LP Inspector's Conclusions after the Procedural Meeting, limited weight should be given to the eLP. Moreover, the published draft is not just short of its full OAN, it is significantly short. The future requirement is likely to be 758 dpa compared with 580 dpa. With the past shortfall, the Council can barely demonstrate 3 years supply against the NPPF 49 requirement for 5 years. From this the LP Inspector concluded that the eLP would be unsound without a substantial increase. Very limited, if any, weight should therefore be afforded to the eLP's housing policies and allocations. The only conclusions which can safely be drawn on this are that there is no 5 year HLS and that there is no certainty as to where future allocations will be made. [3.5-3.10] [5.2] [5.14][6.2][6.18-19]

The Yapton Neighbourhood Plan (YNP)

- 11.7 The Independent Examiner found that the YNP met all the necessary legal requirements and should proceed to referendum subject to modifications. Nevertheless, he was far more cautious about the relationship with the eLP than the Council's closing submissions suggest, in particular with regard to the full OAN. He found that the qualifying body and LPA had discussed and aimed to agree the relationship between the plans. He did not say that the relationship was satisfactory. He could not, given the stage the eLP had reached. Indeed, he found that producing a NP in this context was 'challenging'. This conclusion came before the LP Inspector's Conclusions after the Procedural Meeting. [3.11-3.16][5.1-5.4][6.18-6.19]
- 11.8 Following the LP Inspector's latest letter, the housing policies in the eLP are once again at an early stage and are likely to remain so for some time. What is certain, however, is that the new LP will need to find additional housing land. There is as yet no clear indication of where that land will be but, in this context, the policies within the YNP for the supply of housing are no longer consistent with the eLP however recently the YNP was made. Moreover, the YNP based its allocations of land for 95 dwellings on a figure in the eLP of 100. Even if it was possible to simply allocate more land proportionately, which it is not, as the Council only has a supply for 3 years instead of 5, the YNP would need to allocate land for an additional number of dwellings equivalent to 5 years rather than 3 years at present. [3.8-3.9][5.14] [6.18-6.19]
- 11.9 This possibility was identified by the Independent Examiner when he recognised the importance of flexibility, and accepted that if the adopted policies of the eLP were different from those which underpin the YNP then they would take precedence and that the qualifying body might wish to

carry out a review of the YNP. However, he is unlikely to have anticipated the scale of review following the appeal decision in December 2014 and the Hearn Report in March. Given the shortfall in HLS identified in the LP Inspector's conclusions after the Procedural Meeting, the comment by the Independent Examiner should be given new force. While he anticipated a review, that cannot now meaningfully take place for another 12-18 months, if the LP Inspector's conclusions are followed, or longer if the emerging LP is withdrawn. Although the Independent Examiner was entitled to find the YNP sound at that time, based on the information before him and the PPG, there is now a vacuum in district-wide housing allocation policy which leaves YNP policy BB1 with nothing to underpin it. [3.10][3.13]

- 11.10 In *Woodcock* the judge found that paragraphs 14 and 49 of the NPPF do apply to the housing supply policies in a draft development plan, including a NP. It follows that NPPF 14 and 49 apply to a made NP. Relevant policies for the supply of housing within the YNP are therefore out-of-date as defined by the NPPF. While other policies in the YNP can continue to have full effect, and despite the YNP being only recently made, policy BB1 is out-of-date and should be given limited weight. In the event that the SoS's decision is not issued within 12 months of the YNP being made, on 5 November 2014, under NPPF 215, the weight should be reduced even further. It would be irrational to dismiss the appeal as inconsistent with a recently adopted NP when it is clear that the position will be the same after the 12 month period has expired. [3.17]
- 11.11 Furthermore, Yapton is one of the more sustainable settlements in the district and it is common ground that the site is a sustainable location for some additional housing. Other sites on settlement edges in the district, some of which have NPs, are likely to face similar opposition. In agreement with the Council, no evidence was given as to the probability that the allocations identified in the YLP, or elsewhere in the district, will actually come forward within 5 years. Although it deals with housing, YNP policy H1 is a permissive policy which anticipates additional allocations and so there would be no conflict with it. It follows that if the only conflict with the YNP is with policy BB1, the weight to be given to conflict with the YNP as a whole should be no more than limited. [3.15][5.13][6.14]
- 11.12 The alternative, to give priority to YNP policy BB1 when the eLP is about to reconsider HLS, and when Yapton is one of the more sustainable settlements in the district, would be to cause unnecessary delay in providing additional housing and meeting the needs of the population of Arun District for adequate housing and affordable housing. It would give preference to one YNP policy which aims to restrain housing in circumstances where more housing is needed and where planning policy is urging increased delivery (NPPF 47). Neither the Localism Act nor the NPPF suggest that it is enough for a neighbourhood to assert that it has assessed its share of the housing needs and to then disregard the rest of the district. The requirement in NPPF 49 is directed squarely and exclusively at the LPA. [3.12-3.13][3.17]
- 11.13 Local residents have referred to the allocations in the YNP and argued that these provide enough sites for the needs of the village. As above, this was based on earlier needs assessments which no longer apply. As there are no agreed targets for either Arun district or Yapton, no weight can be given to

the argument that the YNP would provide the necessary HLS for the village or for its share of the district. All that is known is that the published eLP would not have met the full OAN for the district. Furthermore, no evidence was heard as to whether the stated supply figures were achievable either in the district or the village. It follows that no weight can be given to the suggestion that the YNP has made adequate provision for housing land.
[5.2][6.3][7.4][7.7]

- 11.14 The weight to be given to a NP as a whole is not contingent on the status of the LP. With regard to most of the YNP policies, that is not an issue. At the time, the YNP was entitled to allocate housing sites and did so through the permissive policy H1, based on the housing requirements in the eLP, before the Council acknowledged that it could not show a 5 year HLS. It then created a settlement boundary through policy BB1. Nevertheless, the lack of error in the YNP process is not to say that significant weight should still be given to one specific policy within the YNP which aims to restrict housing when the eLP has no overall strategy for its HLS, and is out-of-date under NPPF 49, as is the case here. If YNP policy BB1 represents the whole thrust of the village's aspirations for the NP, i.e. to prevent additional housing, then this policy would have had no basis in the statute or in the NPPF.
[5.2][6.3][7.2-7.7]
- 11.15 The weight to be attributed to YNP policy BB1 is a matter for the SoS. However, the following facts are relevant:
- 11.15.1 Arun's NPs have emerged at a time when the adopted ADLP has been growing increasingly out-of-date with its housing policies only running to 2011; [3.2][3.9]
- 11.15.2 the eLP housing policies are now back at an early stage and merit limited weight; [3.10]
- 11.15.3 the YNP was prepared and made on the basis that the Council could show a 5 year HLS, now it has agreed that it cannot; [3.11][3.17]
- 11.15.4 in fact, ADC now has barely 3 years HLS compared with the NPPF requirement of 5 years, a considerable shortfall; [3.17]
- 11.15.5 proportionally, the YNP allowance of 100 is also only three-fifths of what it should be; [3.15-3.16]
- 11.15.6 ADC has a persistent record of under-delivery (hence the agreed 20% buffer); [3.17]
- 11.15.7 the YNP built-up area boundary (policy BB1) is out-of-date as it restricts the supply of housing land where there is no 5 year HLS (see *Woodcock*); [6.5]
- 11.15.8 the YNP housing allocations are also for sites in agricultural use; [3.16]
- 11.15.9 there was no evidence at the Inquiry that the sites allocated in the YNP would be delivered, or on the likelihood that even the 3 years' HLS sites in the district are deliverable within 5 years; [3.17]
- 11.15.10 over half of those surveyed for the YNP (58%) were in favour of additional housing for local people in need, albeit controlled; [3.15]

- 11.15.11 Yapton is one of the more sustainable villages in the district; [3.10]
 - 11.15.12 the YNP mistakenly assumed that the eLP would be adopted soon; [3.10]
 - 11.15.13 while the Council has stated that it would like to increase its HLS through strategic allocations, without affecting allocations in the villages, the LP Inspector has not accepted this; [3.8][5.14]
 - 11.15.14 now that the eLP will be suspended for 12-18 months, or withdrawn, the relationship between the eLP and YNP can no longer be viewed as complementary; [3.10][3.12]
 - 11.15.15 the LP Inspector acknowledged that changes in the amount of development provided for by the eLP could result in certain parts of some NPs being superseded or in need of revision; [3.9]
 - 11.15.16 the Independent Examiner acknowledged that changes in the eLP could result in parts of some NPs being in need of review; [3.13] and
 - 11.15.17 NPPF 184 is clear that NPs should not promote less development than set out in an up-to-date LP.
- 11.16 For all these reasons, the weight to be given to the need for additional housing in Arun district, including Yapton, as urged by NPPF 47, should be given considerably more weight when balanced against YNP policy BB1.

Landscape

- 11.17 The Arun Landscape Study assessed the capacity of LCA 29 as a whole for development as low/medium. This is a greater capacity than that of half the LCAs studied which were assessed as Negligible to Low. The site lies within LCA 29 but with half of its boundaries adjoining built development along or across from either North End Road, the Orchard Business Park or the rear gardens to Church Lane. The accompanied visit showed that the site is on the cusp of a landscape exhibiting the features of LCA 29 but is also adjacent to built-up areas of the village. Moreover, while looking east beyond the site the view is of open fields, with a weak hedgerow structure, the site itself has several mature trees along footpath 358 and more around its perimeter with the village than in other parts of the character area. On this point the capacity of the site for development in landscape terms is significantly greater than that of LCA 29 as a whole which in turn has a greater capacity than average for the district. [2.5]
- 11.18 The scheme would change an open field into a housing estate. There would be a loss of countryside. It is a pleasant field with some open views and its loss would therefore be likely to cause some harm to the character and appearance of the immediate area. The proposals are in outline form and so, while conditions would control the detail, little positive weight can be given to the likely quality of the detailed design of the buildings at this stage. The illustrative drawings would push the housing towards Ford Lane and North End Road retaining the footpath across the site and creating open space between the church and the housing. This could provide a pleasant buffer between the older parts of the village and the new houses but, in the absence of further details, it should be assumed that the overall effect on the landscape character of the site itself would be harmful. [4.1]

- 11.19 On the other hand, subject to conditions requiring buffer planting, there is little sound evidence that there would be harm beyond the immediate area. It is likely that there would be no more than glimpses of the houses from Church Lane, while views from North End Road would be screened, and both would be in the context of existing housing. In time, the views from footpath 358 and from footpaths 356 and 359 beyond the site would be of landscaping. Footpath 357 would be significantly affected at first but could be lined with substantial planting so that ultimately its amenity value would be retained. For road users on Ford Lane there would be boundary planting and any glance towards the housing from a passing train along the railway line beyond would be of even less consequence. The site visit confirmed that the suggestion that there would harm to views from the South Downs was not credible. [2.4][5.6][6.7]
- 11.20 The Council has alleged that the appellant has not made a proper assessment of the impact on landscape character, or submitted a Landscape and Visual Impact Assessment (LVIA) in accordance with the LVIA guidelines. However, this is not mandatory and the appellant's evidence includes the relevant landscape documents and a detailed photographic survey. The DAS contains an assessment and analysis of the site and explains how that has informed the illustrative layout. The documentation was therefore adequate. [4.1(f/n39)][5.6][6.8]
- 11.21 Views of church towers are recognised in the 'West Sussex Landscape Land Management Guidelines' as a key characteristic of the coastal plain. The scheme would impair views of the tower from the appeal site and immediately to the north. On the other hand, the scheme would protect views along the footpaths and those from the east, further into LCA 29, would be unaffected. This concern should be given limited weight. [5.7][6.7]
- 11.22 While NPPF 17 bullet 5 recognises the intrinsic character and beauty of the countryside, there is no evidence that the site should be considered as a valued landscape, as defined in NPPF 109, bullet one. As interpreted by the Courts in *Stroud v SSCLG & Gladman*, the site would need to be more than just popular with local residents for this to apply. With regard to the letter from Brandon Lewis MP, this only draws attention to the fact that the impact of development on the landscape can be an important material consideration and does not alter the law or policy or suggest that landscape impact should be an overriding factor where the harm would be limited. [5.5(f/n50)][6.8(f/n77)]
- 11.23 Given the concern shown by local residents for their environment, as typified by the enormous effort that has gone into the YNP, it is reasonable to expect that great interest would also be given to the detailed design that would be put forward at reserved matters stage. Contrary to the Council's concern that there would be a 'suburbanising' impact, there was no evidence that the detailed design could not be suitable for the edge of a rural settlement rather than adopting its style from a low-density zone to a town or city. Subject to satisfactory proposals at the details stage, it is likely that a good scheme would come forward that would accord with the design requirements of ADLP policy GEN7(ii). [5.6]
- 11.24 Overall, there would be some localised harm to the character and appearance of the locality but there would be no significant harm to the

wider landscape. Moreover, given the need for much more housing in the district, and so the need for greenfield land to meet this demand in any event, the likely net harm to the district would be nil.

Conclusions on character and appearance

- 11.25 The site lies outside the settlement boundary in the ADLP and so within an area defined as countryside. However, ADLP policies GEN2 and GEN3 are for the supply of housing which serve to restrain development. In accordance with NPPF 49 and 14, the weight to be given to the need for housing should clearly outweigh the conflict with these out-of-date ADLP policies and with any harm to the countryside by way of policy rather than harm to the landscape. The site is also beyond the settlement boundary in YNP policy BB1. The YNP was only recently made. However, for all the above reasons, conflict with this policy alone should not outweigh the benefits of additional housing and affordable housing.
- 11.26 Subject to reserved matters, there would be no conflict with ADLP policy GEN7. Other than the loss of open countryside at the edge of a settlement, which must be inevitable if the Council is to meet its housing targets, there would be no significant harm to the character and appearance of the area or the wider landscape or conflict with NPPF 17.

Heritage

Listed building

- 11.27 St. Mary's Church is a fine, attractive, historic building and this is consistent with its Grade I listing. As an important designated heritage asset, under NPPF 132, great weight should be given to its conservation. Its significance is mostly on account of its great age and the degree of survival of much of its early fabric. Setting is defined in the glossary to the NPPF as 'the surroundings in which a heritage asset is experienced' and so it extends to cover anywhere from which the church tower can be experienced. The whole of the church can be seen, and experienced, from within the churchyard and from a short section of Church Lane. [2.8]
- 11.28 The top of the tower can be seen from much further afield, including the whole of the appeal site. This is all therefore within its setting as are parts of the existing village, notably some of Church Lane. However, unlike its Church Lane frontage, there is no inter-visibility between the appeal site and most of the church, only one way views of the tower. Little if any of what is important to the significance of the asset can be experienced from beyond the churchyard and the contribution which the wider setting makes to its significance is very limited. [2.8][5.7][6.10]
- 11.29 The setting of a heritage asset is not limited to where there is inter-visibility but HE Advice Note 3 confirms that this can be important. However, none of its examples of where views contribute more to understanding the significance of a heritage asset are relevant. This is because there is no important relationship between the church and the appeal site, no historical association, the composition in the view was never part of its design or function, and no relationship with features or phenomena. The evidence with regard to West Sussex churches standing towards the edge of villages

is interesting but here the church is already surrounded by land in residential use and the appeal site is off to one side so that the church would still be visually open to the countryside beyond the grounds of Church Farm House. The scheme has been designed with a wide margin of open space to respect the significance of the church. [2.9][3.18]

- 11.30 The proposed houses would obscure the tower from some views within the field and from parts of Ford Lane. Otherwise, the views from the footpath would be retained albeit that the view would be framed by houses rather than an open field. While this would alter the experience of this heritage asset from this part of its setting, subject to the detailed design of the houses, there is no evidence that the significance of the asset would be harmed by a change within what is effectively a relatively peripheral part of its setting. [5.8] [6.10]
- 11.31 The Council alleged that an inadequate assessment had been made of the settings. NPPF 128 requires the level of detail to be sufficient to understand the potential impact of the proposal on the significance of the assets. The Consultation Response from HE acknowledges that the appellant's evidence constitutes a 'slightly more thorough assessment'. While the Council seems to have interpreted this as damning with faint praise, it should be taken at face value as a lack of overt criticism. In any event, the information is comprehensive and the level of analysis is enough for a proper assessment of the setting. It would accord with PPG Ref. ID: 18a-013-20140306 that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. [5.7][6.9]
- 11.32 Two other listed buildings, Church House and Park Lodge, stand on the south side of Church Lane with other houses between them and the appeal site. The Council rightly raised no concerns with regard to the settings of these buildings and, given the separation, no harm would be caused. While the Council has referred to the historic character of the parkland to Yapton Place/Manor, there was no evidence that this setting ever made an important contribution to the significance of the church and in any event the parkland is no longer there. [2.8][2.10]
- 11.33 For all these reasons, the contribution which the setting makes to the significance of the church would be unaffected by the changes within an area of that setting in which only part of the church tower can be experienced. The proposals would therefore preserve the special architectural and historic interest of St. Mary's Church and its setting. Given that no harm would occur, the tests for substantial or less than substantial harm in NPPF 132-134 are not relevant and the proposals would accord with s66 of the LB&CA Act. While the relevant eLP policies carry rather more weight than those for housing, as there have few objections to these, there would be no conflict with these either. There would be no conflict with YNP policy E9. [3.1][3.14][5.8][6.10]

Conservation area

- 11.34 The Church Lane Conservation Area is tightly drawn around the church and the oldest part of the village. Its character and appearance are closely

linked with the historic buildings within it and the pattern of roads and boundaries. Views are not identified in any character appraisal for the conservation area. Although the photographic evidence suggests that Yapton Place/Manor probably adjoined Church Farm House, and its park may have covered part of the appeal site, their remains have blended into the landscape and they do not feature in the conservation area boundary, any stated reason for its designation or, consequently, its significance as a designated heritage asset. Rather, the character and appearance of the conservation area, and its significance, are derived from the extant historic structures, including the vernacular style and materials they exhibit, and their arrangement and patterns. [2.9][5.9][6.12][7.5]

- 11.35 The conservation area adjoins part of the appeal site over a short distance but the proposed houses would be well outside its boundary. While there would be some inter-visibility at Church Farm House and views of the church tower (see above), in general the site is physically and visually separated from the conservation area by intervening modern development and tree cover. Historically, it has not formed part of the setting to the conservation area which would be unharmed. The site is therefore very different to that at Church House which was within the conservation area and in front of the church. [2.9][4.1][5.9]
- 11.36 Subject to reserved matters, the houses would stand well beyond the conservation area and separated by open space and landscaping. For these reasons, the scheme would not affect the significance of this designated heritage asset or the character or appearance of the conservation area, which would be preserved. It would accord with historic environment policy in the NPPF and neither NPPF 133 nor NPPF 134 would apply. There would be no conflict with saved ADLP conservation area policy AREA2. As there would be no harm to the conservation area, let alone substantial harm, NPPF 14 footnote 9 does not apply. YNP policy E8 is not relevant as it refers to development within the conservation area. [3.1][3.14][5.8][6.12]

Archaeology

- 11.37 The Archaeology Statement refers to policy in the NPPF, available records, a single recorded find (despite development at Orchard Business Park and ploughing practice on the site) and a desktop assessment. It concludes that, while there is some evidence for historical settlement, a condition requiring more detailed evaluation and assessment prior to development would be appropriate. For these reasons, the level of information was adequate and would comply with NPPF 141. [4.1(f/n39)][5.10][6.13]
- 11.38 The site may contain the remains of human activity, either from the parkland to Yapton Place/Manor or from earlier occupation. The Council's witness found as much on site, albeit it was not suggested that the finds were important or unusual for West Sussex. Supported by a response from WSCC Archaeologists, the Council sought an evaluation, including the excavation of trial trenches, prior to determination. [5.10]
- 11.39 There was no evidence at the Inquiry that the scale or quality of any buried deposits are likely to be any greater than under any other typical agricultural field in the district or that there are likely to be finds for which preservation in situ is justified. Although it was not agreed in evidence that

this could provide adequate protection, the wording in the suggested condition set out in the Archaeology SoCG would prevent development proceeding until extensive investigation has been carried out. [6.13]

- 11.40 At Burndell Road an archaeological evaluation, including excavation of trial trenches, was carried out prior to determining the application. However, while a number of features and finds were turned up, as would be expected at the appeal site, nothing in the report suggests that the buried remains would have been any less well protected if permission had been granted subject to a condition requiring the evaluation prior to development rather than before approval. There was no evidence that the appeal site is likely to contain significantly more important finds than at Burndell Road. Moreover, as the Council was minded to allow that application, the developer could be more certain that the cost of the evaluation would not be abortive. [4.2]
- 11.41 Other appeal decisions suggest that a pre-condition is the normal route for dealing with potential archaeological interest in West Sussex and there was no evidence that this site should necessarily require greater protection than elsewhere. To require more would therefore be inconsistent and contrary to PPG, Ref ID: 18a-040-20140306, which requires a proportionate response, and a field evaluation where necessary, but estimates that following an initial assessment of archaeological interest only a small proportion – around 3 per cent – of all planning applications justify a requirement for detailed assessment. [6.13]
- 11.42 It follows that, for this outline application, a pre-condition requiring further investigation would be proportionate while still safeguarding possible remains. Subject to a condition, the scheme would accord with ADLP policy AREA17, which allows conditions to be attached to require investigation before development starts. Applying a condition would also comply with NPPF 128. [3.4]

Benefits

- 11.43 The scheme would provide up to 100 dwellings in a district whose Council can barely show 3 years HLS and where there is no prospect of additional allocations coming forward in less than 12 months and probably much longer than that. It would include 30% affordable housing, a benefit which the Council would welcome and for which there is also an acknowledged need. As a material consideration, supported by the NPPF 47 exhortation not just to boost, but to boost significantly, the supply of housing, and in circumstances where there is a very substantial shortfall, these benefits should be afforded considerable weight. [4.1] [9.3]
- 11.44 The proposals would provide the housing in what was agreed to be a sustainable location. It is wrong to say that the benefits of housing where there is no 5 year HLS, and of affordable housing where there is a clear need, would apply to any development for additional housing on the edge of any settlement in the district. There is no evidence that sustainable locations proliferate in this way and the appellant's evidence was that Yapton is one of few such settlements. [4.2][5.12][6.14]
- 11.45 The appellant put forward the opportunity for landscaping, with potential benefits for wildlife, public open space and other matters that would be

required by conditions or by the planning obligation. However, while these would be advantageous, as above, they should more properly be considered as mitigation than as benefits. [5.12][6.15]

Other matters

- 11.46 Although there was limited engagement with the community with regard to this application, there was pre submission consultation as described in the Statement of Community Involvement for an earlier application and, while not ideal, it is not unreasonable for the appellant to claim that it knew what the response to any further consultation would be. Local residents had plenty of time to comment and many did. The statutory authorities have assessed any additional pressures on infrastructure, roads and the school as acceptable subject to conditions and contributions. The two site visits during school drop-off and pick-up times showed that the roads were busy and congested at these periods, with consequential traffic delays, but did not show anything exceptional for roads outside a school in southern England. [1.6][4.2][4.3][7.7][7.9][8.2.1-8.2.24][9.5]
- 11.47 Concerning the issue of biodiversity, raised for the first time by the Council in evidence at the Inquiry, the field has been planted with a single crop. While there was a skylark singing above the appeal site during the site visit, there was no evidence at the Inquiry that the site itself provides any significant habitat for either protected or non-protected species other than in the field margins where the trees and hedges would be retained and enhanced. There would be no conflict with any development plan policies, including YNP policies E3, E4, E5 and E6. [3.14][6.8][6.15]

Conclusion on sustainability.

- 11.48 Sustainable development is defined in NPPF 6 as the policies in NPPF 18 to NPPF 219 as a whole while NPPF 7 identifies 3 dimensions to sustainability as economic, social and environmental. New construction would provide economic benefits. More residents would increase support for local services and public transport. There would be no significant economic downside to the proposals. New housing, and affordable housing in particular, would provide substantial social benefits. Although disputed by local residents, given the primary school and other services in the village, the proximity of potential employment at the Orchard Business Park and elsewhere nearby, and the regular bus services, it is not surprising that it is common ground that the site is in a sustainable location. [5.13][6.14]
- 11.49 With regard to the environmental dimension, subject to mitigation by the proposed planting, no significant harm would be caused to the wider landscape or biodiversity. The loss of countryside and productive agricultural land counts against the scheme but the weight to this, and conflict with ADLP policy GEN3 and YNP policy E1, should take account of the fact that such land would be lost to housing both under the YNP allocations and elsewhere in the district in any event if its housing needs are to be met. For the above reasons, there would be no harm to heritage assets. There would be no conflict with relevant development plan policies or with adopted SPG criterion 2.3 with regard to the effect on the setting of a conservation area. [5.13][6.14]

- 11.50 As the scheme is still in outline, limited weight can be given to its detailed design and the benefits which should flow from the conditions and obligation should be more properly considered as mitigation. Nevertheless, the illustrative layout, which could be required through reserved matters, indicates a scheme that would be well integrated, legible and permeable by walking and cycling and some weight should be given to this. Overall, I find that the environmental effects would be neutral. [1.4]
- 11.51 The policies in the NPPF also include the section on NPs at NPPF 183-185. The latter confirms that the policies in a NP take precedence over those LP policies but only once it has demonstrated its general conformity. The YNP did comply with this at the time but, as above, the position with regard to the housing policies in the LP now leaves nothing to underpin those in the YNP. Consequently, while the conflict with one policy in the YNP should not be disregarded in assessing the sustainability of the scheme, it should be given little weight. Although NPPF 198 states that an application which conflicts with the NP should not normally be granted, the appellant is justified in arguing that, given the level of shortfall and the status of the eLP, the situation here is far from normal. [5.4][6.5]
- 11.52 While there are many similarities with the *Broughton Astley* appeal, the shortage in supply there (4.1 years) was less than half that of around 3 years agreed to exist in Arun District and there the NP allocated significantly more sites than the Core Strategy requirement for the settlement. The cases at *Winslow*, *Sedlescombe* and *Earls Barton* are quite different as other significant harms or policy conflict were identified.
- 11.53 For all these reasons, on balance, the proposed scheme would amount to sustainable development as defined by the NPPF. This is a material consideration which should attract considerable weight.

Overall conclusions

- 11.54 As set out above, as the relevant development plan policies are out-of-date, and as the proposals would amount to sustainable development, the tilted balance in NPPF 14 should apply and the scheme should only be refused if adverse impacts would significantly and demonstrably outweigh the benefits. In this case the only adverse impact would be to the character and appearance of the field itself, and the loss of agricultural land, harm which is likely to be inevitable somewhere in the district if housing targets are to be met. That is to say, for the district as a whole, the net harm would be nil while there would be considerable benefits. The proposals would therefore amount to sustainable development and the tilted balance should apply. However, even a straightforward balance weighs in favour of the scheme. This material consideration firmly indicates determination in favour of the proposals rather than in accordance with the development plan.
- 11.55 Given that there is far more than a limited degree of conflict between NPPF 47, 49 and 14, under NPPF 214 less than full weight should be given to YNP policy BB1. YNP policy H1 identifies that the minimum housing requirement for Yapton will be established by the eLP, and notes that additional allocations will be made if the eLP requires such action. While

there is doubt about what the eLP will require, this only reinforces the lack of foundation to the housing policies in the YNP. [3.14-3.15][5.2][6.16]

- 11.56 If the SoS's decision is made after 5 November 2015, NPPF 215 is also relevant and the weight to YNP policy BB1 should be reduced even further. In the alternative approach, if the development plan is taken as the starting point, as required by the Act and confirmed in NPPF 2, then considerably more weight should be given to the need for housing such that it would clearly outweigh the conflict with YNP policy BB1. Either way, the government imperative to boost the supply of housing should be given considerably more weight than the conflict with a single YNP policy, which is out-of-date and inconsistent with the NPPF as a whole. [5.13][6.16]
- 11.57 The proposals expose the tension in the NPPF between the desire for local people to decide on local issues and the need to provide an adequate supply of housing. Neither the Localism Act nor the NPPF suggest that local people should have the power to restrain housing development yet that is what the YNP seeks to do and was one of the main aims in its production. Whichever way the decision is made, it is likely to be criticised as reneging on either the commitment to localism, through NPs, or the commitment to adequately house the local population, as is heavily emphasised in the NPPF. A finding of substantial weight to YNP policy BB1 would mean that, for consistency, all Arun's NP boundaries could be argued to be sacrosanct and leave the eLP with little room to manoeuvre. [3.9][3.17][5.4][6.3][7.4]
- 11.58 Moreover, dismissing the appeal might be a very short lived victory for local residents given the likelihood that the eLP will need to find additional housing sites and that, other than policy conflict and local opposition, the proposals would not cause significant harm and not cause any harm that is not likely to be caused elsewhere if this site is not developed for housing. In the absence of any other harm, the scheme should be allowed to proceed. [5.14][6.18-6.19]
- 11.59 To give limited weight to YNP policy BB1 would be a great disappointment to many local residents and should not be undertaken lightly. It was argued that to allow the appeal would undermine all NPs. However, for all the reasons set out above, this would not be to negate all the other work leading to all the other policies in the YNP, and elsewhere, which remain valid. Any weakening of policies generally would only apply to those with the express aim of preventing new housing where there is considerable shortfall, which would be contrary to the purpose of NPs in the NPPF and which has no support in the Localism Act.

12. Recommendation

- 12.1 The appeal should be allowed and outline planning permission granted subject to the attached Schedule of conditions and with appropriate findings with regard to whether the obligation satisfies the statutory tests.

David Nicholson

INSPECTOR

Appendix A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Anne Williams of Counsel	instructed by Arun District Council
She called	
Andrew Burn	Waterman Energy, Environment & Design
BA MCIfA	Limited
Dr Ian Whiteman	Arun District Council
BA (Hons) MSc PhD	
Fiona McKenzie MA (Cantab)	The Environmental Dimension Partnership
MA CMLI AEMA AArborA	
Peter Weatherhead	Peter Weatherhead Planning
BA MRTPI FRICS	

FOR THE APPELLANT:

Graeme Keen of Counsel	instructed by the appellant
He called	
Paul Collins BA (Hons) DipTP	Phoenix Planning Consultancy
MRTPI	

INTERESTED PERSONS:

Laura Floodgate	West Sussex County Council
Hilary Flynn	on behalf of Nick Gibb MP for Bognor Regis and Littlehampton
Andy Faulkner	Chairman, Yapton Neighbourhood Plan Group, and former
	Vice-chairman Yapton Parish Council
Tricia Wales	Yapton Neighbourhood Plan Group
Vicky Newman	Representative of 'No Yap Town' Residents Group
Margaret Sarson	Local resident
John Mills	Local resident
Andrew Gardiner	New Clerk to the Yapton Parish Council
Mary Kinnersley	Local resident

Appendix B

LIST OF INQUIRY DOCUMENTS

ID1	Notification of inquiry.
ID2	S106 planning obligation.
ID3	ADC's statement on infrastructure contributions.
ID4	Fiona McKenzie's suggested site visit plans.
ID5	Appellant's plan of Yapton identifying relevant features.
ID6	Local plan examination update clip.
ID7	Appellant's authorities bundle (separate folder).
ID8	Appellant's opening statement.
ID9	ADC's opening statement.
ID10	Statement by Nick Gibb MP.
ID11	Archaeology SoCG.
ID12	Mr Faulkner's statement.
ID13	ADC's response to Local Plan Examination Inspector.
ID14	SoCGs: (a) Joint; (b) HLS; (c) Conditions & obligations; (4) Archaeology.
ID15	Mr. Faulkner's new homes data.
ID16	Yapton Place print. A copy of S H Grimm's 1792 painting, submitted by the No Yap-town community group (see also its written representation) .
ID17	(a) Mrs Newman's statement; (b) Mr Mill's statement; (c) Mr Sarson's letter.
ID18	Biodiversity checklist.
ID19	Mr Burn's suggested amended archaeology condition.
ID20	PPG extract.
ID21	Information on St Mary's church.
ID22	YNP community survey.
ID23	ADC leisure strategy.
ID24	Note from Ms McKenzie.
ID25	Updated list of suggested conditions (including disputed version of Condition 15).
ID26	Council's Closing.
ID27	Appellant's Closing.
ID28	Arun Local Plan examination: a) Inspector's discussion note for Procedural meeting on 16 July 2015 and b) Inspector's Conclusions after the meeting, dated 28 July 2015
ID29	Further representations on the LP Inspector's conclusions.
ID30	Letters closing the Inquiry on 5 August 2015.
ID31	Costs application and response.

CORE DOCUMENTS

CD1	National Planning Policy Framework
CD2	Planning Practice Guidance
CD3	LPA Statement of Case (Dec 2014)
CD4	Appellant's Statement of Case
CD5	Statement of Common Ground (22/12/2014)
CD5A	Statement of Common Ground on planning obligations
CD5B	Statement of Common Ground – housing land supply

CD6	Officer's Recommendation Report
CD7	Appellant's Design and Access Statement and Planning Assessment
CD8	Appellant's Extended Phase 1 Habitat Survey – Corylus Ecology
CD9	Appellant's Tree Survey
CD10	Objection from Landscape Architect (Terra Firma), WSCC
CD11	Consultation Response from WSCC Archaeology
CD12	Consultation response from Historic Buildings Adviser
CD13	Consultation Response from English Heritage (4/8/14) – Samantha Johnson
CD13A	Further Response from English Heritage to Paul Collins (14/8/14)
CD 14	Consultation Response from Yapton Parish Council: (18/8/2014)
CD15	Screening Opinion issued by Arun District Council on previous application
CD16	Cotswold Archaeology, Land off Burndell Road, East Yapton, West Sussex - Archaeological Evaluation – May 2011 - CA Report: 11143
CD17	Arun Landscape Study, Hankinson Duckett Associates 2006
CD18	Arun Local Plan 2003
CD19	Publication Version Arun Local Plan 2011 – 2028
CD20	Referendum Version Yapton Neighbourhood Plan
CD21	Yapton Neighbourhood Plan Examiner's report
CD22	Committee report dealing with GL Hearn report 'Objectively Assessed Housing Need: Arun District', March 2015
CD23	Open Space and Recreational Standards Supplementary Planning Guidance (October 2000)
CD24	WSCC CIL Justification Statement
CD25	Guidelines for Landscape and Visual Impact Assessment (GLVIA) 2013
CD26	Historic Environment Good Practice Advice in Planning Note 3. Historic England 2015
CD27	Plan of Yapton Conservation Area
CD28	Appeal Decision Re Character of Conservation Area: APP/C3810/A/08/2090433
CD29	Arun Local Plan 2003 Map of Yapton
CD30	Arun Local Plan 2014 Map of Yapton
CD31	Recent Appeal Decisions re sites in Westergate: APP/C3810/A/14/2220943 APP/C3810/A/14/2217385
CD32	Appeal Decision re Heritage Assets at Westbourne APP/L3815/A/13/2205297
CD33	Chartered Institute for Field Archaeologists "Standard and Guidance for historic environment desk-based assessment" December 2014
CD 34	ADC Conservation Areas SPG, 2000

Appendix C

Schedule of conditions

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority (LPA) before any development begins and the development shall be carried out as approved.

Reason: To ensure that all reserved matters are considered and approved by the LPA prior to commencement of work.

- 2) Application for approval of the reserved matters shall be made to the LPA before the expiration of three years from the date of this permission. The development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

Reason: To accord with the requirements of Section 92 of the T&CP Act 1990.

- 3) This permission relates to the following submitted plans:
 - Location Plan Drg: 200B
 - Proposed Indicative Layout/open space proposals: Drg 201C
 - Illustrative Strategic Landscape/open space proposals: Drg 202B
 - Means of access Drg: 130431-10A

Reason: To ensure that the development is carried out in accordance with the permitted drawings and in accordance with the PPG Paragraph Ref ID: 21a-022-20140306.

- 4) The layout details submitted pursuant to condition 1 shall accord with Proposed Indicative Layout/open space proposals: Drg 201C and shall include:
 - i) 4.5 hectares (ha) of residential development comprising up to 100 dwellings on 3.4 ha at a net site density of 29 dwellings per ha (dph) and 1.1 ha of ancillary open space and landscaping laid out within the area marked A on Drg: 201C and;
 - ii) 2.2 ha comprising public parkland and green corridors laid out within the area marked B on Drg: 102C.

No more than 30 dwellings shall be constructed unless or until the proposed 2.2 ha of public parkland and green corridors has been laid out in accordance with the approved details.

Reason: To ensure that the proposed development is carried out in accordance with the approved drawings and to ensure timely delivery of the proposed public parkland and green corridors in order to protect residential amenity.

- 5) The landscaping details submitted pursuant to condition 1 shall include:
 - i) a plan showing existing hedging and trees to be retained together with details of measures for their protection, during the course of development;

- ii) the species, number, sizes and position of new trees, shrubs and hedging to be planted and details of any grassed or other planted areas, including seeding with an appropriate Native British Wildflower Flora mix;
- iii) measures to enhance biodiversity;
- iv) a landscape management plan detailing a programme for the implementation, long term management and maintenance of the 1.1 ha of ancillary open space and the 2.2 ha of public parkland.

No more than 50 dwellings shall be occupied unless and until the landscaping has been implemented in accordance with the approved details and any trees, shrubs or hedging plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise approved in writing by the LPA.

Reason: To ensure that appropriate landscape details are submitted to and approved by the LPA and that the landscape proposals are delivered in a timely manner in order to protect residential amenity.

- 6) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the LPA. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the NPPF or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the total number of dwellings approved at reserved matters stage of which 80% shall be social rented and 20% intermediate housing;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Reason: In order to ensure the delivery of appropriate affordable housing in accordance with the proposed development and the NPPF.

- 7) No development shall commence until detailed design and construction drawings for the means of access/egress onto Ford Lane as shown on the submitted Drg: 130431-10A (including street lighting) and the proposed improvements to North End Road as shown on the submitted Drg nos.:

130431-04B and 130431-05B, including bus stops, pedestrian facilities and street lighting along and across North End Road have been submitted to and approved by the LPA and no part of the development shall be commenced until these means of access have been constructed in accordance with the approved detailed design and construction drawings.

Reason: To ensure the timely delivery of required highway improvements in order to protect the safety of road users and residents.

- 8) No development shall commence until detailed scheme, design and construction drawings for the retention and improvement of public rights of way routes 357, 358 and 359 together with the provision of new cycle and new pedestrian routes through the site and to North End Road have been submitted to and approved by the LPA and no dwellings shall be occupied until the improvements and new pedestrian and cycle routes have been implemented and constructed in accordance with the approved detailed scheme, design and construction drawings and any legal requirements, as may be necessary.

Reason: To ensure that the proposed enhancements to footpaths and cycle routes are delivered in a timely manner.

- 9) No development shall commence until detailed design and construction drawings, including provision of a Stage 1 Road Safety Audit for the proposed improvements to the Lake Lane/Yapton Lane junction as shown on the indicative Drg: 130431-09A, have been submitted to and approved by the LPA and no more than 50 dwellings shall be occupied until the junction modifications have been constructed in accordance with the approved detailed design and construction drawings.

Reason: To ensure the safety of residents and highway users and the timely delivery of required junction improvements.

- 10) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the LPA. The Statement shall provide for (but not necessarily be limited to):
- i) vehicle parking for site operatives and visitors, and on-site turning space;
 - ii) loading and unloading of plant and materials;
 - iii) storage of construction plant and materials;
 - iv) erection and maintenance of security hoarding, including decorative displays and facilities for public viewing as appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) the location of any site huts/cabins/offices;
 - viii) routing of construction vehicles to and from the development site;
 - ix) details of any temporary traffic management works required to construct any of the works;
 - x) details of Chapter 8 signage on the approaches to the site warning of the presence of construction vehicles and associated activities on or close to the public highway;
 - xi) details of the Construction Design Management Co-ordinator and site foreman including contact details (and out-of-hours contact details);

- xii) evidence of community involvement and/or public consultation prior to any works being carried out.

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints shall be available on site and their availability made known to all relevant parties.

The Statement as approved shall be adhered to at all times throughout the construction period.

Reason: To ensure highway safety and to protect the amenities of residents.

- 11) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the LPA. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that an appropriate drainage strategy is implemented in accordance with the submitted proposals.

- 12) No part of the development shall be occupied until a Travel Plan, including a timetable for implementation and periodic review, has been submitted to and approved in writing by the LPA. The Travel Plan shall be implemented as approved.

Reason: To encourage the use of sustainable modes of transport.

- 13) No development shall take place until a detailed scheme of highway works has been submitted to and approved in writing by the LPA (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport). The works shall comprise a staggered junction ahead sign to diagram number 507.1 of the Traffic Signs Regulations and General Directions 2002 (TSRGD) on the westbound approach to the A27 junction with Yapton Lane. The sign shall have a height of 1.20 metres, be erected between 245 and 305 metres in advance of the hazard, have clear visibility of 105 metres and be supported on a yellow backing board. In addition, at the end of the A27 right turn lane into Yapton Lane, the priority arrangement shall be highlighted by the provision of additional "Give Way" signs and road markings to diagram number 602 and 1023 of the TSRGD. No dwelling in the development hereby permitted shall be occupied until the scheme approved by the LPA has been completed in full.

Reason: To ensure highway safety as directed by the Highways Agency.

- 14) No more than 50 dwellings of the development hereby permitted shall be occupied until the completion of the improvements to the A27 junction with Yapton Lane shown on Drg: 130431-06B (or such other scheme of works substantially to the same effect, as may be approved in writing by the LPA (who shall consult with the Highways Agency on behalf of the Secretary of State for Transport)).

Reason: To ensure highway safety as directed by the Highways Agency.

- 15) Development shall not commence until a programme of archaeological work has been implemented and completed in accordance with a written Archaeological Mitigation Strategy document to be submitted to and approved by the LPA. This should include a historic environment desk based assessment, to include an assessment of the potential to encounter previously unknown archaeology and its potential significance.

The mitigation strategy shall outline appropriate specific methodology and include commitments to:

- Carry out on site archaeological investigation in accordance with an agreed project design. This shall include but not be limited to archaeological field walking and geophysical survey, in order to inform the trial trenching.
- Use the results of trial trenching with the results of this assessment to identify areas that warrant further archaeological investigation in advance of development as appropriate, such as open excavation or archaeological watching brief.
- Preserve in situ and intact non-designated archaeological heritage assets that are demonstrably of equivalent significance to scheduled monuments (with reference to Historic Environment guidance in Paragraphs 132, 133 and 139 of the National Planning Policy Framework, March 2012);
- Fully investigate, record, analyse and report, to a specification to be submitted to and approved by the LPA, and to a standard proportionate to their significance, archaeological heritage assets that unavoidably will be affected adversely by development-related ground excavations;
- Prepare and implement satisfactory procedures to communicate the findings of archaeological investigation to the local community, including involvement in community archaeological projects where appropriate.

Reason: To ensure that the archaeological potential of the site is appropriately investigated and where necessary a mitigation strategy is implemented.

- 16) Construction of the development shall not commence until details of the proposed means of foul water sewerage disposal have been submitted to, and approved in writing by the LPA in consultation with Southern Water. No dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.

Reason: In order to ensure that appropriate foul water sewerage disposal means are available prior to occupation.

- 17) Details of the laying out of a minimum 400 sq m area designated as a Local Equipped Area of Play (LEAP) and three Local Areas of Play (LAP), each of at least 100 sq m, and all other amenity areas (other than private gardens) to be provided on site together with their defined boundaries, means of enclosure, proposed use and items of equipment and other structures to be installed shall be submitted to and approved in writing by the LPA. No more than 50 dwellings shall be constructed unless or until the amenity areas including the LEAP and at least 2 LAPs have been laid out in accordance with the approved details.

Reason: To ensure the timely delivery of appropriate play areas for children resident in the approved development in accordance with the Council's adopted Open Space and Play Areas Supplementary Planning Guidance 2000.

- 18) The development hereby approved shall be carried out in accordance with the recommendations set out in the Extended Phase 1 Habitat Survey prepared by Corylus Ecology and submitted with the planning application. This will include updates to the existing Phase 1 Habitat Survey and any necessary protected species surveys undertaken no less than 12 months prior to the commencement of development and measures to avoid or mitigate ecological impacts and provide ecological enhancements. Details shall be submitted to the LPA and approved in writing prior to the commencement of development.

Reason: To enhance biological diversity in accordance with the NPPF and policy GEN29 of the Arun District Local Plan and to protect the ecological interest of the site.

- 19) The total number of dwellings shall not exceed 100.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.