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 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 Reginal 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 on not the Council has a 5 year HLS. He concludes that neither the Framework nor the PPG suggest that the affordable housing needs need to be met in full in the OAN, on the grounds that this may produce a figure which has not prospect of being delivered in practice. However, he further agrees with the Inspector at IR15.21 that the benefits of affordable housing weigh heavily regardless of whether or not the Council can demonstrate a 5 year HLS.

Employment

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

Windfalls

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

Lapse rate

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

Class C2 Uses

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

Delivery

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

Conclusions on five year HLS

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

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

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

Conclusions on NPPF14

30. The Secretary of State agrees with the Inspector that the presumption in paragraph 14, second bullet point, second strand, of the Framework applies to any relevant policies which are out of date (IR 15.30). For the reasons given at IR15.30, the Secretary of State agrees with the Inspector that LP policies H1 and H2 are out of date. The Secretary of State agrees with the Inspector, for the reasons given at IR15.31 that LP policies S1 and S3 are out of date, and limited weight should be given to conflict with the development limits in these policies.

31. The Secretary of State agrees with the Inspector for the reasons given that only limited weight should be given to LP policies H1, H3, S1 and S3 (IR15.35). The Secretary of State has considered the Inspector's conclusions on Policy S7 at IR15.32. However, he disagrees, as he considers that the policy aim of LP Policy S7, to protect the countryside, is consistent with the fifth bullet of Paragraph 17 of the Framework, that indicates the intrinsic character and beauty of the countryside should be recognised, while supporting thriving communities within it. He therefore attaches significant weight to this.

The effect of the proposals on:

(a) Prematurity

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

(b) Character and appearance

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

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

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

(d) Transport sustainability/accessibility

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

(e) Traffic impacts/free flow of traffic

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

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

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

(f) Countryside Protection Zone (CPZ)

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

Design

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

Benefits

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

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

Sustainable development

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

Conditions and Obligations

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

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

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

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

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

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

Balance

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

Overall Balance and Conclusions

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

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

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

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

Formal Decision

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

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

Right to challenge the decision

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

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

Yours faithfully

Philip Barber

Philip Barber
Authorised by Secretary of State to sign in that behalf

Annex A

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

The Planning Inspectorate

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 directions[1]. 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 reasons[2]. 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 Inquiry[3] 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 B[4]. 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 Inquiry[5], 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 statement[6]. 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 comments[7] 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 district[8]. Most of it is higher grade agricultural land[9]. 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 Airport[10]. Its houses are some of the most expensive in the country[11]. Uttlesford has a higher than the average household car ownership[12].

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 level[13]. 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 land[14], 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 Easton[15]. 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 analysis[16] 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 thee north east. Elsenham has a railway station. The appeal site adjoins the village directly east of the railway line[17]. 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 47ha[18]. 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 way[19].

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 Henham[21]. 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 land[23] 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 recorded[24] 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 Plan[25] (LP) was adopted in January 2005. Many of its policies were saved[26] 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 targets[27] 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 2014[28]. 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 NPPF[29]. With regard to its housing strategy, UDC commissioned work from Edge Analytics[30]. 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 2014[31], 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 year[33];

3.19.5 the Council's housing trajectory[34] *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 similarities[35]. 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 NPPF[36]. 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, Elsenham[37]. 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 End[38], 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 LS[39].

5.2 The Revised DAS identifies site opportunities[40] 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 Inquiry[41] 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 Way[42].

5.4 The design concept features a sequence of spaces including a core with open areas[43]. 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 2014[44]. 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 M11[46]. 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 HA[47] 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 agreement[48]. The late representation by the HA raises two points dealt with in the note submitted[49] 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 footpaths[50]. 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 ECC[52] and the HA, this was supplemented by a Transport Assessment Addendum (TAA)[53] and a further update[54], 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 Stortford[55]. 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 operator[56]) 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 trips[57]. A sensitivity test[58] 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 methodology[59] 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 developments[60]. 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 submitted [61], up to a maximum of £120,000 or the equivalent of £800 per dwelling.

5.20 The amended SoCG on highways matters[62] 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 person[63].

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 test[64] 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 judgement[65]. 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 development[66]. 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 NPPF[67] 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 address[68] 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 acknowledged[69] 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 175-190[70] 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 UK[71]. 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 market[72] 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-date[73] 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 modelling[74], using the same base data and the same software but was unable to confirm which version was used[75]. 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 6[76].

6.13 The projection achieved by looking at future employment[77] 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 approach[78] 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 units[79]. Any assessment against the LP should use the annual figure of 420[80] rather than 459[81]. 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 needed[82]. The reserve land referred to in Policy H2 does not undermine the target as it was only a buffer. The relevant target was always 4,620[83]. 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 required[85].

Use Class C2: residential institutions[86]

6.21 These should be accounted for when assessing need[87]. 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 units[88] 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 attractors[89] had not even been walked or taken into account[90]. 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 uncertain[91].

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 considered[92] 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 severe[93].

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 occupied[94]. Even then the service would only be hourly or require a 700m walk through the Barratt's site, well beyond the ideal distance[95]. 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 evidence[96] 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 right[97] 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 Way[98]. 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 character[99]. 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 retained[100]. The gently undulating farmland and large open landscape identified at district level[101] 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 dpa[102], 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 HLS[103].

6.37 LS and TFP challenged the Council's record of under-delivery, but the LP Inspector accepted the delivery calculations[104] 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 period[105].

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 opening[106] 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 witness[108] 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 apply[109].

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 development[110]. 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 dismissed[111], as has the misinterpretation of *Davis*[112] as requiring a formulaic approach[113].

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 Direction[114] 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-date[115] and that meeting housing needs outweighs any non-compliance. Consequently, a string of policies[116] and relevant spatial policies such as those for settlement boundaries are out-of-date. Even the Council acknowledges[117] 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 PPS7[118] 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 assessment[120] 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* case[121]. 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 weight[122]. 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 designation[123]. 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 judgements[124] 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 land[125]. 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 Valley[126]. As a local landscape, it is moderate to high, again with a much smaller area of high sensitivity associated with the valley[127]. 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 woodland[128]. 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 Park[129] is of limited relevance as it refers to an area north of Great Dunmow and to the east of the bypass[130].

[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 Farm[131], in the scheme of things the effect would be limited, and close to the existing settlements, while the footpaths form part of an extensive network[132]. With regard to the footpaths along the west of the site[133], 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 evidence[134] 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 areas[135]. 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 scheme[136] justifies the land take. The second falls away if there is no 5 year HLS, and the Council accepted [137] 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 object[138] or think that there would be any conflict. The residential amenity point has not been pursued by the Council or the Mineral Authority[139]. The position is that 6.1ha overlaps but only 4.57ha would be sterilised. This equates to some 450,000 tonnes of sand and gravel[140] 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 opening[141] following agreement confirmed in the SoCG[142]. The appellant's evidence with regard to High Wood was not challenged[143]. The evidence given on behalf of the Parishes[144] 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 to[145]. The appellant's ecological evidence was unchallenged[146], 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 withdrawn[147] and the Woodside Way access was confirmed as safe with a minor change to the proposed crossing through a s278 agreement[148]. The late representation by the HA raises two points dealt with in the note submitted on 20 November 2014[149] 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 district[150]. 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 area[151]. The guidance on maximum walking or cycling distances is just that and the test of 'severe' in the NPPF[152] 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 SoCG[153]. 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 £2.275m[154] 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 it[155]; the Council has the ability to require it. There is no bar to re-configuring the ecological buffer[156] 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 difference[157] 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 6[158], 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 adjustments[159]. 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 witness[160] 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-supply[162] and the *Cotswold* case[163] 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 Council[164], 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 considerations[166] 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 villages[167]. The emerging LP adopts a similar approach[168]. 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 routes[169]. 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 significant[170], 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 element[171]. Stansted Road is unsuitable, as highlighted by the Parish Council and the public consultation event[172]. Elsenham already has a significant amount of committed development[173] 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 test[174];

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 figures[175] should not be excluded as outliers as corroborated by the other witnesses' own journey times[176]. 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 account[177].

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 it requirements for 3 out of the last 14 years[178] 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 premature[179], 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 Partnership[180]

The closing submissions deal in some detail with the emerging LP[181] and with prematurity[182]. 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 use[183]. 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 pedestrians[184]. This was submitted with an ES and a series of other documents[185]. 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 considered[186]. 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 refusal[187]. While LS has sought to undermine this position through a series of questions, the position remains that the LPA does not object[188] and this is reflected in the SoCG with the LPA and the PCsB[189]. 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 weight[190]. The NPPF confirms as much[191]. 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 needs[192]. 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 development[193];

b) the presumption can still apply even if the LPA can demonstrate a 5 year HLS[194]. 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-date[196] 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 NPPF[197]. Even though NPPF 17.5 acknowledges the desirability of retaining countryside, it should no longer be strictly controlled as before[198] 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-date[199]. 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 A[201] and to be preferred with regard to sustainable transport[202]; 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 years[203]. The final position of the parties at the Inquiry[204] 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 needs[205]. Depending on which figure is used[206], 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 work[207]. 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 PPG[208].

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* appeals[209]. 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 suggestion[210] 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 effects[211]. 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 area[212]. Significant parts are not even in agricultural use[213]. 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 benefits[214]. 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 PCsB[215].

8.15 With regard to LS's landscape evidence[216]: 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 flawed[217]; the criticisms of the eastern boundary are unfounded as a 10m tree belt would be adequate[218]; 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 development[219].

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 airport[220]. 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 land[221], 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 Uttlesford[222] 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 objections[223], 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 approach[224];

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 opportunities[225]. 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 1400m^2 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 bus[227].

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 site[228]. 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 employees[229];

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 operator[230];

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 London[231]. The transport interchange would facilitate switching between rail, bus and taxi and improve access by foot and cycle. Even the evidence for the PCsB[232] shows that this would be an important service. LS's doubt over train travel is not supported by any calculations[233] 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 TP[235]. 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 objections[236]. 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 justified[237].

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 TFP [238].

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 TA[239]. 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 trips[240]. Even if the shopping internalisation figures[241] 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 SoCG[242] and in oral evidence[243], in particular that the TA work underestimated the traffic impacts on the highway network[244].

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 TA[245]. Furthermore, following review by the Highways Authority, revised trip rates were agreed[246] and reduced internalisation factors resulted in an increasingly robust assessment as shown in the TAA[247]. Criticism of safety checks for the proposed access on Henham Road was not justified either[248] 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 strategy[249] 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 periods[250]. 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 Road[251], and contingency measures along Tye Green Road, Old Mead Road and Ugley Green[252].

[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 summarises[253] 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 this[254] 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 TA[255] uses broad proportions for the routes in question[256]. 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 results[257] 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 PCsB[258] 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 made[259], and the sensitivity test[260] was a theoretical scenario to test an extreme case[261] 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 realistic[262];

[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 submissions[264], 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 school[265];

8.35.2 some background traffic will also make different choices[266];

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 presented[267]. 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 methodology[268], 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 error[269] 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 unaffected[270];

k) duplicate data was only omitted where it did not affect the averaging process or had an insignificant affect[271];

l) obvious exceptional outliers, such as from queuing, should be excluded[272];

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 data[273];

n) the journey time surveys and route averages in the TA and TAA appendices are fully compatible[274];

o) the average journey times are correct[275];

p) Manchester Airports Group cannot, of its own volition, permanently close the road at the access point to Stansted Airport[276].

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 Mountfitchet[277] and undervalues the lack of constraints and free flowing nature of Hall Road[278]. 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

attractive[279], as will the link road alignment[280] 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 visibility[281]. TD9/93 Highway Link Design is not applicable[282] 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 satisfied[283] 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 anyway[284]. 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 ID42A[286], the tables clearly demonstrate that the interventions would be highly effective and would achieve the predicted assignments. The criticism that the ES is somehow deficient[287], by only assessing peak hour flows, have all been addressed[288].

[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 Plan[289], 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 same[290], 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 2011[291]. However, this case pre-dated the PPG and did not consider that this is a market signal and a matter of judgement[292]. It was not put forward in evidence at the Inquiry. The correct approach is that in the *Droitwich Spa* appeal[293] 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 6.5m[294] 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 Agreement[295] 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 accidents[296]. 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 Plan[297] 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 applications[298].

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 land[299]. 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 then 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 weight[300].

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 interest[301] 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 network[302], together with the other disadvantages[303], 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 conditions[304] 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 supply[305]. Even this is prudent given the application of the 5% buffer to the shortfall as well as the target[306]. The annual requirement figure of 523[307] is a slight overestimate compared with the more up to date 2011 figure of 508[308]. 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 position[309] 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 PPG[310]. 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 assessment[311] and includes inward/outward migration and jobs growth. It differs from previous versions in the use of more up-to-date projections and software[312]. TFP's only basis for preferring Phase 5[313] was a lack of understanding of the consultants' methodology, but this is clearly set out[314] 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 projections[315] 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 RS[316]. On the RS figures, there is no shortfall[317]; 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-delivery[318]. 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 distance[319]. In 2009 and 2012[320] the key issue was identified as being whether traffic would use Hall Road or Stansted Mountfitchet, and this was confirmed in 2013[321]. 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 response[323] 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 dispute[324] 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-assignments[325]. 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 listed[326] are similar. The number of vehicles is not trivial and significantly greater when unrealistic internalisations are excluded[327]. 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. peak[328]. 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 bond[329] 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 manageable [330]. This was not the view of ECC[331] 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 works[332]. 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 depreciation[333]. 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 surveys[334] and to be contained in Appendix K[335]. However, in the TA this only contains the earlier surveys[336] and in the TAA it does not contain the raw data[337]. It was accepted that this was an oversight[338] and the raw data was not available to verify.

10.19 It is apparent from comparing the agreed summary of recorded journey times surveyed[339] with the tables in the TA and TAA[340] 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 suggestion[341] that the recorded time for route 4 a.m. peak (24:45) was an outlier, and should be disregarded[342], 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 data[343].

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 averages[344] 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 representative[345]. Of the link times recorded, that for FG of 3:36 is the shortest of over 30 recorded times[346]. What is clear is that the TA and TAA tables[347] 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 inaccuracy[348]. 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 times[349] show that travel time for route 2 is significantly quicker than for both routes 3[350] and 4 in the peak hours.

10.22 The effect of the intervention measures[351] also contains errors[352] as does the time addition for the effect of the Link Road[353]. 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 taken[354], 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 permission[355] 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 ES[356] fails to follow good practice by only assessing peak hour impacts[357] and failing to properly assess sensitive receptors[358]. 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 works[359] have not been assessed against the width or geometry of Hall Road which is narrow in places and includes an accident cluster[360]. The latter comprises two slight and two serious accidents, three of which were attributed to drivers failing to negotiate the bend[361] where the geometry is likely to be a significant factor[362] 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 roads[363]. 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 times[364] are unlikely to make this a realistic choice for Bishop's Stortford and it would cease to run as soon as the subsidy runs out[365]. The service would simply not be viable[366] 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 2014[367], in a brief supplementary closing submission[368]:

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 12:51[369]. The 'exceptional queuing events' have now been excluded or discounted[370]; it was never accepted that these were exceptional. The use of 'professional judgement' on untypical survey results is inappropriate for such small data sets[371]. The use of whole route observations in some cases and average link times in other is inconsistent[372]. Excluding data 'where it does not affect averaging' is wrong[373].

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 letter[374]. 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 parties[375]

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 Representations[376]

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 again[377] in response to LS's evidence[378]. 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 fencing[379]. **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 appellants[380]. 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 construction[381].

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 justification[382]. 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 indicators[383]. [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 5x580=2,900 dwellings over 5 years plus a buffer of 5% gives a requirement of 3,045. Adding a shortfall of 133 raises this to 3,178. Reducing the supply for C2 uses takes the figure of 3,592 down to 3,236. The figures at the Inquiry therefore showed that the Council can demonstrate a 5 year HLS, if only just. Although the difference is marginal, taking account of the 2012-based household projections adds slightly more weight to the robustness of the target figure. [3.19 6.23 7.29 8.13 8.41]

15.28 In its further comments, the Council was understandably in agreement with the LP Inspector's conclusion at that time that, despite the need to increase its housing requirement, it could still demonstrate a *generally healthy current land supply situation*. This is therefore consistent with the above conclusion that the Council can demonstrate a 5 year HLS. [3.19.5 6.32 7.40 8.40-8.42]

15.29 Finally on this point, it should be noted that it is unlikely that allowing either appeal would be deliver many houses within 5 years, that the UDC now prefers smaller sites on account of their faster delivery, and that the LP Inspector's conclusions on deliverable sites did not rely upon completions on the land to the north-east of Elsenham.

CONCLUSIONS ON NPPF 14

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

15.31 LP policies S1, S3 and S7 are not specifically restricted to 2011. The weight to these is therefore dependent on NPPF 49, the question of 5 year HLS, and their consistency with the NPPF as a whole. Reference to development limits, and boundaries, in policies S1 and S3 means that, with or without a 5 year HLS, these are out-of-date. Therefore limited weight should be given to conflict with the development limits in these policies as these would restrict housing and their boundaries are based on numbers from the SP which itself took them from 1996. [3.2 6.7 7.8 8.7]

15.32 Policy S7 is only partly consistent with the NPPF, as it aims for strict control of the countryside rather than merely recognising its intrinsic character and beauty. The NPPF now takes a positive approach to the countryside as part of the environmental dimension rather than a protective one. Nevertheless, Policy S7 does impose a generalised restriction on development within the countryside, rather than providing protection for anything specific. The boundaries to which it refers were drawn up in the context of the housing policies which in turn were based on the SP and agreed to be out-of-date. As such, it does limit the supply of housing generally across the district. While Policy S7 should ordinarily be afforded some weight, in line with NPPF 215, in the event that a 5 year HLS were lacking, the policy would be out-of-date under NPPF 49. [3.2 3.7 6.7 7.9 8.7 9.4 10.3]

15.33 The findings above largely accord with those of the LP Inspector in that the Council can demonstrate a 5 year HLS, if only by a narrow margin. While there is force in the Council's argument that the planning balance to be made, as to whether or not a proposal would amount to sustainable development, cannot conclude that something unsustainable is somehow otherwise and that therefore NPPF 14.2.2 adds nothing. Equally, in a document whose purpose was brevity, the appellant is entitled to argue that the paragraph must mean something and that should be to shift the balance. These approaches miss the point which is not to alter the definition, in order to allow something to be sustainable when it is not, but to look more closely at the weight which should go into the balance. [6.32-6.39 7.40-7.41 8.40-8.42]

15.34 NPPF 14.2.2 emphasises the need to look at the policies as a whole, in terms of sustainability, when flaws have been identified in the development plan. With regard to housing, these policies include paragraphs 47 and 49, which aim to boost the supply of housing by reference to a 5 year HLS. It cannot be sustainable for a LPA to provide insufficient housing land. Where a 5 year HLS cannot be demonstrated, more weight should therefore be given to the need for housing compared with other factors in assessing whether or not development would be sustainable. Rather than countermanding the presumption in favour of sustainable development, NPPF 14.2.2 should be seen as giving guidance on the weight that would need to be given to other factors (significant and demonstrable) for them to prevail over the need for development (such as additional housing) when relevant development plan policies should no longer apply. [6.3 7.4-7.7 8.5-8.7]

15.35 For these appeals, limited weight should be given to LP policies H1, H3, S1 and S3. As the Council can demonstrate a 5 year HLS is absent, weight should be given to Policy S7 in reaching a normal planning balance.

Appeal A

Character and appearance/landscape

15.36 As described above, the site is attractive, gently rolling countryside mostly comprising open agricultural fields in arable production. Equally, the balance of the evidence, supported by the site visits, demonstrates that most of the appeal site itself is a fairly average piece of Uttlesford agricultural land and is therefore unremarkable for the district. [2.2-2.6 6.28-6.29 7.12 9.2]

15.37 The context of the area proposed for development has some unusual features, notably that it is close to ancient woodlands, a quarry, the settlement of Little Easton, with its historic buildings close to the site boundary, and Great Dunmow. There are substantial roads at the ends of its proposed access routes. It is also adjacent to the Barratt's site with a resolution to grant planning permission. The latter is currently more enclosed on account of its hedgerows including that on the shared boundary between the sites. The current gap between Great Dunmow and Little Easton also includes Sector 4, Woodlands Park, but this is to the north-east of the bypass. While there is currently little urban influence on the appeal site, this will change when the Barratt's site is completed. [2.3 6.9 7.13 9.8]

15.38 The appeal site has a number of footpaths running across it. Some of the site is elevated but there is also some existing screening for High Wood and potential for significantly more. The site has no special designations and nothing to show that it would meet the definition of a valued landscape under the NPPF. There are some pleasant views across the site and to the woodlands from in and around the site, particularly from the footpaths, and from Little Easton and other viewpoints to the north. [2.5 6.28 7.14 9.2]

15.39 The proposed development would largely follow the contours, be focussed towards the lower slopes, and screened by existing woodland or proposed planting. Subject to reserved matters, other conditions and the planning obligation, the appearance of the buildings, open spaces, accesses and infrastructure could be to a high standard. The gap between the built elements of the scheme and Little Easton could be secured and retained in agriculture or grown into woodland. These aspects of the proposals amount to substantial mitigation. On this point, the scheme would accord with LP policies ENV3 and ENV8. [5.2 6.28 7.13 9.2]

15.40 The Council and the PCsA correctly identify the harm that the development would cause to both the agricultural landscape of open fields and to views across it, and that this would persist over a lengthy construction period. However, the woodlands would be protected. In the revised scheme, without the access from Park Road, the harm to Little Easton would be far less, and landscaping conditions could ensure that the important rural quality experienced from Little Easton would not be eroded. Views from the site will soon be influenced by the effects of the Barratt's site in any event. Whether the scheme proceeds or not, the critical part of the gap between Great Dunmow and Little Easton is not the area intended for built development under this scheme but the area to its north, between the proposed buffer and Park Road. [5.2 6.29 7.14]

15.41 Unlike the Barratt's site, the appeal site is not currently enclosed on all sides. Nevertheless, the extensive and well-considered landscaping and wide, higher-level tree buffer proposals could result in an extensive and defensible limit to the site and an effective device to separate it from Little Easton. This would result in a more organic edge to the settlement than the rather square perimeter to the Barratt's site which has already extended the western limit of the town. Regarding the hedge between the two sites, there was little evidence to show that, in the longer term, the carefully designed tree buffer would be any less of a defensible boundary than the Barratt's proposal for augmented landscaping around what is currently a rather ragged hedge. The proposed landscaping, protection and public open space would therefore offset a significant part of the harm. [2.3 5.2 6.25 7.13]

15.42 As well as the loss of open fields, there would be harm to public views from beyond the site and from impact on footpaths. However, beyond its intrinsic age and its ancient woodlands, there is little historical significance to the landscape, and the site is not of exceptional landscape quality. To the extent that the site contributes to the rural quality and character around Great Dunmow and Little Easton, this is either already contained by the ancient woodlands or could be screened by proposed tree planting. [5.2 6.24 7.11 7.14]

15.43 In long distance views, from Bigods Hill, Easton Lodge gardens and around, the housing development would be visible, but would be seen in the context of the wider landscape which already has built development and will contain more once the Barratt's site is completed. With regard to the "important gap", referred to in the 2011 Decision and raised by the PCsA, this refers to an area north of Great Dunmow and so is of less relevance to this appeal. [2.4 6.28 7.13 9.8]

15.44 Overall, the effect on the landscape would be harmful as a result of the loss of open fields and the impact on views. Visual harm is probably almost inevitable in a scheme of this size. The proposals would lie outside the settlement boundary and so be contrary to LP policy S7, insofar as protection of the countryside is consistent with the requirement in NPPF 17 to recognise its intrinsic character and beauty. [3.2 6.6 7.9 9.4]

15.45 It is also important to assess the harm in the context of likely harm from any greenfield housing development in Uttlesford and whether or not additional housing is currently required. The landscape quality of the site is probably comparable to many other potential development sites in Uttlesford, such as the Barratt's site and, on this issue, it is unlikely that the harm would be any greater than for housing schemes on agricultural land elsewhere in the district. If the SoS decides that UDC does not have a 5 year HLS, the 'net' harm (compared with the inevitability of greenfield housing development elsewhere) would be slight. [2.1 7.11-7.12]

15.46 As the Council can demonstrate a 5 year HLS, and so there is no identified need within the next 5 years, the harm would not be inevitable somewhere in Uttlesford, and so this weighs against the scheme. In the alternative, that UDC were found to lack a 5 year supply and if substantial weight should therefore be given to the need for housing, then the harm to the landscape would not be enough to significantly and demonstrably outweigh these benefits.

BMV agricultural land

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

Ecology

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

Mineral resources

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

Accessibility

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

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

15.51 With regard to employment, the site has easy links with Great Dunmow, Bishop's Stortford and Stansted Airport, albeit more easily by car than other means. The latter has severe parking problems despite a very active TP. LS has attempted to mitigate against accessibility limitations through the provision of on-site facilities, bus services, cycling links and footpath improvements. Both of the latter would depend on land outside the appeal site and their success or otherwise would affect accessibility and so sustainability. [2.2 6.26]

15.52 Turning to on-site facilities, there are some doubts over the viability of the proposed retail units and, while commendable in principle, even if they were completed, occupied and traded successfully, the extent that they would off-set future journeys would not be great. [5.1 5.4 6.25 7.22]

15.53 The bus service would be secured by the s106 agreement. The likely viability of this depends on a link with the adjoining Barratt's site. The Council has pointed out that there can be no guarantee that this would be provided; LS has argued that the two schemes will be linked together and that the SoS can be updated before reaching his decision. Provision of the link is probably within the control of the Council and would be in the interests of good planning. It would be irresponsible of the Council not to use its best endeavours to secure this link, whether for this development or as a contingency for the future. [5.7 6.27 7.24 14.4]

15.54 The footpath link to the school and the north end of Great Dunmow exists already. It could be improved so that it would be more attractive for more of the year. Again the extent to which this can be done would depend on the co-operation of a public body, this time ECC. Without good reason, it would be irresponsible of ECC to frustrate improvements that would assist in producing sustainable development but, in any event, the footpath is likely to be used in good weather in the summer and would probably be avoided in bad weather in the winter. Improvements would simply increase its use. On the other hand, the proposed Woodside Way crossing still requires a safety audit. [5.3 6.24-6.25 7.12]

15.55 On both these points, the possibility that a public body might obstruct efforts towards sustainable development should not count against the proposals and, overall, the limitations with regard to accessibility should only weigh moderately against the scheme. With regard to policy, this is a matter best considered in the round with the other dimensions of the definition of sustainable development. While the shortcomings in accessibility weigh against the Appeal A scheme, in the context of Uttlesford, they would not amount to severe.

Design

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

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

Benefits

15.57 The application is in outline form. The indicative phasing from July 2014 was for work to start the following year with completion some 10-12 years later. Given the extent of reserved matters, and that the construction access would need to be completed first, it must be likely that few houses would be completed in the early years. With reference to conditions, LS indicated the scheme is likely to contribute some 175-190 houses within the first 5 years. Even if it were concluded that UDC does not have a 5 year HLS, the benefit to increasing housing from the Appeal A scheme within this period should be reduced accordingly. [6.2 6.8 7.30 8.39]

15.58 There was no dispute that the provision of AH would be a substantial benefit regardless of whether or not there is a 5 year HLS for market housing. The weight to be given to the market housing is subject to the extent of need. As the Council does have a 5 year HLS, the weight to market housing in principle should be reduced. Although housing is not defined in the NPPF as economic development, its construction would provide economic benefits and more residents would boost the local economy. [6.31 7.30 8.39]

15.59 The revised scheme, with the proposed link and upgraded footpath, would be reasonably well connected and permeable and so, subject to close scrutiny at the reserved matters stage, there is every chance that the scheme would amount to good design. The effect of the ecological proposals could be slightly beneficial by the time the development is completed but there is no imperative for this to be carried out and, as with other matters cited as benefits, this would essentially amount to mitigation.

Sustainable development

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

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

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

Balance

15.62 The proposals would cause significant harm to the character and appearance of the area. The landscaping proposals would significantly reduce much of the harm which might otherwise be caused but would be no more than mitigation. On the other hand, the harm would be comparable with that to be expected as a result of any greenfield housing development in Uttlesford, such as the Barratt's site. No harm was identified with regard to the design but the benefits are mostly potential and subject to reserved matters. With regard to the evidence concerning restrictive covenants provided by the PCsA legal witness, other than possible, unproven implications for delivery this is not a planning matter and should be given very limited weight. [7.12 9.10]

15.63 If there were not a 5 year HLS, the question would arise as to whether any adverse effects would significantly and demonstrably outweigh the benefits (NPPF 14)? As above, in order that the overriding test remains that of whether the scheme would be sustainable development, this would then be considered against substantially increased weight to the benefits of housing. In this scenario, the benefits of additional housing, albeit with uncertainty over the timing of delivery, would outweigh the harm to the landscape, loss of BMV and mineral resources, and accessibility limitations, and sustainable development would be achieved.

15.64 No weight should be given to the emerging LP. Very little should be afforded to the emerging neighbourhood plan which scarcely affects the site in any case. The scheme would cause harm to the character and appearance of the countryside, the loss of BMV agricultural land, and sterilisation of mineral resources, contrary to LP policies S7 and ENV5, and to policy S8 of the Essex Minerals Local Plan; other policies relevant to housing are inconsistent with the NPPF. As there is a 5 year HLS, the requirement to determine the appeal in accordance with the development plan means that the conflict with it would not be outweighed by the NPPF.

15.65 It follows that Appeal A should fail.

Appeal B

Prematurity

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

Character and appearance

15.67 The appeal site comprises gently undulating farmland and large open fields which slope gently down towards Elsenham. It contains few important landscape features. Some parts are not in agricultural use. Some of the site is elevated but in general the surface of the fields is concealed in views from the historic parts of Henham. The extent of the site can be seen more clearly from the west of Elsenham. It is not of exceptional landscape quality and has no landscape designation. There is nothing to suggest that it would meet the definition of a valued landscape under the NPPF. There are footpaths running across the site, including the Farmer's Line, and there are views over the fields and woodlands from in and around it. As with Appeal A, the site itself is a typical piece of Uttlesford agricultural land, and is therefore equally unremarkable for the district as a whole. [2.8 8.14 10.2]

15.68 The proposed development would be focussed on a new route between the two access points. While there is currently no natural containment along the eastern boundary, there would be landscaping on the Henham side of the development and, subject to reserved matters, there is potential for further screening than that indicated on the drawings if necessary. Although little more than mitigation, this would nevertheless offset much of the harm that would otherwise occur with regard to views over the site from this direction. Nevertheless, some of the proposed development, especially the roofs, might well be visible at least until the landscaping has grown. Alterations to construct the accesses and the link road would change the appearance of these areas but in the context of existing built development. As well as the loss of open fields, there would be some harm to public views beyond the site, including from footpaths and public areas to the west, as a result of the scheme. [5.9 7.39 8.14]

15.69 As for Appeal A, the development would therefore cause harm to both the landscape and to views across it, and would do so over a lengthy construction period. The proposals would be contrary to LP policy S7 insofar as protection of the countryside is consistent with NPPF 17. Whether or not the weight to be attributed to this is determinative depends on the conclusions with regard to HLS. Otherwise, limited weight should be given to conflict with policies S1 or S3.

BMV agricultural land

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

Transport sustainability/accessibility

15.71 Uttlesford residents are more likely to own and use cars for longer commuting journeys than the national average and car ownership in Elsenham is even higher than that for the district. While Elsenham is not many miles from either Stansted Airport, other employment opportunities, or secondary schools, access to all these is certainly well beyond normal walking distance. On the other hand, the village has a railway station, bus service and a GPs surgery. Due to the nature of the surrounding roads (see below), cycling beyond the village along local roads is probably limited to the most confident cyclists. The nearest major shops, including large foodstores, are at Bishop's Stortford. [2.1 2.7]

15.72 As part of the development, there would be significant areas set aside for retail opportunities and a primary school on site, in line with the recommendations in NPPF 38. Given the proximity of the site to the rest of the village, the prospects for the viability of the proposed shops ought to be good. On the other hand, the railway line presents a significant barrier to movement between the site and the existing village. This is true even at the level crossing because it is regularly closed for trains and the footbridge is particularly high. This would be likely to dissuade some of those who might otherwise shop locally, by making it difficult to walk between the old and new shops. This would reduce the level of support to both the existing and intended facilities from that which might otherwise be expected. There was no evidence to support the assertion that 800 new houses would persuade train operators to add additional stops or frequency of service to Elsenham. [5.9 8.24]

15.73 The proposed bus provision would link the new interchange with an extension to the existing service to Stansted Airport and Bishop's Stortford, and to Forest Hall secondary school in Stansted Mountfitchet during term times, but other peak hour journeys to the school would add to the congestion in Stansted Mountfitchet. Proposed transport measures would include walking and cycling routes within the site, including footpaths, enhancements to Elsenham Station, an extended bus service, and a TP. The proposal for a transport interchange would be a rather grand name for an area of parking and turning space for buses, taxis, disabled car drivers and bicycles, and a drop off point. It would not include any proposals for the level crossing. Cycling within the village should benefit from the proposed road alterations. Some potential journeys might be 'internal' that is to say to new shops and employment space within the site. [2.9 5.11 8.23]

15.74 The TP target is a 10% reduction in mode share compared with the baseline in the proposed TP as a result of long list of measures. Additional measures aiming to achieve this, and a further sum, could be enforced if necessary through the s106 Agreement. However, the limited scope for additional measures mean that it would be by no means certain that a 10% shift would be achieved. [5.11 8.20-8.21]

15.75 In any case, the 10% target for modal shift away from private cars would be a small proportion of overall journeys. The recorded disinclination of the local population to travel other than in their cars means that there must be some doubt that this target would be met, even with the fund for additional

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

15.76 There is no fixed concept of a sustainable location and no fixed sustainability threshold to apply. The NPPF recognises that solutions to maximise sustainable transport will be different in rural and urban areas. There is no decree as to which key facilities should be within walking distance for larger developments. Rather, the extent to which a proposal would or would not achieve sustainable development depends on balancing all these factors. [8.19]

15.77 For the above reasons, the scheme could be relatively sustainable in terms of modal split. However, the vast majority of journeys would still be undertaken by the private car and over relatively long distances. Even if a 10% shift in modal split could be achieved, there would be a significant increase in traffic on local roads. I therefore turn to the remaining private car journeys and to the effect that these would have on the local road system before concluding on this issue.

Traffic impacts/free flow of traffic

EXISTING TRAFFIC PATTERNS

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

PROPOSALS

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

15.80 Although the numbers were not agreed, the development would be likely to generate a significant amount of traffic during peak hours, much of which would ordinarily be expected to use Stansted Road. For the strategy to

prevent an increase in congestion as a result of development, it would need to encourage most new occupiers of dwellings on the appeal site to use Hall Road. The TFP approach comprises a number of strands. First, given the existing congestion in Stansted Mountfitchet, and the presence of the level crossing at the north end of the site, it expects many new residents to use Hall Road. Second, it proposes various measures, including a new link road junction and traffic calming, to make the Stansted Mountfitchet route (and others) less attractive and to reduce journey times on Hall Road. Finally, the measures to encourage modal shift should limit the increase in the overall number of car journeys as well. [5.14 7.33 8.30-8.32 10.12 10.15]

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

JOURNEY TIMES

15.82 The assignments for proposed journeys in the TA assume that most drivers heading south west from Elsenham would prefer to take the 8.5/9.6 mile routes via Hall Road than the 5.2 mile journey along Stansted Road. The main point at issue between TFP and the PCsB was what the likely effect of the two sets of measures would be on peak journey times along routes 2 and 3, or maybe 4, between Elsenham and Bishop's Stortford during peak hours, and so the likely choice of route. Although ultimately satisfied, given the existing disparity between the two routes, it is not surprising that ECC raised so many queries on the strategy. [5.19 8.34 10.19]

15.83 While the TA and TAA analysed journey times for the relevant routes, the percentage assignments put forward for each route were broadly based and did not claim any particular accuracy. The PCsB raised concerns that, despite the lengthy tables in the TAA, there was very little empirical evidence to support the journey times, particularly the re-assignments, that the journey time calculations in the TAA included references to models for which raw data was not supplied, and that assumptions over the changes in speed were based on engineering judgement. The sensitivity test was a 'what if' appraisal in the event that the strategy proved to be unsuccessful. The PCsB argued that, if this came to pass, there would be a severe impact on the highway network. Evidence at the Inquiry revealed that: the total number of journeys measured was small and the variations large, it was difficult to find the raw data amongst the evidence and some of this was missing altogether, and that other figures were not from actual journeys but were from averages either derived from different sections of the routes or taken at inconsistent times of the day. [5.20 8.27-8.28 8.34 10.18-10.23]

15.84 The site visit looked at sections of Hall Road. In the absence of detailed drawings, it was difficult to establish the exact boundary to the highway verge or to fully assess the extent to which the road geometry could be altered. Although it was given the opportunity to provide additional drawings of how the sharp bends could be improved within the highway verge, TFP did not 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 its 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 and Stephen Morgan of Counsel	instructed by Hogan Lovells International LLP
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 Ingrey	Local resident
Derek Connell	Landlord of Three Horseshoes in Duton Hill
Tony Clarke	Chairman, Dunmow Society
Mike Perry	Great Dunmow Chamber of Trade and Commerce
Keith Mackman	District Councillor and Great Dunmow Town Councillor
Neil Blackshaw	On behalf of Cllr Martin Foley
Helen Audritt	Local resident
Roger Clark	Chairman Broxted Parish Council
Michael Garrick	Local resident – Elsenham
David Morson	District Councillor for Elsenham and Henham
Alan Deane	District Councillor
Janice Loughlin	District Councillor

Appendix B

LIST OF INQUIRY DOCUMENTS

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

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

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

LIST OF CORE DOCUMENTS

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

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

Others

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

Highway Documents

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

Documents provided by Fairfield (TFP)

CD	F5	Uttlesford District Council, Minutes of Full Council	08-Apr-14
	F6	Uttlesford District Council, Uttlesford Local Plan Pre-Submission Consultation 2014, Summary of Main Issues	17 Apr – 2 Jun 14
	F7	Uttlesford District Council, Planning Officers Report Land South of Stansted Road, Elsenham	02-Oct-13
	F9	Uttlesford District Council, Uttlesford Draft Local Plan Position Statement	Mar-13
	F12	Uttlesford District Council, Planning Officers Report Land West of Hall Road, Elsenham	02-May-13
	F13	Uttlesford District Council, Local Development Framework Annual Monitoring Report	Dec-12
	F14	Edge Analytics, Greater Essex Demographic Forecasts Phase 2: Scenario Development Incorporating Phase 1: Model Development	Mar-12
	F15	BNP Paribas, Local Plan - Sites Viability Assessment	Mar-14
	F16	Historic Settlement Character Assessment for Henham, Uttlesford District Council	Aug-07
	F17	Henham Conservation Area Appraisal and Management Proposals, Uttlesford District Council	
	F46	Government Office for the East of England (May 2008). East of England Plan: The Revision to the Regional Spacial 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 Signficance 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: VD13098-001F 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 bought 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 1000m^2 gross floorspace for Al food, 1000 m^2 gross floorspace for Al non-food and 1000m^2 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.

Department for Communities and Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.