



Department for  
Communities and  
Local Government

Mr P Moren BA(Hons) MRTPI  
11 Bishop's Walk  
Llangollen  
Denbighshire  
LL20 8RZ

Our Ref: APP/B1930/A/13/2207696  
Your Ref: PM/bre

13 October 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MR NEIL PATERSON (BRE)  
AT BRE, BUCKNALLS LANE, GARSTON, WATFORD, HERTFORDSHIRE, WD25  
9XX  
APPLICATION REF 5/13/0406**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Frances Mahoney, DipTP MRTPI IHBC, who held a public local inquiry between 1 – 3 April 2014 into your client's appeal against a decision of St Albans City & District Council (the Council) to refuse planning permission for outline (all matters reserved) – demolition of existing buildings and construction of up to 100 new dwellings, associated facilities and access at the BRE site Garston, at BRE, Bucknalls Lane, Garston, Watford, Hertfordshire, WD25 9XX in accordance with application reference 5/13/0406 dated 15 February 2013.
2. On 10 June 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it involves proposals for significant development in the Green Belt (GB).

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

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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

4. Following the close of the inquiry the Secretary of State has received a letter from Sir Neville Simms dated 20 August 2014 concerning the proposals. He has carefully considered this representation but does not consider that it raises any new matters that would affect his decision. Copies of this representation can be provided on application to the address at the bottom of the first page of this letter.

### **Policy considerations**

5. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the development plan comprises the St Albans District Local Plan Review 1994 (the LP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR19. He notes that the St Albans Strategic Local Plan is at an early stage of production (IR15) and considers that it merits no more than limited weight.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the planning guidance, the CIL regulations and Planning obligations guidance – toolkit for Hertfordshire.

### **Main issues**

#### **Green Belt**

8. The Secretary of State agrees with the Inspector's reasoning and conclusions regarding the Green Belt (GB) at IR105-108. He notes that the proposals are the redevelopment of a previously developed site (IR105) and agrees with the Inspector that the conclusion that the appeal proposal is not inappropriate development and is not harmful to the GB is reasonable (IR107). The Secretary of State agrees that, unlike in the 2001 decision, it is not necessary to weigh harm by reason of inappropriateness into the planning balance (IR108).

#### **Housing need and supply**

9. The Secretary of State agrees with the Inspector that there is no reason to question the position agreed by the main parties that the Council does not have a five year supply of housing land, and that there is an acute need for housing (including affordable housing) within the District (IR110). He also shares the Inspector's view (IR111) that these are circumstances where Framework paragraph 49 sets out that relevant policies for the supply of housing should not be considered up-to-date. The Secretary of State further agrees: that the proposed development would contribute to the identified unmet housing need within the District and in addition much needed affordable housing would also be included as part of the development; that both these factors should weigh positively in the balance of the decision; and that the presumption in favour

sustainable development as set out in the Framework applies in this case (IR112).

### Contribution to the achievement of sustainable development

#### *Environmental Role*

10. The Secretary of State agrees with the Inspectors reasoning and conclusions regarding character and appearance at IR115-118. Like the Inspector he considers that it would be possible to achieve an acceptable design of development which would not materially harm the character and appearance of the surrounding area (IR117) and that the proposal would not undermine the spatial distinction between Bricket Wood and Garston nor their character and appearance (IR118).
11. Having had regard to the Inspector's comments at IR119-137, the Secretary of State agrees with her that the distance to Bricket Wood train station and services beyond, along with the limitation of bus services late into the evening and at the weekend does weigh against the proposal, but that this limited harm does not undermine the reasonable and justified conclusion that the new residents of the homes would have a real choice about how they travel (IR137). He agrees that in respect of location and movement to a low carbon economy, the sustainability of the appeal site is positive (IR137).
12. The Secretary of State agrees with the Inspector that the proposal would not pose a flood risk, for the reason given by her (IR138). With regards highway safety, he agrees with the Inspector's comments at IR139 and, like her, sees no reason to disagree with the Highway Authority which has not raised any concern. Turning to trees and biodiversity the Secretary of State agrees with the Inspector that neither the adjoining protected woodland nor the habitats or wildlife would be compromised by the proposal, and that to safeguard this position it is necessary to impose a number of conditions to protect trees, habitats and wildlife (IR140).

#### *Social Role*

13. The Secretary of State agrees that the proposed housing would contribute to the support, strengthening and vibrancy of the local community by providing towards the supply of housing required to meet the needs of present and future generations and that, in combination with the provision of much needed affordable housing, these are positive considerations weighing in favour of the development (IR141). He also agrees with the Inspector's comments at IR142 about the opening up of new rights of way; like her he considers that this is a positive social benefit which merits considerable weight and that the opening up of this area of the BRE Campus would only come about by reason of the new development.

#### *Economic Role*

14. The Secretary of State has had regard to the Inspector's comments at IR143-150. Like her he considers that the proposal would enhance the economy of the community by the creation of jobs associated with the construction stage, and

new residents are also likely to support existing local services and businesses (IR143). The Secretary of State has also taken into account the Inspector's view that there would be a strong prospect that the housing could be delivered on the site within five years (IR144). He agrees that the use of capital receipts to close the existing gap in the BRE pension fund is not a planning consideration (IR146), but that, whilst not a determinative factor, some consideration can be given to the benefits of the proposals in respect of their likely safeguarding of the BRE Campus in the longer term as well as jobs both directly within the BRE and with associated companies (IR146). He refers to the Inspector's comments regarding health and education contributions at paragraph 16 below.

### Conditions

15. The Secretary of State has considered the schedule of conditions recommended by the Inspector at Annex A to her report, her comments at IR92-99, national policy set out at paragraphs 203 and 206 of the Framework and the planning guidance. He is satisfied that the proposed conditions, reproduced at Annex A of this letter, are necessary and meet the other tests identified in paragraph 206 of the Framework.

### Obligation

16. The Secretary of State has considered the planning obligation by unilateral undertaking (UU) submitted by the appellant, the Inspector's comments at IR101-103 and IR147-150, national policy set out at paragraphs 203-205 of the Framework, the planning guidance and the CIL regulations. He agrees with the Inspector (IR150) that it has not been shown that the contribution towards primary education is necessary or justified to mitigate the effects of the new development in accordance with Regulation 122 of the CIL regulations, and that it is not reasonable to take this aspect of the UU into account. Like the Inspector the Secretary of State is satisfied that in all other respects, including the health contribution referred to by the Inspector at IR147, the terms of the UU would not compromise LP Policy 143b and that they comply with the requirements of CIL Regulation 122 (IR150).

### Overall conclusions and balance

17. The Secretary of State has had regard to the Inspector's overall conclusions and balance at IR151-153. He concludes that it has been demonstrated that the proposals are not inappropriate development in the GB, and are not harmful to the GB. The Secretary of State has also found that there is no five years supply of housing land and considers that the presumption in favour sustainable development set out at Framework paragraph 14 applies in this case. He has found at paragraph 11 above that the distance to Bricket Wood train station and services beyond, along with the limitation of bus services late into the evening and at the weekend weigh against the proposal. However, overall he concludes, like the Inspector (IR152), that the proposed development has been shown to be sustainable development and that there would be few adverse impacts in allowing the appeal and granting planning permission.

18. The Secretary of State also shares the Inspector's conclusion (IR152) that the contribution of the development of the appeal site to the identified housing need in the District, in circumstances where a five year housing land supply cannot be identified, is a persuasive and weighty factor in the consideration of the appeal. Also taking into account the other factors in favour of the scheme that he has identified, the Secretary of State concludes that the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, and that the appeal should be allowed and planning permission granted.

### **Formal Decision**

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for outline (all matters reserved) – demolition of existing buildings and construction of up to 100 new dwellings, associated facilities and access at the BRE site Garston, at BRE, Bucknalls Lane, Garston, Watford, Hertfordshire, WD25 9XX in accordance with application reference 5/13/0406 dated 15 February 2013, subject to the conditions set out at Annex A.

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

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

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

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

23. A copy of this letter has been sent to St Albans City & District Council.

Yours faithfully

**James Henderson**

Authorised by Secretary of State to sign in that behalf

## **Annex A – schedule of conditions**

1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. The reserved matters shall follow the general parameters set out in the Design and Access Statement dated February 2013 (in particular Section 3 Design 3.4.3 Scale – Density and Massing).

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with approved plan 1646/P/100 – Location Plan (red line plan).

5) Prior to the commencement of the development a landscape management plan, including long term design objectives; management responsibilities and maintenance schedules for all landscaped area, other than privately owned domestic gardens shall be submitted to and approved in writing by the local planning authority. The management plan shall be implemented as approved and its requirements adhered to thereafter.

6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); and existing trees to be retained.

7) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works other than those detailed in condition 9 shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

10) No development shall take place on site until a programme of archaeological work in accordance with a written scheme of investigation which has been approved in writing by the local planning authority has been fully implemented.

11) No development shall take place until a Construction Management/Method Plan and Statement with respect to the construction phase of the development has been submitted to and approved in writing by the local planning authority. Development works shall be undertaken in accordance with the approved Construction Management/Method Statement. The details shall include, amongst other things, construction vehicles numbers, type and routing; traffic management requirements; hours of work/piling; contractors parking areas, compounds, storage areas and details of wheel washing facilities; cleaning of site entrances, site tracks and the adjacent public highway; the management of crossings of the public highway and other public rights of way; minimisation of dust emissions arising from construction activities on the site; post construction restoration/reinstatement of the working areas and any temporary access to the public highway; and details of the responsible person (site manager/office) who can be contacted in the event of a complaint.

12) No development shall take place until a timetable for the implementation of the terms of the Green Residential Travel Plan (Doc 3) has been submitted to and approved in writing by the local planning authority. The terms of the plan shall then be implemented in accordance with that timetable. The agreed measures shall be retained.

13) Development shall not commence until a drainage strategy detailing any on and/or off-site drainage works has been submitted to and approved in writing by the local planning authority. This shall include both foul and surface water drainage and a scheme to limit the surface water run-off generated by the proposed development. The development shall be carried out in accordance with the approved details and maintained as such.

14) No development shall take place until details of the existing and proposed ground levels across the site and the levels of the proposed floor slabs shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.

15) No development shall take place until a management plan, including a landscape strategy, for the Möhne Dam Model has been submitted to and approved in writing by the local planning authority. The plan shall be implemented in accordance with an agreed timetable to be included within the plan. The Möhne Dam Model shall be protected throughout the period of construction and details of the means of protection shall be included within the management plan. The agreed details of protection shall be fully implemented prior to the commencement of work on the appeal site and maintained for the duration of the construction phase.

16) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

17) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

18) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, 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.

19) Prior to the commencement of work a scheme for the enhancement of biodiversity, in accordance with the terms of the Biodiversity Assessment Report (RSK dated October 2012), shall be submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the implementation of the agreed measures which shall be subsequently adhered to.

20) No development shall take place until details have been submitted to and approved in writing by the local planning authority of:

a) The trees, shrubs or hedges within the site which are to be retained;  
b) A scheme for the protection of the trees, shrubs or hedges to be retained, including those protected trees within the adjacent woodland, produced in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction. The development shall be implemented in accordance with the approved details and:

i. No operations shall be undertaken on site in connection with the development hereby permitted (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place;

ii. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme;

iii. Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority;

iv. No tree, shrub or hedge shown to be retained shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written approval of the local planning authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority gives written approval to any variation.



21) The development hereby permitted shall proceed in accordance with the terms of the Arboricultural Impact Assessment and Method Statement (Crown Consultants dated 5 February 2013). Its implementation shall include the supervision of the tree protection during the demolition and construction phases by an Arboricultural Consultant (provided by the appellant with the agreement of the local planning authority).

22) Prior to the occupation of the first dwelling hereby permitted the 'north-south' path/cycleway through the BRE site, along with the route through the woodland passed the Möhne Dam Model, shall be completed and made available to public use. They shall remain open and available for public use in perpetuity.

Richborough Estates

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# Report to the Secretary of State for Communities and Local Government

by Frances Mahoney DipTP MRTPI IHBC

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

Date: 28 July 2014

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**TOWN & COUNTRY PLANNING ACT 1990**

**ST ALBANS CITY & DISTRICT COUNCIL**

**APPEAL BY MR NEIL PATERSON (BRE)**

Richborough Estates

Inquiry held on 1 – 3 April 2014

BRE, Bucknalls Lane, Garston, Watford, Hertfordshire WD25 9XX

File Ref: APP/B1930/A/13/2207696

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**File Ref: APP/B1930/A/13/2207696****BRE, Bucknalls Lane, Garston, Watford, Hertfordshire WD25 9XX**

- 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 Mr Neil Paterson (BRE) against the decision of St Albans City & District Council.
- The application Ref 5/13/0406, dated 15 February 2013, was refused by notice dated 10 May 2013.
- The development proposed is an outline (all matters reserved) – Demolition of existing buildings and construction of up to 100 new dwellings, associated facilities and access at the BRE site Garston.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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## Preliminary Matters

1. The inquiry sat between the 1 and 3 April 2014, with an accompanied site visit on the 3 April 2014.
2. This appeal was recovered under Section 79 and paragraph 3 of Schedule 6 of the above Act by the Secretary of State (SoS), because the appeal involves proposals for significant development in the Green Belt.
3. The application was made in outline, with all matters reserved for future determination. Site location plan (DWG NO 1646/P/100 - red line plan) is the only plan for consideration which forms part of the appeal. However, the planning application was accompanied by a Design and Access Statement which includes an illustrative Masterplan and various other indicative plans. These are illustrative plans only and have been considered accordingly. Nonetheless, these plans do show how such a development might be accommodated. This has assisted the consideration of the appeal.

## The Site and Surroundings

4. The appeal site forms part of the Building Research Establishment (BRE) Campus. It occupies land alongside of the M1 motorway and on the southern fringe of the settlement of Bricket Wood, some 7.2 kilometres from St Albans city centre. The overall campus site is some 26 hectares, with the appeal site being 3.21 hectares located in the north-east corner. Much of the appeal site is covered by existing buildings of varying ages, designs, heights and scales<sup>1</sup>. Some of the buildings have been used in the past for research purposes, along with office space. Some of this floor space is now let out to companies which have a close fit with the BRE in respect of businesses which are within the field of sustainability. However, with most of the buildings being empty, and of some age, they are generally in a poor state of repair having out lived their original purpose.
5. Immediately adjoining the appeal site to the north and south-east are two areas of broadleaf woodland covered by a tree preservation order (TPO Number 1353)<sup>2</sup>. Within the protected woodland to the south-east is a 1:50 scale model replica of the Möhne Dam. It was used by Barnes Wallis during the Second World War in some of his early research which led to the development of the bouncing bomb<sup>3</sup>. It is now listed as a Scheduled Ancient Monument.
6. There are two entrances to the BRE Campus. The main entrance, with manned security, is from Bucknalls Lane to the south. There is also a staff entrance, with an automatic permit operated security gate, from Bucknalls Drive from the north-east. Both of these roads are wholly residential in character.
7. Part of the BRE site, although none of the appeal site, lies within the administrative boundary of Three Rivers District Council.

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<sup>1</sup> In general the building range between 1 and 4 storeys in height.

<sup>2</sup> Copy in the Questionnaire.

<sup>3</sup> A key element in the Dambusters mission of the 2<sup>nd</sup> World War.

## Planning History

8. The planning history of the wider BRE Campus<sup>4</sup> is complex and lengthy. The majority of existing buildings either pre-date the modern planning system or were built prior to BRE being privatised in 1997<sup>5</sup>. Most of the buildings fall within Class B1<sup>6</sup> of the Town and Country Planning Use Classes Order 1987. In 2000, an outline planning application for 50 dwellings on the appeal site<sup>7</sup> was resolved to be permitted by the Council, but was subsequently referred to the then SoS as a departure from the development plan (2001 decision). However, the application was refused by the SoS for the following reasons:
- the site was not considered to perform well in sustainability terms, with regard to access by means other than the car;
  - the proposal was considered to be inappropriate development in the Green Belt under the terms of Planning Policy Guidance Note: Green Belt (PPG 2)
  - there was no need for additional housing land as there was an existing oversupply in provision; and
  - although the site involved previously-developed land, the proposed density of 24 dwellings per hectare was below the guidance set out in Planning Policy Guidance Note 3 which applied at that time.
9. The then SoS accepted that the then outline proposal had the potential to reduce the impact of the existing buildings on the openness of the Green Belt and would not injure visual amenity<sup>8</sup>. The SoS also concluded that very special circumstances existed to justify inappropriate development in the Green Belt<sup>9</sup>. Additionally it was accepted that the development would not cause any material harm to the free flow of traffic and safety of the highway.
10. The current appeal proposal is the subject of a Planning Performance Agreement prepared in partnership between the appellant and the Council<sup>10</sup>. This is a collaborative approach taken to achieve the vision and objectives of both the BRE and the Council for development on the site<sup>11</sup>.

## The Proposal

11. The proposal for residential development is in outline with all matters reserved for later consideration. It involves the demolition of the existing buildings on the appeal site and the construction of up to 100 new dwellings. The illustrative

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<sup>4</sup> Including the appeal site.

<sup>5</sup> Under the exemption from planning control that previously applied to Government establishments.

<sup>6</sup> Offices, Research and Development, Studios, Laboratories, Hi Tech and Light Industry.

<sup>7</sup> Council reference number 5/00/0492 (the 2001 decision) – Appendix 3 of Ozier Proof.

<sup>8</sup> This appeal was determined under the terms of Planning Policy Guidance Note: Green Belt (PPG2).

<sup>9</sup> The current appeal has been determined against the terms of Paragraph 89, bullet point 3 of the Framework which replaced PPG2 in March 2012.

<sup>10</sup> Including Hertfordshire County Council as Highway Authority.

<sup>11</sup> Statement of Common Ground paragraph 3.6.

masterplan<sup>12</sup> shows a mixture of houses and flats of either two or three storeys in height. 65% of these units would be market dwellings; the remaining 35% would be affordable.

12. The appeal site would take vehicular access from Bucknalls Drive with pedestrian access also being available through the BRE Campus to Bucknalls Lane. The proposal also includes the introduction of a diverted bus route through the BRE site, including funding to maintain the route.
13. A Section 106 agreement (UU) (Doc 8) to secure the delivery of affordable homes; financial contributions towards education, health and leisure provision; the new bus service; new or enhanced green infrastructure; a Woodland Management Plan; and a Public Open Space/Landscape Management Plan was also submitted.
14. The Council confirmed at the Inquiry that they would not be defending their reason for refusal in so far as it related to the impact of the proposal on health services, the contribution offered within the terms of the UU overcoming their concern.

### Planning Policy

15. In preparation is a new local plan, the St Albans Strategic Local Plan (SLP). This seeks to set the overall levels of growth considered appropriate to meet the future needs of the area. It is at an early stage of preparation. Progress stalled in 2012 when a reassessment of policy occurred, including an independent review of the Green Belt. The outcome of the 2 part independent review centred on recommendations for potential inner Green Belt boundary revisions and estimates of potential dwelling capacity.
16. A pre-submission document, including development options and policy, is expected to be produced around December 2014 with a consultation period to follow. The examination of the SLP is expected in mid to late 2015 with adoption in 2016.
17. It is acknowledged that it is highly desirable that local planning authorities should have an up-to-date plan in place. The Council are working towards achieving this goal. Nonetheless, in such circumstances where progress has been slow and the date for the adoption of the plan is sometime well into the future<sup>13</sup>, the emerging SLP attracts very limited weight in the consideration of this appeal proposal and is not relied upon by the Council.
18. Following the revocation of the East of England Regional Spatial Strategy (RS) in 2012 the Council has relied upon the relevant saved policies of the development plan which consists of the **St Albans District Local Plan Review 1994** (LP). The housing delivery target<sup>14</sup> within the LP was ultimately superseded by the RS<sup>15</sup>, which, having been revoked has left a policy vacuum in terms of housing delivery target. The parties are in agreement on this point.

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<sup>12</sup> Within the Design and Access Statement.

<sup>13</sup> Which might itself be the subject of slippage.

<sup>14</sup> Which covered the period 1986-2001.

<sup>15</sup> The LP target was superseded by the Hertfordshire Structure Plan Review 1991-2011 which was itself superseded by the RS.

19. The saved policies of the LP which do have relevance are as follows:

- **LP Policy 1** – this identifies the extent of the Green Belt in the District and sets out the approach to managing development within it.
- **LP Policy 2** –sets out the LP settlement strategy. It identifies the settlements which are excluded from the Green Belt<sup>16</sup> and also villages which are within it. The policy seeks to protect the character of settlement.

Whilst not strictly in accordance with the wording of the National Planning Policy Framework (the Framework) these policies do follow the general thrust of current policy guidance.

- **LP Policy 4** addresses the distribution of new housing development within towns and specified settlements. In principle, development will be permitted on the sites identified in the schedule or on other land where residential use would be consistent with other policies in the plan.
- **LP Policy 5** sets out a presumption in favour of housing development in specified settlements, subject to certain considerations.
- **LP Policy 7A** identifies the Council's target for affordable housing delivery in the plan period. Affordable housing will be sought as part of housing schemes on sites over 0.4 hectares in size or where in excess of 15 units are proposed.
- **LP Policy 69** provides guidance on the design of new developments and requires all proposals to have a high standard of design.
- **LP Policy 70** relates specifically to the design and layout of new housing identifying various factors which must be considered in the design of any new residential schemes.
- **LP Policy 143b** requires the provision of appropriate infrastructure and facilities in order to mitigate the impacts of development and meet the needs of residents.

20. The Framework is also relevant. Accordingly the Council rely upon the relevant saved policies of the LP and national guidance in their opposition of this proposal.

### **Matters not in Dispute<sup>17</sup>**

21. In relation to the planning considerations, the Council and the appellant are in agreement that:

- the appeal site lies within the Metropolitan Green Belt;
- the proposal is not inappropriate development in the Green Belt;
- the proposal would not cause harm to the openness of the Green Belt;

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<sup>16</sup> Including Bricket Wood (a specified settlement as identified in LP Policy 2).

<sup>17</sup> Source Statement of Common and proofs of evidence – matters of agreement between the main parties.

- nor to its visual quality;
- nor to the character and appearance of the area;
- nor to the living conditions of future residents of the development;
- the development plan is not up to date in respect of housing land supply;
- the proposal would not adversely impact on highway safety;
- the proposed access arrangements and traffic flows would not give rise to any highway capacity or road safety concerns on Bucknalls Lane, Bucknalls Drive or the wider area<sup>18</sup>;
- nor on nature conservation interests;
- on any heritage assets;
- existing trees within or adjoining the site<sup>19</sup>;
- flood risk and drainage;
- any pollution risk;
- there is no adopted development plan policy that deals with housing land supply;
- the original draft Pre-Submission Strategic Local Plan 2011-2028 (the stalled version) identified the BRE site as a mixed-use broad location which would include 100-150 new homes;
- also agreed the planning officers recommended the planning application for approval<sup>20</sup>;
- agreed distances between the appeal site and local services, facilities and public transport<sup>21</sup>;
- no statutory consultee raised any objections to the proposed development on the grounds of impact on infrastructure or education and health services; and
- the contributions within the UU are in line with the calculations included in the Hertfordshire Planning Obligations Toolkit.

### *Housing Supply*

22. The parties are also in agreement that following the outcome of the *Hunston* case<sup>22</sup> the Council are unable to demonstrate a 5 year housing land supply, there being only a 3.8 year supply. Significant weight should be given to this shortfall in the balance of this decision.

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<sup>18</sup> Statement of Common Ground with Hertfordshire County Council as Highway Authority – Markides Appendix A.

<sup>19</sup> Some of which are covered by a Tree Preservation Order.

<sup>20</sup> Subject to conditions and the completion of the submitted S106 agreement.

<sup>21</sup> See Doc 11.

<sup>22</sup> Court of Appeal Approved Judgement Case No C1/2013/2734 – The Hunston case – Ozier Appendix 7.



23. The appeal site was included in the calculation of the housing land supply. However, this has not been carried forward into the emerging SLP.

#### *Green Belt*

24. The construction of new buildings in the Green Belt should be regarded as inappropriate development<sup>23</sup>. However, paragraph 89 of the Framework identifies as an exception the redevelopment of previously developed sites, whether in redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
25. As the appeal site involves the redevelopment of previously developed land this exception is of relevance.
26. The existing buildings to be demolished on the appeal site have a combined gross floor area (GFA) of 4812 square metres considering solely their footprint. This compares with the GFA of the proposed development of 100 houses which would occupy a footprint of some 4640 square metres. The parties are in agreement that the proposed 100 houses would not occupy a greater footprint than the existing buildings<sup>24</sup>.
27. In addition, taking into account the amount of overall floorspace derived from the volume of the existing and proposed buildings<sup>25</sup>, the proposed development would have an overall GFA of around 10652 square metres, whereas the GFA of the existing buildings would be in the order of 10731 square metres<sup>26</sup>.
28. Therefore, in both cases the proposed 100 houses could be accommodated on the appeal site without increasing the overall amount of development. There would be no impact on openness over and above that which already exists by reason of the existing buildings. In fact the proposed redistribution of the new houses around the site would reduce the visual impact of development on this part of the BRE Campus and its surroundings. As a replacement for existing development and in its secluded location, the proposal would maintain the openness and visual amenity of this peripheral location to Bricket Wood, maintaining the gap between the village and Garston. In this way the openness, character and permanence of the Green Belt, and the purposes for including land within it would not be compromised.
29. As a result the appellant and the Council are in agreement that the appeal proposal does not amount to inappropriate development and so would not cause harm to the Green Belt.

#### **The Case for the appellant company**

30. The BRE Group<sup>27</sup> is now owned by the BRE Trust, a charity and the largest single funder of research and education in the built environment. It represents all

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<sup>23</sup> Paragraph 89 of the Framework.

<sup>24</sup> Source Statement of Common Ground.

<sup>25</sup> Taking into account not only their footprint but also their height.

<sup>26</sup> Source Statement of Common Ground.

<sup>27</sup> Formerly operated as an executive agency of a government department.

aspects of the construction industry. It is independent of specific commercial interests with an international reputation. The Trust funds a wide range of research and education programmes, many of which inform Government policy and regulation on energy efficiency, sustainability, CO<sup>2</sup> reduction and fire safety in the UK and across the world<sup>28</sup>. BRE employ over 600 staff<sup>29</sup>. Their aim is to develop a cluster of world leading environmental research, engineering, science and technology businesses<sup>30</sup>, enhancing skills, creating jobs and bringing in investment across the country and beyond<sup>31</sup>. The proposed development would generate receipts which will assist in the improvement of the BRE estate and the promotion of the business as a whole.

31. The appellant is a company that leads the way in promoting sustainable building technologies. Sustainability is both at the core of what BRE do and how it tries to behave. To behave otherwise would give rise to reputational issues. The BRE S-Plan sets out the sustainable initiatives and targets which the BRE seeks to achieve. This is a voluntary plan which covers a number of areas of interest including transport with an overarching target to reduce carbon emissions<sup>32</sup>.
32. These values have informed the preparation of the proposed development and will be integral to the way in which the site is developed. The identity of the appellant company, whilst normally irrelevant, is, in this instance, of importance. It provides surety that the development which will come forward will be an exemplar of residential development which will enhance the reputation of the BRE, an asset of the business which the appellant company cannot afford to allow to be tarnished in their own field of operation.
33. The Garston Campus is critical to the productivity and future success of the BRE. Many buildings are expensive to maintain and use energy and water inefficiently. Some of the laboratories are obsolete or rarely used. There is also a surplus of floorspace that is not in productive usage.
34. The primary purpose of the proposed development is to allow BRE to capitalise on surplus land and to consolidate its activities within the core area of its campus within new and/or refurbished buildings<sup>33</sup>.

#### *The Proposal and the site*

35. What is proposed is the redevelopment of an under-used parcel of previously developed land for housing development, including 35% affordable housing<sup>34</sup>, within a District which has materially less than five years supply of deliverable housing.

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<sup>28</sup> BREEAM (BRE Environmental Assessment Method) is the leading and most widely used environmental assessment method for buildings in Europe being one of the best examples of the influence of BRE.

<sup>29</sup> A further 250 or so tenants occupy some of the buildings on the wider BRE Campus.

<sup>30</sup> In partnership with Rothamsted Research and the University of Hertfordshire.

<sup>31</sup> Bonfield Summary of Proof of Evidence.

<sup>32</sup> Doc 19.

<sup>33</sup> A number of buildings on the BRE Innovation Park (part of the Garston Campus) are exemplars of sustainable and innovation design.

<sup>34</sup> Secured under the terms of the UU (Doc 8).

36. In the application of paragraph 89 of the Framework the proposed development does not amount to inappropriate development in the Green Belt, as agreed with the Council<sup>35</sup>. As a result, and unlike in the 2001 decision, significant harm by reason of inappropriateness is not weighed into the planning balance.
37. St Albans City Council cannot demonstrate a deliverable 5 year housing land supply in the context of housing policies which are considered to be out of date<sup>36</sup>. Such deficiencies attract substantial weight in the consideration of this appeal. In such circumstances Paragraph 49 of the Framework indicates housing applications should be considered in the context of the presumption in favour of sustainable development.
38. In the 2001 decision it was concluded that the then proposed housing was not needed. Whereas there is currently an acute need for housing in St Albans<sup>37</sup>. Therefore, the planning balance in 2014 compared to 2001 is very different in this regard.
39. Taking into account the terms of the 2001 SoS decision, the appellant worked with the Council as well as the County Council under a Planning Performance Agreement to address the issues of concern. That resulted in the site being identified for housing in an early version of the SLP and secured a recommendation of approval by officers when the planning application<sup>38</sup> was considered.
40. However, the Council refused the proposal on the grounds of the site's sustainability credentials as well as the supposed stress that would be placed upon local facilities (education and health) were the appeal to be allowed. The Council has not defended their initial concerns relating to the impact on health facilities, recognising the UU contribution would be an appropriate response<sup>39</sup>.
41. The appeal site lies on the edge of a large village that has a range of facilities and public transport options. It lies adjacent to an outer suburb of Watford to the south, a mainline railway to the east and the M1 to the west. It is part of a large employment site where a considerable number of people work and it is not a remote location.
42. The site has little visual interest and has an air of redundancy to some of the built elements. The site is visually contained by well-defined boundaries with neighbouring woodland and the M1. The proposed housing would be laid out to reinforce the sense of openness of the site being located in the area currently developed, in the main retaining the existing mature trees within the site. To the west a planted and landscaped area would serve as a visual and acoustic buffer, presenting an amenity opportunity for residents.
43. What is proposed as illustrated in the Masterplan<sup>40</sup>, is a mixed tenure development based on a sustainable way of living, where the community is grounded in its place and heritage. The Masterplan illustrates that the proposal

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<sup>35</sup> Paragraphs 25-30 inclusive of this report.

<sup>36</sup> Paragraphs 22-23 inclusive of this report.

<sup>37</sup> A point Mr Ozier accepted in cross-examination.

<sup>38</sup> Ref 5/2013/0406 – Officer's report to committee.

<sup>39</sup> Paragraph 13 of this report.

<sup>40</sup> Gitsham Appendix (total) or Design and Access Statement Section 3.

would significantly improve connections to the surrounding area by the provision of new bus, cycle and pedestrian routes. These would link existing communities at Garston and Bricket Wood to railway services, and provide new travel choices for both existing and future residents of the locality.

44. The appellant company's appraisal of the sustainability of the appeal site using the Council's own Sustainability Appraisal Framework<sup>41</sup> concluded that it performed positively on 19 out of 20 parameters<sup>42</sup>. The Council's concern centres on deficiencies in the accessibility of the appeal site location. They view the resultant harm to be so serious as to outweigh the benefits of the scheme.

#### *Sustainability of the appeal site location*

45. Bricket Wood is identified within the LP as being a settlement with job opportunities which provides a wide range of local services within 1.6 kilometres (1 mile or 20 minute walk) of the site entrance. The services include a primary school, post office, grocery shop, hair dresser, florist, off-licence, newsagent, medical centre, pharmacy, dentist and places of worship (See Plan A (ACM12)).
46. The distance between the appeal site and the local services is easily covered on a bicycle<sup>43</sup>. When walking, 80% of short journeys under a mile are made on foot<sup>44</sup>. Therefore, the distance to services is not unreasonable.
47. In addition, the proposed new homes would lie immediately adjacent to one of the largest local employers in the area. It would be possible that either existing or future employees of the BRE or its tenants may choose to reduce their journey to work to a matter of a few hundred metres.
48. The appeal proposal also includes the introduction of new public rights of way<sup>45</sup>. A north-south link for pedestrians and cyclists through the site, thereby linking two communities presently severed from one another<sup>46</sup>, and access into the surrounding woodland, including to the Möhne Dam model would be provided. An extension to the bridleway between Bucknalls Drive and Bricket Wood Common would also be made<sup>47</sup>.
49. The path/cycleway through the BRE site would be a safe, secure, and well-lit route which would still provide BRE with the level of security they require for their premises without undermining the attractiveness of the route for public usage<sup>48</sup>.

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<sup>41</sup> Used by the Council for assessment in the emerging SLP process.

<sup>42</sup> David Payne proof.

<sup>43</sup> PPG13 recommended a comfortable distance for cycling of 5km.

<sup>44</sup> IHT Guidelines for providing for journeys on foot (2000) – refers to National Travel Survey of Great Britain (1996-98).

<sup>45</sup> Would be secured under the terms of the UU (Doc 8).

<sup>46</sup> Bucknalls Drive, Bricket Wood with Bucknalls Lane, Garston.

<sup>47</sup> As requested by the Rights of Way Officer Hertfordshire County Council, The Ramblers Association and the St Albans Access Forum (paragraphs 72 and 73 of this report) – will be secured by the terms of the UU (Doc 8).

<sup>48</sup> Dr Bonfield explained in evidence that building security was on the basis of coded key pads on all external doors. There was no need to fence off the proposed footpath route. Within the UU a restriction on the height of fencing within 2-5 metres of the footway is promoted

50. All of the above access improvements are positive benefits of the proposal which should be weighed into the balance of the decision.
51. It is proposed that the residential development and BRE Campus would be served by separate vehicular accesses<sup>49</sup>. From Bucknalls Drive, the gates to the Campus would be removed and the roadway would be extended into the development. Vehicular access to the Campus from this entrance would be barred, the Bucknalls Lane entrance becoming the sole means of access to the employment site<sup>50</sup>.
52. Such a proposal would reduce traffic flows and roadside parking along Bucknalls Drive and at its junctions with Mount Pleasant Lane. No objection was made to the appeal proposal by the Highway Authority on the grounds of proposed access or parking.
53. The appellant company also promotes, as part of the proposal, a Travel Plan which offers a package of sustainable travel measures to staff and visitors of the BRE Site as well as to the future residents of the new development<sup>51</sup>.
54. The BRE sets out its sustainability aims and targets up to the end of 2014 in its S Plan<sup>52</sup>. The section under Transport sets out a number of aims which would be reflected in the outcomes of the overall Travel Plan. In addition, it also identifies the launch of the UNO bus service and the positive aim to double public transport use by staff.
55. The proposed extension of the existing bus route (No 622) commenced just before the Inquiry opened<sup>53</sup>. The route now takes in Bucknalls Lane and comes onto the BRE Campus<sup>54</sup>. This is intended to benefit the BRE employees as well as making the fullest possible use of public transport by the future residents of the new development. This re-routing would also benefit the residents of Bucknalls Lane and Lemon Field Drive and a new bus stop is also proposed more conveniently placed along Bucknalls Lane. Through the UU, BRE would provide

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(1.7). As Chief Executive of the BRE Group he confirmed he had the authority to make such a statement without reference back to others.

<sup>49</sup> BRE Campus vehicular access would be restricted solely to Bucknalls Lane, with access to the appeal development restricted to Bucknalls Drive – Transport Assessment and Statement of Common Ground with Highway Authority (Appendix A to Markides Proof – paragraphs 5.1-5.2).

<sup>50</sup> Whilst access details are reserved the Statement of Common Ground with the Highway Authority (Appendix A to Markides Proof) sets out that acceptable highway arrangements can be achieved (paragraph 5.3).

<sup>51</sup> This has been reviewed by the Highway Authority and found to be robust, deliverable and has the potential to achieve a positive modal shift in transport – (Markides Appendix C). It would be secured under the terms of the UU (Doc 8).

<sup>52</sup> Doc 19.

<sup>53</sup> The No 622 is jointly funded between the County Council, the bus operator (Uno), University of Hertfordshire and now the BRE.

<sup>54</sup> The existing security gate is to be relocated to ease access onto the Campus for those wishing to catch the bus as well as avoiding delays in the bus timetable.

long term funding towards this improved bus service<sup>55</sup>. This is a route valued by its providers who have confirmed their commitment to its long term future<sup>56</sup>

56. The BRE Campus is accepted by the Council as being a sustainable employment site<sup>57</sup>. In such circumstances access to public transport is a consideration particularly where some 850 employees work on the Campus. It seems contradictory that the existing public transport arrangements for such a large number of employees are considered sustainable, but not so for the proposed residential development. The proposed improvements through the introduction of the bus service and new footpaths/cycleways would serve to improve the accessibility of the appeal site.
57. The Council also included the BRE site in their 5 year housing land supply calculation although this has not been carried forward to the emerging SLP. Nonetheless, the Council must have appraised and considered the site to be sustainable, to even factor it into their assessment of available, suitable and deliverable housing land<sup>58</sup>.
58. It should also be noted that the commitment to the bus service and the improvements to pedestrian and cycle access were not part of the proposed development or accompanying measures to the scheme considered under the 2001 decision.

#### *Contributions*

59. The concern in relation to the impact of the proposal on health services has been resolved through the contribution proffered within the terms of the UU<sup>59</sup>. In addition, a contribution to the provision of primary education places has been made. These are accepted by the Council as being in accordance with the Planning obligations guidance – toolkit for Hertfordshire<sup>60</sup>. The issue for the Council centres on their lack of control over where the County Council spend the money for education. This is not a matter which should restrict development, particularly as those children 'generated' by the new development would be distributed in accordance with school admission policy. The evidence of EPDS Consultants<sup>61</sup> is that there is significant net capacity in primary schools within 2 miles of the proposed development<sup>62</sup>. In all year groups there are available

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<sup>55</sup> 5 years from the date of the occupation of the first dwelling, although that funding has already commenced with the bus route extension being in place, but the terms of the UU would still apply. In addition, the UU does not limit provision to week days only.

<sup>56</sup> Doc 9.

<sup>57</sup> The evidence of Mr Ozier.

<sup>58</sup> APP/B1930/A/12/2180486 (Decision now quashed) at paragraph 36-39 the Council promotes the appeal site to the Inspector as being part of their supply-Moren Appendix C. Similarly APP/B1930/A/11/2164231 decision paragraphs 29-33 identifies the appeal site as a site for inclusion in the 5 year supply (Moren Appendix D). Both these decisions post-date the 2001 decision.

<sup>59</sup> Paragraph 13 of this report.

<sup>60</sup> Appendix 1 to Statement of Alexandra Stevens, Planning Obligations Officer, Hertfordshire County Council.

<sup>61</sup> Education Impact Assessment Report v2-0 for BRE - Rebuttal to Ozier Proof (education only).

<sup>62</sup> As at January 2013.

spaces and places at Mount Pleasant Primary school would be available to children from the development. The Council has not contested this evidence.

*Were the SoS to conclude that the proposal amounts to inappropriate development*

60. In the event that the SoS concludes that the proposed development fails the tests of paragraph 89 of the Framework and so constitutes inappropriate development, the following factors amount to very special circumstances which should be weighed against the harm by reason of inappropriateness, and any other harm:

- the delivery of much needed housing, including affordable homes, within the context of the Council's inability to maintain a 5 year supply of deliverable housing land<sup>63</sup>;
- the significant improvements to visual amenity through the redevelopment of a run-down area of previously-developed land and a reduction in visual impact;
- wider community and environmental benefits in terms of improvements to off-site green infrastructure; woodland management and biodiversity; together with improved public access, including to the Möhne Dam model, with associated proposals for the monument's preservation and enhancement; and the provision of public open space and a community creche;
- the procurement and provision of a bus service in close proximity to the proposed development, together with the opportunity for providing a cycleway/footpath through the BRE Campus to link the residential communities at Bucknalls Lane and Bricket Wood;
- the development of exemplar housing meeting sustainability criteria above the statutory minimum; and
- the cross-funding of BRE's wider proposals to consolidate and enhance its nationally significant building research-and-development buildings and facilities within the core area of its campus.

61. The proposal comprises a good sustainable scheme with significant positive elements to be weighed into the balance of the decision. Sustainability goes beyond the concept of accessibility. The proposed site would reduce pressure on the need to release greenfield Green Belt sites and would contribute to meeting the significant unmet need for housing in the District.

### **Case for the Council**

62. The agreed position of the Council is that the LP is largely out of date in respect of this appeal and cannot be regarded as determinative of this proposal<sup>64</sup>. The SLP can be given no material weight given the stage of its preparation.

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<sup>63</sup> Taking into account the terms of paragraph 47 and 49 of the Framework.

<sup>64</sup> The Council also accept the appeal proposal is not inappropriate development in the Green Belt.

Therefore, the proposal must be determined in accordance with relevant material considerations, the Framework being the main policy consideration.

63. The Framework seeks sustainable development as a whole. When assessing a proposal, the economic, environmental and social aspects of sustainable development should be considered together as they are mutually dependant<sup>65</sup>. Transportation is a very important aspect of the environmental and social roles of sustainability. If it is not sustainable development then the scheme can not benefit from the presumption in favour of sustainable development<sup>66</sup>.
64. To meet the core principles of the Framework the fullest use of public transport, walking and cycling should be made. The aim must be to ensure that developments that generate significant movements are located where the need to travel will be minimised and the use of sustainable transport modes maximised. The appeal proposal is unsustainable in transportation terms
65. This is an inherently inaccessible site. The 2001 SoS decision concluded the site was unsustainable given the limited walk and cycle opportunities<sup>67</sup>. There is little detail regarding the proposed walking and cycling routes through the BRE Campus. Whether such routes would be attractive to users is a matter of trust. The compatibility of these routes with the security requirements of the BRE is not clear. The lack of detail of the proposed routes through the Campus leaves issues relating to security and user safety unacceptably unresolved. There is no surety that the measures put forward by the BRE would be agreeable to the BRE Trust, given they were only proffered in the days preceding the Inquiry. The north-south spine road would allow pedestrians to gain access to large parts of the BRE site, when at present the whole site is surrounded by a 6 foot security fence. Such an access arrangement would require a considerable change in security ethos. If Dr Bonfield is unable to gain the required agreement of the BRE Trust, conditions relating to such access may become contentious.
66. It is likely that large parts of the north-south route through the Campus would need to be fenced off to provide BRE with secure areas. This has implications for the attractiveness of these routes to users, in relation to feeling secure and facilitating surveillance particularly at night.
67. According to Mr Brazier's calculations<sup>68</sup> a considerable number of facilities and services are beyond maximum distances as well as the acceptable walking distances. The view of the SoS in this regards holds true today as it did in 2001.
68. In respect of the accessibility of the site by means of a bike, nothing has changed since the SoS decision in 2001. The appellant has failed to address this issue even given that it was an important issue for the SoS and was recognised by the appellant as being a more important means of transport than the bus<sup>69</sup>.

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<sup>65</sup> Paragraph 8 of the Framework.

<sup>66</sup> Even if the presumption applied, it would not benefit the proposal because of the significant and demonstrable harm that would be caused by the scheme.

<sup>67</sup> Council acknowledge the 2001 scheme did not propose a bus service. It also relied upon PPG13 now superseded by the Framework.

<sup>68</sup> Brazier assessment of reasonable walking distances is based on Chartered Institution of Highways and Transportation – Brazier Proof.

<sup>69</sup> Both within the Transport Assessment and the Design and Access Statement.



69. The inadequacies of the scheme in terms of its accessibility to modes of transport other than the car have resulted in the appellant placing considerable store by the bus service. There is no proper basis for the assertion that a bus service, which will assist with the sustainability of the site, will be available in the long term. Given the inaccessible nature of the scheme, a bus service should be provided for the life of the development and the appellant provide funds to achieve this. There is no evidence that the bus service is viable. It relies on provision by a third party<sup>70</sup> and the sustainability of the proposals over their lifetime has not been established. No proper explanation of how the cost of diversion has been reached is given.
70. The No 622 bus is not self-sustaining. It relies upon a subsidy from the University and from the County Council, although the amount of the subsidy is not known. There is no contractual or other obligation to continue this service by the third parties. This route currently relies on the subsidy of two public organisations, the priorities of which may change over time and the subsidy be withdrawn.
71. The Council accept that the cost of the facility is not significant given that no new bus is to be provided. However, Uno's position is that both the UU contribution and increased bus usage is required to fund the service. The extent of these required factors to ensure the retention of the service is unclear.
72. The appellant contends that much of the increased bus usage would come from visitors to the BRE Campus<sup>71</sup>. This estimate is not based on empirical evidence and the BRE survey results had a very small response rate to the point of being of little use in assessing bus usage. It is expected that 3 times more visitors will use the bus than BRE employees<sup>72</sup>. This is wholly unfounded as an assumption, being based on evidentially unsubstantiated conclusions as to where visitors may commence their journeys (mainly London) and similarly employees (a number of different locations).
73. The appellant also relies on the Bucknalls Lane/Lemon Field Drive residents using the bus service. However, the bus stop by the A405 is more likely to be used than residents walking on to the BRE Campus. It is acknowledged that there may be a new bus stop on Bucknalls Lane but that this is no basis upon which to reach judgements on the viability of a bus service.
74. The Council consider the level of patronage of the bus service has been considerably overstated.
75. The attractiveness of the bus service is also at issue. Delays due to the security process of gaining access to the BRE Campus is a particular concern, especially as there are no restrictions on the future security measures which may be imposed on the BRE site in the future. There are no services at the weekend. Taking into account that the bus service is proffered by the appellant to make the development acceptable it should serve the needs of the future residents of the appeal development not the BRE employees. There is no justification for curtailing the service in this way, nor in establishing that the proposal can make

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<sup>70</sup> University Bus Ltd & Uno Buses (Northampton) Ltd.

<sup>71</sup> 20% of between 20,000 and 27,000 visitors would use the bus.

<sup>72</sup> Some 6.9% of BRE employees are expected to travel by bus.

- proper sustainable transport provision and can do so over the lifetime of the development.
76. Consequently the proposal is not sustainable by modes other than the private car. Mr Markides' own transport assessment also concluded that some 70% of trips from the development would be by car. The scheme is and will remain unsustainable in the manner concluded upon by the SoS in 2001. The proposal therefore fails to achieve one of the core aspects of the Framework. The consequence is that the development cannot amount to sustainable development and cannot benefit from the presumption in favour of sustainable development.
77. The impact of the proposal on education facilities would also compound its failings. 22 primary school places would be required to accommodate children from the development. The UU has made a contribution for such provision. However, there is no guarantee that actual spaces will be provided. The payment will be made for the provision of facilities within the locality but not within a timescale to ensure that sufficient places for existing and future residents are provided. The selection criteria adopted by the County Council may mean that children on the appeal site will obtain a place within local schools<sup>73</sup>. However, this does not deal with the problem. It simply moves the pressure along to those seeking places out of catchment and the same shortfall of spaces will still exist but will affect other children further down the admissions criteria list. Therefore, the contribution is not an answer to the Council's issues in this regard.
78. However, a balance must be reached between the shortcomings of the scheme in respect of transport and educational matters and any benefits that fall to be taken into account. The appellant places reliance on the shortfall in the housing land supply. However, this should be considered in the context of a district heavily constrained by Green Belt. Sir David Keene pointed out in the Hunston case<sup>74</sup> in such circumstances a decision-maker is capable of concluding that there is nothing special, much less very special about the provision of housing in the Green Belt. Significant weight should still be applied to this issue but in the circumstances of the Council, its importance in this case should be reduced.
79. The appellant has also indicated that the capital receipt from the residential development will go to achieve the financial stability of the BRE. However, there is no written evidence to substantiate this point, nor is there anything to tie the capital to particular projects. Dr Bonfield referred to the BRE Pension fund benefiting from the capital receipts. Whilst this may be an obligation for the BRE, in terms of weight, such a consideration could apply to many other commercial organisations and so should not attract significant weight in the balance of the decision.
80. The proposed maintenance and improvements to the Scheduled Ancient Monument can only be given limited weight as the appellant would maintain it and ensure its protection given its historic link to the site, in any case.

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<sup>73</sup> That has not been established as a fact.

<sup>74</sup> Ozier Appendix 7.

81. The limited benefit of the provision of the bus service to the staff of the BRE should be given little weight as Dr Bonfield confirmed that the service would be provided in any case and is, in fact, already in service.
82. None of the benefits proffered by the appellant overcome the defective nature of the scheme in transport sustainability terms.

### **Summary of the verbal representations from interested persons who appeared at the Inquiry**

83. **David Parry, St Stephens Liberal Democrats.** The appeal site has been used for a considerable length of time for business purposes without any attempt to remove it from the Green Belt. A change of use to residential makes it likely that it would come out of the Green Belt at the next review. The framework does not support the redevelopment of the site in the Green Belt without the need for very special circumstances. It is accepted that the Council has a housing shortfall in housing need and might have to release some sites in the Green Belt to accommodate its needs. However, as far as the appeal site is concerned, whilst having been put forward on various occasions, it has never been Council policy to allow it to be developed for housing. A recent independent Green Belt review identified a number of possible housing sites in the Green Belt. This was not one of them.
84. The emphasis of the BRE is on sustainability of materials, not on the sustainability of location. The walking distance from the appeal site to the local convenience shopping is at least 20 minutes. The nearest large supermarket is 8-10 minutes in a car, with Brent Cross being less than 15 minutes. For the site to have any sustainability credentials, it would need to be demonstrated that there was a realistic prospect of higher use of bus/walking and cycling than the existing Village. This has not been done.
85. In addition, the work/life balance argument is equally spurious as the area has the lowest unemployment rates in the country, with a strong imbalance in favour of housing over employment. More houses will only make this worse by increasing commuting.
86. There is also conflict between traffic in Mount Pleasant Lane relating to parents taking children to school and those trying to get onto the M1. The development would increase traffic in both groups.
87. In essence the proposal is not a sustainable site.
88. **Julian Thornton Rights of Way Officer Hertfordshire County Council.** The St Albans Access Forum<sup>75</sup> is developing a rights of way improvement plan for the District. This is a living document. Much of the work depends on volunteers. One of the improvements would be the widening of a section of bridleway 58 over land in the ownership of the BRE. Direct public footpath routes from the appeal site to Mount Pleasant Lane<sup>76</sup>; The Kestrals<sup>77</sup>; Bucknalls Lane<sup>78</sup>; and

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<sup>75</sup> Includes walkers, horse riders and cyclists as well as officers of the County and District Councils and the Ramblers Association.

<sup>76</sup> Near Mount Pleasant Lane JMI School.

<sup>77</sup> To Bucknalls Drive.

<sup>78</sup> Directly through the BRE site.

Bricket Wood Common are all desired routes. Some, if not all of these could be achieved in partnership with the appellant. Land would be required along with the agreement of the BRE to allow for public access over that land.

89. **Phil Escritt – The Ramblers Association’s (RA) Footpaths Secretary for St Albans District.** No development should be allowed on this site unless every practicable measure has been implemented to improve the access for pedestrians and other non motorised users of the highway. The RA is party to the St Albans Access Forum and so concur with the evidence of Julian Thornton. The RA seek to improve health and well-being by promoting sustainable transport modes, in particular walking. The missing link from the appeal site to Bricket Wood Common would provide a recreational route one which could be enjoyed by families from the immediate vicinity. The bridleway improvement could be undertaken by BRE as a gesture of goodwill, mitigating any harm caused by the development. The access arrangements need to be permanent and dedicated rights of way.
90. **Mrs Gurd – Local resident.** The proposal would lead to a coalescence of Bricket Wood with Watford. The local infrastructure relating to education, health and highways cannot cope with an additional 100 houses. Parking along Bucknalls Drive is congested and a bus using this as a route would bring more traffic chaos, particularly at the Bucknalls Drive/Mount Pleasant Lane junction. In addition, the water table in this locality is such that the proposed houses would create problems of run off and possible flooding in the vicinity.

#### **Written Representations from interested persons<sup>79</sup>**

91. Representations were received at the time the planning application was considered by the Council<sup>80</sup>. Further letters were then received in relation to this appeal. The following is a list of the essence of the concerns raised:
- Development would destroy Bricket Wood village;
  - Roads and local infrastructure already are at maximum capacity and would struggle to cope;
  - Huge increase in road traffic and associated dangers for residents;
  - Resubmitted plan far in excess of what has been rejected by previous planning inspectors;
  - Flooding concerns;
  - The proposal of public transport (a bus) using Bucknalls Drive is totally impractical. It is only 5 metres wide.
  - Noise, disturbance and pollution from construction;
  - The Green Belt should be protected from the proposed encroachment/contrary to Green Belt policy;
  - The proposal is contrary to the purposes of the Green Belt;

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<sup>79</sup> Both at the application and appeal stage.

<sup>80</sup> Source the Officer’s Report to Planning Committee.

- The Green Belt gap between the residential areas of Bricket Wood and Garston should be retained and strengthened;
- No very special circumstances exist to justify Green Belt development;
- Unacceptable air pollution;
- Damage to road surfaces;
- Insufficient information regarding proposed dwellings;
- Character of Bucknalls Drive would be destroyed;
- Not reasonable to impose significant disadvantages on existing Bricket Wood residents as a remedy against mismanagement of pension funds;
- Due to noise from M1 the development could not support high value properties. Noise levels on the site are unacceptably high for housing development;
- Unsustainable location;
- Development of site premature when fundamentals of the Local Plan are not yet established;
- This part of Hertfordshire is reaching the limits of sustainability for population and traffic densities;
- The BRE site should be retained for employment use;
- Proposal would set a precedent for piecemeal housing development across the whole BRE site;
- BRE could sell the site to housing developers in which case the 'use of exemplar building techniques and designs' will not be within the control of BRE;
- Proposal would create a satellite estate;
- Insufficient parking;
- Bricket Wood train station is not within easy walking distance;
- Local shops not in close proximity; and
- The woodland would be lost. The protection of the natural environment should be a priority.

### **Conditions and Obligations**

92. A list of conditions agreed between the Council and the appellant company was contained in the Statement of Common Ground. Following discussion at the Inquiry, a number were deleted with the agreement of the parties. I have amended and amalgamated a number for clarity, precision, elimination of duplication, and taking into account guidance in this regard.
93. In summary, standard conditions are required on the approval of the reserved matters and on the commencement of development. Confirmation of the

approved plans is needed to define the site. Further conditions are required to ensure that the submission of reserved matters and later details complies with the considerations taken into account in the approval of the outline permission.

94. As the present use is for commercial purposes including research and development, it is reasonable that investigations should be carried out in relation to possible contamination of the land. Conditions relating to surface water run-off, foul and surface water drainage are also deemed necessary to ensure adequate arrangements are in place to respond to local concerns, particularly in relation to flooding and in the interests of environmental impact. Similarly a condition relating to penetrative foundation designs is also required for the same reasons.
95. Due to the verdant character of the area, conditions relating to hard and soft landscaping are required.
96. Conditions relating to the protection of trees and hedgerows are required both in the interest of amenity as well as biodiversity. This also applies to the need to ensure the terms of the Biodiversity Assessment Report are implemented. For the same reason, conditions dealing with the future management; long term wellbeing of the hedgerow and trees; and their protection during the construction phase are necessary.
97. The condition relating to the Construction Management/Method Plan and Statement is required in order to protect the amenities of nearby residents and general amenity. For the same reason, the condition relating to the ground/slab levels has been imposed.
98. The locality has been identified as having some possible archaeological interest. Therefore a condition requiring a programme of investigation is justified.
99. A condition relating to the management of the Scheduled Ancient Monument is also justified in the interest of its safeguarding during and after construction of the development.
100. Conditions relating to the implementation of the Green Travel Plan, the provision and retention of the new public footpath/cycleway routes associated with the scheme are all necessary to provide sustainable transport objectives, giving people a real choice about how they travel. It does not include any need to implement the Travel Plan relating to BRE employees. This is not material to the consideration of this proposal and in any case is part of the BRE's S Plan and its long term strategy to improve the sustainability of the site.
101. The provision of the bus service, the extension of the bridleway and other public footways, as well as an undertaking on the limitation of fencing in the vicinity of the off site footways are contained within the UU. This is a reasonable and justified way of dealing with these matters being off-site but still within the control of the appellant company.
102. The signed UU (Doc 8) also deals with the provision of the affordable housing (35%), provision of green infrastructure, leisure facilities, a woodland management plan, management of open space, health contribution, implementation of the Green Travel Plan and library and youth contribution. All

of these matters are accepted as being in compliance with Planning obligations guidance – toolkit for Hertfordshire<sup>81</sup>.

103. The education contribution is dealt with at paragraphs 148 - 150 below.

### **Inspector's Conclusions**

104. I have reached the following conclusions based on the evidence given at the Inquiry, the written representations made and my inspection of the site and its surroundings. The numbers in square brackets [] denote earlier paragraphs in this report.

#### *Green Belt*

105. As already established the appeal site lies within the Green Belt. New buildings in the Green Belt are regarded as inappropriate development. However, the appeal site is the redevelopment of a previously developed site. It is still in continuing use, but is redundant to the requirements of the BRE, the buildings being in poor condition, being aged and not fit for purpose in the context of the requirements of modern day research and the sustainable standard of build promoted by the appellant company [4, 42]. The extent of the proposed scheme as indicated by the indicative layout and other illustrative details within the Design and Access Statement and the Planning Statement provide assurance that the proposal would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development on the site.

106. I am satisfied that the appeal proposal would not increase the overall level of development on the site [26, 27, 28]. In addition, due to the potential to redistribute the buildings and decrease their scale and massing, this would lead to a reduction in the impact on openness and on the visual amenity of the surroundings. Further, the redevelopment of this brownfield land would not compromise the purpose of including it within the Green Belt any more than the existing development which occupies the appeal site [28, 42].

107. Therefore, I agree with the main parties that the replacement buildings proposed would not have a greater impact than the original buildings [28]. The approach of the parties to assessing the impact on the Green Belt has been logical and measured in this regard [24-29 inclusive]. Consequently the openness of the Green Belt is maintained and its purposes are not compromised. As a result, the conclusion that the appeal proposal is not inappropriate development [21 bullet point 2] and so is not harmful to the Green Belt [21 bullet point 3] is reasonable and accepted. These parameters are set out in the Planning Statement and the Design and Access Statement. As they are central to the evaluation of any harm to the Green Belt it will be necessary to impose a condition to define these aspects were the appeal to be allowed<sup>82</sup>.

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<sup>81</sup> Produced by Hertfordshire County Council – See Statement in support of planning obligations HCC.

<sup>82</sup> Condition 1 – Annex A.

108.As a result, unlike in the 2001 decision, it is not necessary to weigh the significant harm by reason of inappropriateness into the planning balance<sup>83</sup>.

#### *Housing need and supply*

109.To boost significantly the supply of housing, the Framework identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area as far as is consistent with the policies of the Framework<sup>84</sup>.

110.In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land. The Council accept that they do not have a five year supply of housing land<sup>85</sup> [22], but do have an acute need for housing (including affordable housing) within the District [22, 23]<sup>86</sup>. Based on the evidence there is no reason to question this agreed position.

111.Therefore, Framework paragraph 49 sets out that in such circumstances relevant policies for the supply of housing should not be considered up-to-date. Whilst a lack of a five year land supply of deliverable housing land does not provide an automatic 'green light' to planning permission a balance must be struck. The deficiency in land supply would carry substantial weight in that decision balancing exercise.

112.The proposed development would contribute to the identified unmet housing need within the District [22, 37]. In addition, much needed affordable housing would also be included as part of the development [11]. Both of these factors should weigh positively in the balance of the decision. In such circumstances, the Framework sets out that a presumption in favour of sustainable development applies.

113.Consequently I consider the main issues are whether the appeal proposal constitutes a sustainable development, including its impact on the character and appearance of the surrounding area; on existing infrastructure, particularly in regards to education and highways<sup>87</sup>; and whether there are any other considerations which would outweigh any material harm resulting from the appeal proposal.

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<sup>83</sup> The 2001 decision found harm by reason of inappropriateness to the Green Belt. However, the terms of PPG 2 were used to appraise the proposal. Now paragraph 89, bullet point 6 of the Framework sets out the exception applied in this instance which has led to a differing conclusion.

<sup>84</sup> Paragraph 47 of the Framework.

<sup>85</sup> 3.8 years supply.

<sup>86</sup> This differs from the position in 2001 when there was no acute need for housing in the District. Therefore, the weight now ascribed to this element of the proposal differed markedly from that in 2001.

<sup>87</sup> In the main in relation to the location of the appeal site relative to local services and public transport links.



### ***Contribution to the achievement of sustainable development***

114. There are three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependant.

#### *Environmental Role*

115. *Character and appearance* - Bricket Wood is a pleasant village on the periphery of St Albans. Whilst the appeal site forms part of the wider BRE Campus the surrounding area is characterised by residential development, suburban in nature. The intervening woodland to the north-east and south-east does have a screening affect between the built-up edge of the village and the existing office and research buildings on the appeal site. However, the appeal site can be seen from the west, south and north, not least from the M1 and from within the BRE Campus itself.

116. The existing buildings do appear dilapidated and are of a scale which affords them considerable visual prominence. Whilst in outline, the indicative layout and terms of the design and access statement illustrate that the scale and distribution of the proposed dwellings would be such, that there would be a significant reduction in the overall impact of the built form on the appeal site were the development to go ahead.

117. In this way, I am persuaded that it would be possible to achieve an acceptable design of development which would not materially harm the character and appearance of the surrounding area [21 bullet point 5], taking into account the impact of the existing buildings on the site. The introduction of further landscaping would also assist in further absorbing the new dwellings into this edge of village location.

118. In addition, the location of the appeal site close to the BRE Campus, with the intervening woodland, the M1 and the separation distances between Bricket Wood and near-by Garston means that the proposal would not undermine the spatial distinction between the two settlements<sup>88</sup> nor their character and appearance<sup>89</sup>.

119. *Location of the appeal site relative to local services* - Bricket Wood benefits from a range of local services [45]. There is no dispute between the parties as to the distances between the appeal site and those services<sup>90</sup>. What is in dispute is whether the distances involved are likely to encourage or serve as a barrier to accessing those facilities by walking or cycling, residents possibly favouring the use of the car.

120. In considering cycling first, none of the identified services are more than 2.6 kilometres from the appeal site and some 50% are less than 2 kilometres away. Such distances would be easily covered by bike and the proposed cycle routes through the BRE Campus would enable easier access for cyclists than had previously been available to Garston and on to Watford.

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<sup>88</sup> The coalescence of the two settlements not being an issue in this case.

<sup>89</sup> In accordance with LP Policies 69 & 70.

<sup>90</sup> Agreed distances Doc 11.

121. When walking, the 1.8 kilometres to the Train Station would be more of a stretch of the legs. However, a considerable number of facilities, including the Oakwood Road shops and the Mount Pleasant Lane School would be between 1.3 and 1.6 kilometres away<sup>91</sup>. The standards used by the parties to assess whether these distances are reasonable differ [46, 67]. However, 1.6 kilometres is a reasonable distance to walk to services. From my own experience of the appeal site the Oakwood Road shops were an easy and pleasant walk.
122. I agree the distance to the Bricket Wood train station and its environs<sup>92</sup>, whilst easily covered by bike, if walking would be likely to result in the use of the car just for convenience sake when time pressures to catch a train may be in play.
123. However, the appeal site does offer the opportunity for existing or future employees of the BRE to live close to their place of work, thereby reducing the need to travel to work [47].
124. Framework paragraph 32 sets out that consideration should be given as to whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site.
125. The new proposed pedestrian and cycle rights of way through the BRE would have the positive benefit of allowing not only future residents of the new development, but those living in Bucknalls Drive and Bucknalls Lane, to pass between the two residential areas. Previously such a journey may have necessitated a long roundabout route which, taking account of the distances involved may have resulted in the use of the car<sup>93</sup>. This is a positive benefit of the scheme.
126. The Council is concerned that the proposed paths may be unpleasant and intimidating routes for people due to any need to fence them off from the main Campus<sup>94</sup> discouraging their usage [66]. I cannot agree. At the site visit I saw that much of the length of the new routes<sup>95</sup> would be contained within existing roadways, including lit pavements on the BRE site. Dr Bonfield's explanation and confirmation<sup>96</sup> of the security measures relied upon did not suggest that it would be necessary to erect high screen fencing either side of the pathways [49]<sup>97</sup>. With 850 people working on the Campus it is likely that users of the new public rights of way will feel more secure with people around. At night time, site security is present and I do not see the new routes being any less attractive to use than any other footpath/cycleway in such a suburban location.

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<sup>91</sup> In order of a mile away.

<sup>92</sup> See Plan C – ACM12.

<sup>93</sup> See Plan C – ACM 12.

<sup>94</sup> Security concerns.

<sup>95</sup> See Plan D – Access Route Plan.

<sup>96</sup> Dr Bonfield confirmed as CEO of the BRE Group of Companies he had the authority to make decisions regarding changes to security arrangements and I have no reason to doubt his word.

<sup>97</sup> The terms of UU (Doc 8) restrict the height and position of any fences which might be erected in the vicinity of the new paths in the future.

127. The proposed widening of bridleway 58 creating a continuous pathway link to Bricket Woods Common<sup>98</sup> would also be a positive benefit of the scheme and one welcomed by both the County Council and the RA [88, 89].
128. The re-routing of bus No 622 is of particular importance as an opportunity to take up sustainable transport modes. It has been part of the BRE's plans for improving the sustainability of the Campus for some time<sup>99</sup>. Some members of staff at the BRE already use the bus to get to work, but the nearest bus stop is some distance away. With the bus actually coming onto the employment site on an hourly basis, such a service would benefit employees and visitors alike<sup>100</sup>.
129. The BRE is committed to providing the service whether the proposed development goes ahead or not, witnessed by the commencement of the service prior to the Inquiry and its inclusion in the BRE S Plan<sup>101</sup> [55].
130. However, it is how this bus service would improve the sustainability of the location of the appeal site which is the point at issue in this case. Residents of the proposed development would be able to access the bus by walking along the new public footpath route through the BRE. From the bus stop they would be able to travel to Watford, including the train station, and Hatfield.
131. Within the UU<sup>102</sup> the appellant company commit to ensuring that the re-routed bus service would remain in operation for 5 years from the occupation of the first dwelling [55]. As the bus is already in service it is likely that it will have become established as an extended route serving the BRE site, but also the residential areas around Bucknalls Lane, even before the new homes are occupied. Residents of the Bucknalls Drive area will also benefit as they will be able to walk through to the BRE bus stop via the new paths.
132. The patronage of the re-routed bus service by workers, visitors and residents is a consideration, but I am satisfied that the members of the Network St Albans Passenger Transport Partnership are committed to the long term retention of this service<sup>103</sup>. There would be mutual benefit for all, including the residents of the new dwellings. Even taking into account the optimism of the appellant company regarding the up-take of the bus service by visitors and employees over time, it is likely the route<sup>104</sup> will become established [55, 136].
133. In addition, as part of the proposal and secured by means of the terms of the UU, a Travel Plan<sup>105</sup> would also be implemented in partnership with the Highway Authority<sup>106</sup>. This would serve to contribute to decreasing the dependence on car usage by the future residents of the new development.

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<sup>98</sup> Secured under the terms of the UU Doc 8 Schedule 1 paragraph 1.6.

<sup>99</sup> BRE S Plan – Doc 19.

<sup>100</sup> Particularly as the bus links the BRE Campus with the train station.

<sup>101</sup> BRE S Plan – Doc 19.

<sup>102</sup> Doc 8 – Schedule 1, section 1.

<sup>103</sup> See Doc 9.

<sup>104</sup> The route is already established and has been running for some time. The only element of change is the diversion of the existing route along Bucknalls Lane and into the BRE Campus.

<sup>105</sup> Doc 3.

<sup>106</sup> Doc 8 – Schedule 1 section 2.

134. I am conscious that, in taking decisions, the Framework identifies that local circumstances should be taken into account so that different opportunities for achieving sustainable development in different areas can be responded to<sup>107</sup>.
135. Mr Ozier accepted on behalf of the Council that the appeal site was part of a sustainable employment site [56]. Some 850 people work at the BRE Campus. The distances to services, facilities and public transport links would essentially be the same for those workers as for new residents. It seems illogical to conclude that a large employment site is sustainable whilst a residential development is not.
136. In these circumstances the distances between the site and access to bus services, local services/facilities, open air recreational amenities<sup>108</sup>, and where employment opportunities could be on the door step [47], the travelling distances are reasonable. It is likely the ready access to the new bus service would encourage usage<sup>109</sup>.
137. The distance to the Bricket Wood train station and services beyond, along with the limitation of bus services late into the evening and at weekends does weigh against the proposal. However, this limited harm in terms of the other sustainability credentials of the appeal site, individually or combination, does not undermine the reasonable and justified conclusion that the new residents of the homes would have a real choice about how they travel<sup>110</sup>. In respect of location and a movement to a low carbon economy, the sustainability of the appeal site is positive<sup>111</sup>.
138. *Flooding* – Some local residents have raised concerns regarding possible flooding on and off-site [90]. The Flood Risk Assessment concludes that any increase in surface water runoff can be managed on site through Sustainable Urban Drainage System techniques. These would mitigate for the consequences of flooding by incorporating measures to accommodate flood risk. In this way the proposal would not pose a flood risk and a condition could be imposed to secure the required measures to achieve this.
139. *Highway safety* – Residents are concerned that the proposal would result in parking along Bucknalls Drive restricting access, along with congestion at nearby road junctions [86, 90]. The proposed development is of sufficient size to accommodate adequate parking for future residents. There is no reason to suppose that those residents or their visitors will park along Bucknalls Drive. In relation to introducing additional vehicular movements at nearby junctions, I am mindful that Bucknalls Drive is already used by employees accessing the Campus. Should the appeal be allowed, such access would stop, being restricted to the new development only. This would at best reduce traffic flows along Bucknalls

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<sup>107</sup> Paragraph 10 of the Framework.

<sup>108</sup> Bricket Wood Common.

<sup>109</sup> From the surrounding existing residential development, the future residents of the new homes and visitors and employees of BRE.

<sup>110</sup> Para 29 Framework sets out that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

<sup>111</sup> This appeal offers improved walking and cycle routes and the introduction of the bus service. None of these elements formed part of the case in relation to the 2001 decision.

Drive and at worst cause no greater impact than that which already exists due to BRE employee movements. The residual cumulative impacts of the development are not severe and so permission should not be withheld on transport grounds<sup>112</sup>. I am also conscious that the Highway Authority has not raised any concern in relation to the proposed development in this regard. Taking into account the terms and conclusions of the Transport Assessment I see no reason to disagree.

140. *Tree/Biodiversity* – In both cases neither the adjoining protected woodland or the habitats or wildlife would be compromised by the proposal<sup>113</sup>. To safeguard this position a number of conditions would need to be imposed to protect the trees, habitats and wildlife.

#### *Social Role*

141. The proposed housing would fulfil a social role by contributing to the support, strengthening and vibrancy of the local community by providing towards the supply of housing required to meet the needs of present and future generations [35, 61, 78]. In combination with the provision of much needed affordable housing<sup>114</sup>[35], these are positive considerations weighing in favour of the development.

142. The opening up of the new rights of way [48], in particular that facilitating access to the Möhne Dam model [48], would allow the wider community extended access to the surrounding countryside and woodland. In addition, a Scheduled Ancient Monument of considerable importance in recent history<sup>115</sup> would be made available to the public at any time<sup>116</sup> rather than, at present, where access is heavily restricted to appointment or open days. This is a positive social benefit to which I afford considerable weight as the opening up of this area of the BRE Campus would only come about by reason of the new development<sup>117</sup>.

#### *Economic Role*

143. The proposal would enhance the economy of the community by the creation of jobs associated with the construction stage, and new residents are also likely to support existing local services and businesses.

144. In addition, I heard from the appellant company that the appeal site was readily available and it was their intention to expedite its development with suitable partners. The prospect that the housing could be delivered on the site within five years would be strong. The Council similarly considered this to be the case when it included the BRE site in the 5 year land supply prior to the final drafting of the

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<sup>112</sup> Framework Paragraph 32 bullet point 3.

<sup>113</sup> Source Biodiversity Assessment Report and Arboricultural Assessment & Method Statement.

<sup>114</sup> The appeal scheme would provide some 35% of the proposed development as affordable homes secured under the terms of the S106 agreement. The Council welcome the affordable element of the development (LP Policy 7a)

<sup>115</sup> In living memory.

<sup>116</sup> Accessed via the proposed public footpath through the woodland.

<sup>117</sup> It is likely that the appellant company would continue to maintain the Möhne Dam model even if the appeal were not allowed but ready public access would be unlikely to come forward.

- SLP<sup>118</sup>[21 bullet point 16]. Having sufficient land available of the right type in the right places and at the right time to support growth and innovation is part of the economic role in achieving a sustainable development.
145. The proposal would also benefit the BRE in the longer term. Whilst the BRE is no longer in public ownership it is, nonetheless a charity, independent of specific commercial interests, funding research and education into energy efficiency and sustainability in, but not solely restricted to, the construction industry [30]. It has an international reputation and a lot to lose were it to be associated with a development which was anything other than an exemplar in relation to design and energy efficiency [31-32]<sup>119</sup>.
146. I understand some of the capital receipts which may be generated by this proposal may go to close the existing gap in the BRE pension fund<sup>120</sup>. That is plainly not a planning consideration. However, Dr Bonfield did explain that the development would also fund the upgrading, expansion and re-development of some of the buildings on the wider Campus which are no longer fit for purpose<sup>121</sup>. This would be in the face of rapidly changing technologies, the development of which the BRE are responsible for on an international platform. Such development would be likely to result in the safeguarding of the BRE Campus in the longer term, as well as jobs both directly within the BRE and with associated companies [33]. Whilst this is not a determinative factor in this appeal, some consideration should be given to these benefits which, based on the BRE track record, would be of national and international importance in the furtherment of building techniques and materials.
147. *Health* – It is common ground that the proffered contribution towards general medical service provision and health services within the locality of the proposed development is justified. It would mitigate the impact of the proposal on the local health infrastructure [13, 14]. It has been tested against the terms of the Hertfordshire Planning Obligations Toolkit and found to be compliant.
148. *Education* - The EPDS Education Impact Assessment Report dated March 2014<sup>122</sup> sets out that within 2 miles of the appeal site there is a significant surplus of primary school places. The development would only generate a demand for 22 such spaces. The future children of the development would apply for places in the same way as other children but being within the catchment area they would receive some priority over outside catchment area children<sup>123</sup>. The Council's concern centres on a perceived lack of control over where the County Council spend the contribution towards education provision<sup>124</sup>.
149. This is a reasonable response. Any contribution made should be spent on facilities which can be directly linked to the impacts of the proposed

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<sup>118</sup> See footnote 55 above.

<sup>119</sup> Evidence of Dr Bonfield which was not refuted and was delivered in an open and credible manner.

<sup>120</sup> Dr Bonfield in evidence.

<sup>121</sup> Dr Bonfield evidence in chief.

<sup>122</sup> Doc 1.

<sup>123</sup> Taking into account other priority admission policy groups such as siblings or cared for children.

<sup>124</sup> Ozier in cross examination.

development. In this case there seemed to be little doubt that the effect of the introduction of new children from the development to the local primary school would be to displace out of catchment area children wishing to come to Mount Pleasant Lane School [77, 59]. The County Council could not be specific that the contribution would be spent locally.

150. Therefore, it has not been shown that the contribution towards primary education is necessary or justified to mitigate the effects of the new development in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. Therefore, I do not consider it reasonable to take this aspect of the UU into account. In all other respects the terms of the UU would not compromise LP Policy 143b and, more generally, I find that they comply with the requirements of CIL Reg 122.

### **Inspector's overall conclusion and balance**

151. Sustainable development is about change for the better. The identified roles<sup>125</sup> should not be undertaken in isolation, because they are mutually dependant. The appeal proposal would assist in the provision of much needed housing in the local area and District in general. It would also have an environmental, social and economic role to play in achieving positive growth now and into the future.

152. In this case the development plan is out of date [21 bullet points 7 & 15]. The proposed development has been shown to be sustainable development. Therefore, paragraph 14 of the Framework is engaged. There would be few adverse impacts in allowing the appeal and granting planning permission. Such impacts are not weighty and would not significantly and demonstrably outweigh the benefits of the scheme. In particular, the contribution of the development of the appeal site to the identified housing need in the District, in circumstances where a 5 year housing land supply cannot be identified is a persuasive and weighty factor in the consideration of this appeal. In combination with the other positive facets of the development, it is concluded that the presumption in favour of sustainable development applies and planning permission should be granted.

153. In reaching this view I have taken into account the terms of the 2001 decision. However, time has moved on, as has national guidance. The Framework now recognises the circumstances of the appeal site as an exception to the restriction of Green Belt policy. The acute housing need which currently exists and lack of suitable housing land are not the circumstances of the 2001 decision. The decision of the then SoS was of its time and evidence, but the weight of the decision has now shifted in favour of the development as outlined above. Therefore, the 2001 decision, whilst relevant as a material consideration, has been regarded in the context of current relevant planning policy.

### **Recommendation**

154. Consequently, I recommend that the appeal be allowed and planning permission be granted subject to the conditions identified in Annex A.

*Frances Mahoney* - Inspector

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<sup>125</sup> Environmental, social and economic.

## **Annex A – Schedule of recommended conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. The reserved matters shall follow the general parameters set out in the Design and Access Statement dated February 2013 (in particular Section 3 Design 3.4.3 Scale – Density and Massing).
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with approved plan 1646/P/100 – Location Plan (red line plan).
- 5) Prior to the commencement of the development a landscape management plan, including long term design objectives; management responsibilities and maintenance schedules for all landscaped area, other than privately owned domestic gardens shall be submitted to and approved in writing by the local planning authority. The management plan shall be implemented as approved and its requirements adhered to thereafter.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); and existing trees to be retained.
- 7) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works other than those detailed in condition 9 shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.



- 10) No development shall take place on site until a programme of archaeological work in accordance with a written scheme of investigation which has been approved in writing by the local planning authority has been fully implemented.
- 11) No development shall take place until a Construction Management/Method Plan and Statement with respect to the construction phase of the development has been submitted to and approved in writing by the local planning authority. Development works shall be undertaken in accordance with the approved Construction Management/Method Statement. The details shall include, amongst other things, construction vehicles numbers, type and routing; traffic management requirements; hours of work/piling; contractors parking areas, compounds, storage areas and details of wheel washing facilities; cleaning of site entrances, site tracks and the adjacent public highway; the management of crossings of the public highway and other public rights of way; minimisation of dust emissions arising from construction activities on the site; post construction restoration/reinstatement of the working areas and any temporary access to the public highway; and details of the responsible person (site manager/office) who can be contacted in the event of a complaint.
- 12) No development shall take place until a timetable for the implementation of the terms of the Green Residential Travel Plan (Doc 3) has been submitted to and approved in writing by the local planning authority. The terms of the plan shall then be implemented in accordance with that timetable. The agreed measures shall be retained.
- 13) Development shall not commence until a drainage strategy detailing any on and/or off-site drainage works has been submitted to and approved in writing by the local planning authority. This shall include both foul and surface water drainage and a scheme to limit the surface water run-off generated by the proposed development. The development shall be carried out in accordance with the approved details and maintained as such.
- 14) No development shall take place until details of the existing and proposed ground levels across the site and the levels of the proposed floor slabs shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 15) No development shall take place until a management plan, including a landscape strategy, for the Möhne Dam Model has been submitted to and approved in writing by the local planning authority. The plan shall be implemented in accordance with an agreed timetable to be included within the plan. The Möhne Dam Model shall be protected throughout the period of construction and details of the means of protection shall be included within the management plan. The agreed details of protection shall be fully implemented prior to the commencement of work on the appeal site and maintained for the duration of the construction phase.
- 16) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning

authority. The site shall be remediated in accordance with the approved measures before development begins.

- 17) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 18) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, 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.
- 19) Prior to the commencement of work a scheme for the enhancement of biodiversity, in accordance with the terms of the Biodiversity Assessment Report (RSK dated October 2012), shall be submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the implementation of the agreed measures which shall be subsequently adhered to.
- 20) No development shall take place until details have been submitted to and approved in writing by the local planning authority of:
  - a) The trees, shrubs or hedges within the site which are to be retained;
  - b) A scheme for the protection of the trees, shrubs or hedges to be retained, including those protected trees within the adjacent woodland, produced in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction. The development shall be implemented in accordance with the approved details and:
    - i. No operations shall be undertaken on site in connection with the development hereby permitted (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place;
    - ii. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme;
    - iii. Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority;
    - iv. No tree, shrub or hedge shown to be retained shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written approval of the local planning authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority gives written approval to any variation.

- 21) The development hereby permitted shall proceed in accordance with the terms of the Arboricultural Impact Assessment and Method Statement (Crown Consultants dated 5 February 2013). Its implementation shall include the supervision of the tree protection during the demolition and construction phases by an Arboricultural Consultant (provided by the appellant with the agreement of the local planning authority).
- 22) Prior to the occupation of the first dwelling hereby permitted the 'north-south' path/cycleway through the BRE site, along with the route through the woodland passed the Möhne Dam Model, shall be completed and made available to public use. They shall remain open and available for public use in perpetuity.

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Matthew Reed of Counsel                      Instructed by the Head of Legal Services of the Council

He called

Ian Brazier BEng (Hons)                      Senior Director, Abington Consulting Engineers  
CEng MICE

Nigel Ozier BA (Hons)                      Managing Director, Brian Barber Associates  
MRTPI

### FOR THE APPELLANT:

Paul G Tucker QC                              Instructed by Philip Moren

He called

Dr Peter Bonfield OBE                      Chief Executive of The BRE Group of Companies  
FEng

Julian Gitsham BA (Hons)                      Managing Partner of Fielden Clegg Bradley  
Arch Dip Arch Dip Urb                      Studios  
RIBA ARB FRSA

Andreas Markides FICE                      Partner Odyssey Markides  
CIHT

Philip Moren BA (Hons)                      Planning Consultant  
MRTPI

### INTERESTED PERSONS:

David Parry                                      St Stephens Liberal Democrats  
Phil Escritt                                      The Ramblers Association  
Julian Thornton                                Rights of Way Officer Hertfordshire County  
Council  
Mrs Gurd                                        Local Resident

## DOCUMENTS

- 1 Education Impact Assessment Report v2 for BRE
- 2 Note of Julian Gitsham relating to clarification of appellant's linkages with the proposed development
- 3 Residential Travel Plan
- 4 Detailed evaluation of the Travel Plan
- 5 BRE Campus Car Parking Survey Results – March 2014
- 6 BRE Staff Travel Survey Results 2007-2014
- 7 Bus Revenue Calculations
- 8 Unilateral Undertaking -signed 3 April 2014

- 9 Letter from Philip Waters Chairman University Bus Ltd re bus route 622
- 10 Errata Sheet in respect of proofs of evidence submitted on behalf of the appellant
- 11 Agreed distances and subsequent amendments to Ian Brazier's proof of evidence
- 12 Bus service funding assessment – Response to Odyssey Markides Technical Note
- 13 Bus service funding assessment
- 14 Proof of Evidence - David Parry St Stephens Liberal Democrats
- 15 Green Belt Review Purposes Assessment
- 16 Statement of Phil Escritt – Secretary of Ramblers Association in St Albans District
- 17 Email from Andy Evans Operations Director University Bus Ltd dated 2 April 2014
- 18 Letter from Ramblers Association Hertfordshire & North Middlesex Area dated 30 December 2013
- 19 BRE S Plan 2014 Targets
- 20 Letter from Mr & Mrs T W Gurd dated 28 December 2013

#### **PLANS**

- A Figure 8.1.2 Land Contributing Least Towards Green Belt Purposes
- B Public Rights of Way
- C Replacement for plan no ACM 12 – Markides Proof
- D Access Route Plan

## 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 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**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from 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 permission 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**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **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 report of the Inspector's report of the inquiry or hearing within 6 weeks of 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.