



Appeal Decision

Inquiry Held on 16-18, 23-24 and 30 July 2024

Site visit made on 25 July 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/J1915/W/24/3340497

Land east of A10, Buntingford, Hertfordshire

- 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 Countryside Partnerships Ltd and Wattsdown Developments Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1447/OUT, dated 25 July 2023, was refused by notice dated 15 February 2024.
 - The development proposed is development of 350 dwellings, with up to 4,400 sq m of commercial and services floorspace (Use Class E and B8) and up to 500 sq m of retail floorspace (Use Class E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for an outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4400 sq m of commercial and services floorspace (Use Classes E and B8) and up to 500 sq m of retail floorspace (Use Class E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping at land east of the A10, Buntingford, Hertfordshire in accordance with the terms of application reference 3/23/1447/OUT and the conditions set out in the schedule attached to this decision.

Procedural Matters

2. The proposal seeks outline planning permission with all matters reserved except for access. Matters of appearance, landscaping, layout and scale are reserved for future determination. However, plans to be approved at this outline stage include a land use parameter plan, access and movement parameter plan, green infrastructure parameter plan and density and building heights parameter plan. The plans set the framework for matters that include maximum building heights, residential densities and the level of green infrastructure provision. The Council determined the application on this basis and I have done the same.
3. The Council's reasons for refusal initially included matters related to the impact of the scheme on flood risk. This has now been resolved and this reason for refusal is no longer being pursued by the Council.

Main Issues

4. The main issues in this appeal are:

- Whether the proposal would be a suitable location for residential development having regard to the spatial strategy of the development plan.
- Accessibility of the development to services and facilities.
- The effect on the character and appearance of the area with specific reference to landscape character and density.
- Whether the Council can demonstrate a deliverable housing land supply as required by the National Planning Policy Framework (NPPF).

Reasons

Location of Development

5. Policy DPS2 of the East Hertfordshire District Plan (District Plan) sets out a development strategy for the plan. The policy directs development in the first instance to brownfield sites, then to sites within the urban areas of the District's 5 market towns, followed by urban extensions to specific identified settlements. Development in villages is limited.
6. The appeal site is located on the edge of but outside the urban area of Buntingford, one of the 5 market towns. Buntingford is not included in the list of settlements where urban extensions are supported and through policy BUNT1 of the District Plan it does not seek to allocate any additional development beyond that which already had planning permission at the time of adoption of the development plan in 2018. As the appeal site is located outside of the confines of Buntingford, for the purposes of the District Plan it is located within the Rural Area Beyond the Green Belt. In such locations certain types of development are permitted provided that they are compatible with the character and appearance of the rural area. Such uses are identified in Policy GBR2 of the District Plan. There is agreement between the parties that the scheme when taken as a whole does not accord with the provisions of the policy.
7. The location of the site outside the settlement boundary and the absence of compliance with any of the identified exceptions in the policy means that there is conflict with the development plan and the strategy that underpins it. The proposal would conflict with Policies DSP2 and GRB2 of the District Plan, the provisions of which are identified above, and Policy HD1 of the Neighbourhood Plan which amongst other things restricts development outside settlement boundaries to small infill development in defined locations, affordable housing on rural exception sites and development for which there is a demonstrable need for a location in the countryside.

Access to Services and Facilities

8. Buntingford is identified as being a small town located at the centre of a large rural area in the northern half of the district. It functions as a rural service centre for outlying villages in the north of the district. The District Plan identifies that the town has an extensive range of services and facilities that serve the day to day needs of residents. The Council accepts that the development would be accessible to those services and facilities.

9. Residents of the new development, along with existing residents of the town however would be required to travel to larger nearby towns for comparison shopping trips which is why Buntingford is regarded as a Minor Town Centre.
10. Buntingford is not served by a railway. Bus service connections to other settlements are limited and as such there is a reliance on the private car to access larger nearby settlements for employment and leisure. The Council identified that in the 2021 census 34% of residents travel over 10km to work. However, the extent to which the development of the proposed 350 dwellings would exacerbate the mis-match between housing, employment, retail, community facilities and infrastructure would be tempered to some extent by the proposed employment and retail elements of the scheme.
11. The scheme also proposes a financial contribution to the Highways Authority who has indicated that it would be used to upgrade an existing bus service serving the town and wider area. This would supplement an on demand bus service introduced in 2021 and extend the options available to residents to travel via public transport to major towns and rail connections for onward journeys.
12. Interested parties have raised concerns about the ability of services and facilities such as doctors surgeries, dentists and schools to accommodate additional development. The concern raised by residents is noted but it is for the service providers to manage the provision and the scheme seeks to manage the impact through the planning obligations. I return to this matter later in my decision.
13. In conclusion, the development would conflict with Policies DPS2 and GRB2 of the District Plan because it would not be in a location that aligns with the spatial strategy of the District Plan in terms of accessibility. It would also conflict with the part of Policy TRA1 of the District Plan that identifies that development should primarily be located in places that enable sustainable journeys to be made to key services and facilities. However, the conflict is reduced because of the day to day services and facilities that are available in the town and because some economic and retail opportunities are proposed as part of the scheme and the proposed measures to improve public transport provision. For those reasons I give conflict with the policies moderate weight.

Character and Appearance

14. The appeal site comprises some 28.9ha of arable land adjacent to the western edge of Buntingford. The site is bounded by residential development, an industrial estate and waste water treatment works. To the west of the site is the A10 which cuts through part of the site. The site generally slopes north west to south east. There are 2 public rights of way that cross the site.
15. The site falls within 2 landscape character areas. The northern part of the site is within Area 141 Cherry Green Arable Plateau and the southern section within Area 142 High Rib Valley. There is agreement between the parties that the site is not a valued landscape for the purposes of paragraph 180(a) of the NPPF. It is also agreed that the land has a rural character but that there are suburban intrusions to the character of the site as a result of the surrounding residential development, industrial estate and A10 road.

16. There is little between the parties in terms of the existing value of the landscape and its susceptibility to change. The appellant says the site has low-medium landscape quality and value and medium susceptibility to change, the Council say it has medium quality and value and medium susceptibility to change. Both agree that the development would lead to a loss of landscape features such as the open fields and that the development would represent a significant change to what at present is largely an open agricultural landscape. Development of the site would inevitably harm its contribution to the landscape of the area by introducing built development where currently there is little. There would also be a loss of its semi rural character.
17. I agree that the greatest landscape effects of the development would be experienced during construction and during year one post development with the greatest effects felt by those using the public rights of way that run through the site and on the residents living on Longmead, Monks Walk, Oak End and parts of Meadow View as well as parts of Peasmead, Knights Close and Barleycroft. I also agree that the effects of the scheme would be restricted to a local level and have a limited effect of incursion into the countryside.
18. The Council accepted in cross examination that the development would not necessitate substantial modification of ground levels with the findings of the appellant's engineering consultant identifying that the ground is not particularly steeply sloping and the development would not necessitate significant retaining walls.
19. The areas of disagreement between the parties focus on the extent to which the appeal site provides a transitional role and acts as a buffer between the urban area of the settlement and the countryside. Whilst I accept the Council's point that the site does provide a gap between the edge of the settlement and the countryside, there is no policy requirement requiring such a gap. The existing western edge of Buntingford is not characterised by such a feature with built development going up to the boundary of the A10 elsewhere on the western edge of the settlement.
20. I am satisfied that the A10 would provide a buffer and defensible boundary between the urban edge and the countryside and that the landscaping included in the parameter plan demonstrates an ability to soften the urban edge between the built development, the A10 and the countryside. Indeed, the landscaping parameter plan demonstrates that post development it is possible to create a buffering function greater than currently experienced elsewhere in the vicinity.
21. Turning to density, the density and building height parameter plan for the scheme identifies densities of up to 30 dwellings per hectare in part of the site and up to 40 dwellings per hectare in other parts. There would be a net density of 33.8 dwellings per hectare. The appellant demonstrated that the site would have one of the lowest gross plot ratios in the vicinity.
22. I agree with the appellant and one of the Council witnesses that in the context of Policy HOU1 of the District Plan that a medium density would be appropriate given the location of the site on the edge of a town and that in the context a density of 30-40 dwellings per hectare would constitute a medium density and an efficient use of land. On this basis the proposed scale of development would not be excessive.

23. The Council has stated that the proposed density would not enable sufficient open space, with the development relying on narrow strips of open space. However, the scheme includes provision for children's play, amenity green space, allotments and natural green space. The total provision would exceed the District Plan policy requirement of 4.18ha with 7.80ha. There would therefore be a balance between development and open space. There is variety in the width of the linear spaces identified in the green infrastructure parameter plan with the appellant's witness confirming that it would extend up to 48m in width in places which would not be insignificant. There is little to indicate that the development could not support a range of activities and provide amenity value. It would therefore enable multifunctional use. In addition, I note that there are outdoor community facilities that would enable recreational opportunities within walking distance of the site.
24. The development would provide an opportunity to improve the current ragged arrangement of back gardens that border the site and would strengthen the urban edge of the settlement. The parameter plans demonstrate that appropriate design, density and the use of landscaping, including the planted bund would avoid a perceptible intrusion of the A10 on Buntingford that was identified by the Council's landscape witness and enable transition from the urban edge of the settlement to the countryside. Conditions requiring a masterplan and design principles document would ensure appropriate consideration is given to design at the reserved matters stage.
25. Overall, I conclude that the development would not conflict with the District Plan with regards the density of development. However, once planting has matured, I consider the effect of the development on the landscape would be moderately adverse. I therefore conclude that the development would cause harm to the landscape and would therefore conflict with Policies DES2, DES3 and DES4 of the District Plan. These policies, amongst other things require development to demonstrate that they will retain, protect or enhance the character and distinctive features of the area. It would also conflict with the parts of policies HD2, HD4 and BE2 of the Buntingford Community Area Neighbourhood Plan (Neighbourhood Plan) that requires development to be sensitive to the landscape, conserve, enhance or strengthen the character and distinctive features of the area and respect the rural/ semi rural character of the area.

Housing Requirement and Deliverable Land Supply

26. The District Plan was adopted in October 2018 and therefore is over 5 years old and so the assessment of housing land supply is against local housing need using Government's standard methodology. This is not disputed by the parties.
27. The Council's latest Housing Land Supply Position Statement covers the period 1 April 2023 to 31 March 2028. The statement uses a Local Housing Need (LHN) figure of 1,041 dwellings per annum as at 1 April 2023. This incorporates revised affordability ratios published in March 2024 and generates a requirement of 5,205 dwellings over the 5 year period.
28. The appellant argues that the Council is wrong to use the results of the Standard Method for the period 2024 to 2034 and the affordability ratio for 2023, published in 2024. Using the Council's Housing Land Supply Statement March 2023 which covers the 5 year period 1 April 2023 to 31 March 2028, it

uses an LHN figure of 1,112 dwellings per year as at 1 April 2023 and a housing requirement of 5,560 dwellings.

29. A third option has been presented which updates the 5 year supply to 2024-2029. However, the analysis for the monitoring year 2023-2024 has not been completed and so the evidence is not sufficiently robust to inform a position on this 5 year time frame.

Housing Land Supply

30. The NPPF defines the meaning of deliverable. The site must be available now, offer a suitable location for development now and be achievable with a reasonable prospect of delivery over a 5 year period. Sites with detailed planning permission are assumed to be deliverable unless there is evidence to indicate otherwise. Sites with outline planning permission or allocated sites are only considered deliverable where there is clear evidence that delivery will take place within 5 years.
31. The Council's case is that it can demonstrate a deliverable 5 year housing land supply of 6,307 dwellings from 1 April 2023 to 31 March 2028 which equates to 5.67 – 6.06 years, depending on the approach used. The appellant argues it is closer to 3.86 – 3.93 years with a supply of 4,088 dwellings. In outlining their cases I have noted the points raised by the parties in support of their respective positions, along with the relevant planning appeals cited.
32. In considering the elements of supply that remain in dispute it should be noted that my assessment is based on the evidence presented as part of the Inquiry. It is therefore a snapshot in time, representing the situation as it stood at the time of the Inquiry.

Sites

3/13/0804/OP ASR's 1-4 Land at Bishop's Stortford North

33. Forming part of a District Plan allocation, the site has had planning permission since 2015 for 2,200 dwellings with 890 completed up to 2022/23. Build out rates have varied 105-286 per year with an average of 202. Progress on site has slowed due to Covid 19 and because construction is coming to an end on recent phases. All remaining parcels are expected to commence by 2025 at a rate of at least 260 per year with 5 developers on site. However, there is a lack of evidence to substantiate the higher predicted delivery rate identified by the Council and so I have reduced the anticipated completions to align with the average delivery rate that has occurred on the site to date. This generates a figure of 1,010 dwellings.

3/21/2339/REM 3/20/0683/REM ASR 5 Land at Bishop's Stortford North

34. This site has had planning permission since 2016, with first completions taking place in 2018. 272 were completed by 2022/23 with an average delivery rate of 54 per year. There is little before me to indicate that the Council's predicted average delivery rate of 51 dwellings is not achievable, noting the reduced completions in 2022/23 and 2023/24. I therefore concur with the Council's figure of 257 dwellings.

BISH6 Bishop's Stortford High School

35. At the time of the Inquiry there was no signed S106 for the outline application for this site and no Reserved Matters had been submitted. Whilst pre-application discussions have commenced there is little before me to demonstrate that the anticipated application will be submitted during the summer of 2024. The predicted approval of planning permission and expectation that the developer will be onsite in the timescales identified by the Council are optimistic, even with a masterplan in place. I therefore share the view of the appellant in this case.

BISH7 The Goods, Bishop's Stortford

36. This allocated site is subject to a masterplan framework. 174 dwellings have already been completed within the 5 year period. A hybrid planning application for 423 dwellings (245 in detail and 178 in outline) has been submitted to the Council and a decision is expected by the end of 2024. The application replaces an extant planning permission on the site which the Council say will not be implemented. At the time of the appeal a drainage scheme for the site has not been approved by the Lead Local Flood Authority (LLFA). Whilst there has been progress since the original planning application and discussions with the LLFA are ongoing, the Council's suggestion that the matter can be resolved through a planning condition does not provide clear evidence of delivery. This is particularly given that the extant permission was also subject to a drainage condition that it was not possible to discharge. In the absence of clear evidence to show delivery of the 423 dwellings in the hybrid application I have only included the 174 already contributing to the 5 year supply.

BISH8 The Causeway

37. This District Plan allocation has been subject to delay in signing a Development Agreement and as such no planning application has been submitted to date. Pre-application discussions are not expected to commence until the autumn of 2024 with a masterplan and planning application expected to be prepared later in the year. Whilst the Council expect 150 dwellings to be delivered in 2027/28 there is a lack of clear evidence of delivery within the 5 year period.

North-West Buntingford

38. An outline planning application was granted permission in March 2024 and reserved matters are expected by the end of the year. Whilst no housebuilder has been confirmed the promoter is engaged with multiple housebuilders, which demonstrates interest in the site. The promoter expects the developer to be onsite in 2025, although there is little before me to substantiate that. Nevertheless, the site is subject to a masterplan and outline planning permission. Even if there are delays in bringing the site forward 58 dwellings could be delivered within the 5 years given that following the discharge of planning conditions development could commence immediately.

HERT3 West of Hertford (North)

39. Outline planning permission was granted in April 2024 for 342 dwellings, subject to a S106 agreement which has not yet been finalised. The Council expects 200 of the approved dwellings to be delivered with the 5 year period. Given the history of delays associated with the site and the fact that no developer for the site has been confirmed, I am not able to agree with the Council's view that there will be delivery within the 5 year period.

HERT4 North of Hertford (North)

40. At the time of the Inquiry a full planning application for the site was expected to be presented to planning committee in August/ September 2024 with a recommendation to approve. The applicant is expected to start on site in 2025. This site is an allocation in the District Plan and the proposal is in line with an approved masterplan. There are no outstanding objections from statutory consultees and the heads of terms for a S106 have been agreed. I am therefore satisfied that there is clear evidence that the site could deliver 118 dwellings within the 5 year period.

WARE2 Land North and East of Ware

41. An outline planning application was submitted in 2023 for 1,800 homes with a resubmission of a hybrid application expected in September 2024. It is expected that this will be determined by March 2025. However, a further reserved matters application will be required on the housing element of the proposal. The Council has suggested that 75 dwellings will be delivered within the 5 year period but this appears optimistic given the current status of the application and the number of unresolved matters.

GA1 The Gilston Area (Villages 1-6)

42. This site is part of a large complex development plan site allocation. The Council has resolved to grant planning permission for part of the site but it is subject to a S106 that has not been signed. The Council say that viability and other planning issues have been resolved and outline planning permission is expected imminently. However, reserved matters and the discharge of conditions will be required before works can start and given the complexity of the site and delays to date there is a lack of clear evidence to demonstrate that the site will come forward in line with current predictions.

GA1 Gilston Village 7 Land off Church Lane

43. This site is also part of a large complex site allocation. Although the Council resolved to grant planning permission in March 2023, it is still subject to an uncompleted S106 agreement. There is a lack of clear evidence to include this site within the 5 year supply.

EWEL1 Land East of Welwyn GC

44. Outline planning permission for 2,650 dwellings across 2 Council areas, 1,350 of which are in East Hertfordshire is set to be subject to the resubmission of a planning application at the end of 2024. This is expected to be an outline planning application. Given that following this reserved matters and the discharge of conditions will be required prior to commencement there is a lack of clear evidence of delivery within the 5 year period. This is even with confirmation that issues with the neighbouring authority land have been overcome and that sand and gravel extraction in part of the site would not affect the delivery of the housing in the 5 year housing supply.

WAS3 Walkern Road

45. The site is allocated in the Watton-at-Stone Neighbourhood Plan. A full application for 60 dwellings is subject to a resolution to grant planning permission subject to conditions and a S106. Even if there was some delay beyond the predicted August issue of a decision, delivery within the 5 years can be anticipated given the lack of impediments to bringing the site forward within the timescales identified.

Conclusion on 5 Year Supply

46. For the reasons outlined I am of the view that the Council can demonstrate through clear evidence that it has sufficient housing land for the delivery of 4,671 dwellings within the 5 year period 2023-2028. The Council has a 4.20 – 4.49 year housing land supply. Whether using the approach favoured by the Council or that favoured by the appellant, the Council cannot demonstrate a 5 year housing land supply and so the NPPF deems the policies which are most important for determining the planning application to be out of date. Where policies are out of date paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) of the NPPF says that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies taken in the NPPF taken as a whole. This is an important material consideration in the planning balance.

Other Matters

47. Concern has been raised that the development would be noise generating. It would be possible to manage the generation of noise during construction through an appropriately worded planning condition restricting the proposed days and hours of construction. There is little to indicate that the development when complete would generate noise in excess of what would be expected from a residential area. In terms of the commercial uses, an appropriately worded planning condition could require compliance with sound insulation and noise reduction in the buildings to ensure an adequate level of amenity.
48. The issue of crime has been raised. Whilst I do not doubt that the concerns raised by residents are genuine, I have no substantive evidence before me to

show that the appeal scheme would result in an increase in crime. Without a reasonable evidential basis for the concern the weight I can attach to it is limited. Whilst concern has been raised about the impact of the development on the quality of life of neighbouring residents, there is little before me to support this.

49. A number of residents refer to concerns about a loss of value to their properties. However, this is not a land use matter that can be taken into account in the planning considerations. Similarly, I am aware that there are boundary disputes with neighbouring properties that border onto the site. However, such matters fall outside the scope of this appeal and I can only have regard to the planning merits of the case.
50. Whilst it has been suggested that the waste water treatment works is unable to support any further development Thames Water has suggested a planning condition requiring completion of all water network upgrades required to accommodate the additional development or the preparation of a development and infrastructure phasing plan. This would ensure that adequate infrastructure is in place to support the development and so I have no reason to take a different view.
51. It has been suggested that the poor drainage on the site makes it unsuitable for development. Whilst the LLFA did initially raise objection to the development, the appellant has produced a further Outline Drainage Strategy Addendum (May 2024) addressing the points of concern. The LLFA is now satisfied that the matter can be addressed through an appropriately worded planning condition. It would require at the reserved matters stage the submission of detailed designs of a surface water drainage scheme to be implemented prior to first occupation of the development. I am satisfied that this would address the matter.
52. Residents have raised concerns about the effect of the development on wildlife. The Hertfordshire County Council Ecology Advisor has not raised any ecology objections, subject to appropriately worded planning conditions relating to the undertaking of appropriate studies that include bat and reptile surveys, an Ecological Impact Assessment and Biodiversity Net Gain Plan and the requirement to undertake appropriate avoidance, mitigation, compensation and enhancement measures. There is little before me to take a different view. The evidence suggests the site has relatively modest ecological value and an appropriately worded planning condition would ensure that measures are implemented to secure biodiversity net gain on the site.
53. Whilst I note the highways concerns raised by interested parties, Hertfordshire County Highways Authority support the proposal, subject to identified planning conditions. The Authority is satisfied that a suitable sustainable transport corridor can be achieved along Aspenden Road and Luynes Rise and they consider that the proposed sustainable transport mitigation measures aimed at encouraging modal shift are appropriate. There is no reason for me to take a different view. As identified elsewhere in my Decision, there will be a change to the way in which the Public Rights of Way which cross the site will be experienced. However, walkways through the site would be maintained post development and an appropriately worded planning condition would ensure that the safety of public rights of way users would be maintained during the construction of the development.

54. The site contains open agricultural land falling within The Agricultural Land Classification of Grades 2 and 3a which is classified as very good quality and good quality. This carries some limited adverse impact in the planning balance.

Planning Obligations

55. The appeal is accompanied by 2 bilateral undertakings under section 106 of the Town and Country Planning Act 1990 that commits the appellant to a number of planning obligations that are required in line with Policies DEL2, HOU3, CFLR1, CFLR7 and CFLR9 within the District Plan. These policies seek to ensure the facilities and services that are essential for development to take place or to mitigate the impact of the development. It should be noted that one of the obligations contains a 'blue pencil' clause in the event that I do not consider the education contribution sought by Hertfordshire County Council would be justified in terms of Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the NPPF.
56. The obligations with the District Council secure the provision of at least 40% of the dwellings as affordable of which 75% will be affordable rented units and 25% will be shared ownership. It also secures 1% self build and custom housebuilding plots, a minimum of 1.37ha of open space (including 0.22ha of equipped children's play space and allotments, the establishment or appointment of an open space management company, an open space scheme and open space management scheme. In terms of financial contributions, it would secure money towards bowls, tennis, playing pitches, studio space, swimming pools, fitness gym, village and community centres infrastructure, general medical services and general practitioner services, recycling and funds for Council monitoring.
57. The obligation with Hertfordshire County Council would secure financial contributions for libraries, first educational land, first, middle and upper education, childcare services (0-2 and 5-11), special educational needs and disabilities, waste transfer station, youth, sustainable transport, residential travel plan evaluation and support and workplace travel plan evaluation and support and Council monitoring.
58. In addition, the obligation with the County Council would secure provision of a residential travel plan to include a travel pack and sustainable travel vouchers to the dwellings and the provision of a workplace travel plan and the provision of a childcare facility on the site.
59. There is dispute between the parties as to whether the contributions sought for the number of first, middle and upper school pupils is appropriate. The appellant agrees with the principle of the need to make contributions for education provision and the cost per place set by the education authority. However, they disagree with the number of places to be funded.
60. Buntingford falls within the Hertfordshire Education Authority which operate a 3 tier system of first, middle and upper in this area, alongside early years, post 16 and special educational needs and disabilities provision. The appellant argues that a 3 tier education system approach artificially penalises developers who seek to construct new dwellings within a 3 tier education area and the

number of school places sought by the education authority is excessive. Nevertheless, the fact remains that a 3 tier system is in operation and there are costs associated with the delivery of that system that need to be met.

61. The appellant advocates the use of the Department of Education (DfE) model which is based on a 2 tier system rather than the Hertfordshire model which uses the 3 tier system operating in Buntingford. However, the DfE model is not mandatory and the DfE's pupil yield data may be considered a starting point or baseline position which authorities can supplement or adjust according to local circumstances and evidence. The DfE guidance on Estimating Pupil Yield from Housing Developments 2023 states '*The use of [Department for Education] data is voluntary and [local authorities] can continue to rely solely on local pupil yield evidence if this is considered appropriate, for instance due to the local authority holding more detailed and representative data over a longer period, or data showing significant recent deviation from historic trends*'. This appears to be exactly what the education authority has done. In the round table discussion the appellant's representative accepted that the model used by the County Council is robust and in their evidence the education authority demonstrated that there is no double counting in the approach taken.
62. The appellant has made comparisons with other charging authorities. However, this only serves to further demonstrate that other authorities are also taking a localised approach. Given that the examples cited are different developments in different authority areas with different data sets, I therefore give limited weight to the comparisons made.
63. On the evidence before me, I am satisfied that the education requirements of the Education Authority meet the tests within the regulations and as such are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
64. Overall, given the policy requirements and infrastructure needs arising from the development I am satisfied that all of the obligations sought are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. They would accord with the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the policy tests in the NPPF.
65. Consequently, I can take all of the obligations into account as part of my decision. The obligations that are necessary to mitigate the impacts of the development are neutral in the planning balance. This applies in most cases. Instances where there would be positive benefits arising from the obligations, for example the improved bus service, need to be added to the planning balance. The proposed obligations would not cause harm and as such there would be no conflict with Policies DEL2, HOU3, CFLR1, CFLR7 and CFLR9 within the District Plan.

Benefits

66. On a general note, I disagree with the Council's view that a benefit should be given less weight if it is policy compliant. A benefit should not be downgraded just because it is delivering an objective identified in the District Plan. If it

were, the ability to apply judgement that some policy compliant benefits are more important than others due to the circumstances of the case would be removed.

67. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale; limited, moderate, significant and substantial.
68. The development is expected to deliver 200 - 240 dwellings within the 5 year housing land supply period and as such would make an important contribution in reducing the Council's housing shortfall. Delivery would extend beyond the 5 year assessment and weight should be given to the longer term delivery. This is particularly so given the Council is some years off adopting a new development plan. For these reasons, I attach significant weight to the proposed housing delivery.
69. The scheme also includes the delivery of 40% affordable housing. In the context of a need of 3,784 affordable dwellings over the period 2021-2033, I give this substantial weight.
70. In addition to the 40 affordable housing, the development would include 1% self build and custom build which equates to 4 dwellings. Demand is notably greater than delivery and the Council is not meeting its legal duty for provision. I give this significant weight.
71. The development would include the provision of retail and employment floorspace. These economic and social benefits would be accessible to people beyond the development. I give this significant weight.
72. The proposed improvements to the bus service would improve the accessibility of the site and the benefits secured would go beyond immediately mitigating demand generated by the proposal and would secure a benefit to the wider community in terms of access to improved services. This, along with the other highway improvements proposed would generate a moderate benefit.
73. Similarly, I give the financial contributions to local facilities and the jobs created during construction moderate weight.

Planning Balance

74. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the development would conflict with the spatial strategy of the plan and therefore Policies DSP2 and GRB2 of the District Plan as the scheme would be located outside the settlement boundary of Buntingford and would not be appropriate development in the countryside. I give this conflict moderate weight.
75. Accessibility to services and facilities is constrained and the development would generate a notable proportion of trips by motor vehicles. I give this harm moderate weight. The scheme would harm the character and appearance of the landscape although the harm would be limited by the contained nature of the site. I give this moderate weight. There would be a loss of agricultural land which I give limited weight.
76. Set against this, there are a number of benefits that would result from the scheme. These include the delivery of market housing, custom and self build

housing and employment and retail opportunities which I give significant weight. It would increase the delivery of affordable housing which I give substantial weight and generate public transport and community facility benefits which I give moderate weight.

77. In balancing the different considerations my approach is influenced by paragraph 11(d) of the NPPF which is engaged. As the Council is unable to demonstrate a 5 year housing land supply planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
78. There would be significant benefits from the scheme from the delivery of market housing and substantial benefits in the delivery of affordable housing. This is balanced against the harm caused to the strategy of the District Plan that directs where new development should be located, accessibility to services and facilities and the landscape. However, I have identified that in each case only moderate harm would be generated by these conflicts. There would be a limited harm from the loss of agricultural land.
79. As such, the adverse impacts of the development would not significantly and demonstrably outweigh the substantial benefits of the proposal. The NPPF therefore supports the grant of planning permission. The appeal should therefore be allowed and planning permission granted subject to necessary planning conditions.

Conditions

80. A schedule of proposed draft planning conditions was submitted prior to the Inquiry event and there were some subsequent updates and revisions to the schedule as the event progressed. The conditions were discussed at the round table session. I have considered the suggested conditions having regard to the Planning Practice Guidance and the NPPF which states that conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
81. In addition to the standard time limit condition (1) for the submission of reserved matters and commencement of the development, a condition (2) defining the remaining reserved matters to be approved and a condition requiring the development to be carried out in accordance with the approved plans (3) are necessary in the interests of proper planning and for the avoidance of doubt. Despite the description of what has been applied for and the plans approved at this outline stage, a condition (3a) controlling the quantum of housing, and Class B8 and Class E uses is also necessary for similar reasons.

Phasing and Use

82. It is necessary for the development to be carried out in accordance with a Phasing Plan (10) to ensure good design and the delivery of infrastructure. The provision of the commercial and services uses and retail floorspace are an important part of the scheme to facilitate sustainable development. It is therefore necessary to restrict the scale of residential development on the site until the provision of the buildings associated with these uses are erected (55).

Uses outside of those approved is also restricted to protect vitality and viability (58).

Design and Appearance

83. Good design is important and high urban design quality is expected in development plan policy and national guidance. Conditions are therefore necessary to require the preparation and implementation of a masterplan to demonstrate how the development would achieve good place making and apply the principles identified in the parameter plans approved (4). I consider this scheme to be a significant development and as such this requirement would comply with Policy DES1 of the District Plan.
84. A Design Principles Document is also necessary (5) to expand details contained within the Design and Access Statement. This will ensure a more comprehensive assessment of a wider range of matters than that covered in the appellant's Buntingford West Character Area Guidance. Also necessary for good design is a condition requiring details of external materials (24) and an Open Space Strategy identifying and detailing matters related to areas of formal and informal open space, the local play space and distribution of play areas within the development and the provision of allotments (12). Good quality hard and soft landscaping will enhance the development and appropriate planting schemes will also impact positively on the living conditions of residents. Details of this provision and ensuring their maintenance during the first 5 years are necessary for the success of the scheme (44 and 56).
85. Given the location of the development I have included a condition removing permitted development rights relating to the construction of additional storeys on dwelling houses and terrace buildings in commercial use within the development but I have amended the Council's wording for clarity (57).

Archaeology

86. The site is known to contain heritage assets of archaeological interest. To mitigate the impact of the development on the archaeology a programme of archaeological work is necessary (13).

Construction

87. The construction of the development would cause disruption to surrounding roads and those living nearby. It is therefore necessary to mitigate the negative effects as far as possible through a Construction Traffic Management Plan (27), by restricting working hours on the site (29), storing materials and waste in appropriate containers (54), and taking appropriate measures to control dust emissions (30). To ensure that construction waste is treated in a sustainable way a Site Waste Management Plan is also necessary (28).

Noise

88. It is necessary to ensure that future residents would not suffer from an adverse noise environment within their homes. Residential units in close proximity to commercial uses would be particularly at risk. It is therefore necessary to control internal noise transmission. The conditions include measurable parameters in accordance with the recommendations in BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and

Commercial Sound and BS 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings (25, 48, 49).

89. A restriction on the noise rating level of air source heat pumps is also necessary to protect residential amenity (50). Prior to any commercial floorspace being used as a gymnasium details of sound insulation and a Noise and Vibration Management Plan are necessary (52, 53). An acoustic bund and fence are necessary to ensure future residents do not suffer an adverse noise environment from the adjacent A10 road (47).

Air Quality

90. Implementation of the mitigation measures identified within the Air Quality Assessment (July 2023) is necessary to ensure an adequate level of air quality for the residents of the new development (35). As works are planned to the nearby waste water treatment works prior to development, an updated odour modelling assessment and compliance with any mitigation measures contained within it is necessary to ensure an adequate level of air quality for residents of the new dwellings (36).

Contamination

91. As the development will include residential development it is necessary to investigate the potential for contamination and where necessary ensure remediation is undertaken (14). An Intrusive Ground Investigation, Risk Assessment and Method Statement is necessary prior to works involving excavations (16). Measures are also necessary to ensure action is taken if contamination not previously identified is found to be present during the construction of the development (15).
92. To prevent contamination through surface water drainage a Surface Water drainage Scheme is necessary (18) and only permitted drainage systems of the infiltration of surface water on the ground should be implemented (19). Any interim and temporary drainage measures required during site clearance and construction will also require approval (17).

Water Infrastructure

93. Foul water network infrastructure works are likely to be required to accommodate the proposed development. A condition requiring the necessary works is therefore needed (34).

Flooding

94. To prevent flooding and to ensure the satisfactory management of sources of flooding detailed designs of a surface water drainage scheme is necessary (9). To ensure that the development achieves a high standard of sustainability and that flood risk is adequately addressed for each new dwelling, any proposed watercourse alterations are required to be identified and approved (10). A verification report demonstrating compliance with the surface water drainage scheme is necessary (33) along with a maintenance and management plan for the entire surface water drainage system and any existing watercourses (51).

Ecology

95. An Ecological Impact Assessment, Ecological Management Plan and Construction Ecological Management Plan is necessary to ensure ecological interests are protected (20 and 21). Whilst the appellant had suggested that the necessary Biodiversity Net Gain Plan should be submitted for approval prior to the commencement of development, I agree with the Council that it should be timed prior to submission of the first Reserved Matters so that appropriate consideration is given to securing biodiversity net gain early in the planning process (22). Whilst the level of biodiversity net gain proposed is not mandatory for the scheme, the delivery of the gain would be consistent with Policy NE2 of the District Plan.

Lighting

96. It is necessary to control any external artificial lighting at the commercial floorspace and at the residential dwellings in order to protect the living conditions of the occupants of nearby properties (31 and 32).

Fire Safety

97. To ensure resident and visitor safety against fire, the installation of fire hydrants is necessary (26).

Waste Storage

98. In the interests of protecting the living conditions of residents and a condition is necessary to secure adequate areas of storage for waste and recycling (46).

Utilities and Media Infrastructure

99. A condition requiring the submission and implementation of the utilities and media infrastructure to serve the Class E buildings commercial floorspace is necessary to ensure delivery and good design (7).

Energy Efficiency and Water Efficiency

100. To adapt to climate change, reduce carbon emissions and efficiently use water resources it will be necessary for the development to demonstrate how the design, materials and operation of the scheme will minimise overheating in summer and reduce the need for heating in winter (23).
101. Policy WAT4 and DES4 of the District Plan require water efficiency to respond to the fact that East Hertfordshire is within one of the most water stressed areas in the East of England. A condition requiring mains water consumption to meet a target of 110 litres or less per person per day is necessary to protect water resources in this water stressed area (45).

Highways

102. To ensure the suitable, safe and satisfactory delivery of transport measures within the development it is necessary to require details of all hard surfaced areas within the site, visibility at footways and carriageway accesses and junctions and the ability for service and emergency vehicles to access and travel around the site (8).

103. To ensure highway safety and avoid extraneous material or surface water on the highway, a condition is necessary to require compliance with the details/ specifications on the approved plan (7498-GA-0 Rev H) and that arrangements are made for surface water to be intercepted and disposed of avoiding discharge from or onto the highway (38). Also to ensure highway safety and improve access and accessibility a Traffic Regulation Order (TRO) enforcing a 20mph speed limits on Luynes Rise and Aspenden Road is necessary. Should the TRO not be approved alternative means to manage speed limits along the identified roads will be required (43).
104. To promote and facilitate the ability of people to make transport choices, plans are necessary to demonstrate how an active travel corridor between the site and London Road will be provided and how active travel design principles will be included and implemented within the scheme (11). The submission and implementation of a bus stop provision and a bus gate facility, cycle storage (8), scheme for cycle parking (37), a Residential Travel Plan (39) and a Workplace Travel Plan Statement (40) are all necessary along with the provision of Electric Vehicle (EV) charging points and their energy sources and a strategy/ management plan for their maintenance will also be required (41). 50% of the total car parking spaces serving the commercial development should be served by passive EV and 20% of the total spaces make provision for active EV charging (42).

K Ford

INSPECTOR

SCHEDULE OF CONDITIONS

1. Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than the expiration of a period of 2 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.
2. Details of the (i) means of access within the site, (ii) appearance, (iii) layout, (iv) scale and (v) landscaping defined by the Town and Country Planning (General Development Procedure) Order 1995 (as amended) (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences. The development shall be carried out in accordance with the Reserved Matters as approved, unless otherwise agreed in writing by the Local Planning Authority.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:
Application site boundary: 10537-FPCR-XX-XX-DR-A-1001 Rev. P02
Development Framework: 10537-FPCR-XX-XX-DR-A-1002 REV P07
Land Use parameter plan 1: 10537-FPCR-XX-XX-DR-A-1003 Rev. P05
Access & Movement parameter plan 2: 10537-FPCR-XX-XX-DR-A-1004 Rev. P07
Green Infrastructure parameter plan 3: 10537-FPCR-XX-XX-DR-A-1005 REV P05
Density & Building Heights parameter plan 4: 10537-FPCR-XX-XX-DR-A-1006 Rev. P05
Public Open Space: 10537-FPCR-XX-XX-DR-A-1007 REV P03
Access to A10 and Luyne Rise Drawing 7498-GA-02 REV H
- 3a. The land use content of the development hereby approved shall comprise not more than 350 dwellings, a building or buildings with a commercial and services floorspace (Use Class E and B8) of not more than 4,400 sqm and a building or buildings with retail floorspace (Use Class E) of no more than 500 sqm.
4. Before the submission of any Reserved Matters, a Masterplan shall have been submitted to and approved in writing by the local planning authority. The Masterplan shall demonstrate how the development would achieve good place-making principles, and comprehensively apply the principles established in the parameter plans hereby approved. The reserved matters submissions shall thereafter be in accordance with the approved Masterplan.
5. Before the submission of any reserved matters a Design Principles document shall have been submitted to and approved in writing by the local planning authority. The Design Principles document shall provide more details as to the vision and concepts of the development across the site, as set out in the submitted Design and Access Statement, and shall address issues including enhancement of the public realm, use of external materials, approach to parking provision, community safety, recycling and servicing and external lighting. The reserved matters submissions shall thereafter be in accordance with the approved Design Principles document.

6. Prior to or in conjunction with any reserved matters submission, a detailed design shall be submitted to and approved in writing by the Local Planning Authority for any proposed watercourse alteration. Details submitted for any proposed watercourse alteration must demonstrate there is adequate space for each watercourse to be naturalised and enhanced, how it is to be naturalised and enhanced, that flood risk is suitably managed for all storms up to and include the 1 in 100 (1%) AEP Annual Exceedance Probability plus climate change, that the proposed works do not increase flood risk to the surrounding area, that exceedance events of the channels do not impact the proposed development and that they are easily maintainable and accessible. The details shall include long sections and, cross sections of the proposed watercourses including details of any proposed crossings. The development shall then be constructed in accordance with the approved plans.

7. At the same time as the submission of the reserved matters application for development of the up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E) ("Commercial Floorspace"), a scheme for the proposed provision of utilities and media infrastructure to serve the Class E buildings Commercial Floorspace shall be submitted to the local planning authority for its approval. The scheme shall include details of how the service infrastructure provision will be connected to the proposed buildings and the programme of provision. The approved scheme shall be implemented in full in accordance with the approved timetable and shall thereafter be maintained in accordance with the approved details.

8. The detailed plans submitted in connection with approval of the Reserved Matters shall show to the satisfaction of the Local Planning Authority:
 - The details of all hard surfaced areas within the site. This includes, but is not limited to, all roads, footways, forecourts, driveways, parking and turning areas.
 - The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
 - That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas.
 - The provision of sufficient facilities for cycle storage.
 - Bus stop provisions/designs within the site.
 - Bus gate facility including its design, mechanism for opening and shutting and on-going maintenance.

All these features shall be provided before first occupation and maintained in perpetuity.

9. Prior to or in conjunction with the submission of each reserved matters application, in accordance with the submitted Outline Drainage Strategy Addendum (10537-WSP-SW-XX-RP-C-005 dated May 2024), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:
 - i. Surface water runoff rates will be attenuated to 1.52 l/s/ha of hardstanding, as stated within section 2.4 of the Drainage Strategy.

- ii. Provision of surface water source control features and attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% AEP (1 in 30 year) and 1% AEP (1 in 100) rainfall events (both including allowances for climate change). An allowance of 10% urban creep shall be incorporated with the attenuation volumes for each phase.
 - iii. Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:
 - 3.33% AEP (1 in 30 year) critical rainfall event plus climate change to show no flooding outside the drainage features on any part of the site.
 - 1% AEP (1 in 100 year) critical rainfall and the 1% AEP (1 in 100 year) critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any flooding outside the drainage features, ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development. It will also show that no runoff during these events will leave the site uncontrolled (including a 24hr pump failure) and remains safe.
 - iv. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding (including the ordinary watercourses, SuDS features and within any proposed drainage scheme) or 150mm above ground level, whichever is the more precautionary.
 - v. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.
10. The development hereby permitted shall be carried out in accordance with a Phasing Plan which shall be submitted to and approved in writing before development commences on site. The Phasing Plan shall include details and a timetable for when the access road serving the proposed bus route, the employment floorspace and the local centre will be provided on the site. The provision of the access road, employment floorspace and the local centre shall be in full in accordance with the approved Phasing Plan and timetable.
11. Before any works above slab level take place on site, additional plans and details of improvement works to the existing highway on and off the site shall be submitted to and approved in writing by the local planning authority. The submitted plans and details shall include details to show how an active travel corridor between the site and London Road will be provided, and how active design principles have been included into the works, which shall be broadly in accordance with the submitted WSP Technical Note 1 ("Offsite Active Travel Route") dated 14 December 2023. The approved highway improvement works and the approved provision of the active travel corridor shall be implemented in full before the occupation of the first dwelling on the site and shall be retained as such thereafter.
12. No development shall commence until an Open Space Strategy has been submitted to and approved in writing by the local planning authority. The Open Space Strategy shall be in accordance with the Masterplan approved under condition 4 and shall:
- Demonstrate the quantum of open space to be provided on site as set out in the Public Open Space Drawing 10537-FPCR-XX-XX-DR-A-1007 Rev. P03
 - Identify the approximate location of the main areas of formal and informal open space to be provided within the development and set out a proposed programme for its delivery linked to the development phases;

- Outline the local play space and the distribution of play areas within the development and set out a proposed sequence for its delivery linked to the development phases;
- Set out (i) a proposed programme for delivery of the area of allotments linked to the development phases and (ii) proposals for future management of the allotment area.

Development and delivery of open spaces shall be carried out in accordance with the approved Open Space Strategy.

13. No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.
14. The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 3. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
 4. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
15. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

16. Prior to the commencement of the development, no works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority:
 - i) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth.
 - ii) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
 - iii) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.
17. Development shall not commence until details and a method statement for any interim and temporary drainage measures during the site clearance and construction phases have been submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Where temporary discharges to a sewer are proposed, written confirmation from the sewer owner that these have been accepted shall be provided. The site works and construction phase shall thereafter be carried out in accordance with approved method statement unless alternative measures have been subsequently approved by the Local Planning Authority.
18. Prior to the commencement of development, details of a Surface Water Drainage Scheme based on both the WSP Flood Risk Assessment and Outline Drainage Strategy 10537-WSP-SW-XX-RP-C-0002 dated July 2023 and the WSP Outline Drainage Strategy Addendum (10537-WSP-SW-XX-RP-C-005 dated May 2024), should be provided that prevents contamination of any public water supply abstractions present. This shall be submitted to and approved in writing by the Local Planning Authority.
19. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The provision of the drainage systems shall be carried out in accordance with the approved details and retained as such thereafter.
20. No development shall commence until an Ecological Impact Assessment shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details and retained as such.
21. No development shall commence until a full Landscape Ecological Management Plan and a Construction Ecological Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

22. Before or at the same time as the submission of the first Reserved Matters application, a Biodiversity Net Gain Plan for the whole site, which shall include a timetable for its implementation, shall be submitted to the Local Planning Authority for its approval. This Plan shall describe how the predicted net gain for habitats and hedgerows respectively will be delivered on the site and maintained for a minimum period of 30 years. Once approved, the Plan shall be implemented in full.
23. The development hereby approved shall not progress beyond foundation level until, details of the design and construction of the development demonstrating how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in the winter to reduce energy demand and reduces water demand, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
24. Prior to any above ground construction works being commenced, details of the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
25. Prior to the commencement of the development, a noise impact assessment shall be submitted to and approved by the Local Planning Authority which demonstrates that the potential adverse impacts resulting from external noise emitted from all fixed plant and equipment at the development hereby approved shall be mitigated and reduced to a minimum. The measurements, calculations and assessment shall be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at 1 metre from the façade of the nearest and / or most affected noise sensitive premises, with all plant / equipment operating together at maximum capacity, inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics and taking context into consideration.
26. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of fire hydrants at the development. No part of the development shall be occupied until the fire hydrants have been installed as approved. Thereafter the fire hydrants shall be retained in their approved form.
27. No development shall commence until a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Traffic Management Plan shall include details of:
 - the phasing of construction and proposed construction programme.
 - the methods for accessing the site, including wider construction vehicle routing.
 - the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
 - the hours of operation and construction vehicle movements.
 - details of any highway works necessary to enable construction to take place.
 - details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.

- details of any hoardings.
 - details of how the safety of existing public highway users and existing public right of way users will be maintained.
 - management of traffic to reduce congestion.
 - control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
 - the provision for addressing any abnormal wear and tear to the highway.
 - the details of consultation with local businesses or neighbours.
 - the details of any other Construction Sites in the local area.
 - waste management proposals.
28. Before the commencement of the development hereby permitted, a Site Waste Management Plan (SWMP) for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste produced on site and should contain information including estimated types and County of opportunity quantities of waste to arise from construction and waste management actions for each waste type during construction and operation of the development hereby permitted. The development shall be carried out in accordance with the approved SWMP for the duration of the development hereby permitted.
29. In connection with all site preparation, demolition, construction, conversion and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
30. Best Practicable Means (BPM) shall be used in controlling dust emissions during all site preparation, demolition, construction and ancillary activities. In times of exceptionally dry weather, additional measures should be put in place to mitigate against the spread of dust.
31. Any external artificial lighting at the Commercial Floorspace part of the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
32. Any external artificial lighting to the residential dwellings part of the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 'Domestic exterior lighting: getting it right!'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
33. Prior to the first use of each phase of development of the site, a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the approved surface water drainage scheme) has been submitted to and approved in writing by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation

of any surface water structure and control mechanism and shall be undertaken by an independent surveyor. The verification report shall demonstrate that the surface water drainage system has been constructed in accordance with the approved details. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be submitted to and approved in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

34. The development shall not be occupied until confirmation has been provided that either:-
 1. All foul water network upgrades (including all sewage works upgrades) required to accommodate the additional flows from the development have been completed; or-
 2. A development and infrastructure phasing plan has been agreed with the Local Authority to allow development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.
35. Prior to the first occupation of the development hereby permitted the mitigation measures identified within the WSP Air Quality Assessment dated July 2023 shall be implemented in full and shall be retained in accordance with those details thereafter.
36. No development shall commence on site until an updated odour modelling assessment has been submitted to and approved in writing by the local planning authority. Should the assessment identify a need for mitigation of odour impacts, an odour mitigation measures strategy shall be submitted with this assessment. The approved assessment including any mitigation identified shall be implemented in full and retained as such thereafter.
37. Prior to the first commencement of the development hereby permitted, a scheme for the parking of cycles including details of the design, level and siting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.
38. Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number (7498-GA-0 Rev H) in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to first use of the development, appropriate arrangements shall be made for surface water from the proposed development to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
39. At least 3 months prior to the first occupation of the approved development a detailed Residential Travel Plan for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented in accordance with the timetable and target contained therein and shall continue to be implemented as long as any part of the development is

occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.

40. At least 3 months prior to the first occupation of the approved Commercial Floorspace part of the development a detailed Workplace Travel Plan for the Commercial Floorspace shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan Statement shall be implemented in accordance with the timetable and target contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.
41. The occupation of the development authorised by this permission shall not begin until the details of the siting, type and specification of Electric vehicle charging points (EVCPs) (with one EVCP provided per dwelling unless otherwise agreed), the energy sources and the strategy/management plan for supply and maintenance of the EVCPs have been submitted to and approved in writing by the Local Planning Authority for that phase. All EVCPs shall be installed in accordance with the approved details and permanently maintained and retained. No dwelling shall be occupied until the EVCP serving that dwelling has been installed.
42. Once approved, the car parking spaces to serve the commercial development hereby permitted shall make provision for 50% of the total number of spaces as passive EV charging and 20% of the total number of spaces as active EV charging.
43. Prior to the first occupation of the development hereby permitted a Traffic Regulation Orders (TROs) to enforce a 20mph speed limits on Luynes Rise and Aspenden Road that are required as part of improving access and accessibility to the site must be secured in place and implemented. Should the TROs not be approved under the provisions of the Highways Act, alternative means to manage and/or mitigate speed limits along Luynes Rise and Aspenden Road and a timetable for their provision shall be submitted to the local planning authority for its approval and implemented in full in accordance with the approved timetable.
44. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals including roads, pavements, parking areas, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
45. Prior to the first occupation, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
46. Prior to the occupation of the development hereby approved, full details of waste and recycling storage shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details which shall be retained as such thereafter.
47. No dwelling shall be occupied until details of the acoustic bund and fence have been submitted to and approved in writing by the local planning authority. The

approved details shall be implemented in full prior to the first occupation of the first dwelling and retained as such thereafter.

48. Prior to occupation of the development, an acoustic design scheme including insulation and mitigation proposals recommended within RPS Report ref. JAJ03857-REPT-01-R2 shall be submitted to and approved in writing by the Local Planning Authority as necessary to achieve the 'good' internal room and external space amenity noise standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. This scheme shall include recommendations made in the aforementioned report for good acoustic design and take into account the ventilation strategy of the development. Approved details shall be implemented prior to first occupation of the development and thereafter be permanently retained.

The noise levels in habitable rooms (living rooms and bedrooms) and the external amenity areas at the development hereby approved shall meet the amenity standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' for internal rooms and external amenity areas. Construction methods and materials to achieve this shall be implemented prior to use of the development and thereafter be permanently retained.

49. Prior to occupation of the development, a post-completion noise assessment shall be carried out on a representative sample of dwellings prior agreed with the Local Planning Authority and shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the building envelope achieves an adequate level of protection in order to achieve the 'good' internal room and external space amenity noise standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. These levels must also be met whilst taking any building services/ equipment into account.
50. The noise rating level of air source heat pumps shall not exceed 35dBA at any neighbouring habitable room window when operating at maximum capacity and inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics. Should it not be possible to demonstrate that no tonality is present, a 6dB tonality penalty shall be applied to the specific noise level.
51. Prior to the first occupation of the site, a detailed maintenance and management plan for the entire surface water drainage system and any existing watercourses shall be submitted to and approved in writing by the Local Planning Authority. The maintenance and management plan shall cover the following:
- a. Who will be responsible for managing all aspects of the surface water drainage system, including piped drains.
 - b. Incorporate the as-built layouts and designs of all features and components including locations.
 - c. What the maintenance and inspection requirements are of all aspects of the surface water system and ordinary watercourses and how these are to be carried out.
 - d. Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.
- The agreed maintenance and management plan shall thereafter remain in place for the lifetime of the development.

52. Prior to any of the Commercial Floorspace being used as a gymnasium, details shall be submitted to and approved in writing by the Local Planning Authority of the sound insulation of the doors, windows, walls and roof structure. Details shall demonstrate that the sound insulation value $D_{nT,w}$ is enhanced by at least 20dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to ensure that airborne and structure borne noise and vibration from gym activities including the use of gym equipment, weight machines / free weights and amplified music / television or gym instructor voices are not audible at noise sensitive premises. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.
53. Prior to any of the Commercial Floorspace being used as a gymnasium, a Noise & Vibration Management Plan shall be submitted to and approved by the Local Planning Authority. The Noise & Vibration Management Plan shall include but is not limited to:
 - Measures for the effective isolation of exercise equipment, loudspeakers and plant with regards to vibration.
 - Details of self-closing devices to all external doors and any further measures to ensure that no external doors or windows are fixed in an open position while gym activities are in progress. The Noise & Vibration Management Plan shall be fully implemented as approved prior to first use and any approved details shall thereafter be permanently retained.
54. All waste materials and rubbish associated with site preparation, demolition or construction shall be contained on site in appropriate containers which, when full, should be promptly removed to a licensed disposal site.
55. Prior to the occupation of the 262nd dwelling (or 75% of the total number of dwellings whichever is the sooner), the buildings proposed to accommodate at least 4,000 sq m of commercial and services floorspace (Use Class E and B8) and at least 400 sq m of retail floorspace (Use Class E) shall be erected in their approved location with only internal works remaining to these buildings to enable them to be occupied.
56. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
57. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes (AA) and (AB) of Part 20 of Schedule 2 to the Order shall be undertaken.
58. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (As Amended), or any amending Order, no works or development as described in Class E (a), (b) and (c) of the Order shall not be undertaken without prior written permission of the Local Authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon	Of King's Counsel instructed by East Hertfordshire District Council
He called:	
Bobby Browne	Wynne Williams Associates
Jonathan Lee	Opinion Research Services
Vic Hector	VLM Associates
Neil Button	East Hertfordshire District Council
**Charlie Thompson	Hertfordshire County Council
*Hannah Regis	Hertfordshire County Council

FOR THE APPELLANT:

Zack Simons	of Counsel
Rebecca Sage	of Counsel, both instructed by Hannah Albans of DLP Planning Ltd
They called:	
Roland G Bolton	Senior Director of DLP Planning Ltd and Head of the Strategic Planning Research Unit
Jon Etchells	Director of Jon Etchells Consulting Ltd
Andy Williams	Founding Director of Define
Mehmet Ahmet	Technical Director at WSP
Hannah Albans	Director at DLP Planning Ltd
*Heather Katherine Knowler	Educational Facilities Management Partnership Ltd

INTERESTED PARTIES:

Chris Berry

Planning Manager CPRE

Cllr Graham Bonner

Buntingford Town Council

Cllr Sue Nicholls

East Hertfordshire District Council Ward
Member

* Present at Education Round Table Session

** Present at Education Round Table Session and Planning Obligations Round Table
Session

Richborough

DOCUMENTS SUBMITTED DURING INQUIRY

INQ1 Council Opening

INQ2 Appellant Opening

INQ3 Updated version of CD14.3 Housing Statement of Common Ground V2

INQ4 Updated Statement by Cllr Nicholls

INQ5 Missing map from CD15.2

INQ6 Letter to Inspector from Mr C Hinchliff MP

INQ7 Appeal Decision app/v2255/w/23/3333811

INQ8 Revised Appearance List for Council

INQ9 Comparison Schedule of Draft Planning Conditions 16.7.24

INQ10 Draft Education Round Table Agenda 24.7.24

INQ11 386 Bus Timetable from 8 January 2024

INQ12 831 Bus Timetable from 4 September 2023

INQ13 18 and 331 Bus Timetable from 2 June 2024

INQ14 Possible Changes to the 18 and 831 Bus Timetable

INQ15 CD14.3 Housing Supply Statement of Common Ground V7

INQ16 Comparison Schedule of Draft Planning Conditions 23.7.24

INQ17 Summary of Obligations Contained in the Draft Section 106 Agreements as at 23 July 2024

INQ18 Updated Calculation Summary Data Education Matters

INQ19 Schedule of Draft Planning Conditions 29.7.24

INQ20 Comparison Schedule of Draft Planning Conditions Following Round Table

INQ21 CIL Compliance Statement East Hertfordshire District Council

INQ22 Council Closing Submissions

INQ23 Council Closing Submissions Appendix: The Bolton Rules

INQ24 Appellant Closing Submission

INQ25 Secretary of State for Communities and Local Government v West Berkshire District Council [2016] 1 W.L.R. 3923

INQ26 Gallagher Homes Ltd v Solihull MBC [2014] EWCA Civ 1610

INQ27 Letter from Hertfordshire County Council 6 August 2024

INQ28 Summary of Obligations Contained in the Section 106 Agreement 8 August 2024

INQ29 Certified copy of S106 Agreement (with District Council) dated 13 August 2024

INQ30 Certified copy of S106 Agreement (with County Council) dated 15 August 2024

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