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## Appeal Decision

Inquiry opened on 9 November 2020

Site visit made on 3 November 2020

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> December 2020**

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### **Appeal Ref: APP/C1570/W/19/3243744**

#### **Land east of Elsenham, to the north of the B1051, Henham Road**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Fairfield (Elsenham) Limited against Uttlesford District Council.
  - The application Ref UTT/17/3573/OP, is dated 7 December 2017.
  - The development proposed is for up to 350 dwellings (Class C3); a One Form Entry primary school including Early Years and Childcare Setting for up to 56 places (Class D1); open spaces and landscaping including provision of junior football pitch and changing rooms; access from B1051 Henham Road with associated street lighting and street furniture; pedestrian, cycle and vehicle routes, including streets, squares, lanes and footpaths along with associated street lighting and street furniture; pedestrian and cycle link to Elsenham Station and potential pedestrian and cycle link to Hailes Wood; vehicular and cycle parking; provision and/or upgrade/diversion of services including water, sewerage, telecommunications, electricity and gas, and service media and apparatus; on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps; drainage works, sustainable drainage systems and ground and surface water attenuation features; associated ground works; and boundary treatments including construction hoardings.
  - The inquiry sat for 8 days on 9 to 13 and 16 to 18 November 2020.
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### **Decision**

1. The appeal is allowed and planning permission is granted for up to 350 dwellings (Class C3); a One Form Entry primary school including Early Years and Childcare Setting for up to 56 places (Class D1); open spaces and landscaping including provision of junior football pitch and changing rooms; access from B1051 Henham Road with associated street lighting and street furniture; pedestrian, cycle and vehicle routes, including streets, squares, lanes and footpaths along with associated street lighting and street furniture; pedestrian and cycle link to Elsenham Station and potential pedestrian and cycle link to Hailes Wood; vehicular and cycle parking; provision and/or upgrade/diversion of services including water, sewerage, telecommunications, electricity and gas, and service media and apparatus; on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps; drainage works, sustainable drainage systems and ground and surface water attenuation features; associated ground works; and boundary treatments including construction hoardings, on land east of Elsenham, to the north of the B1051, Henham Road, in accordance with the terms of the application Ref UTT/17/3573/OP, dated 7 December 2017, subject to the conditions set out in the attached Schedule.

## Preliminary matters

2. The application was submitted in outline, with only access to be determined at this stage. Uttlesford District Council ('the Council') failed to determine this application within the appropriate timescale, and the appellant subsequently lodged an appeal against non-determination, in December 2019.
3. A range of documents accompanied the application, including a Design and Access Statement (DAS) and a DAS Addendum, which contained a Parameters Plan designed to 'fix' the key parameters of the proposal. The application was supported by an Environmental Impact Assessment (EIA) and Environmental Statement (ES), which covered a large number of matters including landscape impact<sup>1</sup>, heritage, air quality, transportation and flood risk. Additional supporting documents were also submitted, including Planning and Transport Statements, a Green Infrastructure Strategy and Open Space Strategy, and a Mineral Resources Plan.
4. The inquiry was originally scheduled to open in April 2020, and in preparation for this I conducted a telephone case management conference (CMC) with the main parties in February 2020, to discuss procedural and administrative matters relating to the running of the inquiry. However, the onset of the coronavirus pandemic forced the postponement of the inquiry, and I held a second telephone CMC in September 2020, at which it was agreed that the inquiry would proceed as a virtual event with the main parties and interested persons making their contributions by means of video appearances, over the internet.
5. When it submitted its Statement of Case (SoC) in February 2020, the Council, indicated that if it had been able to determine the application, it would have refused it for 3 reasons. In summary, these putative reasons for refusal related to concerns that the proposed development would be located outside the defined development limits of Elsenham and would fail to protect or enhance the character of the countryside within which it would be located; that the proposed development would lead to air quality conditions which would be detrimental to public health; and that the proposal did not provide any mechanism to secure the infrastructure requirements arising from the development.
6. In the run-up to the inquiry the appellant agreed several Statements of Common Ground (SoCG) with various parties:
  - Planning: with the Council, signed and dated 6 March 2020;
  - Transport and Highways: with Essex County Council (ECC) as local highway authority, signed and dated 19 March 2020;
  - Transport and Highways: with Highways England (HE) as highway authority for the Strategic Road Network, signed and dated 17 March 2020;
  - Transport and Highways: with the Joint Parish Councils of Henham and Ugley<sup>2</sup> ('the JPC'), signed and dated 7 October 2020;
  - Air Quality: with the Council, signed and dated 17 March 2020, with an Addendum signed and dated 6 November 2020.
7. However, shortly before the inquiry was due to open the Council published its air quality modelling data for Uttlesford for 2019, which showed an improvement in air quality compared with the 2018 data. As a result, the Council commissioned its air quality consultant to prepare an updated assessment of the potential impact of the

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<sup>1</sup> In the form of a Landscape and Visual Impact Assessment - LVIA

<sup>2</sup> Who were participating in the inquiry as a Rule 6(6) Party

appeal proposal on air quality, taken cumulatively with other applications that are currently proposed in and around Elsenham and which potentially would impact upon Grove Hill, Stansted Mountfitchet. Having considered the findings of this assessment the Council indicated that it did not intend to maintain an objection on air quality grounds, and would not present evidence to defend its second putative reason for refusal, effectively withdrawing that reason for refusal.

8. Moreover, although the putative reasons for refusal made reference to policies in the emerging Uttlesford Local Plan<sup>3</sup>, as well as to saved policies in the Uttlesford Local Plan (ULP) adopted in 2005, the Council withdrew this emerging Local Plan in late April 2020. It was therefore agreed at the second CMC that this emerging plan and its policies had no weight and were not material considerations in this appeal. Further details of the relevant planning history are given later in this decision.
9. In the week before the inquiry opened I undertook a comprehensive site visit, unaccompanied, but working to an itinerary<sup>4</sup> prepared and agreed by the Council, the appellant and the JPC. None of the matters raised during the inquiry caused me to consider that I needed to re-visit the appeal site or the surrounding area, and the main parties agreed that a post-inquiry site visit was not necessary.
10. After the inquiry had closed, but in accordance with an agreed timescale, the appellant submitted completed planning obligations in the form of an agreement and a unilateral undertaking, both made under section 106 (S106) of the Town and Country Planning Act 1990, as amended. I deal with these obligations in more detail under the fourth main issue.

### **Site description, surrounding area and details of the appeal proposal**

11. Elsenham is identified in saved ULP Policy S3 as one of 5 Key Rural Settlements, with this policy going on to explain that within the boundaries of such settlements, development compatible with the settlement's character and countryside setting will be permitted. The appeal site comprises some 19.65 hectares (ha) of predominantly arable agricultural land, sited to the north-east of Elsenham outside the settlement boundary, and falling within both Elsenham and Henham Parishes.
12. The site is fairly level, with a high point of some 105.65 metres (m) above Ordnance Datum (AOD) towards its north-eastern corner. An existing hedgerow runs east/west across part of the site and there is a mature oak tree close to the site's western boundary, with an existing pond lying a little to its east. This tree and pond would be retained within an area of open space, under the appeal proposal.
13. Part of the site's western boundary is formed by fairly dense vegetation alongside the West Anglia Railway Line, beyond which lies much of the existing built area of Elsenham village. A narrow 'finger' of the appeal site extends northwards to allow for a pedestrian and cycle link to Elsenham rail station which lies just beyond the appeal site to the north-west. The south-western part of the appeal site's boundary abuts existing built development which lies to the east of the railway line at Park Road and Hailes Wood.
14. Further agricultural land bounds the site to the north, whilst an established hedgerow forms the site's eastern boundary, with an area of former sand pits lying further east. The appeal site projects into this former sand pits area to provide a sustainable drainage (SuDS) feature. A hedgerow also forms much of the site's

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<sup>3</sup> Which had been submitted to the Secretary of State for examination in January 2019

<sup>4</sup> See detailed site visit itinerary set out at Document (Doc) 11

southern boundary, with an undeveloped treed area and a disused cricket ground abutting the site to the south of this boundary. Public Footpath 21 crosses this disused cricket ground in a more or less east/west direction, and a further Public Footpath, No 15, also referred to as 'the Farmer's Line', runs east/west some distance to the north of the appeal site.

15. Henham Road, the B1051 lies a little further south, and it is from this road that the appeal site would take its vehicular access, by means of a proposed priority junction and a length of road passing into the main part of the appeal site at its south-eastern corner. This proposed access would be located some 200m to the east of the existing village entrance, where the speed limit changes from 40mph outside the village, to 30mph within. A number of Grade II listed buildings<sup>5</sup> lie on the south side of Henham Road, between the proposed site access and the existing village entrance, with a further Grade II listed building<sup>6</sup> at Elsenham rail station, close to the northern extent of the appeal site.
16. In terms of services and facilities, Elsenham has a small convenience store in the form of a Tesco Express, located close to the junction of High Street (a continuation of the B1051 Henham Road) and Station Road, with other shops in the vicinity being a Post Office, hair salon and take-away food outlet. The Elsenham Church of England Primary School also lies on High Street, close to the Crown Inn public house, which is sited at the junction of High Street and Hall Road. In addition Elsenham has a village hall, which I understand also functions as a place of worship; St Mary's Church a little distance outside the village to the south-east; a General Practitioners' (GP) Surgery on Station Road; and a Recreation Ground, Bowls Club and Memorial Hall, accessed from Leigh Drive.
17. The B1051 continues westwards to the larger village of Stansted Mountfitchet, a mile or so away, which it enters through traffic signals on Grove Hill. Traffic conditions on Grove Hill are the subject of many of the concerns raised by local residents and the JPC, as detailed later. Stansted Mountfitchet contains a railway station and additional services and facilities, including secondary schooling, larger food stores, a wider range of shops and services, and dental surgeries. Also in the general locality is the market town of Bishop's Stortford, and Stansted Airport.
18. Full details of the proposed development are set out in the banner heading for this decision, but in summary the proposal would provide a residential development of up to 350 dwellings, open space, landscaping, a junior football pitch and changing rooms, together with a site for a 1 form entry (1FE) primary school and an Early Years and Childcare facility. Associated infrastructure is also proposed, such as SuDS and on-plot renewable energy measures. Some 13.45ha of the overall site area would comprise built development, with the Parameters Plan showing that the development would have a maximum height of 12m above finished ground level. In addition, an Illustrative Master Plan was submitted to show one way in which the site could be laid out, with most homes noted to be 2 or 2½ storeys, with 2½ and 3 storey buildings marking key nodes and landmarks.
19. Vehicular and pedestrian access is proposed by means of the aforementioned new priority junction with Henham Road, from where a new footway would be constructed along the northern side of Henham Road, to link with an existing footway to the west. A short length of new footway would also be provided on the south side of Henham Road, to link existing sections of footway. There would also

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<sup>5</sup> Elsenham Place, Gardeners Cottage (also known as Lilac Cottage), and various associated buildings

<sup>6</sup> The Waiting Room on the east side of the railway line

be a pedestrian and cycle link to Elsenham rail station, at the site's north-western corner, with the possibility of a further pedestrian and cycle link to Hailes Wood, although this latter link is not a firm part of the proposal at appeal.

## **Background**

20. There is a fairly complex planning history relating to this site and the wider area, and as this was discussed and referred to at the inquiry, I consider it helpful to set out some of the relevant facts and background before moving on to consider the main issues in this appeal.
21. Back in 2006 the Council commenced preparation of a Core Strategy to replace the adopted 2005 ULP, a process which eventually culminated in the submission of the '2014 Local Plan'. The appellant's land interests at Elsenham, which included the current appeal site, were allocated in this 2014 Local Plan for an urban extension to the north-east of the village for 2,100 dwellings, with potential future extension to 3,500 homes after 2031. It was against this backdrop that the appellant submitted an outline planning application<sup>7</sup>, in August 2013, on a larger site of some 51ha which included most of the current appeal site.
22. This earlier proposal was for, amongst other things, up to 800 dwellings, a primary school, up to 0.5ha of employment floorspace, up to 1,400 square metres (sqm) of retail uses, up to 640 sqm of health centre use and up to 600 sqm of community buildings, together with appropriate open space and infrastructure. This was refused by the Council in November 2013 with a single reason for refusal citing the alleged harmful effect upon the character and appearance of the countryside and the loss of agricultural land. The refusal was appealed and was determined by the Secretary of State (SoS), having been called-in for his own determination.
23. This appeal was heard at an inquiry held in late 2014, but before the Inspector submitted his Report to the SoS in May 2015, the Council formally withdrew the emerging 2014 Local Plan, following concerns raised by the Inspector who was examining it. As a result, the Inspector who considered the earlier appeal concluded that no weight should be given to this withdrawn plan. Overall, he recommended that the appeal should be dismissed, and in his decision letter of August 2016 the SoS dismissed the appeal, upholding the Inspector's conclusions, but with varied reasons on some matters. To conclude on this matter, the evidence before the inquiry indicates that the appellant no longer controls the land shown outside of the appeal site boundary, and is no longer involved in the promotion of this land.
24. Since that time, a further emerging Local Plan has progressed to examination stage, being submitted to the SoS in January 2019, but as has already been noted above, this emerging Local Plan was withdrawn by the Council in April 2020, following the Inspectors' interim conclusions. As has also been noted earlier, it was agreed at the second CMC that this emerging Local Plan and its policies have no weight and are not material considerations in this appeal.

## **Main issues**

25. Once its concerns regarding air quality matters had been addressed, the Council's putative reasons for refusal covered 2 main topics: the size, scale and siting of the proposed development, outside the defined settlement boundary of Elsenham; and the absence of any mechanism to secure the infrastructure requirements arising from the development.

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<sup>7</sup> Reference UTT/13/0808/OP

26. The Council's putative reasons for refusal did not cover any specific highways or traffic concerns, but the likely impact of the proposed development on traffic conditions on local roads, and especially in Stansted Mountfitchet, formed a major part of the JPC's case and was raised by many interested persons. With this in mind, and in light of the evidence presented and the planning policy background set out above, I consider that the main issues in this case are:

- The effect of the proposed development on the character and appearance of the surrounding area;
- The effect of the proposed development in traffic and transport terms, on the safety and convenience of users of the nearby highway network;
- The extent to which the proposed development would be consistent with the development plan for the area, and the weight to be given to relevant development plan policies; and
- Whether the submitted planning obligations would satisfactorily address the impact of the proposed development.

27. Having assessed the main issues, I then look at a number of other matters raised, before moving on to consider the benefits and disbenefits of the proposal. I then carry out a final planning balance and reach my overall conclusion.

## **Reasons**

### ***Main issue 1 – The effect on character and appearance***

28. The appeal site and surrounding area have already been described in paragraphs 11 to 17, above. Importantly, the site lies outside the settlement boundary of Elsenham, and is therefore considered to be in the countryside for planning purposes. In such circumstances, saved ULP Policy S7 applies. Amongst other things this policy explains that in the countryside, which will be protected for its own sake, planning permission will only be granted for development that needs to take place there, or is appropriate to a rural area. It also explains that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set, or if there are special reasons why the development in the form proposed needs to be there.

29. I explore the weight to be given to this policy later in this decision, but it is sufficient at present to note that all parties accept that the proposal would be at odds with this policy, and would therefore be in conflict with the development plan.

30. Landscape witnesses for the 3 main parties collaborated to produce a Joint Position Statement (JPS) on Landscape, Visual and Character Matters. They all agree that the appeal site and surroundings do not constitute a valued landscape in the context of paragraph 170(a) of the National Planning Policy Framework ('the Framework'). The Council also notes that the area has no statutory designation and no identified quality in landscape terms in the development plan, but maintains that this does not mean that the landscape has no value or that it cannot be significantly harmed by development. The JPC take a similar view, arguing that the site and surroundings have a local value, containing features and characteristics which are important to conserve and enhance, as reflected in paragraph 170(b) of the Framework. The appellant's view is that the value of the landscape is at the local level, but that it has no exceptional quality.

31. The JPS provided background and factual information, and assisted in defining the scope of the discussion which took place between these witnesses at a round table session (RTS) at the inquiry. This concentrated on a number of topics, under the

general 'character and appearance' heading, and I have based my consideration of this issue on the most relevant of these topics, summarised under the sub-headings detailed below. In coming to my conclusions on these matters I have had regard to the views expressed by each of the landscape witnesses along with the wide variety of photographic material submitted in evidence, but have also relied on my own observations of the site and the surrounding area made at my pre-inquiry site visit.

*Effects on local landscape character*

32. The appeal site lies entirely within the B10 'Broxted Farmland Plateau' Landscape Character Area (LCA) which is a generally flat, open, elevated agricultural landscape, with large-scale arable fields, intermittent hedges and rural lanes, and is considered to be of moderate to high sensitivity. The appeal site shares many of these characteristics, comprising part of a large arable field and all of the smaller field to its south. There is, however, a change in landscape character to the south of the appeal site, north of Henham Road, where the land exhibits a more enclosed and intimate parkland landscape, with frequent mature trees, along with the currently unused village cricket ground.
33. This more enclosed and intimate landscape is reflective of the A3 'Stort River Valley' LCA, which lies to the south of Henham Road, but I am not persuaded that this influence carries onto the appeal site itself, as maintained by the JPC, or that the site should be seen as transitional between these 2 landscape types.
34. In landscape terms it is clear that the proposed development would have an immediate, large-scale, permanent impact on the appeal site itself, by introducing a significant amount of new residential development onto this presently open area of slightly rising countryside. Both the Council and the JPC consider this impact to be high adverse, and it is in the context of the loss of the current agricultural nature of the existing landscape that the Council argues there would be a conflict with saved ULP Policy GEN2. Mr Etchells, the Council's landscape witness, accepts that this policy is concerned with design rather than landscape protection as such, but considers the appeal proposal to be at odds with its second criterion, which requires new development to safeguard important environmental features in its setting.
35. I consider there to be some merit in this view, but I have also noted that the appeal proposal is accompanied by a Green Infrastructure Strategy and Addendum which contain objectives and suggested measures, aimed at creating a high quality and distinctive landscape and public realm setting, while also minimising the impact of the development. This means that the effects on the site would be mitigated, at least to some degree, by the retention and enhancement of much of the boundary vegetation, hedgerows and other features, along with open space provision within the site and new hedgerow and tree planting along the site's northern boundary.
36. On this latter point it is clearly the case that at the present time there is no physical feature defining the northern boundary of the appeal site, but as the 10m wide green corridor proposed for this boundary would reflect the east/west hedgerow which borders Footpath 15 a little further north, it would not be out of keeping with the general character of the area.
37. In addition, the proposed siting of the junior football pitch in the southern part of the site, with new development generally set back behind it, would help to retain the more secluded character of the area immediately to the south of the appeal site. Because of this I am not persuaded that the proposed development would have an adverse effect on the Stort Valley LCA, or harm the setting of Elsenham

Cross - the historic part of the village located immediately to the south of the appeal site - both as maintained by the JPC.

38. Furthermore, it is also important to assess the impact of such development not only on the appeal site itself, but in the wider area and over a longer timescale. In this regard, and as set out in the JPS, all parties agree that there would only be a slight adverse impact on the landscape character of the wider area, defined as up to about 0.5 kilometres (km) from the appeal site. I share that view, having regard to the overall degree of enclosure of the site – bounded by established hedgerows and trees on its western, southern and eastern boundaries – along with its proximity to the existing built-up area. Moreover, the impact of the proposed development would lessen over time, as the proposed boundary planting matures.
39. I accept that from some viewpoints the proposed development would result in new built form being seen against the skyline, without the benefit of a wooded backdrop, which characterises some of the recent new development which has taken place on the western side of the village. However, it seems to me that the locations where such views could be obtained are relatively limited, with any views themselves being filtered by closer vegetation, such as would be the case if the development was to be viewed from the Farmers Line (Footpath 15) to the north of the appeal site, as shown in one of the visualisations attached to the JPS.
40. Similarly, whilst the proposed development would bring built form closer to Mill Road in the east - the location of another JPS viewpoint - I am not persuaded, having visited the viewpoint and considered the visualisation in the JPS, that the likely changes would be unacceptably harmful to either character or appearance. In simple terms the roofs of new houses would be seen at a closer distance than is currently the case, and would appear to be a little more prominent. But the general impression would still be one of looking towards a modestly-sized urban area, with the development largely contained by boundary planting.
41. Finally, I have noted the Council's concerns that the proposed development would appear as a visually separate and somewhat discordant new area of development. But whilst I acknowledge that there would be limited inter-visibility between much of the existing village and the proposed development area, I do not consider that this would be unacceptable in landscape character terms, having regard to the points detailed above.

*Effects on the approach to Elsenham*

42. The appeal proposal would result in changes to the appearance of a length of Henham Road, arising from the introduction of the new site access junction and new sections of footway. However, whilst these would be new features, similar features already exist in the general vicinity, such that they would not be unacceptably out of keeping in this setting. Travellers approaching Elsenham on Henham Road from the east would already have passed a number of residential properties on the south side of the road, fronted by a length of footway, just before they would encounter the new junction on the northern side. Once past this new junction there is an existing footway on the south side of the road along with further, existing buildings, namely the Grade II listed buildings of Lilac Cottage and Elsenham Place, with their associated outbuildings and boundary walling. Travellers would then enter the 30mph area of the village itself, where street-lighting begins. It is then only a relatively short distance before the existing footway begins on the northern side of the road, running outside residential properties which continue on this side of the road up to the Crown Inn.

43. I acknowledge that the proposed junction would be located outside the current village development limits, and accept that the junction and its associated street lighting would result in a more suburban feel to this particular location. However, in view of the points detailed above, and the presence of existing built development (albeit somewhat sporadic) between the proposed junction and the existing village entrance, I do not share the Council's view that it would be an isolated suburban feature within a largely rural area, and I do not consider that it would be an unexpected or atypical feature on the approach to a village like this.
44. For the new junction, I accept that there are level differences of over 2m in places which would need to be addressed to achieve the necessary 4.5m by 120m visibility splays, with the clearing and cutting-back of some vegetation. However, I see no reason why this could not be achieved without unduly urbanising the appearance of the junction. In this regard I note that the proposed access is more or less identical to the access proposed at this same location for the earlier 800 dwelling proposal on this site, referred to above. Despite that scheme being larger than the current proposal, both the Inspector and SoS who considered that proposal concluded that impacts on character and appearance only warranted limited weight.
45. Some cutting-back and clearing of vegetation is also likely to be necessary on the northern side of Henham Road, where existing hedging sits at the back of the verge, to allow the construction of the new 2m wide footway. No detailed construction drawings of this proposed footway have been submitted, and I accept that it may be necessary for some modest retaining structures to be provided at the back of this footway in some locations, to deal with level differences. But again, I see no reason why this could not be achieved in a manner characteristic of this edge of village location, and no firm evidence has been submitted to suggest that the existing hedgerow could not be largely retained.
46. The new access road would require the removal of about 10 mature trees, including a group of 5 tall Scots Pines, but the evidence before me is that whilst these trees are noticeable in the landscape, they are not of high arboreal value. Indeed, the appellant's Arboricultural Assessment classes these trees as generally low quality Category (C), in fair condition, but with a number of defects, such as dead wood, hanging limbs and dense ivy cover. As replacement trees are proposed in this area, along with further additional tree planting around this entrance to the site, and throughout the proposed development, I do not consider that the loss of these trees would be unduly harmful in character or appearance terms.
47. Furthermore, no development is proposed along the new access road itself until it enters the main part of the appeal site, meaning that buildings on the site would be set back some appreciable distance from Henham Road and would not be unduly noticeable from this road. Whilst the roofs of some of the new dwellings would undoubtedly be seen above the existing and strengthened boundary vegetation any impact would be mitigated, at least to some degree, by the intention to limit the height of the vast majority of new properties to 2 or 2½ storeys. Any impact would also be limited as the boundary vegetation matures, such that on balance I am not persuaded that the proposal would result in an unacceptable impact on either the character or the appearance of this approach into Elsenham.

*Relationship of the appeal scheme to Elsenham*

48. Part of the Council's first putative reason for refusal alleged that new built form of this size and scale would represent a separate physical area of considerable urban development within the countryside, significantly divorced and isolated from the

settlement of Elsenham. At the RTS the Council elaborated on this view, expressing particular concern that the proposed development would appear discordant within an area which presently has a largely rural character, with just limited and filtered views of the existing village. The Council also maintained that the new dwellings and school would appear as visually separated from the existing settlement, leaping the existing containment along the railway line.

49. The JPC echoes many of these views. As well as being critical of the location of the proposed access some way outside the existing settlement gateway, like the Council, it contends that the proposed development would be poorly related to the existing built form of Elsenham and would have limited physical links with the existing village as it would lie to the east of the railway, which forms a physical barrier and provides visual screening. As a result, the JPC argue that the proposed development would be perceived as separate in terms of community.
50. However, whilst I accept that the railway line does form both a physical and visual barrier, with the majority of development in Elsenham currently lying to its west, it does not automatically follow that this situation cannot change. Indeed, evidence before the inquiry indicates that a significant amount of new housing has actually been approved and/or built east of the railway in recent years. Undisputed figures put forward by the appellant at the RTS show that of the new housing approved at Elsenham since the time of the 2013 application, some 27% or 162 units have been to the east of the railway line, including the new development at Hailes Wood which some of the currently proposed development would abut.
51. In addition, some key community facilities lie to the east of the railway, namely the existing primary school and the Crown Inn public house. It is also the case that the appeal site wraps around the existing cricket ground, and whilst this sports facility is not currently in use, there was no suggestion from any of the participants at the inquiry that this facility is not part of the village.
52. In terms of topography, much of the existing built development in Elsenham lies generally at an elevation of 90-100m AOD, and this would be largely mirrored by the proposed development, most of which would sit at a similar elevation, with only the north-eastern corner, earmarked for the primary school buildings and its associated playing fields, rising above 100m AOD.
53. All of the above points lead me to the view that there should not be any 'in principle' reason why development should not occur to the east of the railway line. Because of this, and as the proposed development would immediately abut existing development east of the railway, I do not accept that it would be divorced or appear visually separated or isolated from the existing settlement.

*The effect on visual receptors*

54. There was general agreement between the parties that the visual impact of the proposed development would be limited from the countryside and from the village. The only receptors likely to experience major/moderate adverse visual effects from the development in the short and medium term were agreed, in the JPS, to be individual properties in Henham Road and Hailes Wood, and users of Footpaths 15 and 21. The Council and the JPC also maintained that non-motorised users of Henham Road would experience moderate adverse visual effects in the short and medium term, but there was general agreement that the visual impact of the proposed development at other sites would only be slight or less than slight.

55. Insofar as long-term effects are concerned, the parties agree that there would be no permanent major impacts. As existing and proposed boundary planting would continue to mature over the longer term, I share that view. I note, however, that the Council and the JPC both contend that there would still be moderate effects on a number of receptors in the longer-term. These include a small number of properties at Hailes Wood, users of Footpaths 15 and 21, as well as non-vehicular users of Henham Road and a collection of properties on Henham Road.
56. In this regard I acknowledge that there would be some views of new dwellings on the appeal site from existing residential properties at the northern end of Hailes Wood, which would lose their presently open views across the site. However, these existing dwellings are set some distance from the boundary of the appeal site, and the new dwellings themselves are shown on the (admittedly illustrative) Master Plan, as being set away from the site boundary, separated from it by landscaping and carriageway. Furthermore, neither the Council nor the JPC suggest that there would be any unacceptable impacts on the living conditions of occupiers of these existing dwellings. This matter is reinforced by the putative reason for refusal, which did not assert any adverse impact on residential amenity.
57. With respect to Footpath 15, I have already noted, above, that in my assessment views of the proposed development would be limited from this location, especially in light of the proposed belt of vegetation proposed for the site's northern boundary, and the additional planting proposed in the hedgerow to the south of Footpath 15, which could be secured by condition if planning permission is granted. As such, any visual impact upon users of this footpath would be restricted by 2 visual barriers and because of this I consider that the harm to users of this footpath would be less than moderate in the long term.
58. Footpath 21 crosses the disused cricket ground, and new buildings on the appeal site would lie more than 100m to the north, behind a strengthened belt of vegetation at the site's southern boundary. As such I am not persuaded that they would be unduly noticeable to users of this footpath. I accept that footpath users would need to cross the new access road, but I do not share the Council's view that this would completely change the footpath's character and the nature and experience of walking along it. I say this because I saw at my site visit that access to the western end of this footpath already takes users past dwellings and kerbed and surfaced parking areas at Hailes Wood; and because the new road would be crossed at an uncontrolled 'low-key' crossing point, amid newly planted trees. For these reasons I consider that the overall long-term visual impact of the proposed development on users of this footpath would be less than moderate.
59. Any impact on pedestrians and cyclists using Henham Road would be less than the impact on users of Footpath 21, as these users would be even further away from the proposed development, with another layer of screening provided by the hedging along the northern side of Henham Road. In addition, as the site access would turn away from the built development on the site, any new buildings would only be likely to be seen in limited, glimpsed views along this access road. Again I do not consider that this could reasonably be said to represent a moderate impact. Rather, any visual impact would only be minimal.
60. Finally, occupiers of the few properties on Henham Road that could look towards the appeal site would be located further away from the site than users of Footpath 21. As such, the visual impact on such occupiers is likely to be less than that for users of the footpath – which I have already found to be less than moderate.

### *Summary*

61. Drawing all the above points together I conclude that the proposed development would have a clear and permanent impact on the appeal site itself, but would only have a minimal adverse effect on the character and appearance of the wider area, with no moderate or major adverse visual effects in the long term. I take support for this view from the fact that during the 2 year period from submission of the planning application to the lodging of the appeal for non-determination, the Council's landscape officer raised no objection to the scheme. I have also been mindful of the fact that for the physically larger scheme which was dismissed at appeal in 2016, both the Inspector and SoS only gave limited weight to the harm to character and appearance of the countryside.
62. I acknowledge that the appeal proposal would be at odds with saved ULP Policy S7, and that there would also be a modest conflict with saved ULP Policy GEN2. I explore the weight to be given to these policies under the third main issue.

### **Main issue 2 – Traffic and transport considerations**

63. In putting forward no putative reason for refusal relating to traffic or highways concerns, the Council has had regard to the view of ECC as local highway authority, set out in the main, Planning SoCG, namely that it considers the proposal to be acceptable, subject to the imposition of a number of planning conditions. The agreed conditions and the submitted S106 agreement, discussed later, cover all of the matters requested by ECC.
64. In addition, HE, as strategic highway authority, accepted that the proposed development would have only minimal impact on the operation of the Bassingbourn Roundabout (part of Stansted Airport's access road system) and, as a result, agreed that there was no need to assess the impact on Junction 8 (J8) of the M11 motorway. Accordingly HE raised no objection to the appeal proposal and confirmed this position in a SoCG with the appellant, signed and dated in March 2020.
65. However, opposition to the appeal proposal on a wide range of transport sustainability and highway impact grounds was put forward at the inquiry by the JPC. Despite its overall objections, the JPC did complete a SoCG with the appellant on certain transport and highways matters, mainly agreeing distances from the centre of the appeal site to various facilities within Elsenham, along with walking times based on an average speed of 1.33 metres per second. The JPC's concerns covered a number of topics, which I deal with under the following sub-headings.

#### *Transport sustainability and accessibility*

66. There is no dispute between the parties as to the extent of facilities in Elsenham, the disagreement arises from how this range of facilities should be viewed, and how accessible they are considered to be. The evidence before the inquiry, detailed in paragraph 16 above, is that the village has a GP Surgery, a primary school, a Tesco Express, a Post Office, a hair salon, a takeaway food outlet, a public house, a village hall, a Memorial Hall, a Bowls Club and a recreation ground.
67. Mr Watts, the transport witness for the JPC describes this range of facilities as 'limited', but it seems to me that these facilities would go a good way to meeting everyday local needs, such that I favour the Council's own view that Elsenham is relatively well served by facilities. This view was expressed in the planning officer's report to Committee in late 2019, for a proposal for 130 dwellings and 0.37ha educational use, on land west of Hall Road, for which Council Members resolved to

grant planning permission subject to the completion of an appropriate S106 planning obligation.

68. In terms of accessibility, the SoCG between the appellant and the JPC records the following agreed distances and walk times from the centre of the appeal site:
- Elsenham Primary School – 920m (11 minutes);
  - Elsenham GP Surgery – 1,430m (18 minutes);
  - Local shops/Post Office – 1,250m (16 minutes);
  - The Crown Inn – 860m (11 minutes);
  - Recreation Ground – 1,380m (17 minutes);
  - Proposed eastbound bus stop on Henham Road – 590m (7 minutes);
  - Proposed westbound bus stop on Henham Road – 550m (7 minutes).
69. The JPC's view was that many of these facilities lay outside the 'desirable' and 'acceptable' walking distances set out in the Institution of Highways and Transport (IHT) document 'Planning for Journeys on Foot'. The JPC also stated that it is widely acknowledged that 400m is the maximum acceptable walking distance to bus stops, as detailed in 'Buses in Urban Developments', published by the Chartered Institution of Highways and Transport (CIHT).
70. However, on the first of these points, the IHT document dates back to the year 2000 and has no formal or other status in local or national planning policy. As an alternative, the appellant maintained that it was more appropriate to look at what had until 2012 been national guidance in the form of Planning Policy Guidance 13 (PPG13) 'Transport' – now superseded by the Framework. I consider there to be some merit in this view, as not only was PPG13 a more recent document than that published by IHT, it also had greater standing and status.
71. Whilst accepting that PPG13 no longer carries any formal weight, no equivalent guidance on acceptable travel distances is contained within the Framework. Because of this I consider it reasonable to have regard to the PPG13 guidance, which stated that walking is the most important mode of travel at the local level and offers the greatest potential to replace short car trips, particularly under 2km. All of the facilities within the village, detailed above, fall well within this 2km range. PPG13 also stated that cycling has the potential to substitute for short car trips, particularly those under 5km. Clearly, all the aforementioned facilities in Elsenham also fall well within this cycling range.
72. With regards to the CIHT document referencing a 400m maximum acceptable walking distance to bus stops, this is again a document that carries no formal or other status in local or national planning policy. Moreover, as its title suggests, it is aimed at providing guidance for the layout of developments in urban areas, and it is unclear how relevant it can be in a rural village area like Elsenham. It is, however, also the case that the document acknowledges that the acceptability of the walking distance is not a stand-alone consideration, with people also taking account of overall journey times, as well as the frequency and directness of the bus service.
73. In this regard I have noted that if planning permission is granted, the appellant would make a contribution of £935,200 which ECC would use (along with contributions from other developments<sup>8</sup>) towards improving the local bus service 7/7A, to provide a half-hourly service operating from early morning to early

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<sup>8</sup> Such as the Rush Lane, Elsenham development of up to 40 dwellings, granted on appeal in September 2020 (Ref APP/C1570/W/19/3242550)

evening, 7 days a week, with a lower frequency on Sundays. It would provide a direct service from Stansted Airport, through Elsenham and Stansted Mountfitchet and onwards to Bishop's Stortford, giving improved peak hour services to local places of employment and education, and would be available to existing residents in the village and along its route, as well as to residents of the proposed development. In the context of an improved bus service like this, I see no good reason why the walk distances from the proposed development to the new bus stops on Henham Road should not be considered acceptable.

74. There was discussion at the inquiry regarding the proposal to remove the 'Henham loop' from some of these bus journeys, resulting in quicker journey times on some journeys, but also meaning that some of the bus services would not stop at the new stops proposed on Henham Road. As a result, these services would be less accessible to residents of the proposed development. That said, this situation would likely be addressed, at least to some extent, by ECC's intention to use some of the financial contribution to provide new, improved and re-arranged bus stops at the Crown Inn. Because of this, and as the removal of the 'Henham Loop' would only apply to some of the bus services, I do not consider that this would make the enhanced bus service unattractive, especially as there would be a clear benefit for the residents of Elsenham as a whole, and others.
75. There are also bus stops on Station Road, close to the rail station, although these would not serve those buses which miss out the 'Henham Loop'. Nevertheless, it seems to me that these stops would be within a reasonable walking distance from the dwellings in the northern part of the proposed development, by means of the intended pedestrian/cycle link which would provide access to the station. I accept that users of these bus stops would have to be mindful of the fact that the existing level crossing restricts surface access across the railway lines for about 20 minutes in every hour, but each closure is usually only for about 3-4 minutes on average. There is, in any case, a bridge across the railway which is available to all ambulant persons, although I acknowledge it is a fairly high bridge which would not be easy to carry a bicycle or pushchair over. Nevertheless these points indicate that if planning permission is granted, future residents of the proposed development would have reasonably easy access to an improved frequency local bus service.
76. The proposed pedestrian/cycle link to the station would make rail transport a realistic and convenient option for future residents of the proposed development, for both local and longer distance journeys. At present, Elsenham station provides a peak period service of 2 trains an hour to London, with the journey taking just over an hour, with services also to Cambridge, Bishop's Stortford and Harlow. The train also serves other nearby towns, with evidence before the inquiry indicating that the station is already well used by pupils travelling to secondary schooling in Stanstead Mountfitchet. At present I understand that the station attracts a relatively high 13% mode share of trips, and I see no reason why the proximity of the rail station could not result in a similar figure for future residents of the proposed development.
77. Reducing single-occupancy car trips and increasing the share of public transport and other sustainable modes of transport would be the aim of the Residential Travel Plan, which would be secured through the S106 agreement if planning permission is granted. This would set a target of a 10% reduction in the number of people travelling from the appeal site as single-occupant car drivers, with this reduction being established against the results of an initial travel survey, undertaken at 50% occupation of the site. The Travel Plan would provide for 3 measures which it is

generally accepted can be effective in persuading residents to reduce car use - personalised travel planning; travel packs; and 'taster' tickets.

78. Mr Watts commented that these aims and measures are little different to those proposed for the earlier, 800 dwelling scheme for this site, and that the Inspector who considered that proposal was doubtful whether a 10% mode shift away from single-occupant car use could be achieved. However, whilst I cannot speak for my colleague Inspector, as a matter of principle I am satisfied that measures such as detailed above, if in place at the outset of a new development like this, can, indeed, be effective in reducing overall car use and promoting the use of more sustainable modes of travel, especially if well-managed by an effective Travel Plan Coordinator. This view is reinforced by the fact that Travel Plans are endorsed and promoted in the national Planning Practice Guidance (PPG), as an important tool in encouraging sustainable travel.
79. On this topic, I have noted that several of the interested persons who participated in the inquiry spoke rather disparagingly about bus usage in the local area, and in this regard I am mindful of the fact that car ownership in Elsenham and Uttlesford is generally high. But notwithstanding this, not everyone in the district will own or have the use of a car, and it is car usage which the proposed Travel Plan and indeed local and national policies are seeking to address and reduce, by promoting the use of more sustainable non-car modes of transport.
80. Overall, I consider that the proposed development would represent a sustainable extension to Elsenham, which would provide future residents with acceptable access to local and more distant facilities by a choice of travel modes. Accordingly I find no conflict with paragraph 108(a) of the Framework, which requires new development to ensure that appropriate opportunities to promote sustainable transport modes can be, or have been taken up; or with that part of saved ULP Policy GEN1 which requires new development to encourage movement by means other than driving a car.

*The proposed site access junction*

81. The JPC maintained that the proposed location of the site access junction, on the inside of a sharp bend, would be contrary to guidance in the Design Manual for Roads and Bridges. However, what this guidance actually says is that a priority junction on the inside of a sharp curve is particularly hazardous as it can restrict visibility to a much greater degree than on the outside of a curve, and is likely to create blind spots. Whilst this is sound traffic engineering advice, it will be well-known to the local highway authority who have approved this junction positioning and layout, subject to 'clear to ground' visibility splays with dimensions of 4.5m by 120m in both directions being provided and retained, free of any obstruction.
82. The independent Road Safety Audit (RSA) confirmed that the proposed junction required no Departures from Design Standards, and made a small number of recommendations relating to proposed bus stop positioning, the provision of street lighting and provision of dropped kerbs and tactile paving to assist pedestrian movement across the junction. These have all been accommodated in the final junction design which is before me for approval as part of this proposal.
83. I accept that the visibility splays and street lighting could have some implications in landscape character terms, but I have already addressed this under the first main issue and do not consider the junction layout arrangements to be unacceptable in this regard. I also accept that the visibility requirements would place maintenance

responsibilities on the local highway authority, but as it is this authority that has requested this standard of visibility splay it is reasonable to assume that it is aware of and is content with any likely ongoing maintenance implications.

84. The RSA also made reference to the possibility of extending the 30mph speed limit to include the proposed junction, and this matter forms the subject of one of the agreed conditions requested by the local highway authority. It is clear that if the junction lay within a 30mph speed limit area, then visibility requirements would be lessened. However, for reasons already given above, I am satisfied that the junction as currently designed and proposed would be safe and fit for purpose. As such, this is not a matter which weighs against the appeal proposal.
85. Having regard to all the above points I find no conflict with paragraph 108(b) of the Framework, which requires new development to provide safe and suitable access to the site for all users, or with the similar requirements of saved ULP Policy GEN1.

*Assessment of the traffic impacts of the proposed development*

86. To deal with the wide-ranging objections raised by the JPC under this general heading, I consider it helpful, first, to briefly set out some relevant matters and conclusions of the Inspector who considered the 2013 proposal, and then summarise the work carried out by the appellant to respond to these matters in its assessment of the transport implications of the current proposal.
87. As already noted, the 2013 proposal was for a larger development, with a greater number of houses and a different development mix to that currently proposed in the appeal scheme. A Transport Assessment (TA) had been prepared for this previous scheme, but it is apparent that the Inspector placed little reliance on the traffic distribution and assignment figures produced by the appellant, because he had significant doubts that the strategy to route some 90% of traffic from the proposed development via Hall Road would be successful. This led that Inspector to conclude that the traffic impact on the highway network through Stansted Mountfitchet would probably be substantial.
88. That said, the Inspector also concluded that the residual cumulative impacts on sustainable transport modes, highway safety and the transport network, when taken as a whole, would not reach the Framework threshold of severe. This meant that his view – with which the SoS agreed – was that the development should not be prevented on transport grounds alone. Nevertheless, in recommending to the SoS that this earlier appeal should be dismissed, the Inspector considered that the substantial impact on the surrounding road network weighed heavily against the proposal. The SoS accepted this point, and it clearly was a contributory factor leading to the SoS's dismissal of the appeal.
89. In order to respond to the matters raised by the Inspector in the 2016 appeal decision the appellant had pre-application discussions with ECC to agree the scope of the transport assessment work which would be necessary. As a result, and in accordance with paragraph 111 of the Framework, and the additional national guidance on such matters in the PPG, the appellant produced a 2017 TA, a 2019 TA Addendum and a number of accompanying Technical Notes.
90. This assessment work included developing a VISSIM<sup>9</sup> traffic model, in order to model traffic conditions in Stansted Mountfitchet, so as to assess the impact of the

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<sup>9</sup> a multi-modal traffic flow simulation software package, capable of modelling complex vehicle interactions realistically on a microscopic level

development, particularly on the Grove Hill traffic signals junction, and identify necessary mitigation measures. The VISSIM model included all routes in Stansted Mountfitchet likely to receive traffic from the proposed development. The TA's input data and assessment methodology were agreed with both ECC and HE, with the VISSIM model being examined and accepted by ECC and its consultants, Jacobs.

91. However, having considered the 2017 TA, ECC raised concerns as to how well the traffic surveys undertaken in 2017 had captured traffic conditions and behaviour at the Grove Hill traffic signals, and the extent to which the VISSIM modelling could therefore be relied upon. In particular, it appeared that the 2017 surveys had failed to capture the full extent of the secondary queue of traffic on Grove Hill, waiting at the northern side of the on-street parking bays located on the northern side of Grove Hill. To address this, additional traffic surveys were undertaken in 2018, involving an extensive network of 29 video cameras, enabling the VISSIM model to be updated and recalibrated to ensure that both the primary and secondary southbound queues on Grove Hill were incorporated into the model.
92. The appellant and ECC's traffic signal engineers were both content that the recalibrated VISSIM model fully captured the operating characteristics of the Grove Hill traffic signals at that time. This recalibrated model was then used to assess the likely impact of committed development in the area<sup>10</sup>, with results showing that traffic from these committed developments would have a significant adverse effect on the operation of the Grove Hill signals, with traffic queues and delays at the signals increasing by a sizeable amount.
93. In order to try and remedy this situation, the appellant developed a scheme of alterations to the traffic signals, aimed at improving queuing and delay at Grove Hill, particularly for southbound traffic in the morning peak, and agreed this in principle with ECC. The objective was to improve the operation of the traffic signals so that this junction could acceptably accommodate not only the traffic from committed developments, but also the traffic from the appeal proposal, which was estimated to amount to some 92 vehicles (2-way) in the AM peak hour, and 100 vehicles (2-way) in the PM peak hour.
94. When these improvements to the traffic signals were tested with the VISSIM model, the results showed that the scheme would reduce queuing and delay at the signals, with the traffic from committed development and the appeal proposal, to a level below that predicted for committed development alone, if no junction improvement was carried out. As such, it was agreed between the appellant and ECC that the traffic impact from the proposed development on Grove Hill could be satisfactorily mitigated, and indeed that the mitigation offered by the appeal proposal would provide significant benefit to all users of the road network in Stansted Mountfitchet.
95. However, separate to the works being suggested by the appellant to mitigate the likely impacts of the appeal proposal, ECC undertook its own improvement of the Grove Hill traffic signals in Spring 2019, largely involving the replacement of ageing traffic signal equipment. Those improvement works have reduced queuing and delay at the Grove Hill traffic signals, and the appellant's VISSIM model has confirmed that the ECC improvements provide a similar level of performance as would the appellant's proposed mitigation measures. Because of this, ECC considers that the mitigation works proposed by the appellant are no longer necessary.

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<sup>10</sup> The various assessments have considered both 2022 and 2023, and committed development at those years

96. Having set out this background, I now consider the various matters raised by the JPC. A key part of its case centred round a consideration of dwelling numbers now proposed, compared to the previous 2013 proposal. Put simply, the JPC argue that the previous scheme was for 800 homes plus a school, some employment and retail, and that at that time a further 208 dwellings were considered to be committed development, giving a total of 1,008 dwellings. The current scheme is for 350 dwellings and a school, but the total amount of committed development which the JPC says should now be considered is 548 dwellings, plus the 208 dwellings referred to above, giving a grand total of 1,106 dwellings. In other words, some 98 more dwellings than at the time of the previous scheme.
97. The JPC then argue that as the additional committed development at Elsenham and Henham is located so as to be similarly reliant on the Grove Hill route through Stansted Mountfitchet, the likelihood is that the total cumulative impact on Grove Hill would be greater than that considered at the previous appeal. However, I consider there to be a number of shortcomings in the JPC's approach. Firstly, Mr Watts simply looks at dwelling numbers for housing proposals and provides no assessment of likely traffic generation or assignment from these dwellings. It is therefore not possible with any certainty to say what impact these developments may have on traffic flows generally, and in Stansted Mountfitchet in particular.
98. Moreover, although Mr Watts claims that a number of small and medium-sized developments have not been included as commitments in the VISSIM model, the appellant points out that the sites in question were granted planning permission between 2012 and 2016, and had been identified as built out at the time of preparing the TA and TA Addendum. As such, traffic from these sites would have been captured as existing traffic in the likes of the 2017 and 2018 traffic counts. Mr Watts's list also includes 40 dwellings at Rush Lane, but as this site did not receive planning permission until granted on appeal in September 2020 it would clearly have been unreasonable to expect it to have been included in the modelling work.
99. Overall I consider that the appellant's approach of determining the likely traffic generation from each of the committed developments and then assigning the trips to the highway network through the VISSIM model is a more appropriate method than simply relying on basic housing numbers, as Mr Watts appears to advocate. As such I place greater weight on the outputs from the VISSIM model, that on the rather more subjective assessments put forward by Mr Watts.
100. The JPC also make a number of criticisms of the survey information used to prepare the VISSIM traffic model arguing, in particular, that it is impossible to know whether, and the extent to which, the single survey day in June 2018 was representative of traffic conditions generally at Grove Hill. However, I place little weight on this criticism as it is quite normal to base transport assessments on traffic surveys carried out on a single day – provided that day is in what is considered a 'neutral' month, with no untoward occurrences.
101. The day and date in June 2018 had been agreed with ECC beforehand, and whilst I acknowledge that a second date in the following week had also been agreed with ECC, an unexpected event on this date meant that the second day's survey results could not be reliably used. ECC was aware of this situation and raised no objections to the use of the single day's survey results. In these circumstances I see no reason to consider the survey data used in the VISSIM model to be unreliable.
102. The JPC also criticise the fact that the maximum southbound queue recorded in the AM peak period at the Grove Hill traffic signals in the June 2018 surveys was 29

vehicles (primary and secondary queues added), equating to about 174m, whereas the equivalent maximum queue predicted by the VISSIM model was about 142m, equating to a 32m or about a 5 car difference. The JPC argue that this means that the modelling tends to underestimate actual maximum queues. However, I do not consider that any firm conclusions regarding the reliability and accuracy of the traffic model can be drawn from a single comparison like this, for several reasons.

103. Firstly, the numerical difference between 29 vehicles and 24 vehicles does not, to my mind, indicate a significant difference that would have any meaningful impact. Secondly, although the maximum modelled secondary queue is given as 115.3m (about 19 vehicles), the Technical Note<sup>11</sup> which contains this data makes it clear that the stated maximum figure has been averaged over all simulation runs. An examination of the individual model run data for this junction 'stop-line', contained in the same Technical Note, clearly shows some maximum modelled secondary queue lengths in excess of this 115.3m. The key point is that the 115.3m figure is the average maximum AM peak period queue, determined over a number of 'days'.
104. Thirdly, the same Technical Note points out that observed queue length data is particularly susceptible to human error, as the difference between what constitutes a queue, and what is better termed 'slow moving traffic', is difficult to discern, is extremely subjective and is therefore likely to vary between observers.
105. All of the above points reinforce the fact that a simplistic queue length comparison as undertaken by the JPC is not an appropriate way to assess whether the traffic model provides a realistic representation of traffic conditions. That is the role of the model calibration and validation procedures. The Technical Note explains that these procedures used validation criteria based on Department for Transport guidelines, and covered not simply queue lengths, but also turning flows, travel times, and an assessment of the Grove Hill signal controller.
106. The overall summary of the model validation, set out in the Technical Note, states that the modelled flows, journey times, queue lengths and green time distributions compare well to those observed. It concludes that the 2018 base model provides a good representation of the existing operation of the B1051 through Stansted Mountfitchet, against which the impact of additional committed development and vehicle trips from the appeal proposal can be assessed. The JPC has provided no firm, technically-based information to cause me to dispute this conclusion.
107. The JPC further criticise the fact that some model runs were excluded from the overall assessment, but these were simply those model runs where an impasse occurred, with modelled drivers in both directions in the constrained-width section of Grove Hill being courteous and continuing to give way to one-another, leading to the build-up of very lengthy queues. VISSIM is unable to resolve such situations, as it does not model the 'corrective' behaviour of drivers reversing, or pulling onto the kerb, which drivers actually adopt in practise. To retain such model runs would unrealistically bias the overall assessment, and discarding such runs is a perfectly appropriate response, as has been confirmed by the developers of VISSIM.
108. Much discussion took place at the inquiry regarding a partly constructed zebra crossing on Lower Street. The gist of the objection from the JPC and others is that the crossing is on a particularly busy part of the network, close to Grove Hill, and may well impact on the operation of the Grove Hill junction, but has not been factored into the model. However, the judgment of the traffic modellers advising

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<sup>11</sup> Technical Note 03 Rev C

the appellant, based on a significant number of observations, is that the use of existing crossings is minimal, such that crossing data could safely be excluded from the traffic model without invalidating its findings. However, these traffic modellers further advise that even if the use of pedestrian crossings increased, gaps between vehicles would still allow pedestrians to cross with little impact on vehicles. In the absence of any firm, technical evidence to the contrary on this matter, there is no basis for me to dispute the appellant's view.

109. Furthermore, although the JPC argued that the ECC alterations to the Grove Hill traffic signals have not brought about the improvements claimed, the evidence before the inquiry shows that there has, in fact, been a significant reduction in southbound queuing at these signals in the AM peak period, with maximum queues reducing from about 29 vehicles in June 2018, before the improvement scheme was implemented, to around 14 vehicles in March 2020, after the improvement. This clearly demonstrates that the ECC improvements have had a positive impact on the flow of southbound traffic through the Grove Hill traffic signals.
110. In addition, prior to the ECC improvements, southbound traffic approaching the signals frequently 'gapped-out'. This describes the situation when northbound vehicles are still travelling through the on-street parking section of Grove Hill, even though the southbound signal has turned to green. By the time northbound vehicles clear the parked cars, and the vehicles at the secondary queue are able to proceed, the traffic signals have already changed to red. The survey information shows that this 'gapping out' for the southbound AM peak flow occurred less frequently in 2020 than in 2018, providing a significant reduction in the level of secondary southbound queueing and vehicle delay.
111. The appellant maintains that this improvement can be explained by the increased range of the signals' detector. The original detector had a range of only 40m, whereas the replacement detector has a range of 85m, which means that it can more easily detect the secondary queue. Although Mr Watts questioned this point, no contrary technical evidence was placed before me to cause me to disregard the appellant's and ECC's view on this matter, namely that the works undertaken by ECC have, indeed, brought about a noticeable improvement to the operation of the Grove Hill traffic signals.
112. Whether the level of improvement is the same as that which would have been achieved by the 'Mitigation A' or 'Mitigation B' schemes which had originally been put forward by the appellant is not a matter for me at this inquiry. It is ECC who are ultimately responsible for the operation of the local highway network, and it is for ECC to determine the level and extent of improvement works it considers appropriate at this junction. My role is just to consider the likely impact of the proposed development on the operation of the highway network – including, of course, the Grove Hill traffic signals junction, alongside relevant local and national policies, and other material considerations.
113. In this regard the TA predicts that total traffic generation from the proposed development would be 174, 2-way vehicle trips in the AM peak hour, and 187, 2-way vehicle trips in the PM peak. Of this traffic, 92 vehicles are predicted to use Grove Hill in the AM peak (73 southbound, 19 northbound), with 100 vehicles in the PM peak (64 northbound, 36 southbound). This amounts to just over one extra vehicle per minute, added to the principal flow direction at the Grove Hill traffic signals in both peak hours. No technical evidence has been produced by the JPC, or others, to demonstrate that Grove Hill, or indeed any other part of the local

highway network, does not have the capacity to accommodate this level of additional traffic.

114. For reasons already detailed above, I have not found the JPC's objections to the VISSIM traffic model to be persuasive, and I therefore consider that future traffic conditions in Stansted Mountfitchet generally, and Grove Hill in particular, can best be assessed by means of this model. In this regard, the appellant tabled a comparison of modelled journey times between Elsenham and Lower Street, Stansted Mountfitchet for a number of different scenarios.
115. In summary, these modelled journey times reinforce the point made earlier, that with the ECC junction improvement in place, and with traffic from committed development and the appeal proposal, the 2023 peak journey times are longer than the same journey times in the base year of 2018, but they are appreciably less than the 2023 scenario with just committed development, and without the ECC improvement. Again, this demonstrates that traffic generated by the proposed development could be accommodated on the surrounding road network with no conflict with criterion (b) of saved ULP Policy GEN1, or with Framework paragraph 108(c). It is also clear that the appeal proposal would not require any additional improvements at Grove Hill beyond the measures already implemented by ECC.
116. It is right to note, however, that the model predicts that journey times could be reduced further still with the appellant's suggested 'Mitigation A' or 'Mitigation B' schemes, both of which would be compatible with the ECC works already carried out. On this point, the JPC argued that ECC may have formed a different view of the acceptability of its own improvement scheme if it had seen this more recent modelling work. However, the fact remains that ECC was content to sign a SoCG with the appellant back in March 2020, in which it stated, amongst other matters, that highway mitigation, beyond the Grove Hill traffic signals improvements which are already in place, is not required by the proposed development for traffic safety or highway capacity reasons. None of the matters raised by the JPC cause me to consider that ECC erred in signing the SoCG.
117. The JPC also assert that ECC is no longer confident about its Grove Hill improvement works, as it is currently objecting to 3 other housing developments in Elsenham and Henham, specifically in relation to impacts on Grove Hill. These are proposals for 220 dwellings at land north of Bedwell Road, Elsenham; 45 dwellings on land south of Vernon Close, Henham; and 99 dwellings on land to west of Isabel Drive, Elsenham. However, my understanding of the ECC position on each of these cases is simply that it is not satisfied, on the basis of the evidence currently before it, that the development in question would not have an unacceptable impact on the highway network – including at Grove Hill, Stansted Mountfitchet.
118. This is a perfectly normal, reasonable and indeed expected stance for a local highway authority to take. In contrast, ECC has been satisfied by the extensive VISSIM modelling work undertaken by the appellant in the current case, as witnessed by the SoCG referred to above. For these reasons I give very little weight to the JPC's unsubstantiated assertion, and do not consider that it casts any doubt on the efficacy of the improvement works already carried out, or their ability to satisfactorily accommodate traffic from the current appeal proposal. To my mind ECC's response on these other proposals simply goes to show that each development needs to be assessed on its own merits.
119. I turn finally, under this topic, to consider the evidence from interested persons, including that given at the inquiry on behalf of Elsenham Parish Council (PC),

Stansted Mountfitchet PC, the Grove Hill Residents' Group and a Grove Hill resident. Much of this evidence criticised the use of traffic models and focussed on first-hand experiences of the daily traffic situation in Stansted Mountfitchet. In this regard I accept the point made by Elsenham PC – and others – that traffic incidents occur throughout the day, and are not simply restricted to the peak periods.

120. The points raised tended to concentrate on the traffic conditions in Grove Hill, but also recounted problems which arise in the likes of Lower Street and Chapel Hill. I do not doubt the sincerity and accuracy of these comments and objections, but by their very nature they are subjective and were often couched in rather general terms. Whilst valuable, they do not provide the sort of objective evidence needed to assess wider traffic issues, such as the operation of the local highway network as a whole, or the detailed performance of individual junctions.
121. A case in point is the significant number of photographs which have been submitted, showing a variety of traffic-related situations and incidents which clearly occur on a regular basis, both during peak periods and indeed throughout the day. But these photographs quite literally represent snapshots of the situation in Grove Hill and elsewhere. It is clear that many such incidents do occur, and on a regular basis, but in my assessment these incidents arise primarily as a result of the physical layout and individual driver behaviour, and do not assist in assessing whether or not the Grove Hill traffic signal controlled junction is operating at or over capacity, and whether it can or cannot cope with additional traffic.
122. By far the greater number of submitted photographs show incidents involving large vehicles/heavy goods vehicles (HGVs). Indeed an appendix attached to the representation from Elsenham PC is specifically titled 'Photographic evidence of large vehicles on Grove Hill, Stansted Mountfitchet'. However, many of the vehicles shown clearly appear to be contravening the 7.5 tonne gross weight restriction which dates back to 1987, aimed at preventing such vehicles from entering Grove Hill from Lower Street. A few vehicles are exempted from this restriction such as emergency service vehicles, statutory undertakers and others who have business in connection with adjacent land, but the photographs certainly appear to show that many of the large vehicles using Grove Hill in the northbound direction do not fall into any of these categories.
123. As Grove Hill is narrow in places, with narrow footways, and with single-width sections through the traffic signals and alongside the stretch of on-street parking, it is not surprising that the use of this road by large vehicles and HGVs gives rise to problems. But whilst I accept that this will be no great comfort to those who live on Grove Hill, or who directly experience such incidents, the fact remains that this existing problem is primarily an enforcement issue. I do not consider it to be a matter which should carry any significant weight against the current proposal which would clearly generate car traffic, some of which would use Grove Hill, but would be unlikely to generate significant numbers of large vehicles or HGVs.
124. In terms of other traffic conditions, closing submissions on behalf of the JPC comment that amongst other things, the photographs submitted by Mr Watts show significant secondary queuing. But to expect anything else, certainly during busy peak periods, is to misunderstand the way in which this stretch of road has to function. It is self-evident that the existence of the on-street parking bays, so close to the traffic signals stop-line, means that the need for vehicles to form a secondary queue is inevitable. This situation could be improved if the on-street parking was removed, as it is the single-lane section caused by this parking, and

the fact that drivers sometimes fail to leave sufficient distance or gaps, which gives rise to the problems which were presented to the inquiry. But understandably, Grove Hill residents are reluctant to lose the ability to park outside their homes, as was made clear in the representation on behalf of the Grove Hill Residents' Group.

125. To my mind, other than more rigorous enforcement, there is no easy solution to the problems described above. Secondary queuing does not, in itself, amount to a particular problem, and there is nothing to suggest that the improvements carried out by ECC sought to eliminate secondary queueing. Clearly, if the southbound lights 'gap out' less frequently, then more southbound traffic can get through the junction during each cycle, and this will tend to reduce the extent of secondary queueing. Notwithstanding the general, subjective comments from interested persons that the ECC works have not resulted in any significant improvement, this is not borne out by the detailed evidence presented in the transport Technical Notes already referred to, above.
126. In summary therefore, whilst I do not dispute the evidence provided to the inquiry by interested persons in written, oral and photographic form, which was clearly sincere and heartfelt, this evidence predominantly related to matters that could and should be dealt with by better enforcement and better and more considerate driver behaviour. None of the evidence was of a specific, technical nature, or sought to demonstrate that the highway network in Stansted Mountfitchet generally, and along Grove Hill in particular, does not have the capacity to deal with the additional traffic likely to arise from the appeal proposal.
127. Moreover, as I understand it, no-one had suggested that the traffic incidents currently occurring in Grove Hill would be likely to disappear as a result of the ECC traffic signals improvements, or even if the appellant's suggested 'Mitigation A' or 'Mitigation B' schemes were to be progressed. With these points in mind, I do not consider that the existing physical constraints presented by this stretch of Grove Hill, and the traffic signal junction, constitute reasons, in themselves, for withholding planning permission for this proposal.

*Increased traffic on local roads*

128. Although the JPC raised general concerns about the adequacy of the local road network to accommodate traffic from the proposed development, no specific objection was made, and there was no suggestion that the impact of any such traffic would be severe. This is understandable as the JPC confirmed that it did not challenge the traffic assignment, which indicates that only a small amount of traffic from the proposed development would use many of the local roads referred to.
129. For example, just 1% of the generated traffic (2, 2-way peak hour trips) is predicted to use the route through Ugley Green, whilst only 8% (14, 2-way peak hour trips) is predicted to use Old Mead Road to the north. In any case, all the routes referred to are public roads, and whilst they do have some limitations, such as being unlit, having narrow carriageways, twisting alignments and numerous bends, all are currently used by traffic. On this point I again find no conflict with criterion (b) of saved ULP Policy GEN1, or with Framework paragraph 108(c).

*Environmental impacts of generated traffic*

130. Finally under this issue, the JPC argued that there had been a number of shortcomings in the originally submitted ES with regard to the likely environmental impacts on sensitive receptors, including pedestrians on the rural roads serving the site, children accessing Elsenham Primary School, pedestrians on footways on

Grove Hill and the high sensitivity of Grove Hill to changes in traffic flows. It is further argued that these shortcomings add weight to the likelihood that the impacts of this proposed development have been underestimated.

131. However, it seems that the shortcomings referred to relate primarily to concerns about the likely environmental impact of traffic from the proposed development on Elsenham Primary School and on pedestrians in Stanstead Mountfitchet. These matters were both fully addressed in the evidence to the inquiry from Mr Corrance, the appellant's transport witness, with the environmental impact in both cases being determined to be negligible. This view was not challenged at the inquiry, and because of this, I see no need to explore this matter further.

#### *Summary*

132. As has been outlined above, a significant amount of objection was raised against this proposal on highways, traffic and transport grounds by the JPC and by a number of interested persons and bodies. The fact remains, however, that neither the Council nor the relevant highway authorities have raised objections on these grounds. My assessment of these concerns leads me to conclude, for the reasons set out above, that the proposed development would not have an unacceptable adverse impact on the safety or convenience of users of the local highway network.
133. I therefore find no conflict with the requirements of saved ULP Policy GEN1, or with policies in Section 9 of the Framework. In particular, there would be no unacceptable impact on highway safety, and the residual cumulative impacts on the road network would not be severe.

#### ***Main issue 3 - Development plan considerations and the weight to be given to relevant policies***

134. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the signed, main Planning SoCG agreed between the Council and the appellant explains that the operative development plan for the area includes the saved policies of the ULP adopted in 2005, and the Essex Minerals Local Plan adopted in 2014. This SoCG also sets out what the Council and appellant consider to be the most important development plan policies for the determination of this appeal. Having regard to the various matters set out above these policies, all from the ULP, are:
- Policy S7 – The Countryside;
  - Policy GEN2 – Design;
  - Policy GEN6 – Infrastructure Provision to Support Development Policy; and
  - Policy H9 - Affordable Housing.
135. I consider the applicability of these policies, and the weight that they should attract in the assessment of this proposal, later in this section.
136. In addition, the closing submissions for the JPC contend that the proposed development would also result in clear breaches to the following ULP policies:
- Policy GEN1 – Access;
  - Policy ENV2 – Development affecting Listed Buildings; and
  - Policy ENV5 – Protection of Agricultural Land.
137. Again, I consider the applicability of these policies, and the weight that they should attract in the assessment of this proposal, later in this section.

138. The Framework, first published in 2012 and last updated in June 2019, is an important material consideration in this case, providing national policy guidance as well as clearly setting out the decision-taking process that should be adopted when considering planning proposals. In particular, it explains in its paragraph 11(c), that development proposals that accord with an up-to-date development plan should be approved without delay. Here, the ULP is clearly time-expired, with the Council confirming that it was prepared to be in conformity with the Essex Structure Plan 2001, and intended to guide development in the district up to 2011.
139. In such circumstances, regard needs to be had to paragraph 213 of the Framework, which states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, but that due weight should be given to them, according to their degree of consistency with the Framework. The closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given to them. I assess the consistency of the aforementioned ULP policies with the Framework shortly, but there is another factor which also needs to be taken into account, as is made plain in paragraph 11(d) of the Framework.
140. This is an assessment of whether or not the Council is able to demonstrate a 5 year supply of deliverable housing sites, with the appropriate buffer. This matter is clear-cut in this case, with the Council's most recent position, set out in its Housing Trajectory (April 2019) and 5 Year Land Supply Statement (October 2019), being that it only has a 2.68 year housing land supply (HLS). Accordingly, the development plan policies which are most important for determining this proposal are out-of-date, such that the decision-taking process to be applied here is that set out in paragraph 11(d) of the Framework.
141. This makes it plain that in such circumstances, planning permission should be granted unless:
- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
142. Policies relating to designated heritage assets fall under paragraph 11(d)(i), above, but in the main Planning SoCG the Council and appellant agree that the proposed development would result in less than substantial harm to the significance of the heritage assets identified within the ES, and that this less than substantial harm would be outweighed by the public benefits of the scheme, having regard to paragraph 196 of the Framework. I make my own assessment of this matter later in this decision, under the 'Other Matters' heading. Insofar as the matters covered by paragraph 11(d)(ii) are concerned, I assess the likely impacts of the proposal through my consideration of the other main issues, and will weigh these against the benefits of the proposed development in a final planning balance.
143. Dealing with the agreed, most important policies in turn, saved Policy S7 explains that the countryside to which this policy applies is those parts of the Plan area beyond the Green Belt that are not within settlement boundaries – as here. Amongst other things it goes on to explain that in the countryside, which will be protected for its own sake, planning permission will only be granted for development that needs to take place there, or is appropriate to a rural area.

Furthermore, it explains that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set, or if there are special reasons why the development in the form proposed needs to be there.

144. Much discussion took place at the inquiry over the weight to be given to conflict with this policy and the weight to be accorded to the policy itself, with a wide range of views being expressed. Put simply, Mr Freer for the appellant argued that it should only be given very limited weight; Mrs Hutchinson for the Council argued for moderate weight; while Mr Gardner for the JPC maintained that significant weight should be given to the conflict with this policy in terms of the harm to the landscape and the impacts on the character and appearance of the area.
145. In support of his position, Mr Freer submitted summary details of 13 previous appeal decisions covering the period June 2015 to October 2020, most of which were dismissed, although a couple were allowed, in which various Inspectors and the SoS gave differing amounts of weight to Policy S7. In attributing weight the Inspectors and SoS used such descriptors as 'considerable', 'significant', 'reduced', 'moderate', 'limited', and 'substantial'.
146. Undertaking a similar exercise Mr Gardner produced a table summarising some 18 appeal decisions (allowing for duplicates), including 9 decisions not referred to by Mr Freer. Again, these covered a mix of allowed and dismissed appeals (5 allowed and 13 dismissed), with Inspectors using broadly the same descriptors of weight as detailed above, with the addition of 'some', 'very limited', and 'not full'.
147. As a general point I consider that 2 broad themes can be discerned from these previous decisions. Firstly, in the 5 allowed appeals, Inspectors gave no more than 'limited' weight to Policy S7; and overall, there appears to be a trend of less weight being given to this policy as the Council's HLS position has worsened.
148. However, I do not consider it particularly helpful to compare or assess these previous decisions in detail, not least because they all relate to different proposals to the current appeal, at different times, for different sites, and with many also being assessed against a different planning policy background and a different HLS situation. Even the previous SoS decision relating to the earlier proposal from the current appellant was for a larger and different mix of development on a larger site, albeit covering most of the current appeal site, which was part of a housing allocation in the then emerging Local Plan, and when the Council could demonstrate a 5 year HLS.
149. But notwithstanding all the above points, I do consider that some useful pointers can be gleaned from the approach of the Inspectors in some of these previous appeal decisions. In particular I share the view of my colleague Inspector who determined the 'North of Wicken Road, Newport' appeal for 74 dwellings at an inquiry in December 2019<sup>12</sup>, and who characterised Policy S7 as having 3 main elements. The first of these, in effect, identifies settlement boundaries as 'development limits', beyond which land is considered to be countryside; the second element seeks to protect the countryside 'for its own sake', with strict control on new building in such areas; and the third element makes it plain that development will only be permitted if its appearance protects or enhances the particular character of the countryside within which it is set, or if there are special reasons why such development needs to be in that location.

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<sup>12</sup> Appeal Ref APP/C1570/W/19/3223694

150. As a whole, the wording of this policy goes beyond that set out in paragraphs 127 and 170 of the Framework which do not, explicitly, seek to protect countryside for its own sake. Moreover, as the settlement boundaries in the adopted ULP were aimed at accommodating housing numbers in the Essex Structure Plan 2001, for the period up to 2011, they are patently well out of date, restraining development and causing Policy S7 to be in clear tension with the Framework's objective of significantly boosting the supply of homes, set out in its paragraph 59.
151. Nevertheless, the SoS made it clear, in his 2016 decision relating to the previous application on this site, that that the policy aim of S7, *'to protect the countryside'*, was consistent with the Framework's principle, at that time, of *'recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it'*. Although the 2019 version of the Framework has now replaced the original 2012 version, current at the time of this previous appeal, the same broad objective of *'recognising the intrinsic character and beauty of the countryside'* still features, such that the SoS's view still stands.
152. Drawing these points together, the only reasonable conclusion is that Policy S7 can only be considered as being partially consistent with the Framework, and cannot therefore be given full weight. The first 2 elements of the policy can attract very limited weight in the context of this appeal. Settlement boundaries are clearly not inviolable as a matter of principle, nor is it reasonable to consider a blanket prohibition on new development in the countryside, particularly in a district where there is a very acute HLS deficit and – in the absence of an up-to-date Local Plan – no short or medium term strategy for alleviating this situation.
153. Insofar as the final part of Policy S7 is concerned, the SoS gave this significant weight in 2016, but this was at a time when the Council could demonstrate a 5 year HLS, meaning that the pressure to find additional sites for housing would have been less than is currently the case. It seems self-evident to me that the very acute HLS shortfall which now exists can only serve to increase the need for the Council to urgently find additional, suitable housing land and, as a corollary, the weight to be attached to this final element of Policy S7 should be reduced.
154. In terms of what that weight should be, I place little store by the JPC's view that it should still carry significant weight, for the reasons just set out. Moreover, the appellant's assertion that the sheer scale of the shortfall in the 5 year HLS only serves to underline the very limited weight that can be attributed to Policy S7, seems to me to underplay the important safeguarding role that this policy can still play, in line with the SoS's comments set out above. These points lead me to favour the Council's position that when its different roles and functions are considered the policy should, overall, attract moderate weight. I share that view.
155. Turning to saved ULP Policy GEN2, this sets out a number of criteria which new development should meet. These include that development (a) should be compatible with the scale, form, layout, appearance and materials of surrounding buildings; (b) should safeguard important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate; and (c) should provide an environment, which meets the reasonable needs of all potential users.
156. The Council's first putative reason for refusal alleged a conflict with this policy, but was not specific as to which part or parts of the policy the appeal proposal would be at odds with. Indeed, there was some discussion and debate at the inquiry as to whether it was reasonable, as a matter of principle, to assess an outline proposal

such as this against a policy which clearly deals with matters of detailed design. The Council's planning witness did, however, argue that the policy's first 3 criteria, detailed above, are applicable in this case.

157. In particular the Council argued that the proposed development would be some distance from existing facilities in Elsenham; would not provide appropriate links for future residents to existing facilities; and that the proposed school would be located in the furthest location from existing residents. But whilst these are legitimate concerns, I am not persuaded that they fall to be assessed under this policy. As the appellant points out, such matters really relate to transport sustainability and, as such, should have been raised in the context of saved Policy GEN1. The Council has alleged no breach of this policy, and it therefore follows that the Council does not regard these matters as seriously weighing against this proposal. As my conclusions on the second main issue make plain, I share that view.
158. However, taking design in its wider sense, and having regard to the evidence of the Council's landscape witness, dealt with under the first main issue, I can see that criterion (b) has some relevance in the consideration of this appeal. As noted earlier, I have concluded that there would be some conflict with this second criterion, but that this would be tempered by the fact that existing environmental features such as trees and hedgerows would be retained wherever possible.
159. That said, it is clear to me that saved Policy GEN2 deals more properly with detailed design matters, and therefore only has very limited relevance in the context of this proposal for outline planning permission. It is agreed to be one of the most important development plan policies in the determination of this proposal, but it is rendered out-of-date by the absence of a deliverable 5 year HLS. I acknowledge that good design remains an important element of the Framework, noted in its paragraph 124 as being a key aspect of sustainable development, but in the context of this appeal I consider that this policy should only carry moderate weight.
160. With regard to the remaining policies that the Council and appellant consider to be most important in the determination of this appeal, Policy GEN6 states that development will not be permitted unless it makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure made necessary by the proposed development. There is no suggestion that this policy should be given anything other than full weight. I also give full weight to Policy H9, which states that the Council will seek to negotiate an element of affordable housing of 40% of the total provision of housing, on a site to site basis, on appropriate allocated and windfall sites.
161. Turning to those policies referred to by the JPC, the first point of note is that the Council does not allege any conflict with or breach of any of these policies. Policy GEN1 sets out a number of criteria relating to matters such as access requirements, highway and junction capacity, highway safety and the transport needs of all users, all of which proposals for new development should meet. No conflict has been alleged between this policy and relevant paragraphs in the Framework, dealing with the transport implications of development proposals, such as paragraphs 108 and 110, and I therefore see no reason why this policy should not be given full weight. However, I have already concluded, in my consideration of the second main issue, that the proposed development would not conflict with this policy.
162. Saved Policy ENV2 deals with heritage matters and explains, amongst other things, that development affecting a listed building should be in keeping with its scale, character and surroundings, and goes on to state that development proposals that

adversely affect the setting of a listed building will not be permitted. This generally reflects the presumption in favour of protecting listed buildings, as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the thrust of Framework paragraphs 193 and 194.

163. It is clearly a relevant policy in this case, as the main Planning SoCG records agreement between the Council and the appellant that the proposed development would give rise to some harm to the significance of the listed buildings referred to earlier. However, the SoCG also indicates agreement between these parties that this harm would be less than substantial, and it is in this regard that the policy does not fully accord with the Framework, as Framework paragraph 196 requires any less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
164. I deal with this point under the 'Other matters' heading later in this decision, but it is sufficient at this stage for me to simply note that saved Policy ENV2 is only partly consistent with the Framework, for the reason just given, and I therefore give it reduced weight, having regard to Framework requirements.
165. Finally, saved Policy ENV5 states that development of the best and most versatile (BMV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. It further states that where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise. This policy is also relevant in this case, as the ES records that all of the appeal site, with the exception of the access and access road up to the main part of the site, is Grade 3a agricultural land, thereby falling into the BMV category. I deal with this matter under the 'Other matters' heading later in this decision.
166. The policy is broadly consistent with the Framework which notes in paragraph 170(b) that planning decisions should recognise the economic and other benefits of BMV agricultural land, whilst the footnote to paragraph 171 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. However, the Framework does not require development proposals to have undertaken an assessment of alternative sites, as this policy implies, and in this regard the policy is not fully consistent with the Framework. I therefore give it reduced weight.
167. For completeness I note that from the 2014 Essex Minerals Local Plan, only Policy S8 has been referred to by any of the parties. This provides for the safeguarding of mineral resources and mineral reserves, and requires that ECC as the Mineral Planning Authority (MPA) is consulted on all planning applications for development of 5ha or more on a site located within a sand and gravel Mineral Safeguarding Area, as here. In this case the MPA initially lodged a holding objection to the proposal, but following the submission of further information by the appellant it removed this objection and indicated that it had no further comment to make on the application. I therefore do not consider this policy further.
168. In summary, I share the view of the Council and the appellant that the most important policies in the determination of this proposal are saved ULP Policy S7, to which I give moderate weight; saved ULP Policy GEN2, to which I also give moderate weight; and saved ULP Policies GEN6 and H9, to both of which I give full weight. In terms of other policies, specifically those referred to by the JPC, I consider that saved ULP Policies GEN1, ENV2 and ENV5 are all relevant, but for

reasons already given above, I am satisfied that there would be no unacceptable conflict with GEN1. There would be some conflict with both ENV2 and ENV5, which I explore in more detail under the 'Other matters' heading, but for reasons given above it is my view that each of these policies have to be given reduced weight.

#### **Main issue 4 – Planning obligations**

169. The Council's third putative reason for refusal alleged that the appeal proposal did not provide any mechanism to secure the infrastructure requirements arising from the development, including the need for financial contributions towards additional healthcare facilities, child care, early years, primary and secondary education requirements or the delivery of 40% affordable housing and the proposed open space and playing fields and the subsequent maintenance of these areas. As such the proposal was considered to conflict with saved ULP Policy GEN6, which has already been discussed above.
170. However, draft planning obligations in the form of both a S106 agreement and a S106 unilateral undertaking to address these matters were submitted by the appellant and discussed at the inquiry, with signed and completed versions being submitted shortly after the inquiry closed, in accordance with an agreed timetable.
171. The S106 agreement makes provision for:
- Phasing of the development, in accordance with a Phasing Plan to be agreed with the Council;
  - The provision of up to 40% of the proposed dwellings as affordable housing units, together with details, in general terms, regarding their positioning on the site; the tenure mix and type of unit; and how the units would be allocated and managed;
  - The provision of Public Open Space, together with details of how it would be maintained;
  - The provision of Changing Rooms and a Junior Sports Pitch, together with details of how they would be maintained;
  - The provision of Green Areas, together with details of how they would be maintained;
  - A Health Contribution of £138,000 towards health care services in Elsenham, Henham and Stansted Mountfitchet, within an approximate radius of 2km from the development, to increase the capacity of primary care service provision within that area;
  - The setting up of a Management Company in relation to the Green Areas and Public Open Space;
  - A Hatfield Forest Contribution of £44,323 for the provision of visitor and botanical monitoring and mitigation works carried out by or on behalf of the National Trust at Hatfield Forest;
  - An Education Contribution, made up of an Early Years and Childcare Contribution, a Primary Education Contribution and a Secondary Education Contribution, together with a School Transport Contribution, all of which would be calculated on the basis of the total number of qualifying housing units and the appropriate cost generators, all as agreed with ECC as LEA;
  - Highway contributions, including a Public Transport Contribution of £935,200 towards the support or enhancement of a bus service that provides a half-hourly daytime service, Monday to Saturday to key facilities including Stansted Mountfitchet, Bishop's Stortford, Stansted

Airport, or any variation of the service as agreed with the Council, in consultation with ECC as local highway authority. Provision is also made for a study into the feasibility of extending the existing 30mph speed limit zone on Henham Road to the east of the proposed site access junction; the promotion of any necessary Traffic Regulation Orders; and the provision of all necessary works to extend the 30mph zone, if agreed with the local highway authority, and subject to successful consultation;

- A Residential Travel Plan and a Residential Travel Information Pack.

172. As appropriate, all of the above contributions would be index linked.
173. The S106 unilateral undertaking makes provision for land within the site to be made available for a 10 year period, for an on-site primary school school/early years centre. I understand that this separate undertaking is only necessary because ECC was unable to obtain instructions to enter into an agreement on this matter in the available timescale, before planning obligations needed to be completed as part of the inquiry process. That said, ECC has commented on the drafting of the unilateral undertaking, which has been based on its specifications, and is content with its provisions.
174. In summary therefore, the appeal proposal includes provision for a 1FE primary school, and the unilateral obligation secures land for that purpose. However, the proposed development is only expected to generate 0.5FE of demand, which ECC states is not sufficient to justify or sustain a new school. Accordingly, it has been agreed with ECC education officers that an appropriate contribution could be made by means of the S106 agreement to increase overall primary school capacity in the area, through the expansion of Magna Carta Primary Academy in Stansted Mountfitchet. In turn, this could result in the freeing-up of additional capacity at the recently expanded Elsenham Church of England Primary School, as some children from Stansted Mountfitchet who currently travel to school in Elsenham may not need to do so if the Magna Carta school were to be expanded.
175. If this arrangement did not release all of the necessary capacity in Elsenham, there is a primary school transport contribution within the S106 agreement which would be used to ensure that pupils could travel from Elsenham to Stansted Mountfitchet. However, to ensure further flexibility in terms of the options for addressing primary school capacity in the area, the potential for the delivery of primary educational facilities on the site is retained in the appeal proposal, and the aforementioned contributions could be redeployed for this purpose if ECC so chooses.
176. Having had regard to the above details, and the submitted Community Infrastructure Levy (CIL) Compliance Schedules relating to the S106 agreement and the unilateral undertaking, I am satisfied that all of these obligations are necessary to make the development acceptable and that all meet the requirements of paragraph 56 of the Framework and Regulation 122 of the CIL Regulations 2010. The obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. I therefore conclude that the submitted planning obligations would satisfactorily address the impact of the proposed development, and that the appeal proposal would therefore not be at odds with saved ULP Policy GEN6.

### **Other Matters**

177. In this section I deal briefly with other relevant matters, not covered directly by the main issues.

*Heritage concerns*

178. Chapter 9 of the submitted ES concentrates its assessment on those listed buildings which lie close to the appeal site's boundaries. These are the Grade II Waiting Room on the east side of the line at Elsenham Station, and a cluster of Grade II buildings on the south side of Henham Road, including Elsenham Place and Gardeners Cottage (also known as Lilac Cottage).
179. The ES assesses both constructional and operational effects and generally considers the impacts to be low adverse, having a minor adverse impact on the significance of the assets. The ES also considers the site to have a low potential for archaeological evidence of prehistoric to medieval activity, with the appeal proposal potentially having up to a high adverse effect, with the significance of this effect being classed as potentially up to minor adverse. No authoritative, contrary evidence has been submitted on these matters, and I therefore see no reason to dispute the findings and conclusions of the ES.
180. Indeed these findings and conclusions are broadly echoed by the Council's Conservation Officer in his consultation response on the application. With regards to the Grade II Waiting Room he comments that as no development is proposed on the land to the east of the asset, there would be no change to how the asset's significance is experienced.
181. With regard to Gardeners Cottage and the range of thatched, timber framed outbuildings, and the barn to the west of the cottage, he considers that these would be impacted as a result of the increased urbanisation of area surrounding the cottage. However, he further comments that the significance of the cottage resides predominantly in the historic fabric of the asset, with the level of harm therefore considered to be at the lower end of the scale. He also considers that there would be some impact on Elsenham Place and the barns to the west, as a result of the increased traffic flow, but concludes that any impact would be less than substantial.
182. The Council's Conservation Officer does not make reference to saved ULP Policy ENV2 in his consultation response, but summarises the level of harm which would result from the proposed development as 'less than substantial', in Framework terms and notes that as such, this harm has to be balanced against the public benefits of the proposal. Again, no authoritative contrary evidence has been submitted on this matter, and I therefore accept this assessment of the likely harm and deal with it under the 'Planning balance' heading, later in this decision.
183. In terms of the archaeology concerns, all parties agree that these could be addressed by the imposition of a suitably worded condition requiring a programme of archaeological evaluation and fieldwork to be carried out.

*BMV agricultural land*

184. This matter was considered by the Inspector and SoS in the earlier appeal into the 2013 proposal which involved a larger site overall, but which included the current appeal site. This earlier proposal would have resulted in the loss of just over 51ha of BMV agricultural land, but this loss was only accorded limited weight by the SoS, on the basis that there are no substantial areas of lower grade land close to existing settlements in Uttlesford, and the loss would only amount to a very small percentage of the overall BMV land in the district. As a result, the SoS only gave limited weight to the conflict with saved ULP Policy ENV5.

185. With this in mind, and as the loss of BMV land in the current appeal – at a little under 19.65ha - would be less than 40% of that in the earlier appeal, I consider that only very limited weight can be given to this loss, and to the consequent conflict with saved ULP Policy ENV5.

*Air quality*

186. The likely effect of the proposed development on air quality in the local area was raised by some interested persons who spoke at the inquiry, notwithstanding the fact that the Council had withdrawn its putative reason for refusal relating to this matter. However, none of those who spoke provided any detailed evidence in this regard, and there is therefore no reason for me to set aside the latest evidence on this topic, contained in the SoCG Addendum, submitted in November 2020, shortly before the inquiry opened.

187. This Addendum records agreement between the appellant and the Council that the 2020 Air Quality Annual Status Report represents the most up-to-date publicly available information relating to local air quality in Uttlesford, demonstrating that in 2019 no monitoring location in Uttlesford exceeded the Air Quality Objectives for England for nitrogen dioxide or particulate matter. As a result, both parties further agree that the proposed development under consideration in this appeal would not be in conflict with saved ULP Policy ENV13, and that this matter should therefore be a neutral consideration in the planning balance. In the absence of any persuasive evidence to the contrary, I accept that view.

**Benefits and disbenefits**

188. The proposed development would give rise to a number of benefits, which I now assess and summarise, before moving on to consider the disbenefits, which include the harm as a result of conflict with the development plan. In assessing the likely benefits of the proposal, I have also had regard to how they might assist in fulfilling the economic, social and environmental objectives of achieving sustainable development, as set out in paragraph 8 of the Framework.

*Benefits*

189. Firstly, the appeal proposal would deliver up to 350 new homes, giving rise to some economic benefits as a result of the jobs created during the construction phase and the increased spending power of new residents within the local economy. I accept that these benefits would arise from any similar-sized housing development and that they would therefore not be unique to this proposal. Nevertheless, they do constitute real economic benefits which should be acknowledged. The proposal also includes provision for an on-site 1FE primary school and childcare facility which would have the potential to create an estimated 31 full-time equivalent (FTE) jobs.

190. The provision of new housing would also give rise to additional Council Tax and New Homes Bonus payments for the Council, but as the Council's outgoings would have to rise to provide the necessary services for the additional population it is unclear whether these last items would result in any net benefit. However, even without these items, and ignoring the potential new educational jobs as they are by no means certain, I still consider that these economic benefits should carry **moderate weight**, and would go towards satisfying the Framework's economic objective, in the context of achieving sustainable development.

191. Clear social benefits would also arise from the provision of up to 350 much needed new homes. This would result in a substantial increase in the housing stock, which

has to be seen as being of particular importance as the Council can currently only demonstrate a 2.68 year's supply of deliverable housing land. Notwithstanding the Council's comment that its housing delivery performance has been positive in recent years, delivering 147% of its need in 2018 and 153% in 2019, it currently has no short or medium-term strategy to address this significant shortfall from the required 5 year supply. In these circumstances I consider that the provision of new homes through this scheme should carry **significant weight**.

192. In this regard the appellant's voluntarily suggestion and acceptance of a planning condition to shorten the deadline for the submission of reserved matters applications from 3 years to 2 years, would clearly assist further in speeding up housing delivery.
193. The proposed development would also provide the policy-compliant figure of 40% affordable units, which in this case would amount to up to 140 new affordable homes. The evidence before me is that the West Essex and East Hertfordshire Strategic Housing Market Assessment – Affordable Housing Update (July 2017), which informed the preparation of the latest, now withdrawn emerging Local Plan, identified the total need for affordable housing between 2016-2033 in Uttlesford as 2,167 dwellings. No further details have been submitted to show whether this figure has increased or decreased in recent years, but for reasons already set out above, the Council clearly has no firm short or medium-term strategy to address this significant need.
194. The importance placed on providing affordable housing is highlighted by the key priorities set out in the Council's Corporate Plan 2020-2024. These include an objective to 'Deliver more affordable homes and protect those in need in our district'. The provision of up to 140 affordable homes through this proposal would provide almost 6.5% of the need figure identified in 2017. This would be a not insubstantial contribution to affordable housing. This seems to me to be a particularly important matter as average house prices in Uttlesford are more than 13 times the workplace based average earnings, compared to the national average figure of 7.8. There seems to be no real disagreement between the parties that the provision of this amount of affordable housing should be seen as a significant benefit. I agree, and accord it **significant weight**. This would assist in satisfying the Framework's social objective of sustainable development.
195. The proposed provision of a substantial amount of additional market and affordable housing would also assist in supporting the Government's objective, set out in paragraph 59 of the Framework, of significantly boosting the supply of homes. This paragraph goes on to say that it is important that a sufficient amount and variety of land can come forward where it is needed, so that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. It is because of this that I give little credence to the JPC's argument that the weight to be given to the provision of new market and affordable housing should be reduced, because almost 580 new houses are already being developed in Elsenham and Henham. This might have been a material consideration if the position regarding the Council's HLS deficit was not so grave. But in light of the current position, already outlined above, I see no good reason to lessen the weight to be given to new housing of this type and scale.
196. I also consider that the provision of new public open space, including a new junior football pitch and changing rooms, has to be seen as an overall benefit. The importance of this benefit is highlighted by the fact that the Council's Sports

Facilities Development Strategy (2016) identifies an immediate demand for 6 additional youth sports pitches across the district, and Mr Jarvis, who spoke at the inquiry as the Chairman of the Elsenham Youth Football Club, also argued for more sports pitch provision in the district. The appeal proposal would go some way towards meeting this need, and as the new junior football pitch and changing rooms would be available to the wider community, and not just residents of the proposed development, I consider that this should be seen as a benefit of **moderate weight**.

The Green Infrastructure Strategy proposed by the appellant would assist in securing a number of environmental and ecological enhancement measures, including new native landscape planting and additional faunal opportunities. This is seen by the Council as a benefit of the appeal proposal, and such measures clearly accord with Framework paragraph 170(d), which indicates that planning decisions should help to provide net gains for biodiversity. Moreover, the provision of safe and accessible green infrastructure and sports facilities would enable and support healthy lifestyles, as sought through Framework paragraph 91(c).

At the same time, of course, the proposal would result in the loss of open, agricultural land, although this is inevitable when development takes place on a greenfield site like this. Considering this loss alongside the likely environmental and ecological benefits outlined earlier leads me to the view that, on balance, the proposal would satisfy the environmental objective of sustainable development and would result in modest environmental and ecological benefits, to which I accord **modest weight**.

197. The additional pressure on education facilities, arising from up to 350 new homes, would be met through the various contributions in the submitted S106 agreement and I have already concluded that these would be necessary to make the appeal proposal acceptable. As such, I do not see these contributions as a specific benefit of the proposal. However, the fact that the appeal proposal includes land for a 1FE primary school and an Early Years and Childcare facility, secured for a 10 year period through the S106 unilateral obligation, would provide the LEA with flexibility to address future educational needs over the coming years. Further flexibility would be offered by the fact that the LEA could call for land for the Early Years and Childcare facility, even if it did not require the land for a primary school.
198. Moreover, if the school was built on the site it would give rise to up to 31 FTE jobs and the buildings would be available for community uses outside of school hours, as detailed in the S106 unilateral undertaking. These latter points would both be clear benefits of the scheme, but as there is no certainty that a new school would be built on the site it is not reasonable to have regard to them at this stage. Nonetheless, the offer of the land and the flexibility it would offer to the LEA do constitute real benefits, which I consider should be given **modest weight**.
199. Under the second main issue I have already discussed the fact that the appellant would make a significant contribution of £935,200 towards enhancements to the 7/7A bus service. Although I note that interested persons who spoke at the inquiry viewed the current bus services as being poorly used, it does not automatically follow that an enhanced service, as proposed here, would not prove to be more attractive. Importantly, as this enhanced service would not only be available to new residents of the proposed development, but also to existing residents living in Elsenham and elsewhere along its route, I consider it would be a real benefit of this proposal, to which I give **moderate weight**.

200. The prediction in the TA that the proposed development could deliver a relatively high 13% mode share by rail primarily arises because of the appeal site's proximity to the rail station, but this would be assisted by the intended provision of a direct pedestrian and cycle link to the station. Locating new homes near a rail station like this fully accords with saved ULP Policy GEN1(e) and Framework paragraph 108(a), and overall I consider that these measures to help increase non-car travel should be seen as a benefit of the proposal, to which I give **modest weight**.

#### *Disbenefits*

201. Disbenefits flow from matters where there is conflict with the development plan or Framework, as has been detailed above. Under the first main issue I have concluded that there would be some harm to the character and appearance of the surrounding area, with a clear and permanent impact on the appeal site itself but only a minimal adverse effect on the character and appearance of the wider area, with no moderate or major adverse visual effects in the long term. As such, there would be conflict with saved ULP Policies S7 and GEN2, but for reasons already given, I consider that these policies can only carry moderate weight in this appeal. This leads me, overall to conclude that the harm to the character and appearance of the countryside should only be given **limited weight**.

202. There would also be harm to the setting of the listed buildings on Henham Road in the vicinity of the appeal site, resulting in conflict with saved ULP Policy ENV2. However, this policy is only partly consistent with the Framework, and therefore attracts reduced weight. The harm is agreed by the appellant and Council to be 'less than substantial'. Paragraph 193 of the Framework makes it quite clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. As a result I consider that **great weight** should be given to the heritage harm in this case.

203. Framework paragraph 196 explains that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. All parties agree that the public benefits of this proposal would outweigh this level of harm, and I share that view. This means that the first leg of Framework paragraph 11(d) does not apply in this case, and that the proposal needs to be assessed using the 'tilted balance' detailed in Framework paragraph 11(d)(ii). I carry out this balance later in this decision, after examining all other harms.

204. The proposal would result in the loss of less than 19.65ha of BMV agricultural land, and would be at odds with saved ULP Policy ENV5. However, this policy carries reduced weight as it is not fully consistent with the Framework. Accordingly, and for reasons given earlier, this loss of BMV land can only be given **very limited weight**.

205. Although the JPC alleges that the appeal proposal would result in various traffic and transport-related harms, and thereby be in conflict with saved ULP Policy GEN1, I have not found this to be the case, following my consideration of the second main issue. The proposal therefore gives rise to no harm in this regard.

#### ***Summary, planning balance and overall conclusion***

206. Having regards to the matters detailed above, applying the 'tilted balance' set out in Framework paragraph 11(d)(ii) means 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 in this Framework taken as a whole.

207. I have concluded that the economic benefits should carry **moderate weight**; and that **significant weight** should be given to the provision of up to 350 much-needed new dwellings, with **significant weight** also being given to the provision of up to 140 affordable homes. The provision of new public open space, including a new junior football pitch and changing rooms carries **moderate weight**, with **modest weight** going to the environmental and ecological benefits. The provision of land for a primary school, and an Early Years and Childcare facility attracts **modest weight**, whilst enhancement of the local bus service attracts **moderate weight**. Finally, the provision of a direct pedestrian and cycle link from the proposed development to the rail station attracts **modest weight**.
208. Set against these benefits, the harm to the character and appearance of the countryside carries **limited weight**; **great weight** has to be attributed to the heritage harm; and finally the loss of BMV land attracts **very limited weight**.
209. In my assessment, balancing the benefits and disbenefits detailed above indicates quite clearly that the adverse impacts of allowing this proposal would **not** significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This means that the appeal proposal would constitute sustainable development, and this is a weighty material consideration in the appeal proposal's favour. In my assessment it is sufficient to outweigh the conflict with the development plan in this case.
210. With these points in mind my overall conclusion is that this proposal should be allowed, subject to the imposition of a number of conditions as discussed at the inquiry, summarised below, and set out in the attached Schedule.

#### Conditions

211. Condition 1 is the standard condition for outline planning permissions, modified to require submission of Reserved Matters within 2 years of the date of the permission, at the request of the appellant. Condition 2 is imposed to provide certainty and to ensure that the development is carried out in accordance with the approved plans. The JPC requested that this condition makes reference to a future masterplan, to be submitted as a Reserved Matter, but I do not consider this to be necessary. As currently drafted, particularly with the inclusion of the Parameter Plan, I am satisfied that the condition is sufficient to enable the Council to adequately consider applications for the approval of Reserved Matters.
212. Condition 3 is imposed to ensure the appropriate investigation of archaeological remains, and Condition 4 is needed in the interests of highway safety and the control of environmental impacts. Conditions 5, 6, 7 and 8 are all imposed in the interests of conserving and enhancing biodiversity, and to allow the Council to discharge its duties under the UK Habitats Regulations 2017; the Wildlife & Countryside Act 1981 as amended; and section 40 of the Natural Environment and Rural Communities Act 2006, as appropriate. In addition, Condition 7 is imposed to conserve the character of the site.
213. Conditions 9, 10 and 11 are necessary in the interests of highway safety, with Conditions 10 and 11 also being imposed in the interests of accessibility and reducing the need to travel by car. Condition 12 is necessary to make provision for the charging of plug-in and other ultra-low emission vehicles. Condition 13 is imposed in the interests of reducing the need to travel by car and promoting

sustainable transport. Condition 14 seeks to protect the residential amenity of any future occupiers, with Condition 15 serving a similar purpose in seeking to protect the amenity of any future occupiers of the school, if it is built on-site. Condition 16 is a further noise condition, imposed to protect the amenity of neighbouring uses which may be sensitive to noise-sensitive development.

214. Condition 17 is necessary to ensure that the proposed development does not cause pollution of Controlled Waters or harm to human health, and in the wider interests of safety and residential amenity, whilst Condition 18 seeks to prevent flooding by ensuring the satisfactory storage of and/or disposal of surface water from the site. Condition 19 is imposed to ensure that appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended, and to ensure the satisfactory drainage of the site.
215. Condition 20 is needed to ensure a high standard of accessibility, while Condition 21 is imposed to ensure that the environmental impacts of the development are adequately mitigated and in the interests of the amenity of nearby residents and/or occupiers. Condition 22 is needed in the interests of protecting the amenity value of existing trees, where possible, and finally, Condition 23 is imposed to ensure that the environmental impacts of the development are adequately mitigated.
216. All of the above conditions were agreed between the Council and the appellant but as already noted, the JPC considered that additional wording should be added to Condition 2 – a matter with which I do not agree, for the reasons set out above. The JPC also took the view that there should be a condition to secure the Residential Travel Plan, rather than this being secured through the S106 agreement as agreed between the Council and the appellant.
217. In this regard I acknowledge the general guidance in paragraph 54 of the Framework, that planning conditions should be used in preference to planning obligations. But in view of the complexity of the proposed Residential Travel Plan, and the fact that money needs to be secured for the likes of monitoring purposes, I consider that the provision of this Travel Plan could best be secured through a planning obligation, as proposed. Insofar as the proposed Education Travel Plan is concerned, the JPC rightly points out that this would only come into being if a primary school is constructed on the site. However, I do not regard this as a particular problem. If no school is built on the site, education trips would simply fall to be covered by the Residential Travel Plan to which I have just referred.
218. Finally, through Mr Gardner, the JPC argued that the wording of several of the conditions (Nos 5, 9, 10, 12, 14, 19 and 23) should be amended to prevent any development commencing until the subject of the condition had been discharged or otherwise dealt with. However, no evidence was submitted to demonstrate that any unsurmountable problems would arise with the likes of the works sought by these conditions – such as visibility splays and transport infrastructure – so I see no good reason why these matters should restrain the start of development.
219. I have had regard to all other matters raised, including the points put forward in opposition to the proposal on behalf of both Elsenham Parish Council and Stansted Mountfitchet Parish Council, but find nothing sufficient to outweigh the considerations which have led me to conclude that this appeal should be allowed.

*David Wildsmith*

**INSPECTOR**

**Schedule of conditions (23 in total)**

- 1) Approval of the details of layout, scale, landscaping, and appearance (hereafter called 'the Reserved Matters') must be obtained from the Local Planning Authority in writing before that development commences and the development must be carried out as approved.  

Application for approval of the first Reserved Matters must be made to the local planning authority not later than the expiration of 2 years from the date of this permission. The development hereby permitted must be begun no later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - FFP012-151 Rev B Site Location Plan
  - FFP012-132 Rev J Parameter Plan
  - 0582.GA.002E Rev F Primary Site Access
- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and:
  - a) The programme and methodology of site investigation and recording.
  - b) The programme for post investigation assessment.
  - c) The provision to be made for analysis of the site investigation and recording.
  - d) The provision to be made for publication and dissemination of the analysis and records of the site investigation.
  - e) The provision to be made for archive deposition of the analysis and records of the site investigation.
  - f) The nomination of a competent person or persons/organisation to undertake the works.
- 4) Prior to the commencement of the development, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
  - a) Hours of operation, site office locations, delivery, and storage of materials details.
  - b) Vehicle parking, turning, and loading arrangements.
  - c) Construction Traffic Management Plan.
  - d) Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway.
  - e) Waste management plan.
  - f) Measures to limit noise and vibration from construction activities.
  - g) Risk assessment of potentially damaging construction activities.
  - h) Identification of 'biodiversity protection zones'.
  - i) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - j) The location and timing of sensitive works to avoid harm to biodiversity features.
  - k) The times during construction when specialist ecologists need to be present on site to oversee works.
  - l) Responsible persons and lines of communication.

- m) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- n) Use of protective fences, exclusion barriers and warning signs.
- o) A scheme for early structural planting.
- p) Measures to provide temporary localised surface water run-off management systems for construction stage activities.
- q) A soil management plan for construction stage activities.
- r) A Bird Hazard Management Plan (BHMP) to minimise the risk of bird strike.

The development must be carried out in accordance with the approved CEMP

- 5) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the occupation of any dwelling. The LEMP shall include provision for habitat creation and management during the life of the development hereby permitted, and shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period).
  - g) Details of the body or organisation responsible for implementation of the plan. Ongoing monitoring, remedial/contingency measures triggered by monitoring to ensure that conservation aims, and objectives are met.
  - h) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured and the management body or bodies responsible for its delivery.

The approved plan will be implemented in accordance with the approved LEMP.

- 6) Prior to the commencement of development an Invertebrate Mitigation and Management Plan (IMMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the IMMP shall include the following:
- a) Review of baseline invertebrate data to inform the design of the Sustainable Drainage System (SuDS) and appropriate mitigation.
  - b) Risk assessment of potentially damaging construction activities.
  - c) Identification of 'biodiversity protection zones'.
  - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
  - e) Details of initial aftercare and long-term maintenance.
  - f) Details for monitoring and remedial measures.

The measures and/or works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 7) Prior to the installation of any fixed external lighting within the public realm, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme must:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

- b) show how and where external lighting will be installed (through the provision of a design drawing and a spill light isolux drawing) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- c) provide details of future maintenance of installed fixed lighting.

The lighting scheme shall be implemented in accordance with the approved details.

- 8) The Skylark Mitigation Strategy shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of development. The Skylark Mitigation Strategy shall be in general accordance with the strategy principles as set out in Environmental Impact Assessment (EIA) Vol 1 (December 2017) and EIA Vol 1 Addendum (May 2019) and include the following details:
  - a) Mapped details of the proposed location of Skylark nest plots within appropriate habitat and number of Skylark plots to be provided.
  - b) Purpose and conservation objectives for the proposed Skylark nest plots.
  - c) Detailed methodology for the Skylark nest plots following Agri-Environment Scheme option: 'AB4 Skylark Plots'.
  - d) Details of the persons responsible for the implementation and management of the Skylark Mitigation Strategy.

The Skylark Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years.

- 9) Prior to the occupation of any dwelling access from Henham Road shall be provided in accordance with drawing 0582-GA-002F REVF and shall include visibility splays with dimensions of 4.5 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be retained free of any obstruction clear to ground at all times thereafter.
- 10) Prior to the occupation of any dwelling the transport infrastructure as shown in principle on drawing number 0582-GA-002F REVF shall be provided:
  - Two bus stops, to the specification of Essex County Council and including poles, flags, timetables, raised kerbs, shelters and appropriate road markings.
  - 2m wide footway on the north side of Henham Road from the site access to join with the existing footway to the west.
  - Footway on the south side of Henham Road to link the existing footways.
  - Dropped kerb crossing point of Henham Road.
  - Dropped kerb crossing point of public right of way and associated signing of Public Right of Way (PROW) 21 (Elsenham).
- 11) Prior to the commencement of the development, a scheme showing a footway/cycleway of minimum width of 3m, linking the development to Old Mead Road (as shown on the approved Parameter Plan (FFP012-132 Rev J), including details of associated signing and lighting shall be submitted to and approved in writing by the Local Planning Authority. The footway/cycleway shall be constructed in accordance with the approved scheme and made available for use prior to the occupation of the first dwelling hereby permitted.
- 12) Prior to the occupation of any dwelling hereby permitted an electrical vehicle charging point shall be provided for that dwelling. For houses these shall be accessible from any on-plot parking spaces associated with that house. For every 25 flats, one or more parking bays shall be marked out for use by electrical vehicles only. Charging infrastructure and cabling shall be provided and thereafter maintained and retained.
- 13) Prior to the opening of the primary school, an Education Travel Plan must be submitted to and approved by the Local Planning Authority in writing. The Education Travel Plan shall then be actively implemented from the opening of the primary school for a minimum period of 5 consecutive years during which the school is operational.

- 14) Prior to the occupation of any dwelling hereby permitted a scheme for protecting the proposed dwellings from rail noise shall be submitted in writing to the Local Planning Authority for approval. Details shall include the design, layout and acoustic noise insulation performance specification of the external building envelope, having regard to the building fabric, glazing and ventilation. The scheme shall be based on insulation calculations provided in British Standard 8233:2014, and World Health Organisation (WHO) Guidelines for Community Noise and shall be designed to achieve the following noise targets: Bedrooms (23.00-07.00 hrs) 30 dB LAeq (8hrs), living Rooms (07.00-23.00 hrs) 35 dB LAeq (16hrs) 55 dB LAeq (16hr) for noise levels in the external garden areas (or part thereof). The scheme shall be implemented as approved.
- 15) Prior to the opening of the primary school, a scheme of design and mitigation measures to achieve BB93 School Acoustics criteria for the specific rooms of the school, and for any external teaching areas so that noise levels should not exceed 50dB LAeq 30 mins shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
- 16) Prior to installation of any externally mounted ancillary plant for non-residential buildings, equipment and servicing a scheme of design and details of any necessary mitigation to achieve a rating level at the closest noise sensitive receptor from all plant combined of 5 dB LAeq below the typical background (LAeq 90) level at the nearest noise sensitive receptor shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
- 17) No development shall take place until an assessment of the nature and extent of contamination, based on the findings of the East of Elsenham Preliminary Risk Assessment (November 2017), has been submitted to and approved in writing by the Local Planning Authority.

This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site, and must include: a survey of the extent, scale and nature of contamination; and an assessment of the potential risks to human health, the water environment, property (existing or proposed), service lines and pipes, adjoining land and any other receptors identified as relevant. If found to be necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The scheme must include all works to be undertaken, proposed remediation objectives, an appraisal of remedial options, a timetable of works and site management procedures.

The remediation scheme for each phase shall be implemented in accordance with the approved timetable of works. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report demonstrating that the remediation objectives have been achieved must be submitted to and approved in writing by the Local Planning Authority.

In the event that contamination that was not previously identified is found at any time after the development of any phase has begun, development must be halted on that part of the site affected by the unexpected contamination. The contamination must be reported in writing within 3 days to the Local Planning Authority. An assessment must be undertaken in accordance with the requirements of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

- 18) Prior to the commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- a) Limiting discharge rates partly via infiltration and partly to 9.7l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- b) Final modelling and calculations for all areas of the drainage system.
- c) The appropriate level of treatment for all runoff leaving the site, in line with the simple Index Approach in chapter 26 of the Construction Industry Research and Information Association (CIRIA) SuDS Manual C753.
- d) Detailed engineering drawings of each component of the drainage scheme.
- e) A final drainage plan which details exceedance and conveyance routes, finished floor levels (FFL) and ground levels, and location and sizing of any drainage features.
- f) A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- g) A programme for the delivery of the surface water drainage scheme ensuring necessary provision of surface water drainage infrastructure throughout the construction phase of the development until completion.

The scheme shall subsequently be implemented in accordance with the approved drainage scheme including the programme for delivery.

- 19) Prior to the occupation of any of the dwellings hereby permitted a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

The applicant or any successor in title must maintain yearly logs detailing the maintenance of the surface water drainage system which should be carried out in accordance with the approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

- 20) 5% of the dwellings approved by this permission shall be built to Category 3 (Wheelchair user) housing M3 (3)(2)(a) wheelchair adaptable. The remaining dwellings must be built to Category 2: Accessible and adaptable dwellings M4 (2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 21) No development or preliminary groundworks shall commence until an Unexploded Ordnance Risk (UXO) Assessment has been submitted to and approved in writing by the Local Planning Authority. The UXO Assessment shall include details of risk mitigation measures, how mitigation will be implemented, details of the procedures should high risk UXO not previously identified be encountered and the reporting regime. The mitigation shall be undertaken in accordance with the approved scheme.
- 22) Prior to commencement a detailed arboricultural method statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall identify trees to be retained as part of the development and shall include details of measures to protect and manage those trees during and after the construction stage of the development. The development shall be undertaken in accordance with the approved statement.
- 23) Prior to the occupation of any dwelling a scheme for hedgerow gap planting in the hedgerow to the south of Footpath 15 shall be submitted to and approved in writing by the Local Planning Authority. The hedgerow gap planting shall be undertaken in accordance with the approved scheme.

## APPEARANCES

### FOR THE COUNCIL

Mr Josef Cannon of Counsel	instructed by the Solicitor to Uttlesford District Council
<b>He called:</b>	
Mr Jon Etchells MA BPhil CMLI	Director, Jon Etchells Consulting Limited
Mrs Alison Hutchinson MRTPI	Partner, Hutchinsons

### FOR THE APPELLANT

Mr James Maurici QC	instructed by David Lock Associates
<b>He called:</b>	
Mr Colin Goodrum BSc(Hons) DipLA FLI	Director, LDA Design
Mr Gerry Corrance CEng MICE FCIHT	Technical Director, WSP
Mr Nicholas Freer MSc MRTPI	Chairman and Partner, David Lock Associates

### FOR THE JOINT PARISH COUNCILS OF HENHAM AND UGLEY - RULE 6(6) PARTY

Ms Jenny Wigley of Counsel	instructed by the Joint Parish Councils
<b>She called:</b>	
Ms Alison Farmer BA MLD CMLI	Director, Alison Farmer Associates Ltd
Mr Simon Watts CEng MICE MCIHT	Director, SW Transport Planning Ltd
Mr Geoffrey Gardner MSc MRTPI DMS MCIWM	Director, Gardner Planning

### INTERESTED PERSONS OPPOSING THE PROPOSAL

Dr Graham Mott	Chairman, Elsenham Parish Council
Cllr Geoffrey Sell	On behalf of Stansted Mountfitchet Parish Council
Mr Raymond Woodcock	Resident of Stansted Mountfitchet, on behalf of the Grove Hill Residents' Group
Ms Diane Macfarlane	Resident of Grove Hill, Stansted Mountfitchet
Mr Jonathan Fox	Local resident
Mr David Morson	Local resident
Mr Paul Jarvis	Chairman, Elsenham Youth Football Club

**CORE DOCUMENTS**

<b>Document Number</b>	<b>Document Title</b>
<b>List 1: Application Documents and Plans</b>	
1.1	Site Features Plan (Drawing: FFP012/153 Rev B)
1.2	Planning Statement (December 2017)
1.3	Design and Access Statement (December 2017)
1.4	Transport Assessment (December 2017)
1.5	Framework Residential Travel Plan (December 2017)
1.6	EIA Vol 1 (December 2017), pertinent chapters
1.7	EIA Vol 2 (December 2017), pertinent appendices
1.8	EIA Vol 3 Non-Technical Summary
<b>List 2: Additional/Amended Reports and/or Plans submitted after validation</b>	
2.1	Registered Primary Care Surgeries Briefing Note (11 July 2018)
2.2	Agent's Letter – Revised and Additional Documents (20 May 2019)
2.3	Site Location Plan (DWG Ref: FFP012/151 Rev B)
2.4	Primary Site Access Plan (DWG Ref: 0582-GA-002F)
2.5	Parameter Plan (DWG Ref: FFP012-132 Rev J)
2.6	Planning Statement Addendum (May 2019)
2.7	Design and Access Statement Addendum (May 2019)
2.8	Transport Assessment Addendum (February 2019)
2.9	EIA Vol 1 Addendum (May 2019), pertinent chapters:
2.10	EIA Vol 2 Addendum (May 2019), pertinent appendices
2.11	EIA Vol 3 Addendum Non-Technical Summary
2.12	Addendum to Technical Note 3 - Stansted Mountfitchet Microsimulation Modelling Revision C (3 July 2019) (WSP)
2.13	Technical Note 4 - Results of additional sensitivity tests (air quality) (3 July 2019) (WSP)
<b>List 3: Consultee Responses</b>	
3.1	NHS England (17 January 2018)
3.2	Environment Agency (22 January 2018)
3.3	Natural England (22 January 2018)
3.4	Sport England (26 January 2018)
3.5	Environmental Health (2 May 2018)
3.6	Elsenham Parish Council and Village Joint Parish Council Steering Group (11 May 2018)
3.7	Environmental Health (20 August 2018)
3.8	Gardner Planning on behalf of Elsenham, Henham and Ugley Parish Councils (3 September 2018)
3.9	Technical Note: Development East of Elsenham – Air Quality (31 August 2018) (Brook Cottage Consultants Ltd – Dr Claire Holman)
3.10	Historic England (19 July 2019)
3.11	Highways England (25 July 2019)
3.12	Natural England (2 August 2019)
3.13	Essex County Council Minerals & Waste Planning (7 August 2019)
3.14	Environmental Health (4 September 2019)
3.15	Technical Note: Development East of Elsenham – Air Quality (8 September 2019) (Brook Cottage Consultants Ltd. – Dr Claire Holman)
3.16	Heritage & Conservation (13 September 2019)

3.17	Gardner Planning on behalf of Elsenham, Henham and Ugley Parish Councils (23 September 2019)
3.18	ECC Ecology (26 September 2019)
3.19	ECC Highways (7 January 2020)
3.20	ECC SuDS (18 February 2020)
<b>List 4: Appeal Documents</b>	
4.1	Appeal form (20 December 2019)
4.2	Appellant's Statement of Case (20 December 2019)
4.3	Uttlesford District Council's Statement of Case (18 February 2020)
4.4	Geoff Gardner Planning on behalf of Joint Parish Councils (Henham and Ugley Parish Councils) Statement of Case (18 February 2020)
4.5	Case Management Telephone Conference Inspector's Pre-Conference Note (21 February 2020)
4.6	Appellant's response to LPA's and Rule 6 Party's Statement of Case, including Technical Note 5 as an enclosure (24 February 2020)
4.7	Appellant's Position Statement for the Case Management Telephone Conference (25 February 2020)
4.8	Case Management Telephone Conference Inspector's Summary Note (26 February 2020)
4.9	Signed Statement of Common Ground between the appellant and Uttlesford District Council on all matters excluding landscape and air quality (6 March 2020)
4.10	The Council's Technical Note: Development East of Elsenham – Air Quality (Brook Cottage Consultants) (6 March 2020)
4.11	Signed Statement of Common Ground between the appellant and Uttlesford District Council on air quality matters (17 March 2020)
4.12	Signed Statement of Common Ground between the appellant and Highways England (17 March 2020)
4.13	Signed Statement of Common Ground between the appellant and Essex County Council (19 March 2020)
4.14	Statement of Common Ground between the appellant and Rule 6 Party on Highways Matters (7 October 2020)
4.15	Joint Landscape Position Statement (9 October 2020)
4.16	Case Management Telephone Conference Inspector's Summary Note (11 September 2020)
<b>List 5: Planning Policies/the Development Plan</b>	
5.1	Secretary of State's direction and schedule of saved policies (21 December 2007)
5.2	Uttlesford Local Plan 2005 - National Planning Policy Framework Compatibility Assessment (July 2012)
5.3	Uttlesford Local Plan 2005 Policies Map
5.4	Uttlesford Local Plan 2005 Policies and relevant paragraphs
5.5	Essex Minerals Local Plan 2014 Policies and relevant paragraphs
<b>List 6: Emerging Development Plan</b>	
6.1	Exam Doc 82 – Inspectors' letter post stage 1 hearings (10 January 2020)
6.2	Exam Doc 83 – Timetable for the Council's response to Inspectors' letter (14 February 2020)
6.3	Document number not in use
6.4	Document number not in use
6.5	Uttlesford Draft LDS 2020 for LPLG August 2020
<b>List 7: National Planning Policy Framework and Planning Practice Guidance</b>	
7.1	Document number not in use
7.2	Planning Practice Guidance Relevant Paragraphs

<b>List 8: Relevant Appeal Decisions</b>	
8.1	Secretary of State Decision and Inspector's Report APP/C1570/A/14/2219018 (25 August 2016): Fairfield Site, Station Road, Elsenham (UTT/13/0808/OP).
8.2	Appeal Decision APP/C1570/W/18/3209655 (15 February 2019): Land South of Wicken Road, Newport (UTT/17/2868/OP).
8.3	Appeal Decision APP/C1570/W/18/3213251 (8 August 2019): agricultural land west of Great Canfield Road, Takeley, Uttlesford, Essex (UTT/18/0318/OP)
8.4	Secretary of State Decision and Inspector's Report APP/U4230/A/11/2157433 (16 July 2012): Land at Burgess Farm, Hilton Lane, Worsley, Manchester, M28 3TL (10/58745/OUTEIA)
8.5	Appeal Decision APP/C1570/W/19/3242550 (4 September 2020): Land south of Rush Lane, Elsenham, CM22 6TF (UTT/19/0437/OP)
8.6	Appeal Decision APP/C1570/W/19/3243727 (4 September 2020): Land to the south of The Street, Takeley, CM22 6LY (UTT/18/2049/FUL)
<b>List 9: Relevant Judgements</b>	
9.1	Paul Newman New Homes Ltd v Secretary of State for Housing Communities and Local Government and Aylesbury Vale District Council [2019] EWHC 2367 (Admin) (06.09.2019)
9.2	Court of Appeal Suffolk Coastal District Council v Hopkins Homes Limited v Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP v Cheshire East Borough Council v Secretary of State for Communities and Local Government [2016] [2016] EWCA Civ 168 (17.03.2016)
9.3	Supreme Court Suffolk Coastal District Council v Hopkins Homes Limited v Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] UKSC 37 (10.05.2017)
9.4	Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2020] EWHC 518 (Admin) (06.03.2020)
9.5	Court of Appeal Hallam Land v Secretary of State for Communities and Local Government [2018] EWCA Civ 1808 (31.07.2018)
<b>List 10: Technical Guidance</b>	
10.1.1	Planning Policy Guidance 13: Transport (first published March 2001, updated January 2011) (Superseded) – Paragraphs 74 and 77
10.1.2	Guidelines for the Environmental Assessment of Road Traffic – Institute of Environmental Assessment (1994) – Paragraphs 3.14 to 3.20
10.2.1	The Air Quality (England) Regulations 2000 (Made 6 March 2000, Coming into force 6 April 2000)
10.2.2	Department for Environment, Food & Rural Affairs (DEFRA): The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (2007)
10.2.3	DEFRA: Clean Air Strategy (2019)
10.2.4	DEFRA: Local Air Quality Management Technical Guidance (TG16) (2018)
10.2.5	Part IV the Environment Act 1995
10.2.6	European Ambient Air Quality Directive (2008/50/EC) (European Commission, 2008)
10.2.7	Air Quality Standards Regulations 2010
10.2.8	Environmental Protection UK (EPUK)/ Institute of Air Quality Management (IAQM): Land-Use Planning & Development Control: Planning for Air Quality (2017)
10.2.9	IAQM: Dealing with Uncertainty in Vehicle NOx Emissions within Air Quality Assessments (July 2018)
10.2.10	Uttlesford District Council Air Quality Action Plan 2017 – 2022

10.2.11	Uttlesford District Council: Air Quality Technical Guidance (2018)
10.2.12	Health matters: air pollution, guidance from www.gov.uk, accessed 20 March 2020
10.2.13	Cambridge Environmental Research Consultants (CERC), 2018, Best practice air quality modelling using ADMS, presentation by Dr Jenny Stocker the Institute of Air Quality Management's Routes to Clean Air Conference, 29 October 2018, Birmingham
10.2.14	Uttlesford District Council: 2019 Air Quality Annual Status Report (2019)
10.3.1	Guidelines for Landscape and Visual Assessment, Third Edition. Routledge/LI /IEMA 2013. (Published book. Due to copyright restrictions it is not possible to provide a digital copy, instead a hard copy will be available for all parties to view during the Inquiry)
10.3.2	Natural England: South Suffolk and North Essex Clayland Character Area profile (2014)
10.3.3	Natural England – Web extract: Landscape Character Typology for the East of England Map; Settled Chalk Valleys Landscape Character Type Summary; and Wooded Plateau Farmlands Landscape Character Type Summary
10.3.4	Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006): Figure 7.1 and Pages: 278, 279, 280, 281, 305, 306 and 307
10.3.5	Essex & Southend-on-Sea replacement structure Plan review – Essex Landscape Character Assessment (2003), Pages: 32, 33, 34, 45, 46, 47, 48, 49, 50, 51, 67, 68, 75, 76, 77, 78 and 79
<b>List 11: Miscellaneous</b>	
11.1	Housing Trajectory and 5-year land supply position (1 April 2019)
11.2	2014 Emerging Local Plan Inspector's Report (19 December 2014)

### DOCUMENTS SUBMITTED AT THE INQUIRY, AND SHORTLY BEFORE

Document	1	Opening submissions on behalf of the appellant
Document	2	Opening submissions on behalf of the Council
Document	3	Opening submissions on behalf of the Joint Parish Councils of Henham and Ugley
Document	4	Statement from Dr Mott on behalf of Elsenham Parish Council
Document	5	Statement from Cllr Sell, on behalf of Stansted Parish Council
Document	6	Statement and Report from Mr Woodcock on behalf of the Grove Hill Residents' Group
Document	7	Statement from Ms Macfarlane
Document	8	Statement from Mr Fox
Document	9	Statement from Mr Morson
Document	10	Statement from Mr Jarvis
Document	11	Bundle of documents comprising details of the suggested unaccompanied site visit itinerary, and plans, agreed between the Council, the appellant and the JPC
Document	12	Extracts from the Green Infrastructure Strategy Addendum, submitted by the appellant
Document	13	Air Quality SoCG Addendum between the appellant and Council
Document	14	Technical Note: Fairfield, Elsenham – Cumulative Air Quality Impacts, submitted by the Council
Document	15	Bundle of additional docs relating to highways and transport matters, submitted by the JPC
Document	16	Extract from CD 123 'Geometric design of at-grade priority and

		signal-controlled junctions' from the Design Manual for Roads and Bridges, relating to Major and Minor roads, submitted by the JPC
Document	17	Extracts from transport proofs of evidence and rebuttal proofs of evidence for Appeal Ref APP/C1570/A/2219018 from 2014, submitted by the appellant
Document	18	Bundle of 2 emails from interested persons, relating to traffic conditions on Grove Hill, Stansted Mountfitchet, dated 11 November 2020
Document	19	Email from Mr Woodcock dated 17 November 2020, relating to the proposed zebra crossing at Lower Street, Stansted Mountfitchet
Document	20	Signed and completed S106 Agreement, completed 27 November 2020
Document	21	Signed and completed unilateral undertaking, submitted by the appellant, completed 24 November 2020
Document	22	Community Infrastructure Levy (CIL) Compliance Schedule relating to the S106 Agreement, submitted by the Council
Document	23	CIL Compliance Schedule relating to the S106 Unilateral Undertaking, submitted by the appellant
Document	24	Final schedule of proposed conditions, agreed between the Council and the appellant
Document	25	Comments from the JPC on the final schedule of proposed conditions
Document	26	Closing Statement from Dr Mott
Document	27	Closing Statement from Mr Woodcock
Document	28	Closing Submissions on behalf of the JPC
Document	29	Closing Submissions on behalf of the Council
Document	30	Closing Submissions on behalf of the appellant