



Ministry of Housing,
Communities &
Local Government

Simon James
PLanD
[REDACTED]

Our ref: APP/M1595/W/25/3358576
Your ref: 19/01556/OUT

15 April 2026

Dear Simon James

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY GRASSLANDS LTD
KINGS FARM, PARKERS FARM ROAD, ORSETT, ESSEX, RM16 3HX
APPLICATION REF: 19/01556/OUT**

This decision was made by Parliamentary Under-Secretary of State for Housing and Local Government, Baroness Taylor of Stevenage, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of O S Woodward's MRTPI, who held a public local inquiry between 1 and 16 July 2025 into your client's appeal against the decision of Thurrock Council to refuse your client's application for planning permission for a mixed use development comprising up to 750 no. residential dwellings, medical facility, retail and commercial units, in accordance with application Ref. 19/01556/OUT, dated 30 September 2019.
2. On 16 June 2025, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

5. For the reasons given at IR1.3-1.6, the Secretary of State agrees that the proposal must remain for 750 dwellings and like the Inspector has proceeded on that basis unless otherwise expressly indicated (IR1.6).

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Laura Webster, Decision Officer
Planning Casework Unit
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2 Marsham Street
London SW1P 4DF

6. For the reasons given at IR1.7-1.10, the Secretary of State agrees that up to 80 dwellings would be for older persons accommodation but that this is not secured by the description of development, any proposed conditions, or a section 106 Planning Agreement (IR1.7). He agrees that it is reasonable to assume that some form of older persons accommodation could come forward (IR1.9), and like the Inspector has proceeded on the basis of the provision of up to 80 older persons dwellings with ancillary facilities that would be small in scale and narrow in scope (IR1.10).
7. For the reasons given at IR1.11-1.12, the Secretary of State agrees with the Inspector's approach to the proposed retail and commercial floorspace, and the medical facility, and has proceeded on this basis.
8. For the reasons given at IR1.13 the Secretary of State agrees that whilst it would have been preferable for the description to include direct reference to the proposed accesses, it is not necessary in this case.

Environmental Statement

9. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as amended by the updated Landscape Visual Impact Assessment (LVIA). Having taken account of the Inspector's comments at IR5.1, the Secretary of State is satisfied that the ES and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the Inquiry

10. On 13 and 20 February 2026, the appellant submitted further material relating to the Council's resolution to approve a mixed use scheme with up to 2,100 dwellings at Horndon St Mary. On 20 February 2026, the Secretary of State wrote to the Council to afford it an opportunity to comment on the implications of this new material. A list of representations received in response to this letter is at Annex A.

Policy and statutory considerations

11. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
12. In this case the development plan consists of the Thurrock Core Strategy and Policies for Development Management (as amended), adopted January 2015 (the CS) and saved policies from the Borough Local Plan 1997. The Secretary of State considers that relevant development plan policies include those set out at IR6.2-6.14.
13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance).

Emerging plan

14. The Local Development Scheme dated March 2025 anticipates Regulation 19

consultation on the emerging Local Plan (eLP) in Spring 2026 (IR6.15). Paragraph 49 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State agrees with the Inspector that as the eLP is in the early stages of production, it carries limited weight (IR6.15).

Main issues

Accessibility by non-car based modes of transport

15. In reaching his conclusions on this matter, the Secretary of State has taken into account the Inspector's conclusions, the material submitted by the appellant on 13 and 20 February 2026, and parties' subsequent comments on that material.
16. For the reasons given at IR12.3-12.11 the Secretary of State agrees that the site is highly dependent on the car for accessibility for almost all journeys (IR12.11). For the reasons given at IR12.12-12.13 he further agrees that the retail and commercial floorspace would provide a genuine choice of transport modes other than the car for some, albeit few, journeys, and that the provision of a segregated cycle and walking route from the appeal site along Parkers Farm Road to Bulphan village would result in a genuine option for cycling and even walking for at least some of the future residents of the proposal (IR12.13).
17. For the reasons given at IR12.14 the Secretary of State agrees that the proposed payment of £250,000 towards diverting the existing school bus service into the appeal site has not been justified or explored in any way by the appellant, and it has not been demonstrated that the service operator would be willing to make such a diversion. The Secretary of State therefore agrees that it is not possible to know whether the payment is compliant with the Community Infrastructure Levy (CIL) Regulations 2010. He therefore agrees that this element of the Unilateral Undertaking (UU) should cease to have effect, and agrees that the appeal site would therefore remain inaccessible to schools, other than for some pupils to Bulphan primary school, by any mode of transport other than the car.
18. For the reasons given at IR12.15 the Secretary of State agrees that whilst the proposed extension of bus route 565 into the site would bring the route within easy walking distance of the proposed dwellings, an hourly service is a limited and unattractive offer by comparison with car journeys, and its utility to commuters to London would be limited given the relatively late start and early finish to the service. He agrees that it would not offer a genuine alternative to the car (IR12.15).
19. The Secretary of State has taken into account the UU clauses pertaining to subsidising an increase in frequency of the 565 route, as well as extending its operating times from 06:00 to 20:30 (IR12.16). However, he agrees for the reasons set out at IR12.16-12.18 that the proposed subsidy to the frequency and start/finish times of the service is not necessary to make the development acceptable in planning terms, and is not fairly and reasonably related in scale and kind to the proposed development. He considers that it is not, therefore, compliant with the CIL Regulations and concludes that this element of the UU should cease to have effect (IR12.18). The Secretary of State agrees that even as changed, the bus service would remain a relatively infrequent route serving limited destinations, and agrees that the increase in frequency and extension of operating hours

of the bus route as proposed in the UU would not make a meaningful difference to the patronage of the route (IR12.17). For the reasons given at IR12.130, he agrees that if the proposal to increase the frequency of bus route 565 was successfully implemented, it would have only limited benefits to existing off-site residents which use the service (IR12.130). Given his conclusion that this element of the UU should cease to have effect, the Secretary of State gives this no weight.

20. The Secretary of State agrees at IR12.19 that only very limited weight can be given to future transport solutions potentially created by DP World.
21. The Secretary of State has considered whether the matters raised by the appellant in its correspondence of 13 and 20 February 2026 affect his conclusions on this matter. The appellant considers that the Council's resolution to approve a mixed use scheme with up to 2100 dwellings at Horndon St Mary to the north of the appeal site improves the sustainability of the appeal proposal through the facilities it will provide, and improvements to the provision and long-term viability of sustainable transport serving the appeal site. The Council disagrees, noting that the section 106 Heads of Terms for the Horndon St Marys scheme only requires a high-level Bus Strategy at this stage, with details to be agreed as part of future reserved matters stages.
22. The Secretary of State considers that there is clearly some potential for the Bus Strategy for Horndon St Marys to improve the transport sustainability of the proposal, e.g. via increasing the frequency of the 565 bus route and implementing a new route to facilities at Grays which theoretically could connect to the appeal site. There is also potential for footpath links and cycle routes to be improved. However, he considers that considerable uncertainty remains. He notes that the Horndon St Marys section 106 has not progressed beyond Heads of Terms and details of the potential new bus services are not secured. He considers that there is considerable uncertainty about the implementation and impact of any improvements, and therefore gives the potential sustainability benefits arising from the resolution to grant permission at Horndon St Marys very limited weight.
23. It is not clear from the evidence before the Secretary of State that the improvements would be sufficient to make the appeal site sustainable, and he does not consider that the Council's resolution to approve the scheme at Horndon St Marys overcomes his concerns in respect of the accessibility of the site, or the reasons for which he has determined that the relevant clauses in the UU should cease to have effect.
24. Overall for the reasons given at paragraphs 15-23 above and IR12.20-12.22 the Secretary of State agrees that the car would likely remain as the mode of transportation of choice for the majority of journeys for the foreseeable future, and there would not, therefore, be a genuine choice of transport modes other than by car (IR12.20-12.21). He agrees that the appeal site is an inappropriate location for development of this type having regard to local and national policy and guidance with particular regard to accessibility and reliance on the car, and that it fails to comply with paragraphs 110 and 77 of the Framework, as well as Policy CSTP15 of the CS (IR12.22). For the reasons given at IR12.121 and at paragraphs 15-24 of this letter, the Secretary of State agrees that substantial weight should be placed on the inaccessibility of the appeal site.

Character and appearance

25. For the reasons given at IR12.23-12.24, the Secretary of State agrees with the Inspector that there was sufficient information to fully assess the effect of the proposal on the character and appearance of the area. The Secretary of State agrees with the Inspector's

assessment of the existing character and appearance of the area as set out at IR12.25-12.28.

26. For the reasons given at IR12.29-12.30 the Secretary of State agrees that the eventual layout, design landscaping and quantum of development is not yet fully defined, partly because the proposal is in outline, and partly because the appeal is for up to 750 dwellings and the appellant's evidence was on the basis of an illustrative masterplan which indicated 690 dwellings (IR12.29 and paragraph 5 above). He agrees with the Inspector's approach as set out at IR12.30.
27. For the reasons given at IR12.31-12.50, the Secretary of State agrees that the intrinsic harm to the appeal site would be significant, and would harm some key characteristics in particular the open, flat, rural character and a sense of tranquillity including dark skies (IR12.31), and this would only be partially mitigated by the context that the site is an operating airfield, rather than agricultural land (IR12.48). He agrees there would be further harm from the appearance of a large new settlement in an isolated location, but still sufficiently close to Bulphan village so as to negatively affect its setting (IR12.48). The Secretary of State agrees that the proposed hedgerows would only be a neutral contributor to the character and appearance of the area (IR12.34), and that the proposed noise bund could be an attractive or at least neutral feature (IR12.35). He agrees that there would be some harm from light pollution from the proposed development (IR12.41), and agrees there would be harm, albeit limited, to the rural character of Parkers Farm Road both from the proposed footway and the setting of the road from the proposed development (IR12.48).
28. The Secretary of State agrees that no evidence has been submitted to show that a layout can be achieved at a density of 37.5 dwellings per hectare whilst maintaining a sufficiently high quality design (IR12.36), and shares the Inspector's concerns regarding the proposed woodland area (IR12.38) and the buffer (IR12.39). He further agrees that it has not been adequately substantiated that the potential level of car parking could be successfully accommodated on the appeal site (IR12.47). Overall, he agrees that it has not been demonstrated that the appeal site could accommodate the 750 dwellings proposed, together with the other uses and associated car parking spaces as have been applied for, with particular regard to density, layout, boundary treatment and the proposed woodland area (IR12.49).
29. Overall, the Secretary of State agrees that the level of harm to the character and appearance of the area, in particular landscape character, is significant (IR12.50), and carries significant weight (IR12.119). He agrees that the proposal fails to comply with Policy CSTP22 of the CS which requires high quality design, Policy CSTP23 which requires proposals to reflect the character of the area, Policy PMD2 which requires development to respond to the sensitivity of the site and its surroundings, and Policy PMD9 which requires that proposed development preserves or enhances the quality of the street scene (IR12.50).

Flooding

30. For the reasons given at IR12.51-12.55, the Secretary of State agrees that any pluvial risk from cross boundary sources, if it exists at all, would be very limited in extent (IR12.52), that the detailed design of the proposal could respond to and mitigate these risks (IR12.53) and that the flood risk mitigation measures would not prevent the appeal site accommodating either 750 or 690 homes (IR12.54). The Secretary of State agrees that the proposed development represents an acceptable form of development having

regard to its flood zone location and the provisions of the Framework (IR12.55).

31. The Secretary of State notes that the appellant's Sequential Test Assessment (STA) concludes there are no reasonably available alternative sites. For the reasons given at IR12.56-12.59 he agrees with the Inspector that the four sites identified by the Council are reasonably available alternative sites (IR12.58). The Inspector gives significant weight to the failure to adequately undertake a sequential assessment (IR12.59). However, given the conclusions above at paragraph 30 that detailed design can mitigate risks, and taking into account paragraph 27 of Planning Practice Guidance, the Secretary of State considers that an STA is not required in the circumstances of this case, and this does not weigh against the proposal.

Inappropriate development in the Green Belt

32. For the reasons given at IR12.60-12.73 the Secretary of State agrees that the proposal would cause substantial harm to openness, and exception 154(g) of the Framework is not met by the proposed development (IR12.71). He further agrees that the appeal site comprises grey belt land (IR12.73). For the reasons given at IR12.74-12.78 and IR12.80, the Secretary of State agrees that the proposal would not fundamentally undermine the purposes (when taken together) of the remaining Green Belt across the area of the plan (IR12.80). He considers that the development of the site has only limited relevance to purpose (e) (IR12.79). The Secretary of State considers that the Framework paragraph 155(a) is met.
33. For the reasons given at IR12.81, the Secretary of State agrees that a lack of five year housing land supply represents demonstrable unmet need and that Framework paragraph 155(b) is met.
34. For the reasons given at IR12.82, IR12.20-12.22 and paragraphs 15-24 above, the Secretary of State agrees that the site is not in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework, and paragraph 155(c) is not met.
35. For the reasons given at IR12.83-12.84, the Secretary of State agrees that the 50% affordable housing secured through the UU meets the Golden Rules at Framework paragraph 156(a) and 157. He considers that whilst the form and nature of the open spaces and recreational facilities will be determined by subsequent applications, he agrees that the requirements of the Golden Rules at Framework paragraph 156(c) are met (IR12.83). In the light of his conclusions at paragraphs 15-24 above, the Secretary of State agrees that the proposal fails to successfully secure necessary improvements to local infrastructure, i.e. the bus services, and does not meet the requirements of the Golden Rules at Framework paragraph 156(b).
36. For the reasons given at paragraphs 32-35 above, the Secretary of State agrees at IR12.84 that the proposal constitutes inappropriate development in the Green Belt. He concludes on whether Very Special Circumstances exist in paragraph 57 below.
37. For the reasons given at IR12.115-12.117 and IR12.123, the Secretary of State agrees that the proposal would cause substantial harm to both visual and spatial openness (IR12.115), would be an obvious and large scale encroachment of built form into a currently mostly open site and that overall the proposal would harm purpose (c). He further agrees that substantial weight should be given to the identified harms to the Green Belt (IR12.117).

Other matters

Noise

38. For the reasons given at IR12.85-12.86 and IR12.122, the Secretary of State agrees that as the noise assessment is based on the proposal for 690 dwellings and a proposal for 750 dwellings could involve dwellings closer to the A128, it has not been demonstrated that adequate internal living environments could be secured for future occupants of the proposal. He agrees that it fails to comply with Policy PMD1¹ of the CS, which requires suitable living conditions for occupants (IR12.84), and that noise impacts carry moderate weight (IR12.122).
39. For the reasons given at IR12.87-12.89 and IR12.124, the Secretary of State agrees that the effect of the commercial uses on the future occupants of the dwellings would be acceptable subject to conditions and reserved matters submissions (IR12.88). He further agrees that both day and night time noise would be unlikely to result in any adverse effects on the future occupants of the dwellings, and that these conclusions would remain the same even with a revised layout to accommodate 750 dwellings (IR12.89).

Highways and transportation

40. For the reasons given at IR12.90-12.92, the Secretary of State agrees that there is no substantiated reason why the footway would give rise to material concerns in terms of highway safety (IR12.92). He further agrees at IR12.93 that the validity of the Transport Assessment is not placed into question by the car parking considerations nor the application for 750 dwellings.

Appropriate Assessment

41. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. Those sites are the Thames Estuary and Marches SPA and Ramsar European sites (IR12.94). The Secretary of State agrees with the assessment and findings in Annex E of the IR. He therefore adopts Annex E as the necessary Appropriate Assessment in his role as the Competent Authority on this matter, and agrees that following mitigation the proposal would not have significant effects on the integrity of the European sites, either alone or in-combination with other projects (IR12.94).
42. For the reasons given at IR12.95-12.98 and IR12.124, the Secretary of State agrees that the proposal would have an acceptable impact on ecology (IR12.97). He agrees that the proposal is exempt from the mandatory requirement for 10% Biodiversity Net Gain (BNG), and there is sufficient scope within a 750 dwelling masterplan to incorporate the measures necessary to achieve a 10% BNG, and notes this is secured by condition 28 (IR12.98). The Secretary of State agrees at IR12.127 that this should carry moderate weight.

Housing

43. For the reasons given at IR12.99-12.101 and IR12.125, the Secretary of State agrees that the Council's housing delivery situation is woeful (IR12.99), that the Council has no

¹ Listed in IR as DPM1

deliverable plan to regain a five year supply of housing land (IR12.100), that the proposed market housing is a substantial provision that would make a significant contribution towards housing (IR12.101), and that the provision of market housing should be given very substantial weight (IR12.125).

44. For the reasons given at IR12.102-12.104 and IR12.125, the Secretary of State agrees that there is a substantial shortfall to the net need for affordable housing (IR12.103), there is no realistic likelihood of this being rectified in the foreseeable future, and that the provision of affordable housing should be given very substantial weight (IR12.125).
45. For the reasons given at IR12.105-12.106, the Secretary of State agrees that there is a critical need for older persons housing and that 80 older person dwellings would make a meaningful contribution to the older persons accommodation shortfall. He also agrees with the Inspector that they are not secured by the appeal proposal, the UU or any of the suggested conditions. Given the provision is not secured, he considers that the provision of older person housing should not carry separate weight but its benefits should be included in the very substantial weight given to housing in paragraph 43 above (IR12.125).

Economic

46. For the reasons given at IR12.107-12.108 and IR12.126, the Secretary of State agrees that there would be short term benefits to the economy from the creation of jobs through construction (IR12.107), that there would be long term benefits from the creation of jobs and business opportunities at the site and long term benefits from expenditure on local goods and services by future residents of the proposal (IR12.108). Overall, the Secretary of State considers that the economic benefits carry significant weight (IR12.126).
47. The Secretary of State notes the Inspector's conclusion at IR12.109 that the provision of housing will enable the council to retain a larger proportion of the future workforce associated with the development of DP World at London Gateway with the Borough, thus helping to contribute to the economic growth of the area and his conclusion at IR12.126 that this is a benefit that attracts moderate positive weight. The Secretary of State considers this as part of the benefit of the provision of housing and does not consider it carries separate weight.

Limiting the need to travel

48. The Secretary of State notes the Inspector's conclusions on limiting the need to travel (IR12.110 and IR12.131). He agrees that there could be an element of limiting the need to travel (IR12.110), but further agrees that the extent of the reduction in journey distances is uncertain and the journeys would most likely still be by car (IR12.131). He therefore gives this no weight.

Open space

49. For the reasons given IR12.112 and IR12.129, the Secretary of State agrees that it is possible that the areas of open space would need to reduce to accommodate a 750 dwelling proposal (IR12.112). However, he considers the areas of open space, the details of which will come forward through subsequent applications, would likely remain large, and that these spaces and facilities would be usable by the general public as well as future residents. However, he considers that due to the uncertainty around the quantum that would come forward, given the conclusion above at paragraph 5 that the application

is for 750 houses, this should carry only limited weight (IR12.129).

Off-site flood risk

50. For the reasons given at IR12.113 and IR12.128, the Secretary of State agrees that reducing flood risk for three properties adjacent to the site is a benefit of the proposal which carries limited weight.

Planning conditions

51. The Secretary of State has had regard to the Inspector's analysis at IR11.1-11.15, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 57 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

52. The Secretary of State has had regard to the Inspector's analysis at IR11.16-11.20, the planning obligation dated 6 August 2025, paragraph 58 of the Framework, the Guidance and the CIL Regulations 2010, as amended. For the reasons given at IR11.17, he agrees with the Inspector's conclusion that the obligations, with the exception of the clauses referred to at paragraphs 17-19 above, comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 58 of the Framework. For the reasons given above at paragraphs 17-19 the Secretary of State agrees that the obligations in relation to the school bus service and the 565 bus route are not CIL compliant and should cease to have effect under Clause 4.2 in the UU.

Planning balance and overall conclusion

53. For the reasons given above and in paragraph 57 below, the Secretary of State considers that the appeal scheme is not in accordance with policies CSTP15, CSTP22, CSTP23, PMD1, PMD2, PMD6 and PMD9 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
54. As the Council cannot demonstrate a five year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
55. Weighing in favour of the proposal are market housing and affordable housing which each carry very substantial weight; economic benefits which carry significant weight; BNG which carries moderate weight; provision of open space and off site flood risk improvements which each carry limited weight; and the potential for DP World to generate its own transport solutions, and potential sustainability benefits arising from the

resolution to grant permission at Horndon St Marys which each carry very limited weight.

56. Weighing against the proposal are Green Belt harm and the inappropriate unsustainable location of the development which each carry substantial weight; the harm to the character and appearance of the area which carries significant weight; and the noise impacts which carry moderate weight.
57. The Secretary of State considers that in this case, the potential harm to the Green Belt through inappropriateness, harm to purposes, harm to openness, and any other harm resulting from the proposal, as identified in paragraph 56 above, is not clearly outweighed by other considerations, and therefore there are not Very Special Circumstances which would justify this development in the Green Belt.
58. In the light of his conclusions on the Green Belt test the Secretary of State considers that there are protective policies which provide a strong reason for refusal. Under paragraph 11(d)(ii) of the Framework, the presumption in favour of sustainable development therefore does not apply.
59. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.
60. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

61. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a mixed use development comprising up to 750 no. residential dwellings, medical facility, retail and commercial units, in accordance with application ref 19/01556/OUT, dated 30 September 2019.

Right to challenge the decision

62. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
63. A copy of this letter has been sent to Thurrock Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Laura Webster

Decision officer

This decision was made by Parliamentary Under-Secretary of State for Housing and Local Government, Baroness Taylor of Stevenage, on behalf of the Secretary of State, and signed on her behalf

Annex A Schedule of representations

Party	Date
PLanD (on behalf of the appellant)	13 February 2026
PLanD (on behalf of the appellant)	20 February 2026
Thurrock Council	6 March 2026
PLanD (on behalf of the appellant)	12 March 2026

Report to the Secretary of State

by O S Woodward MRTPI

Inspector appointed by the Secretary of State

Date 24th November 2025

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

Grasslands Ltd

KINGS FARM, PARKERS FARM ROAD, ORSETT, ESSEX RM16 3HX

Inquiry opened on 1 July 2025. Site visit on 16 July 2025.

Kings Farm, Parkers Farm Road, Orsett, Essex RM16 3HX

File Ref: APP/M1595/W/25/3358576

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LIST OF ABBREVIATIONS

TERM	DEFINITION/DESCRIPTION
AA	Appropriate Assessment
AH	Affordable Housing
AM	Ante Meridiem
AVR	Accurate Visual Representation
BDL	Broadly Defined Locations
BNG	Biodiversity Net Gain
BREEAM	Building Research Establishment Environmental Assessment Method
BS	British Standard
CD	Core Document
CEMP	Construction Environmental Management Plan
CGI	Computer Generated Image
CIHT	Chartered Institute of Highways and Transportation
CIL	Community Infrastructure Levy
CS	Core Strategy
dB	Decibels
DDA	Disability Discrimination Act
DfT	Department for Transport
dpa	Dwellings Per Annum
DPD	Development Plan Document
dph	Dwellings Per Hectare
DP World	Dubai Ports World
EA	Environment Agency
EclA	Ecological Impact Assessment
ECC	Essex County Council
EHO	Environmental Health Officer
EIA	Environmental Impact Assessment
eLP	Emerging Local Plan
EMMP	Ecological Mitigation and Management Plan
ES	Environmental Statement
FRA	Flood Risk Assessment
FZ2	Flood Zone 2
FZ3	Flood Zone 3
ha	Hectares
HA	Highway Authority
HGV	Heavy Goods Vehicle
HNA	Housing Needs Assessment
ID	Inquiry Document
km	Kilometres
LAP	Local Area of Play
LCA	Landscape Character Area

LEAP	Local Equipped Area of Play
LLFA	Local Lead Flood Authority
LTN	Local Transport Note
LVIA	Landscape and Visual Impact Assessment
m	Metres
NaFRA2	National Flood Risk Assessment 2
NEAP	Neighbourhood Equipped Area of Play
PDL	Previously Developed Land
PFR	Parkers Farm Road
PPG	Planning Practice Guidance
PM	Post Meridien
POS	Public Open Space
PRoW	Public Right of Way
RAMS	Recreation disturbance Avoidance and Mitigation Strategy
SoC	Statement of Case
SoS	Secretary of State
SPA	Special Protection Area
SPD	Supplementary Planning Document
sq m	Square Metres
STA	Sequential Test Assessment
SUDS	Sustainable Urban Drainage System
TA	Transport Assessment
TRICS	Trip Rate Information Computer System
UU	Unilateral Undertaking
VIA	Visual Impact Assessment
ZoI	Zone of Influence
ZTV	Zone of Theoretical Visibility

File Ref: APP/M1595/W/25/3358576

Kings Farm, Parkers Farm Road, Orsett, Essex RM16 3HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Grasslands Ltd against the decision of Thurrock Council.
- The application Ref 19/01556/OUT was dated 30 September 2019 and was refused by notice dated 12 July 2024.
- The development proposed is a mixed-use development comprising up to 750 no. residential dwellings, medical facility, retail and commercial units.

Summary of Recommendation: The appeal be dismissed.

1. PROCEDURAL MATTERS

- 1.1 The Inquiry was held between 1 and 16 July 2025. I made an accompanied site visit on the afternoon of 16 July 2025 during which I was driven and walked across the site. I subsequently undertook an unaccompanied walking and driving tour of nearby land, as set out on the agreed site visit route¹.
- 1.2 The appeal was recovered by the Secretary of State (SoS) on 16 June 2025 by a direction made under Section 79, Paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 (as amended). The SoS's reason for recovering the appeal is that: the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities and proposals for significant development in the Green Belt.

Description of Development

Number of dwellings

- 1.3 The application was submitted in outline with all matters reserved apart from access. The description of development is for up to 750 residential dwellings, medical facility, retail and commercial units. However, the most up-to-date technical supporting information is based on a proposal for 669 dwellings. For example, the Environmental Statement July 2021², the Transport Assessment Addendum April 2022³, and the Technical Note 03: Response to Thurrock Council December 2023⁴.
- 1.4 Nevertheless, the appellant confirms in its closings that its case is that 750 dwellings could be accommodated on the site⁵. This reflects the position set out in its Statement of Case (SoC) in several places⁶. However, the evidence

¹ [ID.17.17](#)

² Paragraph 01, Non-Technical Summary - [CD.3.16](#)

³ For example, Table 4.4, page 30 - [CD.3.39](#)

⁴ Paragraph 1.1, [CD.3.44](#)

⁵ Paragraph 62, [ID.17.35](#)

⁶ Paragraphs 3.1, 6.17, 6.39, 6.95, 6.147 and 8.1 - [CD.3.3](#)

presented by the appellant at the Inquiry was based on an Illustrative Masterplan⁷ and accompanying Accommodation Schedule⁸ that detail 690 dwellings. The appellant has also confirmed that the input which led to the 690 dwelling indicative layout included advice from its acoustics expert, flood risk expert, ecology expert and landscape architect, in addition to its planning team and design advice⁹. A condition has therefore been proposed by the appellant to limit the proposal to 690 dwellings.

- 1.5 The operative part of the permission would be the description of development for up to 750 dwellings. The appellant's proposed condition would instead limit the proposal to 690 dwellings. As to whether or not this would derogate from the operative part of the permission, I have given particular consideration to *Test Valley BC*¹⁰. This decision¹¹ finds that it would be unlawful in a decision notice granting planning permission expressly for 10 houses to impose a condition prohibiting the erection of any more than nine, or just one house. Therefore, the proposed condition limiting the development to 60 homes fewer than in the description of development would also be unlawful. I have not, therefore suggested such a condition.
- 1.6 This helpfully brings clarity to the appeal because the proposal must therefore remain for up to 750 dwellings and my Recommendation and assessment throughout this report are based on this figure, unless otherwise expressly indicated.

Older persons housing

- 1.7 Of the up to 750 dwellings, the appellant is proposing that up to 80 would be for older persons accommodation. However, this is not secured by the description of development, any proposed conditions, or a s106 Planning Agreement.
- 1.8 The amount of care and other facilities that would be provided is not yet known, although it was indicated by the appellant that it could include a relatively substantial facilities building. Planning Practice Guidance (PPG) provides a helpful summary of the different types of older persons housing types¹². It is not yet known what would be delivered on the appeal site and therefore whether or not the older persons accommodation would fall under Use Class C2 (residential institutions) or Class C3 (dwellinghouse). It would depend on the level of care and scale of communal facilities to be provided¹³.
- 1.9 However, as the description of development does not refer to use classes, the relevant consideration is whether or not the older persons accommodation would comprise residential dwellings. This is because, although the description does not refer to older persons housing, it does refer to residential dwellings. In this regard, age-restricted, retirement living and extra care housing, as defined by PPG, all comprise individual dwellings, with differing amounts of supporting care and

⁷ Ref 0286 RIM-001, [CD.14.8.1](#)

⁸ [CD.3.69](#)

⁹ Paragraph 64, [ID.17.35](#)

¹⁰ *Test Valley BC v. Fiske* [2025] 1 P. & C.R. 20

¹¹ Paragraph 73, [ID.17.35](#)

¹² Paragraph: 010 Reference ID: 63-010-20190626

¹³ Paragraph: 014 Reference ID: 63-014-20190626

associated facilities. It is therefore reasonable to assume that some form of older persons accommodation could come forward.

- 1.10 With regard to any supporting facilities, as long as they remained ancillary to the older persons housing, then it would not become a new use class or element of the proposal that need be listed in the description. However, it is important to note that the scale and scope of any such facilities would necessarily need to be small and narrow respectively, otherwise they would cease to be ancillary. For example, it is unlikely that any facilities housed in a separate building and/or accessible to the general public would remain as ancillary. My Recommendation and assessment throughout this report are therefore based on the provision of up to 80 older persons dwellings with ancillary facilities that would be small in scale and narrow in scope.

Commercial uses

- 1.11 The precise nature of the proposed retail and commercial floorspace is not yet known. However, at this outline stage this is an appropriate approach that affords flexibility as the development progresses. I have suggested [condition 6](#) that confirms the use classes to which the words 'retail' and 'commercial' would relate. This condition provides more detail to the description of development but does not alter it nor conflict with it. The combination of the words in the description and the use classes in the condition are sufficiently accurate so as to suitably control the nature of what would come forward at reserved matters stages.
- 1.12 A medical facility is no longer proposed. However, there is no requirement that all of a description must be taken forward, or even built out. I do not, therefore, view the absence of such a facility as derogating from the operative part of the permission. Therefore, the amount of commercial uses as controlled by the suggested condition and the lack of a medical facility are reflected throughout my Recommendation and assessment.

Access

- 1.13 Vehicular access is proposed from a new roundabout to be constructed on the A128. A footway is proposed linking to an existing footway on the western side of the road at the beginning of Bulphan village. Neither access is included in the description of development, despite 'access' being a matter which is applied for in full. This is regrettable. However, both access points, including full details and drawings, are secured through a signed and engrossed Unilateral Undertaking, dated 6 August 2025 (the UU)¹⁴. Drawings are also submitted, and form part of the formal schedule of drawings for determination, with regard to the proposed vehicular access¹⁵. Therefore, whilst it would have been preferable for the description to include direct reference to the proposed accesses, in this case it is not necessary and my Recommendation and assessment is based on the proposed access works¹⁶.

¹⁴ Schedule 3, [ID.17.43](#)

¹⁵ Pdf pages 2, 3 and 4 - [CD.3.39.1](#)

¹⁶ See drawing refs KMC18068/008, 009(1), 009(2) and 009(3)

Scope of Disputed Issues

- 1.14 The Council gave ten reasons for refusal on its decision notice¹⁷. Further information has been submitted by the appellant since the application was refused.
- 1.15 As a result, the Council is satisfied that the amount of commercial floorspace on the site would not lead to excessive 'in-commuting' by car, that there would be no unacceptable harms to highway safety or the free-flow of traffic, that the amount of proposed retail floorspace would not have a harmful effect on existing town centre uses, that the amount of employment floorspace would be acceptable in-principle subject to concerns regarding car parking, that the amount of on-site recreation would suitably mitigate the effect of the proposal on the Thames Estuary Special Protection Area (SPA) and Ramsar, that noise pollution to future occupiers could be suitably mitigated, and that adequate demonstration has been provided of the effect of the proposal on climate change. This has resulted in the Council withdrawing its objections in relation to Reasons for Refusal 2 (in part), 3 (in part), 5, 6, 9 and 10.
- 1.16 In addition, the UU secures contributions towards education, healthcare, and the Essex Coast Recreation disturbance Avoidance and Mitigation Strategy (RAMS¹⁸), as well as the provision of relevant highways works. The UU has therefore resulted in the Council withdrawing its objections in relation to Reason for Refusal 7.
- 1.17 The first Reason for Refusal concerned the site's location in the Green Belt, considering the proposal to be inappropriate development and also contrary to purposes (c) and (e) of the five Green Belt purposes as set out at Paragraph 143 of the National Planning Policy Framework (the Framework). The decision was made before updates to the Framework introduced the concept of the 'grey belt'. However, the appeal process fully considered this issue, which remains in dispute and which I reflect throughout my Recommendation as appropriate.
- 1.18 In the lead-up to the Inquiry, the Council raised an additional matter of dispute with regard to pluvial flooding following the release of updated surface water flood mapping from the Environment Agency (EA). The appellant was afforded sufficient time to address this matter. In addition, after the Inquiry closed, PPG relating to flood risk was updated. I afforded both main parties the opportunity to comment and my Recommendation and assessment are based on the up-to-date PPG and the submissions on it made by the main parties.

2. THE SITE AND SURROUNDINGS

- 2.1 The appeal site comprises Thurrock Airfield. It is rectangular in shape and extends to approximately 31.2 hectares (ha). The airfield provides a tarmac runway running broadly east-west, grass run-off areas, a grass runway bisecting the hard runway, and support services buildings, including hangers. It is currently accessed from Parkers Farm Road (PFR). A large, modern farmhouse called

¹⁷ [CD.6.1](#)

¹⁸ Perhaps to create an acronym that is easy to say, the official title of this Strategy includes 'disturbance' as a lower case 'd', which I have reflected above

'Kings Farm' lies directly adjacent to the hangers and the runway. This is not within the red line of the appeal site, but the airfield can be accessed directly from this property. The A128 road runs along the eastern boundary of the site. PFR partly runs alongside the western boundary, apart from the buildings located on the east of the road, ie the farmhouse and three further residential properties to the north west corner, all of which are outside the site. The predominant land uses immediately surrounding the site are agricultural fields and equestrian land.

- 2.2 Further to the north is the village of Bulphan, linked to the site by PFR. To the south is the village of Orsett, accessed either via PFR and the B188 or the A128 and the B128. The area is largely rural although with regular intrusions from industrial, storage and commercial facilities on the A128 and elsewhere, and various villages. In the wider area, Grays lies to the south, Basildon to the east, Brentwood to the north, and the outer reaches of London to the west.



3. RELEVANT PLANNING HISTORY

- 3.1 There is no relevant planning history on the appeal site, other than to confirm that it is agreed that the airfield and associated buildings and structures are lawfully in use as such.

4. THE PROPOSAL

- 4.1 The proposal seeks outline planning permission for up to 750 dwellings together with associated infrastructure including public open space, with access only to be considered in full. There would be 50% affordable housing (AH) provision¹⁹ which equates to 375 dwellings. There would be up to 300 square metres (sq m) of

¹⁹ Secured by the UU at Schedule 4, [ID.17.43](#)

retail floorspace and up to 1,500 sq m of commercial floorspace²⁰. The scheme also proposes around 5.4 ha of public open space (POS)²¹, indicatively to include areas to the centre of the site and a woodland area to the east alongside the A128.

- 4.2 Vehicular access would be provided from a new roundabout to be constructed on the A128. The existing access from PFR would be closed, and the Kings Farm farmhouse would be separated from the development by boundary treatments. A footway would be provided from the site heading northwards along the eastern side of PFR then linking to an existing footway on the western side of the road at the beginning of Bulphan village.
- 4.3 The drawings submitted for approval are:
- Site Location Plan Ref LP001²²;
 - Proposed Roundabout General Arrangement Ref KMC18068/008²³; and,
 - Proposed Roundabout Geometry and Design Parameters (Sheets 1, 2 and 3) Refs KMC18068/009(1), 009(2) and 009(3)²⁴.

5. THE ENVIRONMENTAL STATEMENT

- 5.1 The proposed development qualifies as an Environmental Impact Assessment (EIA) development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (The EIA Regulations). An Environmental Statement (ES), dated 8 July 2021, was submitted with the outline planning application to assess the likely significant effects on the environment. In response to the revised masterplan, an Addendum Landscape and Visual Impact Assessment (LVIA) was submitted. The SoS has considered the ES as amended by the updated LVIA and has concluded that it can be regarded as satisfactory in terms of the EIA Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposal. I have no reason to disagree.

6. POLICY AND GUIDANCE

The Development Plan

- 6.1 The current Development Plan comprises the Thurrock Core Strategy and Policies for Development Management (as amended), adopted January 2015 (the CS²⁵) and saved policies from the Borough Local Plan 1997.
- 6.2 I set out below my analysis of the policies relevant to my Recommendation. Of those below, Policies CSSP1, CSSP2, CSSP4, CSTP15, CSTP23, PMD2, PMD6 and PMD9 are considered by the main parties to be those most relevant for the determination of the appeal²⁶.

²⁰ Although not part of the description of development, the amount of commercial floorspace could be controlled by condition

²¹ Secured by the UU at Schedule 6, [ID.17.43](#)

²² [CD.3.57](#)

²³ Pdf pages 2, 3 and 4 - [CD.3.39.1](#)

²⁴ [Ibid](#)

²⁵ [CD.7.5](#)

²⁶ Statement of Common Ground, Paragraph 5.6 – [CD.13](#)

- 6.3 Policy CSSP1 sets out the spatial strategy for housing development, based on a delivery rate of 1,129 dwellings per annum (dpa) for the period 2009 to 2021²⁷ and an indicative provision of 950 dpa for the period 2021 to 2026. This directs development to previously developed land (PDL) within existing settlements and other built-up areas. Development is only permitted on Green Belt land where it is specifically allocated for residential development and where it is required to maintain a five year supply of housing land, as set out through a commitment to identify Broadly Defined Locations (BDL) for such release, on a rolling programme throughout the Plan period.
- 6.4 Policy CSTP2 seeks 35% affordable housing provision, by unit. It also seeks a 70/30 split between social rented accommodation and other affordable products.
- 6.5 Policy CSSP2 sets out the spatial strategy for employment development, based on an indicative target of 26,000 new jobs in the Plan period. The policy directs employment development to Key Strategic Employment Hubs, largely towards the Thames estuary and Lakeside areas. The policy does not, though, explicitly restrict employment development in other locations. Policy CSTP6 relates to employment development and states that new economic development outside employment areas will be considered based on compatibility with surrounding uses, the effect on highway safety and the free-flow of traffic, and the accessibility of the location to non-car modes of transport.
- 6.6 Policy CSSP4 relates to the Green Belt. It largely reflects the Framework, albeit without any reference to the Grey Belt, because the policy pre-dates such changes to Government policy. It identifies two relatively large sites for housing that should be subject to Green Belt release, neither of which relates to the appeal site. Policy PMD6 also relates to the Green Belt, including with regard to PDL, and cross-refers to the Framework.
- 6.7 Policy CSTP15 seeks to ensure that new development promotes accessibility by non-car based modes of transport and to reduce the need to travel by car. Policy CSTP16 relates to public transport improvements, focussing on inter-urban routes of at least half hourly frequency and linking to Thurrock, improvements to railway stations and services, and use of the river Thames.
- 6.8 Policy CSTP18 requires a net gain in green infrastructure. Policy CSTP19 safeguards the SPA and Ramsar sites and seeks the positive management of biodiversity. Policy PMD7 protects biodiversity unless detailed justification for any loss is provided. It also requires biodiversity features, eg green roofs, to be incorporated into design as far as possible.
- 6.9 Policy CSTP20 requires adequate provision of open space, to meet the standards set out in Appendix 5. Policy PMD5 reflects this as well as requiring appropriate recreation and outdoor sports facilities, also in accordance with the standards. This must include children's playspace, including on-site Local Area of Play (LAP), and Local Equipped Areas of Play (LEAP) and Neighbourhood Equipped Areas of Play (NEAP) either on or off-site.

²⁷ 13,550 dwellings divided by 12 years

- 6.10 Policies CSTP22 and 23 seek high quality design which reflects local character. Policy PMD2 expects proposals to contribute positively to the character and appearance of the area.
- 6.11 Policy CSTP27 relates to the management of flood risk and directly references the Framework in this regard including the sequential test, and requires sustainable drainage systems with new developments. Policy PMD15 also references the Framework and the requirement for sequential testing. With regard to surface water flooding, it requires a site specific Flood Risk Assessment (FRA) and suitable drainage systems as part of the proposals. These policies are inconsistent with the Framework, in that it has more stringent requirements for FRAs in relation to pluvial flooding. Footnote 63 of the Framework only requires FRAs on those sites with critical drainage problems. The updates to PPG further alter the national guidance, in particular with regard to surface water flooding and sequential testing. These inconsistencies lessen the weight I attach to these policies.
- 6.12 Policy PMD8 sets out the parking standards for the Council.
- 6.13 Policy PMD9 states that new accesses must preserve or enhance the quality of the streetscene and if it will make a positive contribution to accessibility by non-car based modes of transport. It sets out a hierarchy of roads. The A128 is defined as a strategic non-trunk Level 1 route and Parker's Farm Road as a Rural Level 2 road²⁸.
- 6.14 Policy PMD16 relates to developer contributions and echoes the requirements set out at Paragraph 58 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 as amended (the CIL Regs).
- 6.15 The Local Development Scheme, dated March 2025 anticipates Regulation 19 consultation of the emerging Local Plan (the eLP) in Spring 2026, an Examination in Public in Spring 2027, and eventual adoption in Spring 2028. It was confirmed at the Inquiry that these dates are still accurate. The eLP is therefore in the early stages of production, has not yet been published beyond the initial proposals stage, and it is therefore agreed between the main parties that it carries limited weight at this stage. I agree.

National Planning Policy Framework

- 6.16 The Framework is an important material consideration. Paragraphs 8, 11, 58, 61, 67, 85, 89, 110, 115, 117, 135, 142, 143, 153, 154, 155, 156, 157, 158, 170, 173, 174, 175, 187, 193 and 194, and Chapters 2, 4, 5, 6, 8, 9, 11, 12, 13, 14 and 15, are particularly relevant and I refer to them as appropriate throughout my Recommendation. The Glossary definitions of Grey Belt and PDL are also relevant.

Planning Practice Guidance

- 6.17 Several paragraphs in PPG are important material considerations, in particular within the Green Belt, Flood Risk and Coastal Change, Housing for Older and

²⁸ See Map 2, the CS – [CD7.5](#)

Disabled People and Planning Obligations chapters. I turn to specific and relevant paragraphs as appropriate throughout my Recommendation.

7. AGREED MATTERS

- 7.1 This section is largely based on the Statement of Common Ground, dated 1 July 2025²⁹ (SoCG) agreed between the appellant and the Council.
- 7.2 It is agreed that the appeal site lies in a generally open setting. It is also agreed that the landscape within and surrounding the appeal site is not a 'valued landscape' in the terms of Paragraph 187 of the Framework.
- 7.3 It is agreed that Bulphan provides a modest range of services, although this includes a primary school, village hall, shop, post office, and a clothes ironing service.
- 7.4 The proposed primary vehicular access from the A128 would be designed to accord with the Highway Authority (HA) standards. The proposed footway along PFR would also accord with HA standards.
- 7.5 The Highway Authority agrees that the residual cumulative impacts of the development on the local road network would not be severe. In addition, National Highways has confirmed that they have no objection to the proposals and the impact on the strategic road network will not be severe.
- 7.6 It is agreed that the Council cannot demonstrate a five-year supply of housing land, and that its supply is in the range of 0.72 and 0.91 years³⁰. This equates to a shortfall in housing numbers of between 5,719 and 5,989³¹.
- 7.7 It is agreed that the Council must release Green Belt land to be able to provide sufficient housing to meet its housing need as calculated using the Standard Method. It is therefore agreed that the most important local plan policies for determining the appeal³² are out-of-date³³.
- 7.8 It is agreed that there is a very substantial need for housing and that this meets the requirements of Paragraph 155(b) of the Framework. It is agreed that the proposed provision of 50% affordable housing is in accordance with Paragraphs 156(a) and 157 of the Framework. It is also agreed that the proposed on-site provision of open space and recreation facilities as secured through the UU accords with Paragraph 156(c) of the Framework. It is agreed that the appeal site does not strongly contribute to purposes (a), (b) or (d) of Paragraph 143 of the Framework.
- 7.9 It is agreed that with appropriate mitigation, as would be secured by condition and the UU, the proposed development could be made save from flooding for its lifetime. Therefore, although whether or not the submitted Sequential Test is adequate is in dispute, it is agreed that even if this is seen to have been failed, it

²⁹ [CD.13](#)

³⁰ Paragraph 6.6, [CD.13](#)

³¹ [ID.17.20](#) and [ID.17.21](#)

³² Which are agreed and listed at Paragraph 5.6, [CD.13](#)

³³ Paragraphs 6.6 and 6.7, [Ibid](#)

does not constitute a 'strong' reason for refusal within the meaning of Footnote 7 of the Framework.

8. THE CASE FOR GRASSLANDS LTD

- 8.1 This section is written from the perspective of the appellant, and is largely based on its closings³⁴, albeit drawing on other evidence as appropriate. It is important to note that this is based on the 690 dwelling illustrative masterplan, unless otherwise stated.

Housing

- 8.2 The provision of sufficient housing of the right type, in the right places and at affordable prices is a perennial problem. With almost half the United Kingdom workforce now working from home, it is crucial to provide accommodation that people can live in and work from, and maintain a quality of life, including well-being, that is an essential and accepted component of modern life.
- 8.3 It is therefore no coincidence that the only development mentioned explicitly in the Framework's introduction in Paragraph 1 is 'housing', itself fulfilling two of the three objectives of sustainable development – an economic and social objective. The Framework, PPG and Government announcements underscore a very clear need to encourage the step change in the delivery of more housing to address the much-emphasised housing crisis, particularly for elderly persons, where boosting supply is noted in Government guidance to be critical.
- 8.4 Considered at the national level, housing supply has been under-provisioned for years. Completions and starts have declined by almost 30%. Planning approvals are at a 13-year low. Construction output is at a 12-year low.
- 8.5 At the local level, past delivery has been very poor. The Housing Delivery Test measuring past performance is a very low 35%. The agreed housing land supply is between 0.72 and 0.91 years, equating to an agreed shortfall of between 5,719 and 5,989 homes. The Council's housing delivery record is one of the worst in the country. The consequences fall upon real households and the local economy.
- 8.6 The net delivery of AH in the District is 16%, with a negative delivery of 12 AH units for 2023/4 (the last recorded year). There has been zero delivery of AH in Orsett since 2008/9. Of the 670 affordable houses needed for each of the next five years, the Council's projection will be significantly short. In real terms, the District is short of AH in the order of thousands of homes. Even if the Council's projected housing provision occurs, the shortfall is woeful, something in the order of an insufficiency of around 600 dpa.
- 8.7 The Council has agreed that there is a critical need for older persons housing. There is an immediate unmet need of 2,706 dwellings increasing to 4,125 dwellings by 2043, with only 259 dwellings in the pipeline of supply.
- 8.8 The evidence given in this Inquiry, and actions outside the Inquiry with the dearth of fresh approvals and pedestrian progress of its Development Plan including Regulation 18 sites, both indicate that Thurrock Council is not responding to the

³⁴ [ID.17.35](#)

urgent need for more housing. There is no resolution or other statement from the Council confirming any change of approach. The Council faces significant and urgent needs. Inaction has been its solution.

- 8.9 For example, many of the provisional site allocations in the eLP have a number of potential obstacles to delivery, eg relating to highways, viability and pluvial flooding. In addition, the lead-in times for those sites for which there are no current planning applications would put completions from these sites outside of the 5-year land supply in any event. In respect of the single site for which an outline application has been received, the Council provided no details. The outline planning application has only recently been submitted. Therefore, none of these sites are 'deliverable' in terms of making a contribution to the 5-year land supply. The Council are therefore not committing to supporting the proposed allocations and it was agreed by the Council in cross-examination that the eLP and its allocations should carry little weight.
- 8.10 Even if all of the 3,019 dwellings on the Council's four suggested sequentially preferable sites in the eLP could be delivered in the next five years there would still remain a very substantial shortfall. The Council's Development Plan strategy will therefore not deliver the required level of housing without a review of the overall strategy and substantial Green Belt release. The Council refuses so far to undertake a Green Belt review as part of its eLP. Although the Council says it has commissioned a Green Belt review, no evidence of this was presented to the Inquiry. We were told nothing would be available until the autumn, at the earliest. Such a review will be inevitable, including around Bulphan. It is symptomatic of the Council burying its head in the sand.
- 8.11 In addition to the general poor delivery rates and lack of a properly considered forward plan, we should also not overlook the huge level of anticipated employment growth the Council projects. In particular, the major new employment opportunity at Dubai Ports World (DP World) at London Gateway, which is expected to create 21,000 jobs. The appeal site is a 10 to 15 minute drive from this future facility. To meet this economic objective, the Council must have sufficient housing provision, including choice, for the labour market. Currently, the District provides grossly inadequate housing options and offers little to no choice, particularly for social housing. A failure to meet their needs will have serious and negative consequences on their lives.
- 8.12 The appeal proposal therefore provides an opportunity to provide housing in an area of the country where need is arguably most acute. The proposal could start delivering perhaps within two years, certainly quicker than anything else happening in the District, thereby making a meaningful contribution to the 5-year housing land supply and then beyond.
- 8.13 Specifically, the 80 older persons dwellings proposed as part of the appeal scheme will make a meaningful contribution to the elderly persons accommodation shortfall. The lack of housing for the elderly in the District also means that this demographic will not be encouraged to move out of the existing housing stock to more suitable accommodation, thereby releasing housing for the economically active. The proposed elderly persons accommodation would also, therefore, assist in the supply of general housing.

Green Belt

- 8.14 The Council agrees that the appeal site meets the definition of Grey Belt, as set out in the Glossary to the Framework. This means that the site does not strongly contribute to purposes (a), (b) and (d) in Paragraph 143 of the Framework. The remaining disputes are therefore whether or not:
- a. the remaining Green Belt would be able to perform the function of assisting in safeguarding the countryside from encroachment (Paragraphs 155(a) and 143(c));
 - b. the improvements to local infrastructure, particularly the bus service, are adequate and/or necessary (Paragraph 156(b));
 - c. the proposed development would be in a sustainable location (Paragraph 155(c)); and,
 - d. there is provision of good quality new, or improvements to existing, green spaces that are accessible to the public, and which would positively contribute to the landscape setting of the site (Paragraphs 156(c) and 159).

Remaining Green Belt

- 8.15 The site's boundaries are plainly defensible. There is a main road along the east of the site, another road along the west of the site, and well-established boundaries to the north and south, including a watercourse and bund along the entire northern boundary. In addition, there are built developments such as the houses on the western boundary, an industrial estate to the northeast, and a public house to the south east. Moreover, the development itself will provide further reinforcement of these boundaries with substantial landscape planting, a bund in the northeast, a substantial strip along the east between the A128 and the proposed housing, plus the SUDS basin in the northwest corner.
- 8.16 If the boundary is defensible, as we say it is, it cannot be a precedent for further development. If the Council's argument is less nuanced, and it is simply trying to argue the familiar precedent point, this is also badly made, as every site depends on its facts. Granting permission to develop the appeal site will simply make the site another factor in the wider area's planning matrix. Future development elsewhere will have to satisfy the Grey Belt tests and take the fact that the appeal proposal exists into account.
- 8.17 The size of the site by its nature would not harm openness. Such reasoning would nullify the effect of Grey Belt policy because any large site in the Green Belt will, by definition, have the same impact on openness, thereby contravening this interpretation of the Framework. The Dolly Lane appeal decision is incorrect in its assessment in this regard, overlooking the requirement of Paragraph 155(a) to consider the remainder of the Green Belt.
- 8.18 Overall, the Green Belt that remains after development occurred would still be able to perform all the Green Belt functions.

Essential characteristics

- 8.19 If it is accepted that the application site is Grey Belt, then the question of openness and permanence of the Green Belt are irrelevant: it is no longer to be regarded as inappropriate development in that event. Nevertheless, the proposed development has limited visibility by reason of the landscape in which it is

situated and by reason its design and the mitigation of visual effects which have been incorporated. Accordingly, the objection to the development on grounds of openness and permanence does not have any substance in any event.

Policy

- 8.20 Policy PMD6 provides that planning permission will only be granted for new development in the Green Belt provided it meets as appropriate the requirements of the Framework, other policies in this DPD, and specific exceptions set out in the policy. It does not include reference to the Grey Belt and other recent changes to Green Belt policy. It is therefore significantly out-of-date and little weight may be attached to it, save to note that the proposal does indeed meet the requirements of the current Framework.

Accessibility

Bus service

- 8.21 The procurement of an extension to bus service 565 will provide future residents of the site with easy access to sustainable transport for access to essential goods, facilities, services, employment and leisure.
- 8.22 The UU also deals with the creation of a subsidised bus service. The proposed improvements to the service will result in the first bus from the appeal site being 06.05 and the last bus from West Horndon station to the site at 20.20, allowing the new and existing residents along the route to commute by train and bus to Fenchurch Street in central London with a total bus and train travel time of under an hour.
- 8.23 The build rate on the appeal site will likely be higher than the average shown in Appendix 4 of Sequential Test because it will deliver a wide mix of housing types including 50% AH, and older persons housing. AH is frequently sold to Registered Social Landlords (RSLs) as groups of dwellings rather than single transactions. As such, future sales are not constrained by markets in the same way.
- 8.24 The realistic likelihood is that bus service will be utilised more, partly due to the likely influence of the recently approved Dunton Hall Farm Village scheme, which is located further north on the east side of the A128 at Dunton Hall Farm. It is unrealistic to ignore the real likelihood that users located elsewhere but on the bus route will start to use the more frequent service. Nevertheless, neither the Council's nor the appellant's calculation on bus patronage takes account of increased usage by residents outside of the District.
- 8.25 Overall, we have demonstrated a viable scheme for subsidising the 565 bus service for up to 11 years from the start of the development. This would provide a genuine choice of transport modes. Regarding the 475 school bus service, the UU will provide £250K to be paid to the council in addition to all other payments, to cover the additional cost of running the school bus service to the appeal site.
- 8.26 In addition, 21,000 new jobs are anticipated at DP World. It is not inconceivable, and indeed it is likely, that as an employment centre, DP World will encourage local bus companies to lay on or extend services to bring in the growing workforce. Indeed, this is the role of the London Gateway Travel Plan Committee.

Location

- 8.27 Paragraph 110 of the Framework states “... *Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. ... However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.” (emphasis added). The Framework therefore plainly takes account of where a site is located, and sustainability is not simply about location, but includes economic and social objectives.*
- 8.28 PPG³⁵ emphasises that a site can be made sustainable and that sustainability should be determined in light of local context and site or development-specific considerations. Paragraph 115 of the Framework advises that applications for development should ensure “a) *sustainable transport modes are prioritised taking account of the vision for the site, type of development and its location...*”. It follows that the appeal site has to be considered in context.
- 8.29 The appeal site is close to several villages to the north and south, with two major arterial routes within minutes further to the north and south, and the M25 close by to the west. It is within 10-15 minutes’ drive of three supermarkets, two railway stations (West Horndon and Basildon), and the future DP World development at London Gateway Port. Both train stations are accessible by bus, at 15 minutes for West Horndon and 30 minutes for Basildon. For those that choose to drive, the car park at West Horndon station has capacity. There are also a number of small industrial estates along the A128, close to the site.
- 8.30 In addition, the scheme proposes a level of retail provision (300 sq m) which will meet some of the day-to-day needs of its residents by accommodating 12% of the residents’ expenditure. Not only will retail provide employment on site, but so will the older persons housing (the level of employment will depend on the nature of the provision), and the 1,500 sq m of commercial floorspace. These can provide residents with the opportunity to access work without using a car.
- 8.31 A scheme like the appeal proposal that improves the travel offer for the housing proposed, and adds accessible green spaces, falls squarely within national policy. Providing a choice of transport does not mean forcing everyone onto buses, or expecting everyone to work within the District, or a particular part of it. The yardstick of judging schemes inside or at the edge of settlements cannot be used. Otherwise, the Grey Belt changes will be strangled at birth. Not recommending approval would result in long-term extension of commuting from outside the District, creating congestion and consequent environmental impacts and the leakage of spending.

Car parking

- 8.32 We have confirmed the proposal would give rise to a total number of 1,544 parking spaces. That number was arrived at by applying Thurrock Council - Parking Design and Development Standards (February 2022) to the classes and

³⁵ Paragraph: 011 Reference ID: 64-011-20250225

extent of uses proposed as set out in the tables contained within the Technical Note³⁶.

- 8.33 The key difference to the Council's calculations lies in the standard we apply to elderly accommodation. We have applied the standard of one space per dwelling. The Council has applied the residential standard of two spaces per dwelling. We also do not apply visitor parking to the elderly accommodation. If this is needed, it would be an additional 40 spaces. In addition, we have referred to 1,500 sq m of Class E(g) at one space per 30 sq m in line with the Council's published parking standards. The Council has tested varying Class E uses (including E(f), E(b) and E(c)) using an employee density rather than its own parking standards. This is how they have arrived at such different numbers.
- 8.34 The level of development within the developable area (i.e. excluding SUDS, amenity ground and landscaping) is of a relatively low density, being 34.5 dwellings per hectare (dph), and accordingly well within the capacity of the appeal site. In reality, therefore, the car parking is a non-point as it is unrealistic for the Council to suggest that its own residential parking standards cannot be met in a scheme of this size with a net density of 34.5 dph in the approximately 20 ha identified for residential development.
- 8.35 The elderly persons' accommodation is proposed to be 4x 1-bedroom and 76x 2-bedroom. The footprints as shown on the Illustrative Masterplan provide over 5,000 sq m of accommodation. There is therefore ample space to accommodate the proposed elderly person accommodation.

Landscape

- 8.36 It is a matter of agreement between the parties that the landscape within and around the site is not a 'valued' landscape within the meaning of the Framework. We therefore fall under Paragraph 187(b) of the Framework, where we must '*recognising the intrinsic character and beauty of the countryside*'. We have respected that consideration and produced a design which is compatible with it.
- 8.37 The Thurrock Landscape Capacity Study (2005)³⁷ states that the relevant Landscape Character Area (LCA) is A1, the Bulphan Fenland. It is noted that it is an area of low relief. This is an important matter in relation to the scope for screening the development and therefore mitigation of visual impact. The Bulphan Fenland is the largest LCA in Thurrock. As such, any change brought about by the proposed planting would not be significant in the context of the landscape covered by the A1 LCA and the presence of other similar features.
- 8.38 There are plentiful examples of trees and woodland copses of various sizes within the LCA, even if they are not a key characteristic. That matter is also clear by reference to the Thurrock Integrated Landscape Character Assessment 2018³⁸. Our landscape evidence demonstrates the extent of woodland in the wider area and the presence of linear hedgerow to the west of Bulphan. The

³⁶ [ID.17.24](#)

³⁷ [CD.14.3.13](#)

³⁸ [CD.14.3.7](#)

proposed introduction of two woodland copses and other tree planting would be consistent with these aspects of the current landscape context.

- 8.39 There has been the loss of historic hedgerows within the last 50 years and yet more recently. The proposed planting would serve to restore the hedgerow field pattern. The internal hedges are a reinterpretation of the historic field pattern. Overall, there would be a restoration of historic landscape features that help provide structure to the landscape framework, ie the historic hedgerow patterns.
- 8.40 In addition, the proposal would represent a good landscape-led development concept based on the development character area approach, which enables variety and interest whilst creating a coherent development which respects its surroundings. The addition of wetland features in the area (ponds/basins with riparian vegetation) are also reflective of the surrounding landscape and have recreational value. Also, there would be the introduction of POS, including numerous amenity spaces and landscaped footpaths and cycleways, on a currently private site, inaccessible to the public.
- 8.41 In terms of policy, Policy CSTP18 of the LP relates to green infrastructure and the proposal will result in a gain in green infrastructure. Policy CSTP22 and CSTP23 require high quality design founded on a thorough understanding of, and positive response to, the local context. This has been demonstrated by the design adopted which respects the local fen landscape and the historic field pattern where it is located. Policy PMD2 requires all design proposals to respond to the sensitivity of the site and its surroundings, to optimise the potential of the site to accommodate development, to fully investigate the magnitude of change that would result from the proposals, and mitigate negative impacts. The 10m buffer zone, replanting of hedgerows and the creation of copses and provision of woodland will all serve to mitigate the visual impact of the proposed development. The design proposals therefore demonstrate due regard to those aims.

Flood risk³⁹

Sequential test

- 8.42 Paragraph 173 of the Framework sets up the need for a sequential test for individual applications where there is a flood risk now or in the future. This has the potential to capture all flooding now and in the future. However, it then points the reader to the following paragraphs for guidance. Paragraph 175, which states: *“The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now **and** in the future (having regard to potential changes in flood risk).”* (emphasis added)
- 8.43 Therefore, a requirement to sequentially test falls away where evidence demonstrates the built development would not be at risk from flooding in the

³⁹ This section is based on both the closings and the additional note submitted with regard to the changes to the PPG, [ID.17.44](#)

future. In any event, our Sequential Test⁴⁰ demonstrates that the appeal site is sequentially preferable as there are no reasonably available alternative sites that can deliver with a similar timescale. The Council claims there are four sequentially preferable sites that they consider reasonably available. However: none are allocated for development in the LP; none have yet been granted planning permission; and, only one, ie Corringham⁴¹, has an outline application, which was recently submitted in May 2025.

- 8.44 Even if the Council's approach of applying the 'spatial variation of risk' at site level is accepted by the SoS rather than as a method of site selection, then the guidance in PPG⁴² is that such an approach can then take into account the role of flood risk management infrastructure in the variation of risk. As such, the appeal site, with no flood risk once mitigation is taken into account, cannot be sequentially inferior to the sites identified by the Council.
- 8.45 In addition, the revised wording in PPG⁴³ clearly recognises that an existing 'risk of surface water flooding' should not be a bar to future development, so long as the development can appropriately accommodate, manage and mitigate the risk by incorporating a robust surface water drainage system into the design. Furthermore, the amended position advanced is further strengthened by advising all parties that if the developer can demonstrate the efficacy of the proposed drainage system, the site need no longer to be the subject of sequential testing. This is particularly pertinent to the King's Farm site and endorses how we explained the application of the previous policy at the time of the Inquiry.

The proposal

- 8.46 There are no objections from the Council as Local Lead Flood Authority (the LLFA) or the EA. Concerns have been raised regarding the siting of individual SUDS provision, but this can be conditioned. The proposal will improve the flood risk situation, which only arises because of rainwater accumulation, not external ground-based sources. The proposed mitigation works would mean that no areas of the proposed development would be at risk of flooding.

The UU

- 8.47 The UU is compliant with Regulation 122 of the CIL Regs. In more detail:
- 8.48 Necessary to make the development acceptable in planning terms - The contribution towards an improved bus offer is clearly necessary because without it the service will not visit or stop close to the appeal site. Essex County Council (ECC) is not going to continue supporting the bus service beyond 2026. It follows there will be no bus service thereafter. Accordingly, by creating a mechanism that will enable the bus service to continue, we will be providing a necessary service that will form part of the residential offer that the scheme will provide.

⁴⁰ [CD.14.2](#)

⁴¹ Ref 25/00571/OUT

⁴² PPG, Paragraph: 024 Reference ID: 7-024-20220825

⁴³ PPG, Paragraph: 027 Reference ID: 7-027-20220825

- 8.49 Directly related to the development - The provision of a bus service is directly related to the development. No one could seriously deny that the bus service will form part of the genuine choice of travel for residents.
- 8.50 Fairly and reasonably related in scale and kind to the development - The Council argues that by subsidising the bus service, the appellant is paying for an entire service that will be used not only by residents of the appeal site, but also by other people inside and outside the borough. This misses the point. Almost all development that provides finance for infrastructure and activities beyond the boundary of the application site inevitably provide something that others will use who do not live at the development. For example, paying for the highway works at the junction of the A128 and the entrance to the site is not unlawful simply because all highway traffic will enjoy the use of the new junction.
- 8.51 The reality is that the appellant has chosen for sound commercial reasons to subsidise bus transport by way of establishing a fund to be administered in much the same way as the London Gateway Travel Plan Committee. This is a matter for the appellant, since the site needs a bus service. The Council has provided no evidence to show that the scheme cannot support such subsidy. Without the subsidisation there would be no bus service. The only way to ensure the present bus service continues and is enhanced as proposed is to subsidise it. It is a consequence of doing this that other people might benefit beyond the future residents and occupants of the housing at the appeal site.
- 8.52 The bus service is likely to become viable as more people are attracted to it, as it becomes known and as more people move into the area. This means, in all likelihood, the subsidisation will reduce over time. The predicted level of subsidy in reality will become a maximum that will not be reached. Nonetheless, the amount guaranteed by the UU ensures the bus service will last for a realistic maximum time before it becomes viable.

Planning balance

Benefits of the proposal

- 8.53 The benefits of the proposal are the:
- a. Provision of much-needed market housing to address the woeful undersupply both presently and in the future – very significant weight;
 - b. Provision of AH to meet a chronic and immediate need due to past undersupply and the very limited future pipeline of supply – very significant weight;
 - c. Provision of older persons housing with care to address the critical national and local need - very significant weight;
 - d. Supporting the economic prosperity of the Borough by addressing the imbalance of labour and housing – significant weight;
 - e. Provision of employment opportunities for the local area – medium weight;
 - f. Creation of 2,397 jobs during construction – moderate weight;
 - g. Enhancement of facilities and services available to the local area – moderate weight;
 - h. Provision of local open space and additional recreation– moderate weight;
 - i. Enhanced bio-diversity opportunities – moderate weight;

- j. Improvements to flood risk on and for off-site neighbouring properties – moderate weight;
- k. The proposal represents the redevelopment of PDL. The site is an active airfield with up to 50 air traffic movements a day as such it is far from a tranquil area of countryside – moderate weight; and,
- l. We can subsidise for up to 11 years to provide improved bus services. We refer to the detailed evidence on buses above. The provision of the bus service aligns with good practice for ensuring public transport provisions. The service will become viable in all likelihood, and will also benefit other development locations.

Very special circumstances

- 8.54 This is a fallback position. Paragraph 153 of the Framework requires ‘substantial weight’ to be given to any and all harm (combined) to the Green Belt when carrying out the balancing exercise as to whether such harm is ‘clearly outweighed’. The paragraph also states that ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 8.55 We say this is a case where the ‘very special circumstances’ are overwhelming to justify granting consent. Importantly, these positive material considerations include meeting market, affordable and older persons’ housing needs. The provision of older persons housing, in circumstances where there is unmet need, is in itself a ‘very special circumstance’. The provision of each type of housing – market, social and elderly – attracts very substantial weight in support of the appeal. In our submissions, this clearly outweighs the limited actual harm to this small and confined area of Green Belt, compared to the much larger Green Belt that would remain.

Tilted balance

- 8.56 The Council agrees that the requirement for a Sequential Test is merely a material consideration and not a ‘strong’ reason for refusal in terms of the Framework’s definition of Grey Belt in the Glossary and Footnote 7. There is no real-world harm from the failure to properly undertake a sequential approach. Substantive objection to a proposal must go beyond mere technical conflicts with national policy, even if they are important. There must be substantive risks and harms that go beyond policy. The sequential test issue is therefore not a ‘strong’ reason for refusing the development proposed. The ‘tilted balance’ remains engaged.

9. THE CASE FOR THURROCK COUNCIL

- 9.1 This section is written from the perspective of the Council, and is largely based on its closings⁴⁴, albeit drawing on other evidence as appropriate.

⁴⁴ [ID.17.34](#)

Description of development and scope of proposal

- 9.2 The latest Illustrative Masterplan⁴⁵ is in respect of 690 residential dwellings whereas the description is for up to 750. To impose a condition restricting the development to 690 dwellings would be to derogate from the consent granted by the operative part of the decision notice (the operative part of the decision notice being the description of development) and therefore be unlawful⁴⁶.
- 9.3 2,720 sq m of older persons' development is indicated on the Illustrative Masterplan. 'Residential dwellings' as stipulated in the description would in principle include retirement apartments and bungalows if built and used for independent living by such older persons, including those receiving the medium to high level of care understood by the term 'extra care'. However, the reference to 'extra care' needs to be properly understood. Mr Bolton opined that a single care visit a week would, in his view, amount to 'medium care'. On that basis this category of development is very broad.
- 9.4 Importantly, a 'central facilities building' is also proposed and this is not included in the description, no floorspace for such a building is even mentioned. Some of the uses, whether in the central facilities building or on the ground floor of a block, are plainly intended to be open to the public. Such uses do not appear to be either ancillary or 'ordinarily incidental' and could be considered as Use Class E. If provided, this, in combination with the elderly persons accommodation, would amount to a Use Class C2 or sui generis use. In addition, a physical facilities building, howsoever described, still requires (outline) planning permission, unless benefitting from permitted development rights, which does not arise here.
- 9.5 Therefore, the description of development does not include what is now proposed – i.e. older persons dwellings (extra care) and related communal facilities building, including Class E uses. It is submitted that any planning permission granted should make this clear that permission is not granted in respect thereof. In addition, it includes what is not now proposed, because the medical facility is no longer proposed, despite being referenced in the description.
- 9.6 At the time the application was considered by the Planning Committee, the 'commercial floorspace' was understood to be 1,000 sq m on 0.5 ha of land. Different figures are now given on the Accommodation Schedule⁴⁷, being 300 sq m of retail (uses a, b and c of Class E) and 1,500 sq m of commercial (uses f and g of Class E). It must be recorded that these figures have not been consulted upon. The application form referred to 1,394 car parking spaces. It is now said the parking requirement would be within the range of 1,615 to 1,660 spaces (assuming no central facilities building). The now proposed level of car parking has also not been consulted upon.

Inappropriate development in the Green Belt

- 9.7 Regarding the exception to inappropriate development set out at Paragraph 154 (g) of the Framework, most of the site is not PDL as that term is

⁴⁵ Ref 0286 RIM-001, [CD.14.8.1](#)

⁴⁶ Paragraph 73, Test Valley BC v. Fiske [2025] 1 P. & C.R. 20

⁴⁷ [CD.3.69](#)

defined in the Framework. Please see the *Vistry* case⁴⁸, following on from the *Hampshire* case⁴⁹. *Vistry* says “Plainly, ‘the developed land’ refers to the ‘land which has been developed by the erection of a structure, for example, a building.’⁵⁰” The concept of PDL is therefore concerned with structures not uses.

- 9.8 The law is that curtilage relates to a building alone. Therefore, an airfield does not in and of itself have a curtilage, it is only the buildings on it which are capable of having a curtilage. In any event, the Framework states⁵¹ that there is no presumption that the whole of the airfield’s curtilage should be developed.
- 9.9 With regard to ‘Land which has been lawfully developed’ (emphasis added), this part of the definition was introduced by the Government so as not to encourage unlawful development (whether of buildings/structures, fixed surface infrastructure or hard standings). Also, it should be noted that strictly, on a literal interpretation, the hangars themselves were not lawful when built.
- 9.10 So, lawful permanent structures and any fixed surface infrastructure associated with them, the curtilage of the developed land (i.e. the land which has been developed by the erection of a structure/building), and land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed constitute PDL. In relation to the appeal site, the hangars and their associated curtilage/hardstanding, the hard runway, the wind sock supporting structure are (now) lawful and PDL. However, the airfield does not have a curtilage. The fact that an airfield may comprise a single planning unit is irrelevant to defining curtilage. Therefore, the exception under Paragraph 154(g) does not arise.
- 9.11 In any event, the appeal site is in Parcel 14 of the Thurrock Strategic Green Belt Assessment⁵² Stages 1a and 1b, where the views are found to be generally expansive and far-ranging and the parcel is expansive, low lying, open, former fenland landscape with a very strong sense of openness⁵³. The Assessment finds that development in Parcel 14 would fundamentally conflict with the Green Belt purpose of ‘safeguarding the countryside from encroachment’. The proposed, predominantly 2 and 3-storey, built development on this 31.2 ha site would therefore in itself result in substantial harm to the openness of the Green Belt, firstly and fundamentally spatially, as well as visually.

Grey Belt

- 9.12 It is agreed that the appeal site is Grey Belt. It is also agreed that there is a demonstrable unmet need for the proposed development, that the proposed 50% AH meets the ‘golden rules’ set out at Paragraphs 156 and 157 of the Framework, and that there would be the provision of new, or improvements to existing, green spaces that are accessible to the public.

⁴⁸ *Vistry Homes Ltd v Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 2088 (Admin), [CD.12.27](#)

⁴⁹ *R (Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs* [2022] QB 103, [CD.12.28](#)

⁵⁰ Paragraph 85, [CD.12.2.5](#)

⁵¹ See Glossary definition of PDL, the Framework

⁵² [CD.12.3](#)

⁵³ Pdf pages 67 and 68, [CD.12.3](#)

- 9.13 However, regarding purpose (c) at Paragraph 143, considerable tracts of land surrounding the appeal site and well beyond have obvious similar locational and physical characteristics to the appeal site, ie undeveloped open land in the countryside. The appeal site does not have any defensible boundaries. There is no defensible boundary to the north of the site until one reaches Bulphan which already, and historically, extended to the east of what is now the A128, so the A128 to the east is not therefore a defensible boundary either. If we were to consider the existing hedges to provide defensible boundaries, this would demonstrate the very danger of permitting the development of this site. The same argument can simply be repeated hereafter: if here, why not there and so on.
- 9.14 So, the proposal would cause substantial harm to the openness of the Green Belt, and its development would also harm the purpose of assisting in safeguarding the countryside from encroachment. Overall, it would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Substantial weight should be placed on all combined harm to the Green Belt⁵⁴.

Accessibility

- 9.15 With regard to Paragraph 155(c), the appeal site is in an unsustainable location. The Council do not consider that the appeal site is or can be made a sustainable location. The Regulation 18 site appraisals/site connectivity assessment undertaken by Stantec⁵⁵ on behalf of the Council shows how poorly the appeal site itself currently performs, in comparison with other sites (210th out of 217). Based on that census data used in the Transport Assessment 2021⁵⁶ (the TA), only 1% of commuters from the site would use the bus unless there is meaningful mitigation; and based on the then envisaged 669 dwellings, that would equate to three bus passengers in the AM peak hour and two in the PM peak. 95% of those travelling from the site in those hours would be driving, or being driven, in a car.
- 9.16 The 2015 Chartered Institution of Highways and Transportation (CIHT) document "Planning for Walking"⁵⁷ states *"Land use patterns most conducive to walking are thus mixed in use and resemble patchworks of 'walkable neighbourhoods', with a typical catchment of around 800m or 10 minutes walk..."*⁵⁸ and that *"For bus stops in residential areas, 400m has traditionally been regarded as a cut-off point"*⁵⁹. Department for Transport (DfT) Circular 1/22 advises that *"recent research on the location of development found that walking times between new homes and a range of key amenities regularly exceeded 30 minutes, reinforcing car dependency"*⁶⁰.
- 9.17 The walking distances are 2 kilometres (km) to a village hall, the same to Bulphan Primary School, and similar for any facilities in Bulphan village⁶¹. School children

⁵⁴ [ID.17.36](#)

⁵⁵ [CD.12.4](#)

⁵⁶ [CD.3.38](#)

⁵⁷ [CD.12.7](#)

⁵⁸ Page 29, [Ibid](#)

⁵⁹ Page 30, [Ibid](#)

⁶⁰ Paragraph 12, [CD.12.15](#)

⁶¹ All calculated from the centre of the appeal site, [ID.17.14](#)

cannot safely walk to school in Orsett. The site is therefore seriously deficient in terms of walking distances. This is reflected in Census data for the area which reveals that unsurprisingly very few people currently walk.

- 9.18 Regarding busses, bus route 265 no longer runs. Therefore, the 565 service, which currently runs between Bulphan and Brentwood to the north, is the only relevant service. The 565 service has only 97 passengers over an entire day, half of whom have free bus passes. The appellant has had discussions with an operator, NiBS buses, concerning an extension to route 565 along with an additional bus to provide at least an hourly frequency, to be procured by the appellant and funded (or “financially supported”) by the appellant for 11 years, covering a seven year build out period of the development and four years post final occupation of the development.
- 9.19 The appellant’s cost calculations/estimate for the extension of the existing 565 service to the site and the provision of an additional bus total £201,674 pa. That figure has now (i.e. during the Inquiry) increased to £208,491 because, significantly, the earlier figure had not included the cost of extending the existing bus service to the site.
- 9.20 The original costs calculation document provided to NiBS expressly confirmed that the envisaged cost to the appellant was £626,098 - ie it is not envisaged by the appellant that it will have to pay some £200,000 + pa, because revenue from fares received will reduce their liability to such an extent that the liability will only be £626,098 in total over the 11 year period. Their assumption is that revenue would be such that the service would ‘break even’ by year 7. However, even on the appellant’s own figures, even by 2037/year 11 the £255,694 (original Table 9) + £1,556 (original Table 10) = £257,250 (gross revenue) is less than revised inflated bus cost of £264,336 in 2037. So, on the appellant’s own case – ie assuming that each and every of the assumptions (some of which were admitted to be optimistic or aspirational) were correct - at the end of the 11 year period as then calculated (i.e. year 1 was the year of commencement of development), the bus would not be viable when subsidy ends.
- 9.21 In the appellant’s calculations, the cost of the daily fare assumed is £7.50 rather than £6, the number of completions per annum, including in year 1, are much higher than the average for developments of this size, and assume a much shorter lead-in time than set out in Appendix 4 to the Sequential Test Assessment (STA)⁶².
- 9.22 Much will obviously depend on when the bus service becomes operational. It may be very early in the development or it may not be until 345 dwellings have been occupied. If not very early, the travel patterns of the people who have already moved to the development are likely to have been set by then, and their travel vouchers will have expired. This will hardly assist in achieving modal shift.
- 9.23 There are a number of concerns with the framing of the relevant clauses in the UU with regard to the 565 service. In particular, there is nothing to require the Bus Service Management Company to do anything once set up, the Bus Service Specification is lacking in detail and therefore enforceability, there is nothing in

⁶² Page 60, [CD.14.2](#)

relation to what if ECC withdraw the 565 bus service, and the funding has a ceiling with no provision for renegotiation⁶³. In addition, neither the extension of the 565 bus to the site nor the additional bus, are required to be maintained for the lifetime of the development. 11 years is not the lifetime of the development. This once again it highlights the concern as to what happens after the 11 years have expired. If the bus service does not continue to operate in future, or is only somewhat irregular and infrequent as at present, this is not a solution.

- 9.24 The extension of the existing bus service to the site would, in the Council's view, be CIL Regs compliant. However, the funding in whole of an additional bus for the entire route to and from Brentwood does not appear fairly and reasonably to relate in scale to the development. The bus route notionally serves 55,000 people living in Brentwood, 1,650 people living in West Horndon, and 780 people living in Bulphan. Therefore, only the existing 565 service as extended to the site can be taken into account when deciding whether or not to grant planning permission.
- 9.25 In any event, the proposed bus service would take passengers only northwards, away from the towns, the very important centres of employment and economic growth, services and facilities in Thurrock, including away from the health services of Orsett. The Census data for travel-to-work mode of transport, relied upon by the appellant⁶⁴, in fact shows that 68% of peak hour traffic travels to or from the south.
- 9.26 The suggestion too that the 565 bus (or any other bus) can simply be diverted to take children to schools is unreasonable because there is no evidence provided that such would be likely to occur. The most recent note now states that the 475 bus could be diverted to pick up school children but there is no evidence to support this assertion.
- 9.27 Therefore, it is not agreed that necessary improvements have been made or could be made, in particular to enable high quality bus services and other connections to the south. The Travel Plan⁶⁵ aims only for a very modest 5% modal shift from car to sustainable modes of transport. The Council has concerns that this will not be achieved; let alone the 7% underpinning the bus cost calculation. The proposed development would simply reinforce dependence on the car. Whilst it is true that a future resident could drive (if they had a car) southwards, this would be contrary to Government policy of recent decades. Such policy is now recognised to be even more urgent than ever in the climate emergency; indeed Paragraph 11 d) ii of the Framework has been amended specifically to include reference to 'directing development to sustainable locations'.
- 9.28 The Framework at Paragraph 77 advises that: *'The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes)'*. The proposal would not be a new settlement but a large

⁶³ [ID.17.41](#)

⁶⁴ See Transport Assessment 2021, [CD.3.38](#)

⁶⁵ Paragraph 4.5, [CD.3.25](#)

housing estate. It would not be a new community with a village or other community hall, primary school, surgery etc. It would not be an extension of Bulphan either, it would be divorced from Bulphan yet twice its population.

- 9.29 Overall, the proposal fails to comply with Paragraphs 77, 115, 117 and 155(c) of the Framework.

Character and appearance

- 9.30 Whilst the appeal site does not form part of what the Framework refers to as a 'valued landscape', the Framework also states that decisions should nevertheless '*recognise the intrinsic character and beauty of the countryside*', and thereby some protection is given to the countryside.
- 9.31 There can be no doubt that the airfield retains much of the intrinsic character and beauty of the countryside, as reflected in the LCA A1 Bulphan Fenland. The appeal site forms part of an open, flat and low-lying, tranquil rural character/landscape, a mixture of arable and pasture farmland predominating with a few scattered coverts of deciduous trees interspersed throughout, with a sparse pattern of settlement with individual farmsteads and halls and a feeling of remoteness and relatively dark night skies. It is an open rural landscape.
- 9.32 The proposed development would conflict with key characteristics of LCA A1⁶⁶, it obviously very significantly and detrimentally affects the openness of the site, introducing significant volumetric built form up to 11 m in height. The site is located in an area where there is a defined but fragmented development pattern. The proposed housing estate within sight of, but clearly separated from, Bulphan would be the antithesis of a sparse pattern of settlement, a sense of remoteness and obviously introduce substantial human activity including significant vehicular movements and light pollution.
- 9.33 The proposed 'mitigation', being the planting of hedgerows within the development, is inappropriate when the characteristic is field boundaries around arable or pasture farmland, not a very large housing estate.
- 9.34 A treed buffer on the eastern side of the site either side of the proposed entrance roundabout and significant access road, would either be inadequate or inappropriate in context. The large woodland screening buffers on the eastern side are inconsistent with an open landscape. Woodland coverts planted to try to screen a large housing estate are not characteristic in this landscape and therefore are not an appropriate response in an open, rural landscape. In any event, the roundabout and access road and inevitable associated lighting and the development beyond will plainly be seen in views as vehicles traverse the roundabout either to enter the site or to continue on the A128.
- 9.35 In addition, the adjacent woodland tree planting is said to provide a strong sense of arrival to the development. This is strange. Part of the appellant's strategy is to screen views by the planting; yet a strong sense of arrival seems incompatible with that aim. The roundabout, access roadway width etc will clearly draw

⁶⁶ Paragraph 3.5.1, [CD.14.3.13](#)

attention to the development between the woodland tree buffers, with clear, if foreshortened views down this access to built development.

- 9.36 No lighting assessment has been undertaken or submitted by the appellant, notwithstanding that 'relatively dark skies' are identified as a key characteristic.
- 9.37 PFR is a single carriageway width road past the site, which serves as an important pedestrian link on a very lightly trafficked road between Public Rights of Way (PRoWs) to the north and south of the site. The road is clearly a sensitive boundary and there are views into the site from the road. The proposed footway, to be up to 2 metres (m) in width, would adversely affect the rural character of PFR. It may be noted in this regard that no Arboricultural Impact Assessment has been presented either.
- 9.38 On a technical matter, there is concern that wireframes have not been provided to assist in the assessment of landscape effects. It is insufficient to try to assess heights for example by reference only to the hangar building (or King's Farm house), given the changes in level over the 31 ha site.

Flooding⁶⁷

- 9.39 The Council accepts that the site can be made safe from flooding. A flood risk objection is not therefore pursued. However, there is a need to understand two points regarding capacity of the site:
- That the surface water arises only on the appeal site as is now claimed. If surface water, whether in whole or part, upon detailed analysis in fact originates off-site, there may be a need for greater on-site water storage; and,
 - The currently proposed attenuation ponds should not be located in Flood Zone 3 (ie western corner of the site, as now categorised in the new flood map published by the EA in March 2025), unless and until they have been designed to be and demonstrated to operate under flood conditions there. In this regard, the EA has not confirmed that the north-west corner of the site is not to be regarded as within Flood Zone 3 (fluvial), notwithstanding the flood maps.
- 9.40 The Sequential Test is a requirement of Paragraph 175 of the Framework when applied to the appeal site. It is separate from the issue as to whether a site can be made safe from flood risk. Also, because of the points above regarding capacity of the site, the changes to PPG do not alter our position in this regard.
- 9.41 Given the housing need circumstances pertaining to Thurrock, a number of the Regulation 18 sites may properly be regarded as 'reasonably available' for the type of development proposed, and within a not dissimilar timeframe to that of the appeal site development which, according to the appellant's own assertions may take 7 to 12 years. The Council has identified four sites which are considered to be sequentially preferable but which have not been properly assessed by the appellant in accordance with PPG. These are the two Aveley sites, the Grays site

⁶⁷ This section is based on both the closings and the additional submission made with regard to the changes to PPG, [ID.17.46](#)

and the Corringham site. All are simply discarded in the STA⁶⁸ without any consideration of the spatial variation of risk.

- 9.42 It is difficult to see how the spatial variation of risk between areas can be assessed without a comparison of the four Regulation 18 sites at issue with the appeal site, in order to identify the lowest risk sites in these areas. Each of the four sites when considered against the current Core Strategy are located in a preferred location with regard to the spatial strategy, with Aveley and Corringham being an outlying settlements and Grays an urban area. By contrast, the location of the appeal site lies well beyond the outlying settlements. The two Aveley sites are at pre-application stage with applications expected in September. A planning application is expected this summer for the Grays site, with a housebuilder on board. Corringham has a live planning application for 320 dwellings, with determination anticipated by November 2025. There are, therefore, reasonably available sites.

Planning balance

- 9.43 The proposal is for significant development in the Green Belt. It would be the largest Grey Belt development in England yet permitted. As PPG on Green Belt makes clear, however, *'Where Grey Belt is identified, it does not automatically follow that ... development proposals [should] be approved in all circumstances'*⁶⁹. As also set out in PPG *'when making decisions regarding planning applications on grey belt land, authorities should ensure that the development would be in a sustainable location. For the purpose of these decisions, where grey belt land is not in a location that is or can be made sustainable, development on this land is inappropriate.'*⁷⁰
- 9.44 The appeal site is in an unsustainable location. The proposed development is seriously deficient in very important respects and fails to reflect government policy that the three strands and objectives of sustainable development.
- 9.45 In particular, it cannot be appropriate, surely, to provide AH in the relatively remote location of the appeal site. This would cause negative impacts on factors such as education and being housed outside social support networks, and disconnection from jobs (unless reached by car). In addition, PPG on Older Persons Accommodation advises⁷¹ that *'The location of housing is a key consideration for older people who may be considering whether to move (including moving to more suitable forms of accommodation). Factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres.'*
- 9.46 The proposed development therefore constitutes Grey Belt but inappropriate development, both pursuant to Paragraphs 155 and 154 g) of the Framework. 'Very special circumstances' must therefore be shown. The Council takes the view that the harm to the Green Belt, the very poor accessibility credentials both existing and proposed of the site, along with the harmful landscape and visual

⁶⁸ Paragraphs 7.54 onwards, [CD.14.2](#)

⁶⁹ Paragraph: 001 Reference ID: 64-001-20250225

⁷⁰ Paragraph: 011 Reference ID: 64-011-20250225

⁷¹ Paragraph: 013 Reference ID: 63-013-20190626

effects of the proposed development are not 'clearly outweighed' by the benefits of the proposal. The failure to comply with Green Belt policy is therefore considered to be a 'strong reason for refusal' with regard to Paragraph 11 of the Framework.

- 9.47 Where, as the Council consider here, the site is not a suitable and sustainable location in terms of accessibility, a failure to satisfy the Sequential Test (and the exceptions test), whilst (in the light of the *Faversham*⁷² decision) is not a 'strong reason' for refusing to grant permission. Nevertheless, it does increase the weight to be attached to that failure as part of the overall planning balance.
- 9.48 If, contrary to the foregoing, it is considered that the Green Belt failure does not constitute a 'strong reason', such that the 'tilted balance' applies, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, individually and in combination, notwithstanding the provision of affordable homes.
- 9.49 It has also not been demonstrated that the proposed quantum of development can be satisfactorily accommodated on the site, in accordance with the parameters assessed by the EIA⁷³, at reserved matters' stage; so, in any event, it is submitted that the proposed development for up to 750 residential dwellings, or for 690 residential dwellings, should be refused.

10. WRITTEN REPRESENTATIONS

- 10.1 85 objections were also made by local residents at the planning application stage. Please see Paragraph 4.2 of the Officer's Report⁷⁴ for a helpful summary of the concerns raised. In short, concerns are raised regarding inadequate and unsafe access, increased traffic congestion, pollution, harm to living conditions from increased noise, loss of the airfield, harm to the Green Belt, the scale of the proposal including in comparison to the size of Bulphan, harm to the character and appearance of the area, inaccessible location, flooding, harm to ecology, lack of capacity to accommodate growth in the existing infrastructure eg schools, light pollution, and the danger from proximity to high pressure gas lines. The objections can be found at [CD.11.11](#).
- 10.2 Three letters of objection to the appeal have been received from nearby residents. They raised concerns regarding: disruption to Bulphan village; harm to ecology; increased pollution; harm to character and appearance particularly to users of the PRoW; flooding; increased pressure on local services such as Basildon hospital, dentists and local schools; lack of public transport; the elderly persons housing would isolate the occupants due to the reliance on the car; harm to the free-flow of traffic particularly the A128; drainage and sewerage capacity; and, the principle of the loss of Green Belt. No interested parties appeared at the Inquiry.

⁷² Appeal Ref: APP/V2255/W/24/3350524, dated 27 June 2025 – [ID.17.44](#)

⁷³ [CD.3.17](#)

⁷⁴ [CD.6.2](#)

11. CONDITIONS AND PLANNING OBLIGATION

Conditions

- 11.1 In the event that planning permission is granted, the appellant and the Council have agreed a list of conditions which they would wish to see imposed on the planning permission⁷⁵. I have considered the suggested conditions in accordance with Paragraph 57 of the Framework, which states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

My changes

- 11.2 I have re-ordered two suggested conditions so that one condition only relates to building heights and a different condition only to land use. This has not resulted in a substantive change to either condition. I have not included the element of the landscaping condition relating to management and maintenance because this is covered by the UU. I have removed the reference in the Construction Environment Management Plan (CEMP) condition to unexpected contamination because this is dealt with by a separate condition, which is itself an amalgamation of suggested conditions which both related to unexpected contamination.
- 11.3 I have altered a suggested condition regarding noise to reflect my approach to the adequacy of the noise mitigation measures as set out in Section 12 of this Recommendation. I have altered the suggested condition regarding commercial floorspace to reflect a 750 dwelling proposal and that it is not possible to specify the location of the commercial areas by reference to a drawing in the appeal CDL. Although these changes post-date the Inquiry and have not been provided to the parties for comment, they flow directly from my detailed considerations of the 750 dwelling proposal and are, therefore, necessary.

The conditions

- 11.4 I have suggested the standard time limit and reserved matters submission conditions [1, 2, 3]. The phasing strategy condition [4] is necessary due to the scale of the proposal and to assist with the logical discharging of the conditions through the construction process. The drawings condition [5] is necessary for certainty.
- 11.5 In the interests of character and appearance it is necessary to: control the amount and type of the commercial floorspace [6]; control building heights [7]; require a Design Code [9]; secure details of materials [10]; secure details of the appearance of the commercial buildings [11]; secure details of the landscaping [12]; secure details of external lighting [11, 13]; secure details of footways and cycleways [14]; require a parking strategy [16]; secure details of parking [19]; secure a CEMP [25]; and, require details of the noise bund [31].
- 11.6 In the interests of securing appropriate living conditions it is necessary to: control the amount, type [6] and opening hours [34] of the commercial floorspace; secure details of the landscaping [12]; secure details of external lighting [11, 13]; secure

⁷⁵ [ID.17.30](#)

- a CEMP [25]; require noise mitigation measures [30]; require details of the noise bund [31]; and, to control noise from fixed plant [8].
- 11.7 The conditions relating to securing details of the landscaping [12], CEMP [25], skylark mitigation [26], Ecological Mitigation and Management Plan (EMMP) [27], and Biodiversity Net Gain (BNG) [28] are all necessary in the interests of biodiversity and ecology.
- 11.8 It is necessary to control the amount, type [6] and opening hours [34] of the commercial floorspace so that a suitable mix of retail and commercial uses is provided. It is also necessary to require that the commercial floorspace is provided before a set number of dwellings are occupied [6] to secure the provision of this element of the proposal. The allotments condition [23] is likewise necessary to secure the provision and detail of the allotments.
- 11.9 In the interests of highway safety it is necessary to secure details of footways and cycleways [14], estate road junctions [15]; carriageway access [35], the parking strategy [16]; parking [19]; and the CEMP [25].
- 11.10 It is necessary to require BREEAM 'Outstanding' from the commercial buildings [11] in the interests of meeting these technical standards.
- 11.11 The Risk Assessment [20], Remediation Scheme [21, 22], Verification Report [32], unexpected contamination [33]; noise bund [31], and CEMP [25] conditions are all necessary to protect against contamination.
- 11.12 The Flood Risk Assessment (FRA) [17], CEMP [25], and surface water management [29] and noise bund conditions for detail [31], are all necessary for the avoidance of flooding.
- 11.13 Design Code [9], residential refuse and recycling arrangements [18], and commercial bin and recycling stores [36] conditions, are all necessary to secure adequate waste and recycling facilities.
- 11.14 The archaeological evaluation condition [24] is necessary to ensure that archaeology on the site is appropriately protected and recorded.
- 11.15 Conditions 19 to 30 inclusive are all necessarily worded as pre-commencement conditions because a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Planning Obligation

- 11.16 The UU secures:
- AH – 50% of the proposed dwellings to be affordable at a 70% social rent/30% shared ownership mix, with phasing, quantum, tenure, size to be confirmed;
 - Travel Plan – Framework and Phase Travel Plans, for 12 years from first occupation of the entire development, and payment of annual travel plan monitoring fees for all 12 years of the Travel Plan related to the monitoring costs of the Council;
 - Open space – the open space to be provided, including LAP, LEAP, multi-use games area(s), and a management company with associated

service charges for the future maintenance or option to transfer the space at nominal cost to the Council;

- Drainage – a scheme for the provision and laying out of the drainage infrastructure, and a management company with associated service charges for the future maintenance or option to transfer the space at nominal cost to a water company;
- Monitoring fee – a fee payable to the Council for its costs in monitoring and discharging the obligations in the UU;
- A healthcare contribution towards improvements to local surgeries;
- A contribution towards mitigation measures in accordance with the Essex Coast RAMS;
- Bus services:
 - a contribution towards the Council's costs in extending bus service 475 into the appeal site;
 - extension of bus service 565 including into the appeal site;
 - an additional timetabled bus on the new extended 565 route;
 - funding for these of up to £3,200,000, to cover all costs for the 12 years. The full specification of the routes is to be agreed. A committee is to be set up, to include the developers' management company, the Council, ECC, Parish Council, any residents committee, to review the service and make changes etc;
 - bus stops and shelters are also to be provided within the appeal site; and,
 - travel vouchers for one year for use of 565 bus for future occupiers, at one per dwelling.
- Contributions towards nursery, primary education and secondary education facilities;
- Junction scheme – creation of the main vehicular access to the site from the A128 using a roundabout, in accordance with drawing Refs KMC18068/008; 009(1); 009(2); 009(3); and, 010;
- Emergency access – creation of the emergency access as shown on Illustrative Land Use Masterplan Ref RIM-002 Rev B; and,
- Footpath – creation of a footway on the eastern side of PFR and Church Lane⁷⁶, to include full details, an Arboricultural Impact Assessment, and an updated Road Safety Audit.

11.17 The Council's CIL Compliance Statement sets out the detailed background and justification for each of the obligations. It's closing statement⁷⁷ confirms it has no objection in CIL Regs compliance terms regarding the proposed footway on PFR. I am therefore satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regs and the tests at Paragraph 58 of the Framework, and I have taken them into account. This is with the exception of the clauses relating to bus services to which I return as appropriate throughout my Recommendation. In this regard, Clause 4.2 provides the power for you to state that part(s) of the UU will cease to have effect, if you

⁷⁶ In accordance with drawing Refs KMC18068/012(1) Rev A, 012(2) Rev A, 012(3) Rev A, 012(4) Rev A and 012(5) Rev A – Annex B to Schedule 3, page 26 onwards of [ID.17.43](#)

⁷⁷ Paragraph 151, [Ibid](#)

consider that Regulation 122 of the CIL Regs has not been met by the relevant part(s).

11.18 The UU has been submitted in counterpart form. This was due to difficulties in securing signatures in a timely manner from all parties to the UU. It is confirmed at Clause 18 that each counterpart together shall constitute one and the same agreement. I also confirm that certified copies of both the individually signed documents have been provided. The counterpart form of the UU is therefore acceptable.

11.19 There are also some discrepancies in the UU, as follows:

- The First Annual Travel Plan Monitoring Fee is said to be “three thousand pounds (£3,210)”⁷⁸;
- The Healthcare Contribution is said to be “three hundred and eighty seven thousand four hundred pounds (£356,400)”⁷⁹; and,
- The Second Annual Travel Plan Monitoring Fee is said to be “three thousand pounds (£3,210)”⁸⁰.

11.20 The discrepancies are relatively minor. There is clear intention that the payments be the correct level to mitigate the effect of the proposal on healthcare and to cover the Council’s reasonable costs in monitoring the travel plan. I therefore recommend that, if you are minded to allow the appeal, that you so only whilst directing that the UU be amended.

12. INSPECTOR CONCLUSIONS

Main Considerations

12.1 On the information available at the time of making the Direction, the Statements of Case, the resolution and expansion of areas of dispute in the lead-up to the Inquiry as highlighted above, and the evidence submitted to the Inquiry, the following are the matters on which you need to be informed for the purpose of your consideration of this appeal:

- (i) whether or not the appeal site is an appropriate location for development of this type having regard to local and national planning policy and guidance, with particular regard to accessibility by non-car based modes of transport;
- (ii) the effect of the proposed development on the character and appearance of the area, in particular landscape character;
- (iii) whether or not the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the Framework; and,
- (iv) whether or not the proposal would be inappropriate development in the Green Belt, to include considerations regarding Grey Belt.

12.2 If you find the proposal to be inappropriate development, then a further main consideration will be whether the harm by reason of inappropriateness, and any

⁷⁸ Schedule 2, Part 1 Definitions, page 19 - [Ibid](#)

⁷⁹ Schedule 2, Part 1 Definitions, page 19 – [ID.17.43](#)

⁸⁰ [Ibid](#)

other harm, is clearly outweighed by other considerations so as to amount to the 'very special circumstances' necessary to justify it.

Main Consideration #1 – Accessibility by non-car based modes of transport

Proximity of services and facilities

- 12.3 The appeal site is in a rural location. There is a pub and two light industrial areas directly adjacent, along the A128, which are easily accessible from the site and provide a limited employment and leisure offer. To the north is the village of Bulphan. This provides a shop with a reasonable range of products similar to the offer of a supermarket only on a small scale, village hall, primary school and church. Bulphan can be accessed via an approximately 2 km walk⁸¹ partly along PFR, or a very short drive either along that road or the A128. To the south is Orsett, which provides a hotel, restaurant and spa, hospital, primary school, shop and surgery. This is approximately 4 km from the site. The nearest secondary schools are in Stanford-le-Hope at approximately 9 km or South Ockendon at approximately 11 km, both by road [[2.2](#), [7.3](#), [8.29](#), [9.17](#)].
- 12.4 To access a wider range of services and facilities, it is necessary to travel to Basildon at approximately 10 km and a 15 minute drive to the north east, or Brentwood to the north at approximately 11 km and also 15 minute drive. Thurrock and the employment areas along the Thames estuary, lie to the south, also at approximately 10 km and a 15 minute drive. The extremely large DP World development and future employment area lies to the east, at approximately 11 km and a 15 minute drive.
- 12.5 Central London, which has a reasonable employment and leisure offering, can most easily be accessed via West Horndon train station to the north and an approximately 5 km and 5 minute drive. The train station then provides regular services of approximately 30 minutes to London Fenchurch Street station.

Defining accessibility

- 12.6 The CIHT Planning for Walking 2015 document⁸² states that most people will only walk if their destination is less than a mile away, and that the land use patterns most conducive to walking have walking catchments of 800 m⁸³. It further states that, for bus stops, the distance reduces to 400 m⁸⁴. Earlier guidance from CIHT sets out upper maximums for walking distances of 2 km for journeys to school or work, and 1.2 km for other journeys⁸⁵. However, these are maximum distances and I do not view it as likely that many people would regularly walk such distances. Therefore, whilst the distances set out in the CIHT 2015 document are not absolutes, I view them as reasonable starting points for assessing the distance to services, facilities and schools that would be likely to result in high levels of walking [[9.16](#)].

⁸¹ As is common ground between the parties, I am using the centre of the appeal site as the starting point for the walking measurements

⁸² [CD.12.7](#)

⁸³ Section 6.3, [Ibid](#)

⁸⁴ Section 6.4, [Ibid](#)

⁸⁵ Table 3.2, page 49 - [CD.12.25](#)

- 12.7 My attention was drawn to advice from the Department of Education⁸⁶ regarding walking distances to schools. However, the guidance relates to funding and providing transport for pupils, not directly to the likelihood of walking. It does not reflect the distances that would be conducive to encouraging regular walking by pupils to school. I do not, therefore, view this as being helpful with regard to assessing the accessibility of the appeal site.

Is the appeal site accessible by non-car based modes of transport?

Walking and cycling

- 12.8 As set out in the CIHT 2015 document, and as is common sense, the propensity to walk is also influenced by the quality of the experience. In this regard, PFR is lightly trafficked but it is also narrow and there is no pavement until within the village of Bulphan. It is not lit. It therefore provides only limited genuine options for walking from the appeal site to the village but I nevertheless do view it as being walkable for at least some people from the appeal site because of the low traffic levels. This could include families walking to school, particularly because such walking would be largely in daylight [2.2, 9.17].
- 12.9 Orsett village could be accessed via a combination of PFR and Conway's Road. Conway's Road is wider than PFR but with heavier traffic. It is also unlit. They provide some opportunity for cycling, particularly given the combination of the light traffic and relatively short distance of approximately 4 kms. Again, though as with walking to Bulphan, Orsett is a genuine option only for some people by bicycle.

Bus

- 12.10 The nearest bus stop is in Bulphan village, at approximately 1.2 km. This is served by bus route 565, which provides roughly hourly services between 07:34 and 18:17 Monday to Saturday (with a slightly later start and reduced frequency on Saturday), between Brentwood and Bulphan⁸⁷. This route is not a genuine option because of the distance to the appeal site, which is in excess of the 800 m advised by the CIHT and also because the walking route has the problems I have set out above.

Overall

- 12.11 Therefore, the relatively limited range of services, facilities and employment opportunities along the A128 immediately adjacent to the site and within Bulphan village would be accessible to some people by foot. The slightly wider range of services, but still relatively limited, in Orsett would be accessible to some people by bicycle. There are no bus routes at present that are accessible. The site is therefore highly dependent on the car for accessibility for almost all journeys. This includes all schools apart from, possibly, Bulphan primary school. It also includes the primary employment areas to the south in Thurrock, the north east in Basildon, and in the future at DP World to the east, and the leisure facilities in locations such as Lakeside.

⁸⁶ Page 11, [CD.12.34](#)

⁸⁷ Table 3.1, [CD.14.7](#)

Can the appeal site be made accessible by non-car based modes of transport?

Walking and cycling

- 12.12 The proposed development would generate some of its own internal walkable journeys, because of the employment and facilities offer from the proposed retail and commercial floorspace. Whilst there may be some ancillary facilities associated with the accommodation for older people, these would be very limited to avoid coming into conflict with the operative part of the permission, if granted, as set out above. These would not, therefore, generate any material internal walkable journeys to access facilities and services. Nevertheless, the retail and commercial floorspace would provide a genuine choice of transport modes other than the car for some, albeit few, journeys [8.30].
- 12.13 The UU secures the provision of a segregated cycle and walking route from the appeal site along PFR to Bulphan village. This would increase the attractiveness and useability of this route by improving the safety, including full height kerbs to separate the footway from the vehicular traffic. The village would still be 2 km distant from the site, of course, but this would become a genuine option for cycling and even walking for at least some of the future residents of the proposal [1.13].

Bus

- 12.14 There is a dedicated school bus, number 475, which runs along the A128, and provides access to Orsett Heath Academy Secondary School, St Cleres Secondary School and Brentwood School⁸⁸. The UU secures a payment to run the service into the appeal site. Although the principle of diverting an existing service which runs alongside the appeal site is sound, the payment amount of £250,000 has not been justified or explored in any way by the appellant. Nor has it been demonstrated that the service operator would be willing to make such a diversion. It is therefore not possible for me to know whether or not it is CIL Regs compliant. I therefore recommend that, using the powers set out at Clause 4.2 of the UU, you declare that this element of the UU⁸⁹ ceases to have effect. In the absence of the proposed diversion, the appeal site would therefore remain inaccessible to schools, other than for some pupils to Bulphan primary school, by any mode of transport other than the car [9.26].
- 12.15 The UU contains a number of provisions with regard to bus route 565. The first is to extend the service from Bulphan village into the appeal site, and for the provision of appropriate bus stops and shelters in the site. This would bring route 565 within easy walking distance of the proposed dwellings. The service is roughly hourly, providing services from 07:34 to 18:17 Monday to Friday and very similar on Saturday. It serves West Horndon train station and Brentwood. An hourly service is a limited and unattractive offer by comparison to car journeys. Although it could also be used by commuters to London, via West Horndon train station, its utility would be limited in that regard given the relatively late start and early finish to the service. This bus route as extended would not therefore offer a genuine alternative to the car [8.21, 9.24].

⁸⁸ Page 14, [ID.17.27.2](#)

⁸⁹ See the School Transport Contribution on page 19 and Clause 3 on page 20 of the UU, [ID.17.43](#)

- 12.16 The UU also contains clauses pertaining to subsidising an increase in frequency of the 565 route and that it start earlier at 06:00 and finish later at 20:30 hours⁹⁰. The Council has raised several points of concern regarding this offer⁹¹. To pick-up on one in particular, the UU secures a declining subsidy model. For this to break even at the end of the 12-year term⁹², both the appellant's assumption on 7% patronage from the appeal site and an increase in usage from persons off-site brought about by the increased frequency would need to occur. 12 additional off-site persons⁹³, although not evidenced, is a reasonable assumption across the entire route. However, 7% is very high for a rural location. The current bus share in the wider area is 1% and no convincing justification is provided for such a step change in mode share. It is therefore likely that at the end of the 11-year term, the bus route would require ongoing subsidy to operate. There is therefore the possibility that the increased frequency of the 565 route would not continue to operate when the subsidy from the UU ends.
- 12.17 Superseding these technical concerns, however, is that even as changed the bus service would remain a relatively infrequent route serving limited destinations, all northwards from the appeal site and away from the majority of the employment and leisure offer to the south and east, eg Thurrock, Lakeside, DP World or Basildon. I do not, therefore, believe that the increase in frequency and extension of operating hours of the bus route as proposed in the UU would make a meaningful difference to patronage of the route in any event [[8.22 to 8.25](#), [9.18 to 9.23](#)]. The proposed subsidy to fund an increase in frequency of the 565 route, therefore, even if it were practicable, is not necessary to make the development acceptable in planning terms. It is not, therefore, compliant with the CIL Regs [[8.47 to 8.50](#)].
- 12.18 In addition, the cost as proposed by the appellant would be £3,200,000. This is disproportionate to any likely improvement to the choice of transport modes. The proposal is also, therefore, not fairly and reasonably related in scale and kind to the proposed development. I therefore recommend that you declare that this element of the UU⁹⁴ ceases to have effect.
- 12.19 I acknowledge that the large development at DP World could potentially create its own transport solutions, which may or may not include increased bus services which may or may not serve the appeal site. However, any such detail is not before me and I can therefore only place very limited weight on this consideration [[8.26](#)].

Overall

- 12.20 It would be possible for some future occupants to walk and cycle to access the moderate levels of employment, leisure and retail facilities both on the site and in

⁹⁰ Table 7, page 11 – [ID.17.27.2](#)

⁹¹ And also at [ID.17.40](#) and [ID.17.41](#)

⁹² I note that the UU refers to a 12-year subsidy model whereas the closings for both parties refers to 11 years. I am unsure of the reason for the discrepancy and it could be a technicality relating to '11 years and one day'. The UU is engrossed and takes precedence. However, the difference of, at most, only one year makes no material difference to my assessment

⁹³ Paragraph 3.5, [ID.17.27.2](#)

⁹⁴ See all of Schedule 7 as it relates to the additional services of route 565 of the UU, [ID.17.43](#)

Bulphan and Orsett. Bus route 565, as extended into the appeal site, would also provide an alternative for some trips, but the service would be infrequent and it would not serve the major employment and leisure offers to the south and east. The appeal site is unavoidably poorly served by public transport, and offers limited walking and cycling opportunities. The vast majority of trips by future occupants, employees and users of the services and facilities of the appeal site would, therefore, be by car. The Framework Travel Plan has as an aspiration a 5% modal shift away from the car⁹⁵, which feels like the realistic maximum that would be achieved. The car would therefore likely remain as the mode of transportation of choice for the majority of journeys for the foreseeable future.

- 12.21 There would not, therefore, be a genuine choice of transport modes other than by car. The site is in a rural location but not all rural locations are as inaccessible by non-car modes of transport as the appeal site. It compares poorly to sites located much closer to existing settlements in this regard.
- 12.22 The appeal site is therefore in an inappropriate location for development of this type having regard to local and national planning policy and guidance, with particular regard to accessibility and reliance on the car. The proposal therefore fails to comply with Paragraph 110 of the Framework, which requires significant development to be focussed on locations which are or can be made sustainable. It also fails to comply with Paragraph 77 of the Framework, which states that large housing developments should be well located with good access to services and employment opportunities in larger towns. It also fails to comply with Policy CSTP15 of the CS, which seeks to ensure that new development promotes high levels of accessibility by sustainable transport modes.

Main Consideration #2 – Character and Appearance

Sufficient information

- 12.23 The Council has raised concerns regarding an alleged lack of accurate visual representations of the proposal, in particular the lack of wireframe images. However, the submitted material includes a full Visual Impact Assessment (VIA), at Chapter 6 of the ES⁹⁶, based on best practice guidance from the Guidelines for Landscape and Visual Impact Assessment 3rd Edition. Various viewpoints are described and shown. A Zone of Theoretical Visibility (ZTV) is shown and is updated in an addendum⁹⁷ to respond to any inaccuracies. Computer Generated Images (CGIs)⁹⁸ are submitted which show the general feel of the proposal, even if they are not verified [[9.38](#)].
- 12.24 I am therefore satisfied that the appellants submissions in particular consideration of the VIA, ZTV and the CGIs, in combination with the Proofs of Evidence and round-table discussion at the Inquiry and my site visit, provided sufficient information to allow me to fully assess the effect of the proposal on the character and appearance of the area.

⁹⁵ Paragraph 4.5, [CD.3.25](#)

⁹⁶ Pdf page 96 onwards, [CD.2.1](#)

⁹⁷ Pdf pages 8 and 9, [CD.3.66](#)

⁹⁸ [CD.2.11](#)

Existing character and appearance

- 12.25 As set out in the Thurrock Landscape Capacity Study 2005⁹⁹, the appeal site lies within LCA A1 Bulphan Fenland. The key characteristics¹⁰⁰ of the LCA are of an open, flat, arable landscape, with sparse settlements mostly farms, clipped and gappy hedges, some clumps of woodland, a rural character and a sense of tranquillity [8.36 to 8.38, 9.31].
- 12.26 The appeal site demonstrates some of these key characteristics. It is an open and flat landscape, and it feels part of and contributes to an expansive area of open land. The hedges are in places gappy. Although it is now an airfield, it is largely laid to grass helping it to partially assimilate with the surrounding rural and agricultural landscape. However, it is not entirely tranquil, as it is an operational airfield, albeit with relatively limited numbers of flights. It is also not rural, again because it is an airfield [2.1].
- 12.27 The site is bordered by a busy road to the east, and two light industrial areas directly adjacent along the road. There are also houses to the west. These further reduce its tranquillity and rural nature. Immediately adjacent to the site is the farmhouse which has no visible boundaries to the appeal site and the airfield, further diminishing the rural and tranquil nature. PFR, to the west, is a road with the feel of a country lane, being narrow and with relatively high hedgerows.
- 12.28 The site is visible from much of the surrounding countryside, often up to the nearest populated places such as Orsett, West Horndon and Langdon Hills, albeit with hedgerows and other screening making this intermittent in places. It is visible from PRoW, roads, and surrounding buildings.

The proposal

- 12.29 The eventual layout, design, landscaping and quantum of development is not yet fully defined. This is partly because the proposal is in outline. However, it is also as a result of the appellant's opaque approach to the scope and scale of the proposal as set out above. The appeal is for up to 750 dwellings and this is on the basis it must be determined, as set out above. However, at the Inquiry the appellant's evidence was on the basis of an illustrative masterplan¹⁰¹ which indicated 690 dwellings [1.3 to 1.6].
- 12.30 My assessment below is set out with this significant caveat. I use the most recent masterplan to inform my assessment because it is that which was relied upon by the appellant at the Inquiry and is the most recent masterplan in the submitted material, whilst making allowances for how the proposal could be adapted to accommodate 750 dwellings.

Assessment

- 12.31 In whatever form it came forward to accommodate 750 dwellings, the proposed development would urbanise a currently open, mostly green, site. The urbanisation would be significant both due to the number of proposed buildings

⁹⁹ [CD.14.3.13](#)

¹⁰⁰ Paragraph 3.5.1, [Ibid](#)

¹⁰¹ Ref 0286 RIM-001, [CD.14.8.1](#)

and the scale of the proposal. The intrinsic harm to the appeal site would be significant, and would harm some key characteristics, in particular the open, flat, rural character and a sense of tranquillity, including dark skies. The proposed development would also be visible from PRowS and roads over a moderately wide area of countryside [8.36, 8.40, 9.31 to 9.32].

- 12.32 The scale of the proposed development, be it either 690 or 750 dwellings, would make it appear as a new isolated settlement within the countryside. It would have an awkward relationship with the existing village of Bulphan, by being slightly too far away to read as an extension to the village, but still in its visual periphery. It would therefore fail to respect a key characteristic of the LCA of there being sparse settlements.
- 12.33 The level of harm would be partially mitigated by the site's active use as an airfield and immediate light industrial, other development and A128 surroundings, all of which detract from its rural and tranquil nature and value. However, this mitigation would only be to a limited degree given the scale of the proposal and the associated identified harm [12.26, 12.27].
- 12.34 The landscape proposals include the introduction of hedgerows that, although illustrative at present, could be located so as to broadly reflect an historic hedgerow field pattern¹⁰². It is likely that this could still be achieved even with 750 dwellings, at least in part. However, any such pattern has already been lost from not only the appeal site but much of the wider rural landscape. In addition, the proposed hedgerows would be within a mixed-use development surrounded by buildings and any visual link to a former, already lost, rural landscape would be difficult to discern. This element of the proposed landscaping would therefore be only a neutral contributor to the character and appearance of the area [8.39, 9.33].
- 12.35 A 2.5m high noise bund is proposed. The details of this have not yet been submitted although they could be controlled either by suggested [condition 31](#) or reserved matters submissions. A 750 dwelling scheme may force its location to be very close to the A128. However, it could be designed so as to be quite narrow, and to be constructed of earth and be landscaped so as to at least partially assimilate into the landscape, whatever its location. Planting, such as trees, could be provided on the bund. The bund could therefore be an attractive, or at least neutral, feature.
- 12.36 As set out in the 690 dwelling illustrative masterplan, the proposed density within each allocated plot for development would be 34.5 dph¹⁰³. This is on the basis of 20 ha of the 31 ha appeal site being developed. Even at this density the layout includes several terraces of housing, courtyard blocks and densely packed housing. If 750 dwellings were to be accommodated in the same land area, the density would be 37.5 ha. No evidence has been submitted to show that a layout can be achieved at this density whilst maintaining a sufficiently high quality design.

¹⁰² Pages 3 and 4, [CD.14.3.3](#)

¹⁰³ Footnote 90, [ID.17.35](#)

- 12.37 It would not be possible to increase the height of the buildings as a response, because this would be in conflict with the accompanying Illustrative Land Use Masterplan¹⁰⁴ which indicates the maximum building heights and compliance with which is the subject of proposed [condition 7](#). These heights are also the basis on which the appellant's evidence was provided at the Inquiry, and of considerations such as the ZTV. This places further pressure and doubt on the ability of the developable area to accommodate 750 dwellings.
- 12.38 A further specific concern related to a 750 dwelling proposal is in relation to the proposed woodland area to the east, alongside the A128. The appellant acknowledges this to be a necessary mitigation measure from a landscape and design perspective, however, it is unclear whether this feature could be accommodated in the manner and depth suggested if 750 dwellings were to be delivered¹⁰⁵ [[8.38](#), [9.35](#)].
- 12.39 The original application submission was accompanied by an Illustrative Masterplan¹⁰⁶ for up to 750 dwellings. However, this included housing over a larger part of the appeal site than the 690 dwelling masterplan. It is telling that the only masterplan with 750 dwellings includes additional developable areas and is not relied upon by the appellant. The 690 dwelling masterplan indicates a mostly 10m buffer to the south, and this must provide for both boundary screening and drainage features. It is already tightly drawn¹⁰⁷ and if it were to be narrowed, it has not been demonstrated that these features could be adequately retained.
- 12.40 On other matters, the proposed segregated walking and cycling route along PFR would result in some diminution of the rural character of the road by introducing harder forms, such as kerbing. However, the route would not be very long and the intrusions would be limited and any impacts localised. The precise design would come forward at reserved matters stages, pursuant to the UU¹⁰⁸. Overall, the proposed footway would result in limited harm. In addition, the proposed development would be visible from PFR, albeit intermittently, but this part of the lane is already lined by houses and the farmhouse and near to the southern reaches of Bulphan village. Therefore, only limited harm with regard to the setting of the footway would result [[9.37](#)].
- 12.41 No lighting assessment has been undertaken or submitted by the appellant. However, the detail of lighting could be controlled by my suggested [conditions 9, 11 and 13](#). There is no reason to believe that lighting for a largely residential development would need to be excessive or would result in significant harm to the area. Nevertheless, and particularly given that one of the key characteristics of the area is its dark skies, there would be some harm from light pollution from the proposed development [[9.36](#)].

¹⁰⁴ Ref 0286 RIM-002 Rev B, [CD.14.8.2](#)

¹⁰⁵ Pages 35 and 43, [CD.14.3](#)

¹⁰⁶ Dated September 2019, [CD.1.8](#)

¹⁰⁷ [CD.14.3.4](#)

¹⁰⁸ Schedule 3, [ID.17.43](#)

Car parking

- 12.42 Based on the illustrative masterplan for 690 dwellings, the appellant considers that the proposal would generate a requirement for 1,544 spaces¹⁰⁹. The assumptions which inform this calculation are: 477 houses at two and a half spaces per house; 133 flats at one and a half spaces per flat; 80 older persons dwellings at one space per dwelling; one space per 14 sq m of retail floorspace; and, one space per 30 sq m of commercial floorspace. Included within the houses and flats is an allowance of half a space per home for visitors. No visitors parking is allowed for in the older persons accommodation [\[8.32 to 8.33\]](#).
- 12.43 The Council has provided a range of scenarios, all based on 690 dwellings split into 515 houses at two and a half spaces per house and 175 flats at one and a half spaces per flat.¹¹⁰ None of the Council's scenarios split out elder persons accommodation. The variations are with regard to the various options for the specific types of retail and commercial floorspace. The lowest output from the Council's assessment is 1,615 spaces. The highest is 1,735 spaces [\[9.6\]](#).
- 12.44 The differences between the parties are therefore generated by the treatment of the older persons accommodation, and the various options for the retail and commercial floorspace. In addition to the differences generated by the different approaches of the two parties, because of the outline nature of the proposal and that the amount, and in some cases type, of accommodation is not yet fixed, it is not possible at this stage to finalise the car parking requirements. A further complication is that the application, of course, is for 750 dwellings, not 690.
- 12.45 Nevertheless, the assessment and data provided by the parties is a useful framework to consider the likely levels of car parking that would be required on the appeal site. If the 690 scheme is increased pro-rata to 750 dwellings, and 80 older persons dwellings remain, this equates to 523 dwellings and 147 flats. This would generate a requirement for 1,528 spaces from the residential and a further 80 spaces for the older persons housing, based on the undisputed requirement of one space per dwelling.
- 12.46 To understand the range of possibilities from the commercial floorspace, I consider the lowest of the Council's estimates at a combined 65 spaces and the highest at a combined 185 spaces. This equates to a total of either 1,673 spaces or 1,793 spaces, for a 750 dwelling proposal. This includes the potentially generous assumption with regard to low levels of car parking for older persons accommodation given the inaccessibility of the site by non-car based modes of transport. Even with that assumption and using the lower end of the range, the likely car parking requirement that would be generated by the proposal would be 129 spaces higher than that as assumed by the appellant.
- 12.47 It has not, therefore, been adequately substantiated that the potential level of car parking could be successfully accommodated on the appeal site.

¹⁰⁹ [ID.17.24](#)

¹¹⁰ [ID.17.22.1](#)

Overall

- 12.48 The proposal would cause harm to the character and appearance of the site from the urbanisation effect of the proposed built form. This is only partially mitigated by the context that the site is an operating airfield as existing, rather than agricultural land. There would be further harm from the appearance of a large new settlement in an isolated location but still sufficiently close to Bulphan village so as to negatively affect its setting. This would be visible from fairly extensive areas of the surrounding countryside, including from PRoW and roads. There would be further harm, albeit limited, to the rural character of PFR both from the proposed footway and the setting of the road from the proposed development.
- 12.49 Importantly, in addition to the in-principle concerns and harms identified above, it has also not been demonstrated that the appeal site could accommodate the 750 dwellings proposed, together with the other uses and associated car parking spaces as have been applied for. This is with particular regard to density, layout, boundary treatments, and the proposed woodland area.
- 12.50 Overall, therefore, I assess the level of harm on the character and appearance of the area, in particular landscape character, to be significant. The proposal therefore fails to comply with Policy CSTP22 of the CS which requires high quality design, Policy CSTP23 which requires proposals to reflect the character of the area, Policy PMD2 which requires development to respond to the sensitivity of the site and its surroundings, and Policy PMD9 which requires that proposed development preserves or enhances the quality of the street scene.

Main Consideration #3 – Flooding*Type of flooding*

- 12.51 The EA's flood mapping¹¹¹ shows that parts of the site, mostly but not only either side of the runway, are in Flood Zone 2 (FZ2). There is also a relatively large area of Flood Zone 3 (FZ3) to the north west corner of the appeal site. Separate maps show that fluvial flood risk is confined to the northern boundary of the site, along the Mar Dyke¹¹², whereas pluvial flood risk corresponds to the flood zone location map¹¹³. The maps together therefore confirm that the north west corner of the site is not at fluvial flood risk. The appellant has also confirmed this is the case using National Flood Risk Assessment 2 (NaFRA2) data¹¹⁴. It is therefore beyond reasonable doubt that the flood risk on the site is pluvial, aside from very small encroachments of fluvial along the northern boundary that correspond to the Dyke [\[9.39\]](#).
- 12.52 The majority of the pluvial flood risk is from within the site. The tarmac runway provides an obvious source resulting in flooding to either side. There is also ponding in various locations. However, some of the pluvial flooding may originate from off-site, particularly to the north east and south boundaries, because the site, broadly speaking, slopes from the east to the west. The detailed assessment

¹¹¹ Figure 4, [CD.3.67](#)

¹¹² Figure 1, page 2 – [Ibid](#)

¹¹³ Figure 4, page 6 and Figures 16 onwards, page 10 onwards - [Ibid](#)

¹¹⁴ See Technical Note 2, [ID.17.18](#)

of the pluvial flows¹¹⁵ is unclear as to the direction of the flow in these two locations. However, it does establish that any pluvial flood risk from cross-boundary sources, if it exists at all, would be very limited in extent.

Assessment

- 12.53 With regard to pluvial flooding, the tarmac runway and other hard standing areas would be removed. The proposal would result in larger impermeable areas and built form. However, it is common ground, and I agree, that the detailed design of the proposal could respond to and mitigate these risks, either by land level changes or careful layout and positioning of built form. This could be controlled by my suggested [condition 29](#) and reserved matters submissions. The area to the north west corner which lies in FZ3 is proposed to be a SUDS feature. I therefore see no reason why this feature could not be designed so as to fully mitigate pluvial flood risk from within the site in this area and/or to still operate as designed even if small amounts of pluvial risk remained¹¹⁶. The detailed design of this could be controlled by proposed [conditions 17](#) and [29](#).
- 12.54 There is also the potential for some off-site flows to the southern and north east boundary, which could result in a greater on-site flood storage requirement. However, given the limited extents and volume of these flows, this would be unlikely to be significant. The fluvial flood risk is confined to very small areas along the northern boundary that would become part of the landscaping and barrier treatments. I do not, therefore, believe that the flood risk mitigation measures would result in the appeal site being unable to accommodate either 750 or 690 homes [\[8.43 to 8.45, 9.42\]](#).
- 12.55 The proposed development therefore represents an acceptable form of development having regard to its flood zone location and the provisions of the Framework, in particular Paragraph 181 which requires development to be appropriately flood resilient, to incorporate SUDS where appropriate and that any residual risk can be safely managed.

Sequential test

- 12.56 Although I have concluded that the proposed development represents an acceptable form of development having regard to its flood zone location and the provisions of the Framework, it is also important to consider the principle of sequential testing [\[8.42\]](#).
- 12.57 In this regard, Paragraph 170 of the Framework directs inappropriate development in areas at risk of flooding away from areas at highest risk. The Framework does not define inappropriate development in the context of flooding. Residential development is both intrinsically vulnerable to flooding and a more vulnerable land use than the existing airfield¹¹⁷. Parts of the appeal site are in FZ2 and FZ3. Paragraph 174 further states that inappropriate development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 175

¹¹⁵ Pages 15 to 18, [CD.3.67.1](#) and [ID.17.18](#)

¹¹⁶ See Paragraph 3.13, National standards for sustainable drainage systems – [ID.17.6](#)

¹¹⁷ Annex 3, the Framework

confirms that, where proposed built development is within areas at risk of flooding, the sequential test should be used. This is to establish whether or not there are reasonably available alternative sites [\[8.43 to 8.45\]](#).

- 12.58 The appellant has submitted a STA¹¹⁸. It concludes that there are no reasonably available alternative sites. However, the Council has identified four such sites, namely two Aveley sites, the Grays site and the Corringham site. I acknowledge that none of them have been granted planning permission, but three of the sites are at an active pre-application stage and one, Corringham, has had an application submitted¹¹⁹. It must be remembered that the appeal site also does not yet have planning permission. I therefore prefer the position of the Council in this regard and view them as reasonably available alternative sites [\[9.41 to 9.42\]](#).
- 12.59 Therefore, whilst the proposal would be acceptable with regard to the effects of flooding on the development, the failure to adequately undertake a sequential assessment is in conflict with the Framework as set out above. I place significant weight on this failure because it represents a departure from the over-arching spatial planning requirement to direct inappropriate development away from areas at risk of flooding. This is consistent with the recent appeal decision at *Faversham*¹²⁰.

Main Consideration #4 – Inappropriate development in the Green Belt

Paragraph 154 exceptions

- 12.60 The appeal site is in the Green Belt. The starting point is that the development of a large residential-led mixed use scheme, be it for 690 or 750 dwellings, is inappropriate development in the Green Belt. However, Paragraph 154 of the Framework sets out a series of exceptions. Only part (g) is relevant to the proposal, which states that the complete redevelopment of PDL which would not cause substantial harm to the openness of the Green Belt does not constitute inappropriate development.

Previously Developed Land

- 12.61 The first element of part (g) is that the development be on PDL. PDL is defined in the Glossary to the Framework and it only relates to land which has been lawfully developed. Although there is a complex case history, including enforcement action, it is now agreed between the parties that the appeal site is lawfully in use as an airfield. It could be argued that it was not lawfully developed as such and instead only became so over time, ie it is now immune from enforcement action. However, this is not a point upon which the Council place any material weight, and I see no reason, for the purposes of this appeal, to consider this matter further.
- 12.62 The appeal site includes a tarmac runway, hangars, other smaller structures associated with its use as an airfield, a tarmac entrance road, large areas where the grassland is mowed short either for the outside storage of planes, emergency and/or maintenance access, and a secondary grass runway that runs nearly

¹¹⁸ [CD.14.2](#)

¹¹⁹ Paragraphs 11.23 to 11.35, [CD.14.10](#)

¹²⁰ Paragraph 90, Appeal Ref APP/V2255/W/24/3350524 – [ID.17.2](#)

perpendicular to the tarmac runway. Significant parts of the site are simply open grassland. However, the site reads as a cohesive single planning unit – it is an airfield with associated supporting structures, and the open land simply being the land that necessarily runs alongside runways. Both the lawful use and the on-the-ground appearance is that the entire appeal site is an airfield and nothing other than an airfield.

- 12.63 The appeal site has permanent structures, primarily the hangar buildings. It also has fixed surface infrastructure through the tarmac runway and some tarmac areas around the hangar that are clearly associated with the buildings, because they are all functionally related to the use of the site as an airfield. It therefore comprises lawfully developed land that is, in part, occupied by permanent structures and fixed surface infrastructure associated with them.
- 12.64 The above, though, does not include the large expanses of grassland on the appeal site, including the close mown areas which are not fixed surface infrastructures. I have had close regard to the *Vistry*¹²¹ and *Hampshire*¹²² cases, both of which considered the definition of PDL and the relationship of curtilage to buildings. Adopting the same approach as in those cases, the grassland areas are not curtilage to the hangars because they are not intimately connected to the buildings and nor are they part and parcel of the buildings [\[9.7\]](#).
- 12.65 However, the definition of PDL in the Framework relates curtilage, as opposed to buildings/structures, to the developed land. The developed land on the appeal site includes the fixed surface infrastructure, ie including the tarmac runway. The grassland is intimately connected to the runway because it runs directly alongside it and is used by aircraft to taxi to/from the runway before/after landing or take-off. Part of it is also used as a secondary runway or is kept short for maintenance and safety reasons directly associated with the runway. The grassland areas near to the north and south boundaries are unlikely to often be used directly by planes. However, even in those areas there is land near to the secondary grass runway. The appeal site does not have excessive land in addition to the minimum required to house the airfield. The runways run nearly to the full extent of the site, both east/west (tarmac) and north/south (grass) [\[9.8 to 9.10\]](#).
- 12.66 This is a subtly different consideration to that regarding functional equivalence as grappled with in *Vistry*¹²³, because it relates to the curtilage and therefore the intimate association with the fixed surface infrastructure not the buildings. Overall, therefore, I view the entire appeal site as constituting PDL. The hangars, other structures, tarmac runway and general tarmac areas because they are permanent structures and/or associated fixed surface infrastructure. The grassland areas because they are curtilage to the developed land, ie to the fixed surface infrastructure.

Harm to openness

- 12.67 The second element of part (g) is that the proposal would not cause substantial harm to the openness of the Green Belt. In this regard, the appeal site is largely

¹²¹ [CD.12.27](#)

¹²² [CD.12.28](#)

¹²³ Paragraphs 89 to 93, [CD.12.27](#)

open land, including the fixed surface infrastructure. The hangars and other permanent structures are not particularly large buildings, and are clustered in the south west corner of the site, near to the buildings of Kings Farm, which provide some screening.

- 12.68 The proposal is for the extensive development of the site, including hundreds of dwellings, mostly up to 8.5 m above ground, and in places 11 m above ground. There would therefore be substantial intrusion of built form into currently undeveloped areas that would cause substantial harm to spatial openness of the Green Belt.
- 12.69 With regard to visual openness, the appeal site is mostly open. There is some screening from hedgerows and other built form, for example to the north east on the western side of the A128. However, this is relatively limited. The hedgerows are not particularly high or thick, and to the south present a fairly broken and limited visual containment. The landscape around the appeal site is predominantly open and there are expansive views including from roads and PRow. In this respect, I am in agreement with the Council's Strategic Green Belt Assessment Stages 1a and 1b¹²⁴ and its assessment of Parcel 14, within which the appeal site sits.
- 12.70 There would be some mitigation from the proposed boundary treatments, but this planting in itself is intrusion into the openness of the Green Belt, would not entirely screen the proposal in any event, and it has not been demonstrated that it might need to be limited in thickness to accommodate 750 dwellings. In addition, the proposal would give rise to increased activity on the surrounding roads from the future occupants and users of the development. Some of these roads are within the Green Belt. This increased activity would also, therefore, cause harm to the openness of the Green Belt [8.19, 9.14]. Considering all factors, there would also, therefore, be substantial harm to the visual openness of the Green Belt.

Overall

- 12.71 Although the appeal site is PDL, the proposal would cause substantial harm to openness. Exception 154(g) is not, therefore, met by the proposed development.

Grey Belt

- 12.72 The definition in the Framework states that any site that does not strongly contribute to purposes (a), (b) or (d) in Paragraph 143 of the Framework is Grey Belt land. It is common ground between the parties that this applies to the appeal site and that it is therefore Grey Belt land, and I see no reason to disagree [8.14, 9.12].
- 12.73 The definition includes a caveat that excludes land where the application of the policies relating to the areas or assets in Footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. As set out below, it is common ground that none of the Footnote 7 areas or assets provide a strong reason for refusal. I therefore agree with the parties that the appeal site comprises Grey Belt. Paragraph 155 of the Framework sets out a number of

¹²⁴ See pdf pages 67 and 68, [CD.12.3](#)

criteria which, if all are met, would make development not inappropriate in the Green Belt. I therefore assess the proposal against those criteria below.

Paragraph 155(a) – Green Belt purposes

- 12.74 This criteria is that development on Grey Belt land would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. There are therefore two critical concepts. The first is that the purposes must not be fundamentally undermined. The second is that this applies to the remaining Green Belt across the area of the plan. This is an important distinction which aligns the assessment against the Green Belt areas outside the appeal site but nonetheless affected by the proposed development on the site. It cannot relate to the site itself, otherwise the assessment of Grey Belt would effectively reapply some of the same purposes and controls to Grey Belt land as to Green Belt land¹²⁵ [\[8.14\]](#).
- 12.75 With regard to purposes (a) and (b)¹²⁶, although a large site it sits in an expansive area of Green Belt large tracts of which are open and rural landscape. The wider area is punctuated by small areas of development and villages, but the nearest areas of large built-up areas, and the nearest towns, are Thurrock several miles to the south and Basildon several miles to the north east. Even after development of the appeal site, therefore, there would remain substantial areas of Green Belt that would provide buffers of open land. Development of the appeal site would not, therefore, result in the fundamental undermining of the ability of the remaining Green Belt to check the unrestricted sprawl of large built-up areas, and nor would the proposal result in the remaining Green Belt being able to prevent neighbouring towns merging into one another.
- 12.76 Purpose (c) is with regard to safeguarding the countryside from encroachment. With regard to the remaining Green Belt, the key consideration in this case is the boundary treatments and visibility. The appeal site is mostly open and its boundaries are not particularly thick and nor do they provide substantial screening. I do not view hedgerows as being strong defensible boundaries in any event because they are commonplace in open countryside and treating them as such would be to undermine the concept of the Green Belt by treating most fields as having defensible boundaries. The proposed development would cause substantial harm to openness on the appeal site, as set out above. However, despite the relatively limited defensible boundaries and/or screening, this would still only indirectly affect the remaining Green Belt with regard to encroachment to the countryside. It would not, therefore, fundamentally undermine this purpose [\[8.15 to 8.18, 9.13\]](#).
- 12.77 I am not persuaded by the Council's concerns regarding this setting an unwelcome precedent in this regard¹²⁷. Each case must be judged on its merits, including site specific considerations regarding scale, visibility and boundary treatment.

¹²⁵ I acknowledge this is a different approach from that taken at *Holly Lane* (see Paragraphs 7 to 11, [CD.12.29](#)) but it is the only logical interpretation that I can come to

¹²⁶ Paragraph 143, the Framework

¹²⁷ Paragraph 90, [ID.17.34](#)

- 12.78 With regard to purpose (d), there are no historic towns nearby, so nor would development of the site affect the ability of the remaining Green Belt to preserve the setting of such towns.
- 12.79 In relation to purpose (e), allowing development of this Grey Belt site would assist the purpose of urban regeneration by encouraging the recycling of derelict and other urban land. This is not because the site itself is derelict or urban land, which is a separate consideration to PDL. However, the Council has a very large shortfall of housing land. It's eLP is in the early stages and is not known what sites will be allocated to respond to the housing need, including the currently very large shortfall. However, some element of Green Belt release is inevitable. This is important in Thurrock because, by allowing development of the appeal site, this would reduce pressure on other, non-Grey Belt parts of the Green Belt, i.e. the remaining Green Belt, to be developed. A PDL Grey Belt site is sequentially preferable to a green field Green Belt site in this regard.
- 12.80 Overall, therefore, the proposal would not fundamentally undermine the purposes (when taken together) of the remaining Green Belt across the area of the plan and it meets this criteria.

Paragraph 155(b) – Unmet need

- 12.81 This criteria is that there be a demonstrable unmet need for the type of development proposed. It is clarified at Footnote 56 of the Framework that for the provision of housing, a lack of a five-year supply of housing land represents demonstrable unmet need. As set out below, the Council cannot demonstrate a five-year supply of housing land. It is therefore common ground, and I agree, that this criteria is met [\[12.99\]](#).

Paragraph 155(c) – Sustainable location

- 12.82 This criteria is that the proposed development would be in a sustainable location. As set out above, the proposal is not accessible by non-car based modes of transport. It is not, therefore, in a sustainable location with particular reference to Paragraphs 110 and 115 of the Framework. PPG¹²⁸ is also clear that development in inaccessible locations, even on Grey Belt land, should be considered as inappropriate. The proposal does not, therefore, comply with this criteria [\[12.20 to 12.22\]](#).

Paragraph 155(d) – Golden Rules

- 12.83 This criteria requires that proposals meet the Golden Rules set out at Paragraphs 156 and 157 of the Framework. It is common ground, and I agree, that the 50% AH as secured through the UU meets Golden Rule 156(a) and 157. Significant areas of POS and recreation facilities, such as dog walking and children's play areas, are proposed, and secured by a combination of the UU¹²⁹ and by my suggested [conditions 9](#) and [12](#). It is common ground, and I agree, that this adequately meets the requirements of Golden Rule 156(c). However, the proposed measures in the UU with regard to extending the school bus service

¹²⁸ Paragraph: 010 Reference ID: 64-010-20250225

¹²⁹ Schedule 6, [ID.17.43](#)

475 and the public bus service 565, as secured through the UU, have not been demonstrated to be CIL Regs compliant. The proposal therefore fails to meet Golden Rule 156(b) [8.14, 9.12].

Overall

- 12.84 The proposed development fails to comply with the Green Belt exception 154(g) because it would cause substantial harm to openness. It also fails to comply with the Grey Belt exception 155(c) because it is in an unsustainable location, and Golden Rule 156(b) because of the failure to successfully secure necessary improvements to local infrastructure, ie the bus services, through the UU. It therefore constitutes inappropriate development in the Green Belt. This is also reflected in Policy PMD6 of the CS insofar as it is consistent with the Framework, but I note that this policy does not contain any references to Grey Belt.

Other Matters

Noise

A128

- 12.85 The busy A128 road runs along the eastern boundary of the appeal site. The appellant's assessment¹³⁰ is that any homes with an eastern facing façade on the nearest part to the road of the three most easterly proposed residential development areas would have nighttime noise levels of 48 decibels (dB) LAeq, 8h. This is in excess of the British Standard (BS)8233:2014 standards for noise levels in bedrooms of 30 dB LAeq, 8h. The noise levels in the assessment is with windows open. With windows closed, the sound levels would meet the required standards. A detailed design measure could therefore be to provide suitable mechanical ventilation to provide the option for future residents to keep their windows shut.
- 12.86 However, the noise assessment is based on the proposal for 690 dwellings. A 750 dwelling scheme could involve proposing dwellings nearer the A128 coupled with a reduction in the area that could be used to mitigate the noise through tree planting and/or a noise bund. Although it is likely that some planting and a noise bund could be retained, it has not been demonstrated that this would be sufficient to maintain noise levels at a level such that simple mitigation measures within homes or layout changes to the proposal could create adequate internal living environments for the future occupants of the proposal. It therefore fails to comply with Policy DPM1 of the CS, which requires suitable living conditions for occupants.

Commercial uses on the site

- 12.87 The distances between the proposed indicative commercial uses and the nearest noise sensitive dwellings are not yet known because of the outline nature of the proposal, and the remaining uncertainties with regard to a 750 dwelling scheme. However, proposed [condition 6](#) would limit the uses to those within Use Class E, all of which must, by definition¹³¹, be capable of being carried out in a residential

¹³⁰ Appendix D, [CD.14.5.4](#)

¹³¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

area without detriment to the amenity of the area. There would also be the opportunity to introduce localised screening if required at the detailed design stage, which would likely be small and so could be accommodated even within a 750 dwelling masterplan.

- 12.88 Therefore, the effect of the operation of the commercial uses on the future occupants of the dwellings would be acceptable, subject to control of the use classes by my suggested [condition 6](#), noise from commercial plant by my suggested [condition 8](#), and reserved matters submissions.

Commercial uses off-site ie Burrows Farm

- 12.89 There is an existing commercial use to the north of the appeal site at Burrows Farm. This could generate some nighttime noise, primarily through Heavy Goods Vehicle (HGV) movements. The appellant's assessment¹³² found that, when using worst case assumptions about the degree of activity and level of sounds present, both day and nighttime noise would be unlikely to result in any adverse effects on the future occupants of the dwellings. The Council agrees with this conclusion¹³³. The 690 dwelling layout includes residential dwellings adjacent to the nearest part of the border of the site with Burrows Farm. These conclusions would therefore remain the same even with a revised layout to accommodate 750 dwellings.

Highways and transportation

Highway safety

- 12.90 It is proposed to provide a footway from the western boundary of the site up towards Bulphan along PFR. It would be created by realignment of the road, changes to the verges, and the creation of passing places, all so that the eastern side of the road becomes a segregated footway. It would be segregated from the remaining road by kerbing. The footway would end with an uncontrolled pedestrian crossing, marked by dropped kerbs, that would link it to the existing footway on the west side of the road.
- 12.91 Details have been provided¹³⁴ and secured by the UU and these would be refined as is also controlled in the UU¹³⁵. The Council raised concerns regarding the safety of pedestrians using the proposed footway at the Inquiry. However, the HA has reviewed the proposal and has no objection. The Council also confirmed that it meets the cycle standards in DfT's Local Transport Note (LTN) 1/20¹³⁶.
- 12.92 Overall, because the footway has been reviewed and found acceptable by the HA, there is scope for further amendments at the detailed design stage, and that PFR has low traffic levels, I see no substantiated reason why the footway would give rise to any material concerns in terms of highway safety.

¹³² Appendix C, [CD.14.5.3](#)

¹³³ [ID.17.28](#)

¹³⁴ In accordance with drawing Refs KMC18068/012(1) Rev A, 012(2) Rev A, 012(3) Rev A, 012(4) Rev A and 012(5) Rev A – Annex B to Schedule 3, page 26 onwards of [ID.17.43](#)

¹³⁵ Schedule 3, [Ibid](#)

¹³⁶ [CD.12.8](#)

Transport Assessment

- 12.93 For the avoidance of doubt, the TA¹³⁷ based trip generation on a combination of Trip Rate Information Computer System (TRICS) data and mode share, not car parking spaces. It was also based on a 750 dwelling proposal¹³⁸. The validity of the TA is not, therefore, placed into question by the car parking considerations nor the application for 750 dwellings.

Ecology

Protected sites

- 12.94 The proposed development site is located close to the Thames estuary and is in proximity to the Thames Estuary and Marshes SPA and Ramsar European sites, within their Zone of Influence (Zoi). Please see Annex E for my Appropriate Assessment (AA) of these sites, which concludes that, following mitigation, the proposal would not have significant effects on the integrity of the European sites, either alone or in-combination with other projects.

Existing

- 12.95 The appeal site is largely semi-improved grassland, some of it regularly mown, and which provides limited habitat of ecological value. However, there are also features such as hedgerows and other vegetation, and ditches which hold rain, which provide higher quality habitat¹³⁹. The appellant's Ecological Impact Assessment (EclA)¹⁴⁰ found multiple records of protected or notable species, including Great Crested Newts, bats, Barn Owls, hedgehogs, breeding and wintering birds including skylarks, and harvest mice.

Proposed

- 12.96 The proposal would result in the comprehensive development of the site, including the loss of the majority of the semi-improved grassland. It would therefore likely result in direct ecological impacts on these protected or notable species, such as habitat loss and potential habitat fragmentation, and indirect impacts such as disturbance. However, these could be mitigated by a combination of measures taken to minimise disruption and damage during construction, to suitable replacement features for example habitat creation within the proposed landscaping. This could be secured by my recommended [condition 27](#).
- 12.97 With regard to skylarks, the appellant's Breeding and Wintering Bird Report February 2021 recommended that mitigation should include creating suitable nesting habitat on adjacent arable farms using spring cereals¹⁴¹. During the course of the Inquiry, the appellant secured agreement in principle to provide such habitat on nearby land¹⁴². I have suggested Grampian [condition 26](#) which

¹³⁷ Paragraph 5.1.3, [CD.1.2](#)

¹³⁸ Section 5.2, [Ibid](#)

¹³⁹ Appendix A, Figure 5 – [CD.1.4](#)

¹⁴⁰ [CD.1.4](#) and [CD.2.1.9](#)

¹⁴¹ Paragraph 4.4.2, [CD.2.1.10](#)

¹⁴² [ID.17.25](#) and [ID.17.25.1](#)

would secure this provision. The proposal would therefore have an acceptable effect on ecology.

Biodiversity Net Gain

- 12.98 The appellant submitted a Biodiversity Net Gain Report, April 2021¹⁴³ with the application. This was based on a now superseded masterplan for 669 dwellings. It concluded that the proposal would achieve a BNG of 20% for biodiversity units and 17% for hedgerow and tree units. However, the proposal is exempt from the mandatory requirement for 10% BNG due to the date of the application and it only needs to achieve 'a' net gain to accord with Paragraph 187 of the Framework and Policy CSTP19 of the CS. The appellant is nevertheless offering to achieve a 10% BNG, which could be secured by my suggested [condition 28](#). Even at this level, there is sufficient headroom to the 20% and 17% calculations as set out above that it is likely that there would be sufficient scope, even within a 750 dwelling masterplan, to incorporate the measures necessary to achieve not only 'a' BNG but also a 10% BNG as set out in the condition.

Housing

Market housing

- 12.99 The agreed housing land supply is between 0.72 and 0.91 years, equating to an agreed shortfall of between 5,719 and 5,989 homes. The Housing Delivery Test measuring past performance is very low, at 35%. The Council's housing delivery situation is woeful. It is the worst I have ever seen and likely one of the worst in the country.
- 12.100 The Council's latest Five Year Housing Land Supply Statement¹⁴⁴ sets out that the Council considers it has a deliverable supply of 1,417 dwellings over the five-year period 2024/25 to 2028/29, set against a need of 1,181 dpa¹⁴⁵, which excludes the shortfall. Looking further ahead, the eLP includes provisional housing allocation sites. However, the eLP is at an early stage in its production and I have been provided with no substantiated evidence that these sites are deliverable. An independent review of the eLP process raises several concerns, including flaws in site selection, some of which are viewed as critical to resolve before moving to Regulation 19 stage¹⁴⁶. In any event, the eLP is at such an early stage that we do not know what spatial strategy is to be taken forward or what the eventual proposed housing sites will be. The Council therefore has no deliverable plan to regain a five-year supply of housing land.
- 12.101 The proposal is for up to 335 market dwellings. This is a substantial provision that would make a significant contribution towards housing.

¹⁴³ [CD.3.15](#)

¹⁴⁴ Paragraph 2.1, [CD.14.6.11](#)

¹⁴⁵ Figure 9.1, page 127 – [CD.14.6.10](#)

¹⁴⁶ Page 2, [CD.14.1.17](#)

Affordable housing

- 12.102 The South East Housing Needs Assessment (HNA) 2022¹⁴⁷, which informs the production of the eLP, identifies a net need of 448 AH dpa for the period 2021/22 to 2039/40. Over the period since 2008/09, the Council has delivered an average 45 net AH dpa. When the shortfall is factored into the identified need of 448 AH dpa for the period 2024/25 to 2028/29, the number of affordable homes the Council will need to complete increases by 50% to 670 net AH dpa.
- 12.103 If 1,417 dwellings are delivered over the next five-year period 2024/25 to 2028/29, which is unlikely based on past trends, then at an average rate of 35% this would deliver 496 gross AH, equating to 99 gross AH dpa. This would represent a substantial shortfall to the net need, however it is precisely calculated.
- 12.104 The proposed development includes up to 335 AH. This is 50% of the total non-older persons dwellings and is a level of provision which would exceed the requirements of CS Policy CSTP2, which is 35%.

Older persons housing

- 12.105 The Council has agreed that there is a critical need for older persons housing. More precisely, there is an immediate unmet need of 2,706 older persons dwellings, with only 259 dwellings in the pipeline of supply. The lack of housing for the elderly in the District also means that this demographic will not be encouraged to move out of the existing housing stock to more suitable accommodation, thereby releasing housing for the economically active.
- 12.106 The 80 proposed older persons dwellings would therefore make a meaningful contribution to the older persons accommodation shortfall and would also assist in the supply of general housing. However, it is important to remember that the 80 older persons dwellings are not secured by the appeal proposal, the UU or any of the suggested conditions. It is therefore possible that they would not come forward. Even if they did come forward, the amount of supporting facilities would be limited by the requirement for the homes to remain within the general housing use class. This reduces the weight that I recommend be placed on the proposed older persons housing, to moderate weight. However, this housing would revert to market and AH if not used as older persons accommodation, which would then benefit from the very substantial weight that I set out above.

Economic

- 12.107 There would be short term benefits to the economy from the creation of jobs through construction. Given the large scale of the proposal, many jobs would be created and likely for a several year construction process.
- 12.108 There would be long term economic benefits from the creation of jobs and business opportunities on the site at the retail, commercial, and older persons facilities floorspace (albeit limited in extent due to it needing to remain ancillary to the dwellings). There would also be long term benefits from expenditure on local goods and services by the future residents of the proposal.

¹⁴⁷ Table 6.7, [CD.14.6.10](#)

- 12.109 The Council is due to see a very significant increase in job opportunities in the coming years and decades through the development of DP World at London Gateway. This is close to the site, to the east along the river Thames. The provision of housing will enable the Council to retain a larger proportion of this future workforce within the Borough, thus helping to contribute to the economic growth of the area.

Limiting the need to travel

- 12.110 As set out above, the appeal site is a short drive, ie 15/20 minutes, from several important employment and leisure destinations, including Basildon, Lakeside, DP World in the future, and Thurrock. Central London is accessible by a regular and short train journey, via a relatively short drive to West Horndon train station. It is not an isolated site in that sense. Most journeys would be by car. But most journeys would be relatively short [[12.4 to 12.5](#), [12.20](#)].
- 12.111 In addition, the Council's lamentable housing land supply situation needs to be considered. Because so few homes have been provided in the District, the distances travelled by people to access the main employment areas in Thurrock and DP World have likely lengthened, as people seek accommodation further afield. It is difficult to provide empirical evidence for this, but it is likely that the lengths of journeys undertaken by people would be reduced by the proposal by providing accommodation that does not exist at present closer to the employment and leisure offer. I acknowledge those journeys would, by and large, be by car, but there would be an element of limiting the need to travel.

Open space

- 12.112 Areas of open space are proposed, to include recreation facilities such as dog walking routes, allotments, and children's play space. The areas proposed are large and include 1.1 ha of parks, 3.2 ha of semi-natural greenspace and 2.1 ha of amenity greenspace. It is possible that these areas would need to reduce to accommodate a 750 dwelling proposal. However, they would remain large spaces. The specific facilities such as children's play space or allotments would still be provided. These spaces and facilities would be useable by the general public as well as future residents.

Off-site flood risk

- 12.113 There are three residential properties outside the appeal site on its western boundary, located on the east side of PFR¹⁴⁸. There is currently a risk of overland surface water flows from the appeal site flooding their properties. The proposal would mitigate this because of the changes to land levels and SUDS measures that are required to respond to the pluvial flood risks on the appeal site. The level of flooding and risk that would be mitigated is low, but this nevertheless represents a benefit of the proposals.

Green Belt Balance

- 12.114 The proposal is inappropriate development in the Green Belt. As set out at Paragraph 153 of the Framework, inappropriate development is by definition

¹⁴⁸ Page 20, [CD.3.67](#)

harmful to the Green Belt and should not be approved except in 'very special circumstances'. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Harm

To the Green Belt

- 12.115 As set out at Paragraph 142 of the Framework, the essential characteristics of Green Belts are their openness and their permanence. The proposal would cause substantial harm to both visual and spatial openness [[12.67 to 12.71](#)].
- 12.116 In relation to Green Belt purpose (c), the proposal would be an obvious and large-scale encroachment of built form into a currently mostly open site. There are some boundaries and screening to the site. However, the screening from other buildings is limited because most of the boundaries are to open fields. The hedgerows are not particularly thick and only provide some screening, as well as being commonplace features in the middle of rural areas. The A128 provides the most obvious defensible boundary but this is only to one boundary of the site. Overall, therefore, the proposal would harm purpose (c) [[12.76 to 12.77](#)].
- 12.117 In accordance with Paragraph 153 of the Framework, I place substantial weight on the harms to the Green Belt that I have identified. I note here that Footnote 55 does not apply because it only relates to 'not inappropriate' development, even where the proposal is on PDL and/or Grey Belt land.

Other harm

- 12.118 The failure to adequately undertake a sequential assessment is in conflict with the Framework. I place significant weight on this failure because it represents a departure from the over-arching spatial planning requirement to direct inappropriate development away from areas at risk of flooding [[12.56 to 12.59](#)].
- 12.119 I have assessed the level of harm on the character and appearance of the area, in particular landscape character, to be significant. It accordingly carries significant weight [[12.23 to 12.50](#)].
- 12.120 Considered in the round, the appeal site is in an inaccessible location to all forms of transport other than the car. It would remain as such even if bus route 565 were to be extended to the site or increased in frequency, because it would remain relatively infrequent and the route is limited and it only offers access to the north and not to facilities that older persons might require, such as the GP surgery in Orsett. It would also remain as such even if a footway were to be provided on PFR because this would only provide access to the limited range of services and facilities in Bulphan. In addition, AH and older persons housing is proposed, both of which are likely to be more reliant on public transport than the occupants of market housing homes.
- 12.121 The appeal site is relatively accessible by car, with a huge range of employment, leisure and entertainment facilities reachable by a short drive, as well as central London via West Horndon train station. However, the lack of a genuine choice of transport modes and the reliance on the car are significant harms related to the proposal. It is set against one of the fundamental spatial objectives of national

and local planning policy to direct development, particularly large scale development such as that proposed, to accessible locations. I therefore place substantial weight on the inaccessibility of the appeal site [[12.3 to 12.22](#)].

- 12.122 It has not been demonstrated that the proposal would create suitable living conditions for the future occupants with regard to noise pollution from the A128 and the layout for a 750 dwelling proposal. It is likely that only a small number of properties would be affected, if any would be affected at all, but the creation of adequate living conditions is important and I place moderate weight on this factor [[12.85 to 12.86](#)].

Other considerations

Neutral

- 12.123 Green Belt purposes (a), (b), (d) and (e) would not be materially harmed for the reasons set out above, which apply equally to consideration of the effect of the proposal on the appeal site. This weighs neutrally in the balance [[12.74 to 12.80](#)].
- 12.124 That the proposal meets technical requirements with regard to flood risk, highway safety, ecology, noise from Burrows Farm, and noise and disturbance between the proposed mix of uses are neither benefits nor harms and weigh neutrally in the balance.

Positive

- 12.125 Because of the very poor current supply and no realistic likelihood of this being rectified in the foreseeable future, I place very substantial weight on the proposed market housing. Because of the provision above policy requirements, the very low AH supply, and there being no realistic likelihood of this being rectified in the foreseeable future, I place very substantial weight on the proposed AH. The older persons housing, if it comes forward, would be limited in terms of the support and facilities it could provide and therefore is of moderate weight. Or, in the alternate, would be normal housing with very substantial weight [[12.99 to 12.106](#)].
- 12.126 The short term economic benefits from construction would nevertheless be significant because of the scale of the proposal. The long term benefits from expenditure on local goods and services would also be large. Economic growth is an important part of sustainable development, as set out in the Framework. These factors therefore carry significant weight. The provision of housing close to DP World thus enabling the Council to capture some of the workforce within the Borough is only an ancillary benefit but one relating to a very large future employment opportunity and is therefore of moderate weight [[12.107 to 12.109](#)].
- 12.127 As set out above, any effect of the proposal with regard to on-site ecology could be suitably mitigated. In addition, a BNG of 10% is proposed and secured by my suggested [condition 28](#). This is an important benefit that contributes towards the environment limb of the sustainable development objectives in the Framework, and I place moderate positive weight on this factor [[12.94 to 12.98](#)].
- 12.128 There is currently a risk of overland surface water flows from the appeal site to three properties outside. The proposal would mitigate this because of the changes to land levels and SUDS measures. The level of flooding and risk that

would be mitigated is low, and only three properties would be protected. I therefore place limited weight on this factor [\[12.113\]](#).

- 12.129 Areas of open space are proposed, to include recreation facilities such as dog walking routes, allotments, and children's play space. The areas proposed are large and would be useable by the general public as well as future residents. I therefore place moderate positive weight on this factor [\[12.112\]](#).
- 12.130 As set out above, I am unconvinced that the proposal to increase the frequency of bus route 565 would be achieved in practice. However, for the avoidance of doubt and to ensure a robust assessment is made of the proposal, I consider that, if it were to be successfully implemented, then it would have only limited benefits to existing off-site residents which use the service. This is because it would remain an infrequent service that does not serve the main employment and leisure opportunities in the wider area. I place limited weight on this factor [\[12.14 to 12.20\]](#).
- 12.131 The proposal could reduce some journey distances looked at holistically by providing housing nearer to future and current job opportunities than is currently being achieved. However, the extent of this is uncertain and the journeys would still mostly likely be by car. I therefore place limited weight on this factor [\[12.110 and 12.111\]](#).

Very special circumstances

- 12.132 There would be harm to the Green Belt from the large scale inappropriate development, substantial harm to both visual and spatial openness, and harm to purpose (c) that I have identified. There would be significant harm to the character and appearance of the area, including landscape character. There is also a technical, yet important, harm from the failure to undertake an adequate flood sequential test. The appeal site is poorly served by public transport, only very few facilities are or would be accessible by foot or bicycle, and future occupants would likely rely mostly on the car for all future journeys. It has not been demonstrated that adequate living conditions would be created for the occupants of all the proposed dwellings, with regard to noise pollution.
- 12.133 I acknowledge that the harm to the Green Belt must be set in the context that development on the Green Belt is going to be required if the Council has any hope of rectifying its abysmal housing land supply of less than one year, and that the appeal site is a PDL site within Grey Belt and is therefore sequentially preferable to harm to non-PDL and/or non-Grey Belt sites within the Green Belt. In addition, the inaccessibility is somewhat tempered because car journeys are likely to be relatively short because of the proximity of Basildon, Lakeside, Thurrock, DP World and central London via West Hendon train station.
- 12.134 There are both significant economic benefits, very substantial benefits from the proposed housing, and moderate benefits from the open space and facilities, BNG, retention of the future workforce at nearby future commercial developments such as DP World, and older persons housing. Lastly, there would be limited benefits from reducing the risk of surface water flooding to off-site properties, the increased frequency of bus route 565 to off-site residents, and reduced journey times to DP World and other future job opportunities.

- 12.135 However, important though these benefits are, they would not clearly outweigh the combination of the proposed harm to the Green Belt and other harms, which are wide ranging and extensive. I particularly note the inaccessibility of the appeal site to non-car based modes of travel and the substantial harm to openness of the Green Belt. Therefore, the other considerations in this case do not clearly outweigh the harm identified. Consequently, the 'very special circumstances' necessary to justify the proposed development do not exist.

Conclusion

- 12.136 The proposal conflicts with Policies CSTP15, 22 and 23, PMD1, 2, 6 and 9 of the CS, including with regard to the important matters of Green Belt, accessibility and character and appearance, and living conditions. It therefore conflicts with the Development Plan when considered as a whole. The Framework is an important material consideration, and the proposal fails to demonstrate that 'very special circumstances' exist. In addition, although the Council cannot demonstrate a five year supply of housing land and therefore Paragraph 11d) is engaged, the application of policies in the Framework relating to Green Belt provide a strong reason for refusing the development proposed. Therefore, as set out at Paragraph 11d)i and Footnote 7 of the Framework, the 'tilted balance' does not apply.
- 12.137 There are therefore no material considerations which indicate that a decision should be made otherwise than in accordance with the Development Plan.

13. RECOMMENDATION

- 13.1 That the appeal be dismissed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THURROCK COUNCIL

Richard Humphreys KC, instructed by the Council Solicitor. He called:

Steve Plumb DMS CMLI MCIEEM CEnv	Director, Plumb Associates Ltd
Neil Starkey GMICE	Associate, Pell Frischmann
Julian Howes CMILT MCIHT	Principal Engineer, Thurrock Council
Alan Ward MRTPI	Interim Major Developments Planning Officer, Thurrock Council

Additional participants at the Conditions and Obligations Round Table Session:

Carole Robins	Locum Principal Solicitor, Thurrock Council
Sadie Stowell	Environmental Protection Officer/Acoustics Officer, Thurrock Council

FOR GRASSLANDS LTD

Kevin Leigh, Maurice O'Carroll and SanMari Martins, of Counsel, and instructed by Addleshaw Goddard LLP. They called:

Roland Bolton MRTPI	Director, P.LanD
Clive Bentley CIEH MIOA CEnv	Director, Sharps Acoustics
Michal Nowak PIEMA	Landscape Planning Consultant, Deacon Design Ltd
Toby Hart MCIEEM PIEMA	Managing Director, United Environmental Services Ltd
James Stacey MRTPI	Managing Director, Tetlow King Planning
Robin Crowther AMICE PIEMA AMEI	Director, J P Chick and Partners Ltd
Jessica Pratt MCIHT MTPS	Director, KMC Transport Planning Ltd
Loriana Jaconelli RIBA RIAS	Senior Architect, Nicholas Jacob Architects
Simon James MRTPI	Director, P.LanD
Phil Deacon CMLI	Director, Deacon Design Ltd

Additional participant at the Conditions and Obligations Round Table Session:

Matthew Henson	Managing Associate, Addleshaw Goddard LLP
Emily Williams	Managing Partner, Addleshaw Goddard LLP

ANNEX B: CORE DOCUMENTS

Core Documents can be accessed at: [Internet Link](#)

ANNEX C: DOCUMENTS SUBMITTED DURING THE INQUIRY

Inquiry Documents can be accessed at: [Internet Link](#)

A full schedule of both the core documents and the inquiry documents can be accessed at: [Internet Link](#)

ANNEX D: SCHEDULE OF RECOMMENDED CONDITIONS

Time limits, drawings and reserved matters

1. Details of the appearance, landscaping, layout and scale, (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application(s) for the approval of the Reserved Matter(s) for the first phase of the development shall be made to the local planning authority before the expiration of three years from the date of this permission.

Application(s) for the approval of Reserved Matters for all other phases shall be made to the local planning authority before the expiration of five years from the date of this permission.

3. The development hereby permitted shall be begun within two years from the date of the approval of the final Reserved Matter(s) of each phase.
4. Prior to the submission of the first of the Reserved Matters applications, a site wide Phasing Strategy for the delivery of the proposed development shall be submitted to and approved in writing by the local planning authority. The Strategy will provide for the delivery of:
 - the residential development and associated roads and footways;
 - the non-residential development and associated roads and footways; and,
 - highway works including the proposed footway in Parkers Farm Road.

The development shall thereafter be carried out in accordance with the approved Strategy.

5. The development hereby permitted shall be carried out in accordance with the following approved drawings: Refs 0286 LP001, KMC18068/008, 009(1), 009(2) and 009(3).

For observation

6. No more than 375 dwellings shall be occupied until the commercial floorspace has been completed and made available for sale/occupation.

The development shall not exceed 1,800 square metres of commercial floorspace, of which up to 300 square metres is to be within Use Class E(a), E(b), and E(c) (shops, restaurants/cafés, and financial/professional services) and 1,500 square metres is to be within Use Class E(f) and E(g) (creches/day nurseries and offices/research/light industry), of the Town and Country Planning (Use Classes) Order 1987 (as amended). The commercial floorspace is to be used for no other purpose, including any other purpose within Class E or any subsequent equivalent class.

7. No building on any part of the development hereby permitted should exceed the maximum building heights shown on the Illustrative Land Use Masterplan Ref RIM-002 Rev B.
8. Noise from any fixed plant at any commercial premises on site shall not exceed 40 dB Lar, Tr between 0700 and 2300 hours and 34 dB Lar, Tr between 2300 and 0700 hours at any nearby dwelling. The assessment shall be carried out in accordance with the methodology in BS4142:2014+A1:2019.

Reserved matters

9. Prior to the submission of the first of the Reserved Matters applications, a site-wide Design Code for the site shall be submitted to and approved in writing by the local planning authority. The Design Code shall accord with up-to-date industry standards/national design code guidance and shall show how the established design principles incorporated into the land-use masterplan have been met. The Design Code will provide for the following:

Built form:

- Character areas;
- Block structure and building forms and types;
- Building heights (in accordance with those as shown on drawing Ref RIM-002 Rev B);
- Corner treatments;
- Elevation composition;
- Placement of entrances; and,
- Building materials palette.

Public Realm:

- Landscape design principles;
- Planting palette;
- Street types;
- Surface materials palette;
- Street furniture and design of play equipment, lighting and boundary treatments; and,
- Integration of car parking and traffic calming measures.

Private Space:

- Living standards which will establish a benchmark for detailed submissions to be assessed against, e.g. storage provision for individual dwellings, provision of private outdoor space;
- Integration of useable terraces and balconies as relevant;
- Types of refuse and recycling storage;
- Cycle parking; and,
- Standards to be applied (including back-to-back distances, car parking ratios, garden sizes) which will have regard to best practice and/or adopted standards.

Each application for approval of Reserved Matters for each phase shall comply with the Design Code and the approved plans and include a Design Code

Compliance Statement demonstrating compliance with the approved site wide Design Code.

10. Each application for the approval of Reserved Matters for each phase shall include details of all materials to be used in the external surfaces of the buildings to be constructed in that phase and shall accord with the approved Design Code.

No development above ground level shall commence for each phase until written details or samples of all materials to be used in the construction of the external surfaces in that phase have been submitted to and approved in writing by the local planning authority.

The development of each phase shall be carried out using the approved materials and/or details.

11. The relevant application(s) for the approval of Reserved Matters for the commercial building(s) and uses shall include the following:
- Drawings and cross sections to show how the building(s) can be accommodated on the site and within the landscape;
 - Material and boundary finishes;
 - Signage;
 - Security measures;
 - External lighting;
 - A plan to show the location of the associated car parking spaces;
 - A programme for implementation; and,
 - Full details of the compliance with BREEAM 'Outstanding'.

The commercial buildings(s) and uses shall be constructed as approved in accordance with the programme of implementation.

12. Each application for the approval of Reserved Matters for each phase shall include a Landscaping Scheme for approval in writing by the local planning authority that is in accordance with the approved Design Code and Green Infrastructure Plan. This shall include details of:
- hard landscaping structures and materials;
 - trees, hedgerows and other landscape features to be removed, retained, restored or reinforced;
 - the location, species and size of all new planting including trees, shrubs, hedging, herbaceous plants and grass;
 - written planting specifications (including cultivation and other operations to achieve successful establishment);
 - pit design for tree planting within streets or areas of hard landscaping;
 - existing and proposed levels comprising spot heights, gradients and contours, grading, ground modelling, bunding and earth works;
 - locations and specifications and product literature relating to street furniture including signs, seats, bollards, planters, refuse bins;
 - whether public access will be permitted to such land;
 - details of boundary treatments including the siting, height, design and materials for all gates, fences, walls, railings and piers to be constructed in

that phase and shall be in accordance with the approved Design Code for the site;

- details for the play space for that phase;
- proposed structural landscaping works incorporating a minimum 10-metre deep boundary landscape buffer; and,
- details of the site-specific mitigation measures with regard to recreation disturbance to the Thames Estuary and Marshes Special Protection Area, eg dog-walking routes.

The Landscaping Scheme and associated works shall be implemented as approved and thereafter retained as approved.

If within five years from the completion of the development within the relevant phase a tree, shrub or hedgerow planted as part of the Landscaping Scheme is removed, destroyed, dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, a replacement tree (as the case may be) shall be planted within the site of such species and size and shall be planted at such time as specified in writing by the local planning authority.

13. Each application for the approval of Reserved Matters for each phase shall include details of all external lighting proposals for the uses in that phase (except for lighting for each dwelling house). The details shall be approved in writing by the local planning authority and the external lighting shall be installed as approved and shall be retained and maintained at all times thereafter.

14. Each application for the approval of Reserved Matters for each phase shall include detailed plans of comprehensive systems of footways and cycleways within the site, including links across the site and from the site to the proposed off-site footway and cycleway network, for approval in writing by the local planning authority.

The submitted details shall include:

- details of construction and surface finish;
- measures to prevent unauthorised vehicular / motorcycle access;
- details of signage; and,
- the timetable for provision.

The footpaths and cycleways shall be formed in accordance with the agreed timescale and thereafter permanently retained and maintained in the agreed form.

15. Each application for the approval of Reserved Matters for each phase shall include (where applicable) at each internal estate road junction clear to ground level visibility splays with dimensions based on the Manual for Street criteria for emerging visibility sight splays, as measured from and along the nearside edge of the carriageway. It shall also include on any bend within an internal estate road a clear to ground forward visibility splay. Such visibility splays shall be provided before the road is first used by vehicular traffic and retained free of any obstruction in perpetuity.

16. Each application for the approval of Reserved Matters for each phase shall include the submission of a phase wide Parking Strategy (including proposals for its future management) for all vehicle types, including electric vehicles with details of charging provision, to accord with the Council's adopted parking policy 'Thurrock Parking Design and Development Standards' (February 2022) or any subsequent amended Thurrock Council parking standards document and the approved Design Code, for approval in writing by the local planning authority.

Any approved parking areas shall be constructed, surfaced, laid out and made available for such purposes and the electric vehicle charging provision shall be installed and made available for such purposes in accordance with the approved Parking Strategy for all vehicle types for that phase prior to the first occupation of the relevant building to which they relate and shall be always maintained and retained as such.

17. Prior to the submission of the first of the Reserved Matters applications, an updated Flood Risk Assessment (FRA) shall be submitted to and approved in writing by the local planning authority. The following should be detailed within the FRA:
- The latest data available;
 - The data provided as part of the FRA addendum;
 - Finished ground levels post development;
 - Details of the detention basin to the north west corner;
 - Confirm the finished floor levels of the development and demonstrate how they have been defined, and that they do not impact of the building heights of the development as defined in drawing Ref RIM-002 Rev B;
 - A detailed assessment of surface water flow routes and clearly demonstrate if there are or are not any flows entering the site from adjacent farmland; and,
 - If any flows are identified as entering the site from off-site, the FRA should demonstrate how these will be managed without negatively impacting the development or any existing properties.

18. Each application for the approval of Reserved Matters for each phase shall include details of the residential refuse and recycling storage arrangements which shall be in accordance with the requirements of the approved Design Code, for approval in writing by the local planning authority.

The residential refuse and recycling storage arrangements shall include details of the number, size, location, design and materials of bin and recycling stores / communal waste systems to serve the development, together with details of the means of access to bin and recycling stores / communal waste systems for residents and refuse operatives, including collection points if necessary. The development shall make provision for:

- 1x 180 litre container for refuse, 1 x 240 litre container for recycling and 1 x 240 litre container for kitchen and garden waste per residential unit; and,
- flats containing more than 4 units shall be provided with communal bins.

If a communal waste system is provided for the residential units, then this must provide equivalent waste capacity.

The bin and recycling stores as approved shall be provided prior to occupation of any of the residential units that they serve and shall be constructed and permanently maintained and retained in the form approved.

Pre-commencement

19. No development shall commence in each phase until full details of the arrangements for vehicle and bicycle parking including the design of garages, car ports and parking areas as may be applicable have been submitted to and approved in writing by the local planning authority.

No residential unit or non-residential unit in that phase shall be occupied until the relevant garages, car ports and parking areas have been laid out constructed in accordance with the approved details.

20. No development shall commence, including demolition, site clearance, and any construction, until a Phase 2 Investigation and Risk Assessment of the plausible pollutant linkages of those identified by the submitted Phase I Contaminated Land Assessment, dated October 2018, has been submitted to and approved in writing by the local planning authority. The Risk Assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The Assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:
- a survey of extent, scale and nature of contamination; and,
 - an assessment of the potential risks to: human health, property (existing or proposed), adjoining land, groundwaters and surface waters, ecological systems, and an appraisal of remedial options, and proposal of the preferred option(s).

The Assessment shall be conducted in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

21. Where identified as necessary in accordance with the requirements of Condition 20, no development shall commence, other than that required to carry out remediation, until a detailed Remediation Scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, has been submitted to and approved in writing by the local planning authority.

The Scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

22. The development hereby permitted shall not commence until the measures set out in the approved Scheme under Condition 21 have been implemented and the local planning authority must be given two weeks written notification of commencement of the remediation scheme works.
23. No development shall commence until a detailed specification for allotments has been submitted to and approved in writing by the local planning authority. The specification shall include the following details:
- 10 allotment plots;
 - A plan to show the location and layout of the allotments;
 - Access and parking arrangements to allow easy and safe access to the allotments. This should include vehicular access and a turning area, access for those with disabilities, cycle parking within the site and associated car parking;
 - Boundary treatment, including security arrangements;
 - Provision of a mains water connection or a rainwater harvesting system with adequate storage capacity;
 - Details of water distribution points (e.g. troughs or taps) accessible to all plots;
 - Design and location of a secure communal storage building for shared tools and equipment and waste storage facilities; and,
 - A programme of implementation and ongoing management.
24. No development shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation which has been first submitted to and approved in writing by the local planning authority.

A Mitigation Strategy detailing the approach to excavation/preservation shall be submitted to and approved in writing by the local planning authority following the completion of the programme of archaeological evaluation.

No development shall commence on those areas of the site found to contain archaeological deposits until the satisfactory completion of any fieldwork and/or other requirements detailed in the Strategy.

Within six months of the completion of any fieldwork a Post-Excavation Assessment shall be submitted to and approved in writing by the local planning authority. This will include a programme and timetable for completion of post excavation analysis and preparation of a full site archive. Any post-excavation analysis shall be carried out as approved.

25. No development shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall address the following matters:
- Hours of use for the construction of the development;
 - Hours and duration of any piling operations;
 - Vehicle haul routing in connection with construction, remediation and engineering operations;

- Wheel washing and sheeting of vehicles transporting loose aggregates or similar materials on or off site;
- Details of construction any access or temporary access, and details of temporary parking requirements;
- Road condition surveys before demolition and after construction is completed, with assurances that any degradation of existing surfaces will be remediated as part of the development proposals. Extents of road condition surveys to be agreed as part of this CEMP;
- Location and size of on-site compounds (including the design layout of any proposed temporary artificial lighting systems);
- Details of any temporary hard standings;
- Details of temporary hoarding;
- Details of the method for the control of noise with reference to BS5228 together with a monitoring regime;
- Measures to reduce vibration and mitigate the impacts on sensitive receptors together with a monitoring regime;
- Measures to reduce dust with air quality mitigation and monitoring;
- Measures for water management including wastewater and surface water discharge;
- A method statement for the prevention of contamination of soil and groundwater and air pollution, including the storage of fuel and chemicals;
- A Site Waste Management Plan;
- Details of security lighting layout and design; and,
- Contact details for site managers including information about community liaison including a method for handling and monitoring complaints.

No development in any phase shall be carried out other than in accordance with the approved CEMP.

26. No development should commence until a mitigation strategy for the mitigation of impacts on sky larks has been submitted to and agreed in writing by the local planning authority. The mitigation strategy shall thereafter be implemented in accordance with the agreed strategy prior to commencement of development.

27. No development shall commence in each phase until an Ecological Mitigation and Management Plan (EMMP) for that phase has been submitted to and approved in writing by the local planning authority. The EMMP shall:

- include the results of any further ecological surveys that may be required;
- set out the mitigation measures required to protect the species and habitats identified in the surveys during the construction phase;
- set out the management requirements necessary to ensure long term maintenance and protection of the species and habitats identified in the Surveys during the occupation phase;
- set out the measures proposed for the control, treatment or removal of invasive species; and,
- set out a timetable for implementation.

The EMMP shall be implemented in accordance with the approved timetable and shall be maintained and retained at all times thereafter.

28. No development should commence until a Biodiversity Net Gain (BNG) Plan has been submitted to and approved in writing by the local planning authority. The BNG Plan shall demonstrate how the development will achieve a minimum 10% net gain, calculated using the Statutory Biodiversity Metric Tool, and shall include:

- A baseline habitat assessment of the site prior to development;
- Details of proposed habitat creation or enhancement, including location, type, condition, and target condition;
- Plans showing on-site and/or off-site biodiversity gains, with evidence of registration for any off-site units;
- A maintenance and monitoring strategy for a minimum of 30 years, including re-sponsible parties and reporting intervals; and,
- An implementation timetable aligned with the development phases.

The development shall not commence until the BNG Plan has been approved, and the development of each phase shall be carried out in accordance with the approved Plan.

29. No development shall commence in each phase until a scheme for surface water management for the relevant phase, including specifications of the surface treatments and sustainable urban drainage solutions and a phase wide drainage design strategy to include full details of the drainage solutions referenced in the site wide surface water management scheme, has been submitted to and approved in writing by the local planning authority.

The development shall be carried out in accordance with the approved scheme prior to occupation of the relevant phase and thereafter the approved scheme is to be retained in accordance with the details approved therein.

30. No development shall commence until a scheme of noise mitigation measures have been submitted that demonstrate that adequate ventilation and cooling can be achieved without internal noise levels exceeding those specified in Table 5 of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. Once approved, the measures shall be implemented in full prior to the relevant part of the development or use commencing and permanently maintained thereafter.

31. No development shall commence until full details of the noise bund have been submitted to and approved in writing by the local planning authority. The details are to include:

- Site layout plan showing the location and extent of the bund;
- Cross-sectional drawings showing heights, width, and slope gradients;
- Materials specification, including type and source of fill and topsoil;
- Compaction method and structural stability measures; and,
- Drainage strategy.

No subsoil and/or topsoil material shall be imported unless it has been so approved by the local planning authority. Samples of any imported subsoil and/or topsoil material on the land shall subsequently be tested and the results submitted to the local planning authority as required to verify that the imported soil is free

from contamination in accordance with the approved scheme. The development shall be carried out in accordance with the approved details.

Pre-specific trigger

32. Following completion of measures identified in the approved Remediation Scheme from Condition 21, a Verification Report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority.
33. If during development contamination not previously identified is found to be present, then no further development shall be carried out until a Remediation Strategy has been submitted to and approved in writing by the local planning authority detailing how this unsuspected contamination shall be dealt with. The works shall thereafter be carried out in accordance with the approved Strategy and a Verification Report must be prepared, which is to be subject to the approval in writing by the local planning authority.

Pre-occupation

34. Prior to occupation of any of any of the commercial building(s), details of the hours of use/operation and/or of delivery and collection shall be submitted to and approved in writing by the local planning authority.

The use of the premises shall be implemented in accordance with the details as approved.

35. (a) The carriageway(s) within the development hereby permitted (apart from the wearing surface) and footways shall be constructed prior to the occupation of any residential units detailed to have access from such road(s); and,
(b) Footways and the proposed road(s) and turning space(s) shall be constructed in such a manner as to ensure that each dwelling, before it is residentially occupied, is served by a properly consolidated and surfaced carriageway and footway between the dwellings and existing highway; and,
(c) Surface course treatment commensurate with the frontage of each dwelling shall be constructed and completed within six months from the date of the first occupation of that dwelling.
36. Prior to occupation of any of the commercial building(s), detailed plans of the number, size, location, design and materials of bin and recycling stores to serve these uses together with details of the means of access to bin and recycling stores shall be submitted to and approved in writing by the local planning authority.

The approved refuse and recycling stores shall be provided prior occupation of the use to which the refuse and recycling storage facility relates and permanently retained in the form agreed thereafter.

===== END OF SCHEDULE =====

ANNEX E: APPROPRIATE ASSESSMENT - REPORT TO INFORM THE COMPETENT AUTHORITY

Introduction

The Conservation of Habitats and Species Regulations 2017 (as amended) requires that where a plan or project is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the SoS in this instance) is required to make an Appropriate Assessment (AA) of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives. European sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). As a matter of policy, the Government also applies the Habitats Regulations procedures to Ramsar sites.

Background

The proposed development site is located relatively close to the Thames estuary and is in proximity to the Thames Estuary and Marshes SPA and Ramsar European sites, within their Zone of Influence (Zoi). These sites' qualifying features are that they provide habitat for a number of important non-breeding populations of birds of European importance. The conservation objectives for the sites, as relevant to the proposal, are to ensure that the sites contribute to the aims of the Wild Birds Directive by maintaining or restoring the extent, distribution, structure, function and population of the qualifying features. The proposed development is for a large-scale residential-led mixed use scheme, with up to 750 dwellings. There is therefore the potential to affect the qualifying features of the sites, ie the bird habitat, from recreational disturbance from the future occupants of the proposed development.

Part 1 – Assessment of Likely Significant Effects (LSE)

The proposed development site is approximately 6 km north west of the sites at its closest point. Given this distance it is clear that there would be no direct habitat loss or physical damage to the habitats from development of the site. The proposed development site is largely manged grassland and it does not provide supporting habitat to the sites and nor is it functionally linked to them.

However, the proposal is for a large scale residential development that would likely create fairly significant new demand for recreation activities, including dog walking. If this were to take place within the European sites, there is the potential for this to harm the qualifying features of the sites, ie the wild bird habitat. Given the proximity of the proposal to the sites, there is a reasonable likelihood that some of the recreation activity would take place within the sites. Therefore, the proposal could result in LSE on the qualifying features of the European sites, both alone and in-combination with other residential projects. Natural England has been consulted and agree that there could be LSE¹⁴⁹.

Part 2 – Findings in relation to adverse effects on the integrity

In East Suffolk and Essex, which includes the proposed development site, Essex, Recreational disturbance Avoidance and Mitigation Strategies (RAMS) have been developed to provide a strategic approach that focuses on mitigation require to protect the wildlife of coastal habitats sites from the effects of recreational disturbance. A tariff is

¹⁴⁹ ID.17.39

set, per dwelling, and this applies to all residential development within the Zol. The UU secures payment of this tariff. The tariff is based on visitor surveys and recreation disturbance studies in the area and I am satisfied it is appropriate. The payment of the tariff would therefore suitably mitigate the effect of the proposed development on the European sites with regard to in-combination effects.

On-site specific recreation mitigation is also required to provide alternative options for recreation that reduce recreation pressure of the European sites. In this regard, the proposed development includes 1.1 hectares (ha) of parks, 3.2 ha of semi-natural greenspace and 2.1 ha of amenity greenspace. There would be pocket parks, long dog walking routes, a woodland area, children's play space, and connections to the local ProW network. The UU includes mechanisms for the on-going management and maintenance of the space and facilities. This would provide significant on-site opportunities for recreation, including dog walking. I am satisfied that this would suitably mitigate the direct effect of the proposed development on European sites. NE has confirmed that it agrees with this conclusion.

HRA conclusions

For the reasons set out above, I conclude that, following mitigation, the proposal would not have significant effects on the integrity of the European sites, either alone or in-combination with other projects.

These conclusions represent my assessment of the evidence presented to me but do not represent an AA as this is a matter for the SoS to undertake as the competent authority.



Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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