



Department for  
Communities and  
Local Government

Nigel Bennett  
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LONDON  
N1 7LQ

Our Ref: APP/M1595/V/14/2214081

8 January 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 77)  
APPLICATION BY WESTVIEW PROPERTIES LTD:  
DEMOLITION OF EXISTING BUILDINGS AND COMPREHENSIVE  
REDEVELOPMENT COMPRISING 501 RESIDENTIAL DWELLINGS, 985 SQUARE  
METRES OF COMMERCIAL, COMMUNITY AND HEALTH FLOOR SPACE WITH  
ASSOCIATED INFRASTRUCTURE, INCLUDING NEW VEHICULAR ACCESS  
ONTO LONDON ROAD, PUBLIC OPEN SPACES, REPLACEMENT BOWLING  
GREEN AND LOCAL COMMUNITY FACILITIES, AT THE FORMER AVELEY  
SPORTS AND SOCIAL CLUB, PURFLEET, THURROCK RM15 4DT  
APPLICATION REF 12/01119/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mrs J A Vyse DipTP DipPBM MRTPI, who held an inquiry from 29 – 31 July 2014 in relation to your application under Section 77 of the Town and Country Planning Act 1990 for demolition of existing buildings and comprehensive redevelopment comprising 501 residential dwellings, 985 square metres of commercial, community and health floor space with associated infrastructure, including new vehicular access onto London road, public open spaces, replacement bowling green and local community facilities, in accordance with application ref 12/01119/OUT dated 13 December 2012.
2. On 14 February 2014, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your application be referred to him instead of being dealt with by Thurrock Council ('the Council'), because the proposal concerns conflict with national policies on important matters.

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

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

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## **Procedural Matters**

4. The Secretary of State has taken account the Environmental Statement (ES) which was submitted, together with the further information (IR2.1-2.3). He agrees with the Inspector that the Environmental Statement together with the further information submitted complies with the provisions of Schedule 4 of the Environmental Impact Assessment (EIA) regulations, and he has taken into account the Environmental Information as defined in the regulations in reaching his decision on the application.

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

5. The Secretary of State received representations from Sport England dated 25 July and from Jackie Doyle-Price MP dated 5 August, both submitted too late to have been considered by the Inspector. He has carefully considered these representations but, as they do not raise new matters that would affect his decision, he has not considered it necessary to circulate them to all parties. Copies of these representations can be made available on written request to the address at the foot of the first page of this letter.

## **Policy Considerations**

6. In deciding this application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case, the development plan includes the 2011 Core Strategy and Policies for the Management of Development, Development Plan Document (CSPMD). The Secretary of State considers that the development plan policies most relevant are those identified by the Inspector at IR4.2.
8. Other material considerations which the Secretary of State has taken into account include the 2012 National Planning Policy Framework ('the Framework'), the associated planning practice guidance, and the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures and listed historic parkland or their settings, or any features of special architectural or historic interest which they may possess, that are potentially affected by the proposed development.

## **Main issues**

### *Housing land supply and relevant policy*

10. The Council has a significant and long standing shortfall in its five year housing land supply (IR7.1 and 14.2). For the reasons given, the Secretary of State agrees with the Inspector's application of relevant policy in this case at IR14.2 - 14.4.

### *Openness and permanence of the Green Belt*

11. For the reasons at IR14.6 - 14.8 the Secretary of State agrees with the Inspector that the development would reduce significantly the openness of this part of the Green Belt. As noted at IR14.10, the proposal would result in the permanent loss of some 14.5 hectares of Green Belt, harming the fundamental aim of the Green Belt to prevent urban sprawl by keeping land permanently open.

### *Purpose of the Green Belt to check unrestricted sprawl*

12. For the reasons at IR 14.12 - 14.15, the Secretary of State agrees with the Inspector that the proposed development would spread the existing (and committed) extent of built development further into this part of the Green Belt, equating to sprawl on this edge of Purfleet, and that there would be some harm in this regard to the first of the stated purposes for Green Belt (IR14.15).

### *Purpose of the Green Belt to prevent the merging of neighbouring towns*

13. For the reasons at IR14.16 - 14.18, the Secretary of State agrees with the Inspector that that the proposed development would cause some harm to the Green Belt purpose of preventing the merging of neighbouring towns (IR14.18).

### *Purpose of the Green Belt to assist in safeguarding the countryside from encroachment*

14. For the reasons at IR14.19 - 14.21, the Secretary of State agrees with the Inspector that that the proposed development would encroach into the countryside, at least to some extent, and therefore that there would be some harm to this Green Belt purpose (14.21).

### *Purpose of the Green Belt to assist in urban regeneration by encouraging the recycling of derelict and other urban land*

15. For the reasons at IR14.23 - 14.28, like the Inspector the Secretary of State is not persuaded that the proposed development would materially advance the Green Belt purpose to assist in urban regeneration by encouraging the recycling of derelict and other urban land (IR14.28).

### *Impact of the development on the character and appearance of the area*

16. For the reasons at IR14.29 - 14.31, the Secretary of State agrees with the Inspector that that the proposed development would not intrude unduly into the views identified at IR14.17 and that its impact on the character and appearance of the area would be limited (IR14.31). Accordingly he gives this only limited weight.

### *Fanns Farmhouse*

17. For the reasons at IR14.32 - 14.34, the Secretary of State agrees with the Inspector that the special interest and significance of Fanns Farm, and its setting, would be preserved. Consequently he also agrees that there would be no conflict in this regard with policy PMD4 of the CSPMD, or with the Framework (IR14.34).

### *Traffic and highway safety*

18. For the reasons at IR14.35 - 14.43, the Secretary of State agrees with the Inspector that any residual traffic impacts arising from the development would not be severe (IR14.41) and that there would be no material harm to the safety and free flow of traffic in the locality (IR14.43).

### *Arboriculture and ecology*

19. For the reasons at IR14.44 - 14.50, the Secretary of State agrees with the Inspector that the proposed development would not have a material adverse impact on the biodiversity and ecological interest of the site, and that there would be no conflict therefore with policy CSTP19 of the CSPMD or the objectives of the Framework in this regard (IR14.51).

### *Existing and replacement sports facilities*

20. The proposed development would result in the loss of the existing sports facilities on the application site. However, for the reasons at IR14.76 and having noted Sport England's letter of 25 July 2014 about recent changes in circumstances at Belhus Park, the Secretary of State agrees with the Inspector that the proposed development would not lead to any net loss of sports provision and therefore there would be no conflict with CSPMD policy CSTP9. Likewise, he finds no conflict with paragraph 74 of the Framework in regard to existing open space, sports and recreation buildings and land, including playing fields.

### *Other matters*

21. For the reasons at IR14.77 the Secretary of State agrees with the Inspector that the degree of possible interference with the right of the occupant of Fanns Farm to peaceful enjoyment of that property would be insufficient to give rise to a violation of rights under the relevant articles of the European Convention on Human Rights.
22. For the reasons at IR14.77 the Secretary of State agrees with the Inspector that the relevant conditions would be effective in regard to surface water drainage and sewerage.

### **Planning conditions**

23. The Secretary of State has considered the Inspector's reasoning and conclusions on conditions at IR12.1 – 12.25. He is satisfied that the conditions proposed at Appendix C of the Inspector's report are reasonable and necessary, and would meet the tests of paragraph 206 of the Framework. However, he does not consider that these conditions overcome his reasons for refusing the application.

### **Planning obligation**

24. The Secretary of State has also had regard to the submitted s106 Planning Agreement dated 27 August 2014, the Inspector's assessment of this at IR13.1 - 13.11 and 14.56 – 14.74, national policy set out at paragraphs 203-205 of the Framework, the relevant planning guidance and the CIL Regulations 2010. For the reasons at IR13.7 - 13.10, the Secretary of State agrees with the Inspector that the contribution in regard to the Council's Planning Obligations Strategy (POS) and the

additional contributions in regard to affordable housing, highway works and education comply with regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.

25. The Secretary of State has considered very carefully the other provisions in the Agreement which are described at IR13.4 (3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> bullets) and 14.56 - 14.57, namely contributions with a total value of £2.3 million in regard to Belhus Park, Aveley Community Centre and the sports hall at Tree Tops School. He agrees with the Inspector's reasoning at IR14.60 - 14.64 and consequently he agrees that these provisions would not comply with regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. Therefore he also agrees that it would be unlawful to take those provisions into account and, accordingly, they cannot carry any positive weight in favour of the proposed development (IR14.65).
26. As regards affordable housing, the Secretary of State notes that the combined on and off-site provision would fall substantially below the minimum 35% requirement for a development of this size as indicated by CSPMD policy CSTP2, and that this was precipitated, largely, by the £2.3 million package of sporting and community benefits considered at paragraph 25 above (IR14.66). He agrees with the Inspector that the arrangement described at IR14.67 to, in effect, transfer part of the contributions to Belhus Park, Aveley Community Centre, and the sports hall at Tree Tops School to the provision of affordable housing would not accord with the 'CIL Condition' as defined in the Agreement (namely a finding by the Secretary of State that the obligations meet the Regulation 122(2) tests). Consequently he also agrees that, were permission to be granted, those obligations would not 'bite' (IR14.68). The Secretary also considers that, even if the Inspector were incorrect in this regard, and the totality of those contributions totalling £2.3 million were to be redirected to the provision of affordable housing, there would still be a significant shortfall in provision for the reason at the end of IR14.68.
27. For the reasons at IR14.69 - 14.72, the Secretary of State agrees with the Inspector that the applicant's case for the level of provision proposed, both on and off site, is not sufficiently robust to constitute an appropriate arrangement in this case and should not carry any significant weight in terms of the Green Belt balance (IR14.72).
28. For the reasons at IR14.73 - 14.74, the Secretary of State agrees with the Inspector that, whilst the education contribution may be a benefit of the scheme, in that it adds to the POS contribution, it would nowhere near address the substantial shortfall that has been identified and this limits the weight it can be afforded.

### **The planning balance and overall conclusion**

29. The development would constitute inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework is clear that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (IR 14.3 and 14.52).
30. In this case the Secretary of State agrees with the Inspector that, for the reasons at IR14.53 - 14.54, the proposed development would make a valuable contribution towards the supply of housing land in Thurrock and this consideration should be afforded substantial weight (IR14.54). However, as the Inspector points out at 14.55, a Written Ministerial Statement of 1 July 2013 confirms, in relation to

housing, that the single issue of unmet demand is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt.

31. The Secretary of State agrees with the Inspector that, in this case, the combined weight of the contribution of the proposal to housing land supply and the limited weight that can be afforded to the provision of some affordable housing and the education contribution, does not clearly outweigh the substantial negative weight he attaches to the Green Belt by reason of inappropriateness, loss of openness and permanence, and conflict with at least three of the five stated purposes for Green Belt, and the additional limited weight he attaches to the harm to the character and appearance of the area. On balance therefore, the Secretary of State concludes that very special circumstances to justify the proposal do not exist in this case (IR14.75). Even if the Inspector was incorrect in her reasoning in regard to the matter considered at paragraph 26 above, the Secretary of State considers that although the balance of benefits and harms would shift in those circumstances, this would not, in his view, alter the balance sufficiently to establish very special circumstances and justify grant of planning permission.
32. The Secretary of State agrees with the Inspector's overall conclusion at IR15.1 - 15.5.

### **Formal Decision**

33. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your application for demolition of existing buildings and comprehensive redevelopment comprising 501 residential dwellings, 985 square metres of commercial, community and health floor space with associated infrastructure, including new vehicular access onto London road, public open spaces, replacement bowling green and local community facilities, in accordance with application ref 12/01119/OUT dated 13 December 2012.
34. This letter serves as the Secretary of State's statement under regulation 24(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

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

35. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
36. A copy of this letter has been sent to Thurrock Council and the other main inquiry parties. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Julian Pitt**

Authorised by the Secretary of State to sign in that behalf

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

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Date: 20 October 2014

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**PLANNING APPLICATION MADE BY**  
**WESTVIEW PROPERTIES LIMITED**  
**TO**  
**THURROCK BOROUGH COUNCIL**

Inquiry opened on 29 July 2014

Former Aveley Sports and Social Club, Purfleet, Aveley RM15 4DT

File Ref: APP/M1595/V/14/2214081

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**File Ref: APP/M1595/V/14/2214081**

**Former Aveley Sports and Social Club, Purfleet, Aveley RM15 4DT**

- The application was called in for decision by the Secretary of State by a Direction, made under section 77 of the Town and Country Planning Act 1990, on 14 February 2014.
- The application is made by Westview Properties Limited to Thurrock Borough Council.
- The application, No 12/01119/OUT, is dated 13 December 2012.
- The development proposed is demolition of existing buildings and comprehensive redevelopment comprising 501 residential dwellings, 985 square metres of commercial, community and health floor space with associated infrastructure, including new vehicular access onto London Road, public open spaces, replacement bowling green and local community facilities.
- The reason given for making the Direction was that the proposal concerns conflict with national policies on important matters.
- On the information available at the time of making the Direction, the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application, were its consistency with the development plan for the area, its conformity with policies contained in the National Planning Policy Framework, and any other matters the Inspector considers relevant.

**Summary of Recommendation: That the application be refused.**

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**1. Procedural and Background Matters**

- 1.1 The Inquiry sat for three days (29-31 July 2014). I undertook an accompanied visit to the site and its surroundings on the afternoon of the first day.
- 1.2 The application was first considered by the Council's planning committee on 26 September 2013.<sup>1</sup> Whilst the officer recommended refusal, Members voted to support the proposal. In accordance with the Council's constitution, the application was required to be reported back to a future meeting of the committee. Discussions subsequently took place in relation to the terms of the Planning Obligation (in response to matters raised during the September committee meeting) and further information was submitted in relation to Highway concerns.<sup>2</sup> The application was then reported back to the committee on 21 November 2013, still with a recommendation for refusal.<sup>3</sup>
- 1.3 At the November meeting, Members resolved to approve the application subject to conditions, subject to the completion of a Section 106 Agreement, and subject to the application not being called in. In the event, the application was called in, on 14 February 2014, for determination by the Secretary of State.
- 1.4 The part owner of Fanns Farm, which lies adjacent to the southern boundary of the site, advised the Inquiry that ground levels within the nearest part of the site had been raised by some 2 metres, blocking a private right of way across the sports field to the A1306.<sup>4</sup> However, future arrangements for any such right of way are a private matter between the parties. Whilst that may have implications for implementation, were planning permission to be granted, this Report relates only to the planning merits of the case.

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<sup>1</sup> CD F6

<sup>2</sup> CD F7 (paragraphs 1.5 – 1.11)

<sup>3</sup> CD F7

<sup>4</sup> Doc 9

- 1.5 The applicant submitted a draft planning obligation to the Inquiry,<sup>5</sup> made in the form of a deed pursuant to the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended). The obligation, which comprised a bilateral Agreement, was not in its final form. However, the Council had been party to its evolution and had the opportunity to comment on it during the Inquiry. I therefore agreed to allow for a period of time, following the close of the Inquiry, to enable the applicant to submit the executed document. Its provisions are examined in detail later in this Report.
- 1.6 Shortly before the Inquiry, a judgement was handed down from the High Court (the Redhill judgement)<sup>6</sup> which changed the approach to the reasoning in cases that involve inappropriate development in the Green Belt from that previously established by *River Club v SSCLG [2009] EWHC 2674*. Subsequently however, the Court of Appeal reversed that judgement. As a consequence, my Conclusions do not take the Redhill judgement into account. Rather, the approach taken follows that established by *River Club*. That said, I have, in the interest of completeness, retained the references to Redhill in the summary of the main points of the applicant's case at Section 8 below. In any event, as is clear from my Conclusions, the outcome would be the same whichever approach was followed.

## **2. Environmental Impact Assessment**

- 2.1 The proposed development has been subject to the formal process of Environmental Impact Assessment (EIA) in accordance with Directive 2011/92/EU of the European Parliament and the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The Council provided a screening opinion in July 2012, which concluded that the scheme is a Schedule 2 project and that an EIA was required. The scope of the subsequent Environmental Statement (ES),<sup>7</sup> which accompanied the planning application and which examines and evaluates the likely environmental effects of the development, was agreed with the Council and other public agencies.
- 2.2 Following queries raised by third parties, and prior to the November committee meeting at which the application was considered for the second time, the applicant submitted further environmental information, addressing ecological and landscape/visual issues.<sup>8</sup> However, officers advised that, in order to be able to consider that late information, the application would have to be withdrawn from the agenda to allow for further consultations, in accordance with the EIA Regulations. The applicant subsequently withdrew the submitted information, in order that the application could be heard.
- 2.3 That information was, however, submitted by the applicant, on a voluntary basis, when the application was called in. The ES, and the additional information, were considered by the Planning Inspectorate. It was concluded that, whilst there were some areas where the information provided could have been more detailed the ES, together with the additional information did, nevertheless, meet the minimum requirements of Schedule 4 Part 2 of the EIA

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<sup>5</sup> Doc 1 and Doc 10

<sup>6</sup> *Redhill Aerodrome Limited v SSCLG, Tandridge Council, and Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin)* (Inquiry Document 7)

<sup>7</sup> CD A4, A5 and A6

<sup>8</sup> CD F9

Regulations. I am satisfied that the ES, as supplemented, is compliant with the EIA Regulations and I have had regard to it in arriving at my conclusions and recommendation on the development proposed.

### **3. The Site and its Surroundings**

- 3.1 The site and its surroundings are described in detail in the September committee report,<sup>9</sup> the Statement of Common Ground,<sup>10</sup> and in the Design and Access Statement,<sup>11</sup> among other places. The site, which comprises the former London Fire Brigade Sports and Social Club, is broadly rectangular in shape and extends to some 14.5 hectares. To the north, it backs onto dwellings on Purfleet Road, with an MOT test centre and a café adjacent to the north-western corner, at the junction of Purfleet Road with the A1306. The western boundary adjoins the A1306 Arterial Road in part and, in part, is adjoined by the rear gardens of dwellings fronting the road, and a garage. To the south is Fanns Farmhouse, a grade II listed building and its associated outbuildings. The eastern boundary of the site abuts the A13 trunk road, which is in a cutting at this point.
- 3.2 The majority of the site comprises football pitches, confirmed in the committee report as five full size adult pitches, one youth pitch and three mini soccer pitches. An extended and altered pavilion building, dating from the 1930s, faces westward across the pitches, with car parking behind. A bowling green, together with its associated club house and storage buildings, is located in the north-eastern corner of the site, close to the Purfleet Road access. The south-eastern part of the site (some 4.8 hectares) which, historically, has been unused, forms part of the wider Jill's Field Local Wildlife Site (LWS), so designated because of its grassland flora interest.<sup>12</sup>
- 3.3 The site is subject to two Tree Preservation Orders: an Area Order (No 6/89) includes all the trees on the western part of the site. A more specific Order (No 03/2010) identifying 128 individual tree specimens, covers the avenues of Horse Chestnut and Lime trees planted along the internal access routes within the site, the Lime trees adjacent to the northern site boundary, the Poplars along the boundary with the A1306, and the Poplars and Limes within the south-western part of the site.
- 3.4 In the wider area, the Ponds Farm development site lies to the north of Purfleet Road, extending up to the A13/A1306 interchange. Although not developed at the time of the Inquiry, the site benefits from outline planning permission for development for employment purposes (38,686 square metres).<sup>13</sup> Commercial uses on the Purfleet Industrial Park lie to the west of the site, on the opposite side of the A1306. Open land within the Mardyke Valley lies further to the south, with the main settlement of Purfleet beyond that, adjacent to the River Thames. On the eastern side of the A13 are open fields, with the village of Aveley beyond.

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<sup>9</sup> CD F6 (Section 2)

<sup>10</sup> CD F1 (Section 1)

<sup>11</sup> CD A3 section 2a

<sup>12</sup> CD A5 tab 10.3

<sup>13</sup> CD F10-F15

#### **4. Planning Policy and Guidance**

4.1 The planning policy context for the development proposed is set out in the officer's report to the September 2013 planning committee,<sup>14</sup> and at section 6 of the Statement of Common Ground.<sup>15</sup>

4.2 The development plan for the area includes the 'Core Strategy and Policies for the Management of Development, Development Plan Document', adopted on 21 December 2011 (CSPMD).<sup>16</sup> The key diagram within the Core Strategy, and the accompanying Adopted Interim Proposals Map,<sup>17</sup> show the whole of the application site as being located within the Metropolitan Green Belt. The Proposals Map also allocates the western part of the site (the playing fields area) as Existing Open Space. The policies referred to below are those most relevant to the issues raised in this case:

- CSSP4 - Sustainable Green Belt
- CSTP9 – Well Being- Leisure and Sports
- CSTP19 – Biodiversity
- CSTP20 – Open Space
- PMD1 – Minimising Pollution and Impacts on Amenity
- PMD2 – Design and Layout
- PMD5 – Open Spaces, Outdoor Sports and Recreation Facilities
- PMD6 - Development in the Green Belt
- PMD7 – Biodiversity, Geological Conservation and Development
- PMD9 – Road Network Hierarchy
- PMD10 – Transport Assessments and Travel Plans

4.3 The National Planning Policy Framework (the Framework) is a material consideration in the determination of planning applications and, where local plan policies are out of date or not in conformity with those in the Framework, it is the latter that will carry greater weight in any balancing exercise on the merits of a proposal.

4.4 Both the CSPMD and the Framework have very similar aims in terms of Green Belt policy. The purposes of Green Belt designation, as previously identified in 'Planning Policy Guidance Note 2: Green Belts,' have not changed and the Framework confirms that the essential characteristics of the Green Belt are its openness and permanence. It also reaffirms that inappropriate development is harmful by definition and that substantial weight must be given to any harm to the Green Belt. Framework paragraph 83 also makes it clear that Green Belt boundaries should only be altered in exceptional circumstances, and then through the Local Plan process.

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<sup>14</sup> CD F6 (Section 5)

<sup>15</sup> CD F1

<sup>16</sup> CD C1

<sup>17</sup> CD C2

- 4.5 The Framework also makes clear that one of its aims is to boost significantly the supply of housing. To this end, local planning authorities are required to identify a five year supply of housing land, plus a buffer, based on the full, objectively assessed need in their area, for both market and affordable housing. Policies for the supply of housing cannot be considered up to date if a five year supply of deliverable sites cannot be demonstrated. There was no dispute, in this regard, that the Council cannot demonstrate a five year supply.
- 4.6 Section 3 of Mr Bennett's proof<sup>18</sup> includes a commentary on the position in relation to emerging policy. A brief summary can also be found in the September 2013 committee report.<sup>19</sup> In 2012, public consultation was carried out on 'Issues and Options' for the then emerging Site Allocations and Policies Local Plan. Although the application site was considered as an option, it was not selected. A proposed Green Link (Ship Lane to Purfleet) was identified as passing through the site, and the south-eastern part of the site was identified as part of the LWS. In early 2013, another round of public consultation was undertaken on 'Further Issues and Options'. Again, the application site was considered for inclusion, but was rejected. In addition to the Green Link and LWS designations, the site was also identified as a private sports pitch.
- 4.7 However, in the light of the impact of recent economic change on the delivery of new housing, and in order to further accelerate the significant progress being made in driving forward the growth agenda for Thurrock, the Council's Cabinet resolved, at its meeting on 12 February 2014, to review the adopted CSPMD and to prepare a new Local Plan for the area.<sup>20</sup> As a consequence, the Council is no longer pursuing the Site Allocations Local Plan. The focussed Core Strategy Review and new Local Plan are at a very early stage though, which means that they can be afforded little weight.
- 4.8 The Planning Obligations Strategy of the former Thurrock Thames Gateway Development Corporation was adopted by Thurrock Council on 7 March 2012.<sup>21</sup> It comprises an interim policy pending adoption of a Community Infrastructure Levy charging schedule and is a material consideration in determination of this planning application. The Strategy sets out discounted standard charges of £5000 per dwelling and £50 per square metre of gross commercial floor space (retail/business/warehouse). It also confirms that affordable housing does not fall within the definition of infrastructure for the purposes of the Strategy and will be subject to separate provisions.
- 4.9 In 2005, Thurrock Council commissioned a Landscape Capacity Study.<sup>22</sup> The main purpose of the Study was as a planning tool for assisting strategic decision making in relation to development and environmental protection. It identifies the application site as lying within the D1 character area 'Aveley/South Ockenden Urban Fringe'. Within that, the site is identified as lying within an area of low sensitivity to new development.
- 4.10 The Government's Planning Practice Guidance is also a material consideration in this case.

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<sup>18</sup> CD G3 (paragraphs 3.42-3.57)

<sup>19</sup> CD F6 (paragraphs 5.35-5.36)

<sup>20</sup> CD F3

<sup>21</sup> CD E1

<sup>22</sup> CD E2

## 5. Planning History

- 5.1 The site has been used as a sports ground since the 1930s. Historically, the site extended further to the east, beyond its current boundary. However, the construction of the new A13 in the mid-1990s reduced the extent of the grounds. There have been a number of planning applications over the years, as detailed in the planning officer's committee report in September 2013,<sup>23</sup> but none is especially relevant to the current proposal.

## 6. The Proposal

- 6.1 This is an outline application with matters of access, layout and scale to be dealt with at this stage. All other matters (appearance and landscaping) are reserved for future consideration. A number of plans were submitted with the application.<sup>24</sup> At the Inquiry, it was confirmed that, in so far as they relate to matters of access, layout and scale, they are 'fixed' and were to be taken as determinative of how the site would be developed.
- 6.2 A detailed description of the proposal can be found in the Design and Access Statement<sup>25</sup> and in the planning officer's September committee report.<sup>26</sup> In essence, permission is sought for a residential-led, mixed use development, including 501 dwellings, 985 square metres of commercial/ community/ healthcare floor space, and areas of private and public open space, together with a network of roads and pedestrian/cycle links through the site. The scheme includes a replacement bowling green and associated club house facilities (the floor area of the club house forms part of the community element of the 985 square metres).
- 6.3 In terms of the residential offer, some 354 houses and 147 apartments are proposed, 25 of which (5%) would be allocated as affordable housing. It is indicated that the majority of houses would be two-storey, arranged in short terraces or pairs of semi-detached units, with a small number of three storey properties, and that most of the apartments would be in three storey buildings. The houses would all have private rear gardens, whilst future occupiers of the apartments would have access to communal amenity areas.
- 6.4 Vehicular access to the site would be via an existing upgraded access onto Purfleet Road, and via the formation of a new 'arm' at the existing signal controlled junction of Arterial Road (A1306) and New Tank Hill Road (A1090).
- 6.5 The indicative master plan shows the commercial/healthcare floor space being provided in a three storey building, with residential on the upper floors, located adjacent to the main access from the A1306. Most of the community floor space is indicated to the northeast of that building. The replacement bowling green and its club house are shown to the north of the community building.
- 6.6 Numerous areas of open space are shown within the site. In addition to the replacement bowling green, these include a corridor adjacent to the A1306, north of the main point of access to the site; a linear space alongside the

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<sup>23</sup> CD F6 Section 3

<sup>24</sup> Docs A12-A16

<sup>25</sup> CD A3

<sup>26</sup> CD F6 Section 1

proposed entrance road, which would include flood balancing ponds; further planted areas extending to some 1.06 hectares adjacent to the southern boundary; and what is described as an 'Eco Corridor' along the eastern boundary/south-eastern corner of the site.

## **7. Statement of Common Ground (SoCG)<sup>27</sup>**

7.1 Among other things, the SoCG confirms that:

- When the application was originally considered, in September 2013, the Council could only demonstrate a 3.5 year supply of housing land. A recent update of the Thames Gateway South Essex SHMA (December 2013) identifies an increased overall dwelling requirement for Thurrock, which equates to some 80 dwellings a year more than the adopted Core Strategy target of 950 per annum.

- The only sports team that currently uses the pitches and facilities on the application site on a regular basis, is the Little Thurrock Dynamos Football Club. The New Phoenix Bowls club uses the bowling green facility on an infrequent basis.

- The scheme will deliver the following sports and community facilities:

### ON SITE

- replacement bowling green and club house facilities
- flexible community use space

### OFF SITE

- replacement football pitches and associated new changing room facilities and car parking (subject to the agreement of the landowner) at Belhus Park
  - a financial contribution towards priority building works at Belhus Park, an identified sports hub location
  - a financial contribution towards the Aveley Village Community Forum's proposal to deliver a Community Centre (inter-generational hub)
  - a financial contribution towards new sports hall provision at Treetops Specialist School
- The Highway Agency raises no objection.
  - Notwithstanding an objection from the local highway authority, the planning committee is satisfied that there is no highway safety reason to withhold permission.
  - An independent assessment of all the environmental evidence, including supplementary evidence produced to form further information to the Environmental Statement chapters relating to the Landscape Visual Impact Assessment (LVIA) and Ecology, confirms that the LVIA has been carried out in accordance with current guidance, that mitigation could reduce impact on

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<sup>27</sup> CD F1

receptors, and that the proposed Ecological Mitigation and Enhancement Plan provides the opportunity to restore some of the original ecological interest and to provide areas of ecological value.<sup>28</sup>

- 5% of the dwellings proposed would be provided as affordable housing. In addition, a financial contribution towards off-site provision is provided for. Although lower than the Council's policy requirement, the scheme would not be viable with a higher quantum of affordable provision, given the special package of sporting and community benefits that would be delivered.

## **8. The Case for the applicant – Westview Properties Limited**

- 8.1 The applicant called three witnesses: Andrew Trowbridge (highways),<sup>29</sup> Dan Simpson (ecology),<sup>30</sup> and Nigel Bennett (planning).<sup>31</sup> The material points of the applicant's case are summarised below.<sup>32</sup>
- 8.2 The scheme proposed does not accord with the development plan, which includes Thurrock Council's Core Strategy and Policies for Management of Development DPD, adopted in 2011, since it falls within the Green Belt and is not allocated for development within the adopted Plan. As that Plan was adopted before the National Planning Policy Framework was published, due weight should be given to its policies according to their degree of consistency with the Framework. The Framework also provides that the policies of a development plan will be out of date in certain circumstances. The Council has acknowledged that its policies relating to the supply of housing are out of date, by virtue of Framework paragraph 49.
- 8.3 It is submitted that the Council's Green Belt designation is also out of date, since it acts, in an area of which more than 70% is Green Belt, as a constraint on supply. It is out of date by the Council's own recognition that a fundamental review of its Local Plan is required, to address the need for housing by making greater provision for it including within the Green Belt. This is not an area in which the Green Belt is a constraint that a reasonable authority could decide outweighs the need to meet objectively assessed needs. This is a Borough which has decided that the Green Belt needs to give way to the development required, to drive the growth of the South Essex area.
- 8.4 However, given that the essential characteristics of the Green Belt are its permanence and openness, and that boundaries should only be altered in exceptional circumstances through the preparation/review of Local Plans, it has been accepted from the start, that it is necessary to meet the Framework's policy which protects existing Green Belt land (even where the designation itself is demonstrably out of date) save in very special circumstances. This scheme has been promoted, and is commended to the Secretary of State, on the basis that the very special circumstances of this particular case justify inappropriate development in the Green Belt.

<sup>28</sup> CDF9

<sup>29</sup> CD G5

<sup>30</sup> CD G6

<sup>31</sup> CD G2, G3 and G4, as amended by Doc 2

<sup>32</sup> Based on the applicant's opening and closing submissions (Doc 3 and Doc 20)

### ***The site and its landscape context***

- 8.5 The 14.5 hectare site is crying out for investment and development. Once it functioned well as a sports and social club for the fire brigade. However its heyday is long past. Its pavilion is now boarded up and is becoming increasingly derelict. It is in private ownership and no one has expressed any interest in taking it on to provide a public facility of any kind. This is not surprising, as it is no more than a financial burden in its current state.
- 8.6 The applicant has done what he can to keep fly tipping at bay, to keep the bowls club going, and to maintain the built fabric of the pavilion. He has permitted the local football club, Little Thurrock Dynamos, to remain on an informal basis, until they can move to the proposed new pitches at Belhus Park. However, the existing pitches are of poor quality by modern standards and this arrangement will not continue indefinitely. However, for a host of reasons which are not contested, the existing facilities are out of date and could not provide a viable return on the necessary investment. The future of the site is bleak. As Mr Bennett said in his evidence, the owner would not be able to keep it going forward and the site would be closed.
- 8.7 There is already an obvious burglary risk to those living along Purfleet Road, a persistent problem to Mr Ward who lives on Purfleet Road, who told the Inquiry that he would prefer that the adjoining site was developed. Poignantly, he said, *'I live next door and have to put up with it on a daily basis.'* This, and the waste which its continued decline would represent, should be avoided if possible, in the public interest.
- 8.8 The site is unusually well contained by existing development on almost every side, and comprises part previously developed land (10%), part playing fields, and part scrub land, some of which falls within an LWS. The site itself is not countryside, but forms part of the developed urban fringe, sandwiched between the A13 and the A1306 London Road, with residential development along the whole of its northern boundary and part of its western and southern boundaries. The only boundary which might appear from a plan to be potentially vulnerable, accommodates such a change in level, that the land beyond it is not considered developable if only for flood plain reasons. The aerial photograph at page 41 of the Design and Access Statement<sup>33</sup> demonstrates the suitability of the site for development very well.
- 8.9 It is also immediately adjacent to the Ponds Farm site, on the other side of Purfleet Road. Ponds Farm was also within the Green Belt until it received permission for major commercial development.<sup>34</sup> It will deliver over 38,000 square metres of employment floor space (principally B8 with ancillary office floorspace,<sup>35</sup> in either one or two buildings alongside the A13. The parameters plan gives the maximum dimensions of the building 272 x 128 metres and 14-18 metres in height.<sup>36</sup> The question of development in the Green Belt was taken as determined by an earlier outline consent granted by the Thurrock Thames Gateway Development Corporation (TTGGDC) in 2009. Nevertheless,

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<sup>33</sup> CD A3

<sup>34</sup> CD F10-F15

<sup>35</sup> CD F15 (paragraph 1.3)

<sup>36</sup> CD F14

whilst both applications had to be referred to the Secretary of State,<sup>37</sup> neither was called in. The principle of Green Belt release at Ponds Farm has been established as an ad hoc release and is part of the essential and immediate context of the application site, providing a source of some 750 jobs.<sup>38</sup>

- 8.10 The area is already an established commercial area, as the development on the other side of London Road, and elsewhere in the immediate vicinity, illustrates. In character terms, it is urban fringe, and fits well the eloquent, if not very flattering description of the Aveley and South Ockenden Urban Fringe Character Area, identified within the 2005 Study commissioned by the TTGDC.<sup>39</sup> This same Study found the area of the application site to have a low sensitivity to development, even development of the scale of a new village such as East Tilbury (which development is well under).

### ***The proposal***

- 8.11 The proposed development has been described and illustrated in detail within the application documents, including a robust Environmental Statement prepared and consulted upon in accordance with the EIA Regulations 2011.<sup>40</sup> The Secretary of State can be confident that he has sufficient environmental information to meet the requirements of those Regulations. The application is made in outline, with access, layout, and scale to be determined. The design of the scheme has been carefully developed in consultation with the local authority and the local community, and is relatively detailed for an outline scheme, the Design and Access Statement clearly demonstrating its high quality.<sup>41</sup>
- 8.12 It is a mixed use, residential led, development. The principal elements of the development comprise:
- 501 dwellings, made up of a mix of houses and flats of various sizes designed to address the specific and acute local need for housing; and,
  - 985 square metres of commercial/health and community floorspace (employment uses) which could provide for a small convenience store serving local needs, and a GP surgery or other healthcare facility. It will include a new clubhouse for the bowls club which is to be relocated within the development site and is estimated to require 55 square metres of the total.<sup>42</sup>
- 8.13 It is submitted that all detailed development control issues have been shown to be satisfactorily addressed in the design or appropriately controlled by condition. Bearing in mind the issues identified by the Inspector at the opening of the Inquiry, a few words need saying about landscape, ecology, highways and heritage.
- 8.14 No objection has been expressed on landscape or visual impact grounds, the concern of officers as expressed in the committee report now being out of date

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<sup>37</sup> CD F15 (paragraph 7.4)

<sup>38</sup> CD F15 (paragraph 6.5)

<sup>39</sup> CD E2 (page 21)

<sup>40</sup> CD A4

<sup>41</sup> CD A3

<sup>42</sup> Ibid (page 7)

in light of the material in the supplemental LVIA Ecology Representations.<sup>43</sup> Bearing in mind what the Landscape Character Study says about the capacity of this area for development, this is not surprising, and the LVIA has demonstrated that there could be no basis for such an objection.

- 8.15 Dr Simpson has described the main ecological issues and shown that the ecological mitigation plan<sup>44</sup> is thoroughly researched and well conceived. It is the means to restore and manage the biodiversity interest of the site, of which there is currently little sign.<sup>45</sup> The diversity of habitat proposed within the site, the provision for bat and bird boxes, the extent of open space, and the generous ecological corridor to the south and east of the site, are all testament to the care and quality of the scheme. Much more detail is found in the relevant chapter of the Environmental Statement.<sup>46</sup> Of direct and significant benefit to the interest represented by the Jill's Field designation, is the opportunity it presents to restore the acid grassland feature that has, unfortunately, been lost recently.
- 8.16 The impact of the development on the significance of heritage assets was a matter specifically and carefully addressed within Chapter 7 of the Environmental Statement, prepared by specialists, Cotswold Archaeology.<sup>47</sup> The closest known heritage asset to the site is Fanns Farmhouse. Its setting was considered carefully by the scheme designers, who left plenty of space between the proposed built form and the Grade II listed farmhouse. It is submitted that the setting of the listed building would not be materially affected, if at all, by the proposal, bearing in mind the distance involved and the change in level between the building and the development site. Cotswold Archaeology concludes that any impact would be negligible.<sup>48</sup>
- 8.17 As for other measures of sustainability, this is a well placed site for access to a choice of local facilities, bearing in mind the additional provision of an appropriately modest scale will be made on the site itself. Mr Trowbridge draws particular attention to the quality of the pedestrian routes around the site, a point not called into question and one which, it is well documented, has a direct influence on the decision of individuals as to the chosen mode of transport. Distance is also a factor of course, and the site is well served in that respect, being only 1km to the centre of Aveley, 1.5km to Belhus Park, and 1.6km to Purfleet Station. The proposed bus stops would be within 400m of the majority of dwellings within the scheme.
- 8.18 Finally, the Section 106 contributions mitigate particular impacts of the proposed development. Reliance is placed principally on the Note prepared for the Inquiry on the planning obligation, for a description of its purpose and effect.<sup>49</sup> Appropriate provision is made within the Section 106 Agreement for CIL compliant planning obligations designed to meet relevant policy requirements and address the need for infrastructure arising from the proposals. The 25 affordable dwellings to be provided on site are an important

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<sup>43</sup> CD F9

<sup>44</sup> Ibid

<sup>45</sup> CD G6

<sup>46</sup> CD A4

<sup>47</sup> CD A4

<sup>48</sup> Ibid (paragraph 7.7.6)

<sup>49</sup> Doc 11

benefit of the proposals. Each of the financial contributions is subject to a condition that the Secretary of State finds that it (or part of it) meets the requirements of the CIL Regulations. In the event that it should not, the arrangement secured entitles the Council to use the money to provide more affordable housing if it wishes.

- 8.19 If permitted, the development would bring material gains in each of the three limbs of sustainable development defined by paragraph 7 of the Framework. The link between providing sufficient housing and the **economic** growth expected of Thurrock is direct, and even more significant than the benefit of the jobs in construction and in the employment uses provided on site. Then there are the **social** benefits of housing delivery. There is a chronic need and a clear social benefit in seeking to meet it, apparent from many of the letters of support for the proposals. The development would provide community facilities both on and off site, improvements to the Belhus Park leisure centre, and a permanent home for the Little Thurrock Dynamos and the bowls club. None of this can be underestimated. In **environmental** terms, Mr Bennett is very proud of the scheme, which is an exemplar in terms of the design approach. The development conditions will secure the restoration and management of biodiversity interests within the application site, which are currently all but lost.
- 8.20 And so it is submitted that, in terms of the detailed development issues which arise on the assessment of the merits of the scheme, the proposal is a sustainable development and deserves the grant of planning permission. The benefits identified may be taken into account as contributing towards the very special circumstances of the scheme proposed, in particular, the ecological enhancements.

### ***The need for housing land***

- 8.21 One of the principal objectives of the Framework is to boost the supply of housing. However, this national imperative does not begin to match the acute and chronic shortage of housing in Thurrock, nor the significance in planning terms of that shortage.
- 8.22 To assess the significance of the need in planning terms, consideration needs to be given to the figures themselves, which are poor by any standards; to the persistent failure to deliver housing land in response to acknowledged need; and to the role of Thurrock as a driver for growth within the Thames Gateway. The persistent under delivery of housing has the damaging effect on the ability of hard working people to start a home of their own, referred to by those both in support and objecting to the development. Councillor Ray was worried that local people would not be able to compete with newcomers for the new homes, but could not deny the simple economics, which is, that the shortage of housing feeds that very problem, whereas the ability of local people to compete in the housing market can only increase with an increase in supply.
- 8.23 The two most helpful sources of information are the 2013 Annual Monitoring Report (AMR)<sup>50</sup> and the February 2014 Cabinet Report.<sup>51</sup>

<sup>50</sup> CD E3

<sup>51</sup> CD F1 (Appendix 2) and CD F3

8.24 The AMR confirms that:

- The household projections for Thurrock show the annual growth in housing need in Thurrock is predicted to be nearly 1000 per annum over the ten years 2011 to 2021;
- The policy requirement of the adopted Core Strategy (and taken from the RSS which was part of the Development Plan at the time of adoption of the Core Strategy) was 23,250 from 2001 to 2026. An annual average of 930. However, the shortfall after 12 years from 2001 was a sizeable 5,180, and to make it up over the remaining 13 years of the Plan requires the delivery of 1,328 per annum. It is well known that this is a forgiving approach to the housing land supply policies of the Framework, and some Inspectors insist on deriving a requirement figure from an assumption that any shortfall is made up within five years. Delivery rates suggest that this would, in practical terms, be unrealistic in Thurrock, but it serves to illustrate the extent of the problem which leaves Thurrock with one of the highest required delivery rates in the South East and the East of England – second only to Milton Keynes.<sup>52</sup>
- In these circumstances, the Framework requires that the authority identify deliverable land sufficient for five years plus 20% - and the Council accept that they are subject to that requirement. Thus the five year requirement is now 7,968, an annual requirement of 1,594.
- With an identified supply of 3,909, the Council can claim to have 2.9 years supply (against a requirement of 6 years, 5 years plus 20%). Alternatively this may be expressed as a supply of 2.45 years against the five year requirement including the buffer.

8.25 In preparing the application, the applicant did not challenge the Council's figures, as it was readily acknowledged that there is an urgent need to deliver more housing and policies related to the supply of housing were out of date, but the reliability of that supply figure has to be called into question now, in the light of the extent of 'progress' since the application was made.

8.26 The Planning Statement relied upon the 2011 AMR, which identified a 3 - 3.3 year supply including, for 2011/12 the expectation of 513 dwellings (343 were built) and for 2012/13 some 780 dwellings (some 311 were built). The disparity between delivery on the ground, and the annual requirement of 1,328, is stark. So too is the disparity between estimate and actuality (311 being only 40% of the estimate of supply made only two years before). This must call into question the reliability of the 2.9 (more properly 2.45) year supply figure now claimed by the Council.

8.27 The only possible conclusion from these figures is that the need is great and getting greater. Those Green Belt sites which were identified in the Issues and Options stage of the now defunct Core Strategy review, have not progressed to an application. One can only speculate that they are biding their time for an allocation and release from the Green Belt constraint, following which they will not need to demonstrate very special circumstances to secure consent.

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<sup>52</sup> See also the table of delivery since 2001 in the AMR, and paragraph 2.17 of CD F3

- 8.28 The Council has done the only thing it could in the circumstances. It has embarked on a fundamental review of its Development Plan and taken the very first steps towards preparation of a new Local Plan. The parameters of that review are broad and deep and the Council is considering whether to increase its housing land requirements, bearing in mind the role of the Borough. This means, simply, that there is no prospect of its deciding to give the Green Belt precedence over the Authority's role as an engine for growth. It also means that the Local Development Scheme timetable to adoption sets out a process over more than four years, leading to adoption in late 2018.<sup>53</sup> The Council will need all this time, and probably more, to achieve this vital work. Meanwhile, there are unanswered and unanswerable questions about the source of housing land.
- 8.29 The Council simply cannot afford to wait until that new Plan is adopted before releasing sites for development. It cannot be the solution to the present problem, a problem that is getting worse, a problem which makes market housing unaffordable for local people and which prevents Thurrock from performing as the driver for growth that it could and should be.
- 8.30 This is one reason the resolutions to grant planning permission in September 2013 and November 2013 are worthy of such significant weight. The Plan making authority, mindful of the parlous state of affairs, resolved to grant permission for a Green Belt release in the light of the very special circumstances which pertained at that time. The decisions were also influenced, no doubt, by the package of local benefits drawn up in close consultation with the local community, as described by Mr Bennett. The Committee was also advised that it could, and should, give significant weight to the need for housing land.<sup>54</sup> Since then things have only got worse, and the Council's resolution to review the Local Plan underlines the need for significant release of Green Belt sites.
- 8.31 It is surprising that the local planning authority did not choose to call a witness able to represent its current views, and it is recognised that the Secretary of State is, to some extent, disadvantaged by the lack of information from that source. Councillor Hipsey gave evidence about a finely balanced decision, taken in the light of material planning considerations and in the local public interest. Perhaps he felt it necessary to reflect the fact that views on the committee were mixed and reflected a judgment involving a careful balance of considerations, and that he was not permitted to express his own views as at the present time. We can only speculate.
- 8.32 The local MP encouraged people to sign a petition against the proposal. However, in the applicant's opinion, the invitation to sign the petition does not appear to present a balanced view, even suggesting some form of problem with the decision making process. At the Inquiry however, Miss Doyle-Price confirmed that she respects, and wishes to uphold, the right of local politicians to strike the necessary balance.
- 8.33 There is no evidence that the decision of the Council's planning committee was taken other than on genuine planning grounds and properly, in cross-

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<sup>53</sup> CD E4

<sup>54</sup> CD F6 (paragraphs 6.25 – 6.30)

examination, Miss Doyle-Price emphatically rejected any suggestion that she was seeking to imply that it was. It was a finely balanced decision and no doubt those who were outvoted on the committee, and those who agreed with them, believe passionately in the views they hold. The balance in favour of granting permission is one reasonable people could disagree about, and needs to be taken in the public interest in an informed way.

- 8.34 The applicant is unhappy, however, that the invitation to sign the petition advanced what is considered to be a misleading impression of the effect of the development on the local community, and of the extent of local opposition. This has remained in the public domain even though the applicant's agent has sought to meet with the MP in order to explain directly what the development seeks to achieve for the local community and in the public interest. The applicant is concerned that the letter may have exacerbated concerns, suggesting to individuals that they would be joining considerable opposition to what she considers to be unsympathetic development.

***The Green Belt balance - very special circumstances***

- 8.35 As the applicant has acknowledged from the outset, the development proposed is inappropriate development as defined by the NPPF and is, therefore, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm to the Green Belt,<sup>55</sup> is clearly outweighed by other considerations.
- 8.36 This balance is essentially a planning judgment, as is the question about what considerations should be taken into account and what weight to give them. However, the question of harm is quite closely and carefully defined by policy.
- 8.37 First there is the harm by definition. This should be given substantial weight in itself. The openness of the site itself will be materially reduced. That is – solely in green belt policy terms – harmful. In townscape terms there are many benefits of the development and it is a relatively open layout with generous provision of open space of various kinds. However, to meet the requirements of Framework policy, it is necessary to balance the Green Belt harm of whatever kind, with other considerations of a positive kind.
- 8.38 Mr Bennett shows that, while the openness of the site itself will inevitably be reduced by the development, its development will have a negligible effect on any of the purposes of including land within the Green Belt. It is submitted that his analysis is thorough and compelling. Particularly bearing in mind the impending development of Ponds Farm, this site is an anomaly in the Green Belt and performs no separation, or other recognisable Green Belt function.
- 8.39 There would be no sprawl. The development would fit well within the existing urban grain on the outskirts of Purfleet, forming a rational and coherent part of the immediate local environment (including the development at Ponds Farm) behind the thoroughly defensible boundary provided by the A13.

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<sup>55</sup> *Redhill Aerodrome Limited v SSCLG, Tandridge Council, and Reigate and Banstead Borough Council* [2014] EWHC 2476 (Admin) (Inquiry Document 7)

- 8.40 There is no risk of merger between neighbouring towns and the development would make no difference to the current sense of separation between Purfleet and Aveley. It must be remembered that the whole of the northern frontage to the Purfleet Road is already developed, and the land to the south and east of the site performs the role of separation which development of the site would not erode. The fact that people living on the site would use the facilities in Aveley is, strictly, irrelevant to the Green Belt test, which is concerned with the extent of built development.
- 8.41 The site is not in any sense countryside, but is part of the developed urban fringe (as referred to earlier). While many Green Belt sites are part of the urban fringe, and some may be judged to be countryside in qualitative terms, this could not be. Those which are not part of the countryside do not perform this particular role of preventing encroachment on the countryside.
- 8.42 Neither does the Green Belt in this location have a role in providing a setting to an historic town.
- 8.43 Ironically, the development of the application site would advance the fifth purpose more effectively than its sterilisation by refusing permission. This, itself, is a powerful indicator of where the balance lies in this case.
- 8.44 In conclusion, there would be little, if any, harm to the Green Belt above that which is found as a matter of policy, on account of the fact that the development would be inappropriate within the Green Belt. It is legitimate to give that harm less weight than in other cases, since the Green Belt policy designation has been shown to be out of date. Reliance is placed, in this regard, not only on the housing land shortfall, but also on the clear direction of travel for the Plan review. Namely, not to under-provide for objectively assessed needs, but to release Green Belt land in a fundamental review of the Local Plan precisely in order to meet them. Given the resolutions in favour of the proposed development, and bearing in mind the criteria for Green Belt release identified in 2012, Mr Bennett is sure that the application site would be allocated in due course.
- 8.45 Looking now at the other considerations, the very special circumstances which clearly outweigh the harm identified. The first and most obvious contributor to very special circumstances is the need for the development in the light of the serious and significant shortfall in housing land. While a need for housing land will not generally justify Green Belt development in itself,<sup>56</sup> it is a material consideration of very significant weight, as shown by previous appeal decisions and as recognised by the Council's case officer in reporting to Members of the Planning Committee. Thus, it was given considerable weight in the recent decision in Basildon.<sup>57</sup>
- 8.46 The applicant has agreed terms for delivery of the proposed scheme with a national house builder, and the site is part of their building programme for 2015-16. Mr Bennett advises that they are enthusiastic about the designs and keen to start, with instructions to prepare a reserved matters application directly following approval by the Secretary of State. Permitting development

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<sup>56</sup> Written Statement by the Parliamentary Under Secretary of State for Communities and Local Government (Brandon Lewis) 2013 as reported in Hansard

<sup>57</sup> CD 13

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now would be likely to deliver an additional 501 dwellings, over a third of the current annual requirement, within the next five year period.

- 8.47 The second is the condition of the site and the lack of any future for it and its sporting facilities. This is no ex-industrial site with secure boundaries held as part of the portfolio of a major retailer. This site is impossible to secure and is a financial drain. It needs a future and that requires a viable development. Otherwise, despite the best intentions of those involved it will increasingly become a depressing symbol of decay.
- 8.48 The third is the other side of the same coin: the development would renew and improve the principal sporting facilities of the site, otherwise likely to decline and fall into complete disuse. Replacement football pitches and new changing room accommodation would be provided at Belhus Park, either pursuant to the planning permissions,<sup>58</sup> or in a complementary layout to that shown for the Aveley Football Club. The many supporters speak most eloquently for themselves through letters submitted at application and call-in stage, and the evidence given by those at the Inquiry. The message is clear.
- 8.49 Belhus Park is a Sports Hub, identified as such in the Core Strategy, which calls it a key flagship site, and is only 1.5 miles away. Policy CSTP9 is clear about its support for that site, and the facilities proposed deserve the full support of that up to date adopted Development Plan policy. They have earned the carefully considered support of Sport England, whose analysis and conclusions are set out in considerable detail within the Planning Committee Report and correspondence appended to Mr Bennett's proof.<sup>59</sup> Belhus Park is shown in photographs as part of Mr Bennett's proof.<sup>60</sup> It is very dated and tired, unable to perform as a genuine hub of sporting excellence without the proactive steps which investment in the fabric of the leisure centre will deliver. How is the improvement secured by the financial investment directly related to the proposed development? The relationship is very clear, since the playing fields on the application site are to be relocated onto the Belhus Park site, and thereby accord with Local and National policy imperatives. How should the money be spent? The Council's leisure service and the operator, Impulse Leisure, has identified what they believe to be the best destination for s106 monies and are the people best placed to know. These are found within the defined purposes of the planning obligation itself<sup>61</sup> and are illustrated on a plan attached to the obligation, so as to assist with interpretation.
- 8.50 The fourth circumstance to consider is also directly related to the development through the sporting link. Tree Tops Specialist School is a publicly funded school which caters for children and young people between the age of 3 and 19 with special educational needs. It is most famous for its expertise in working with autistic children. Its catchment area is national, but is obviously particularly focussed on the local area, i.e. Thurrock. It is directly related to the development, in that there may be children who would require the specialist education and available facilities at Tree Tops living on the application site.

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<sup>58</sup> CD F22 and F23

<sup>59</sup> G4 (Appendix 11 as amended by Doc 2)

<sup>60</sup> G4 (Appendix 10 as supplemented by Doc 2)

<sup>61</sup> Doc 21

- 8.51 When it moved to its new site in 2008, the school was to have been provided with a sports hall but, for reasons set out by its Headmaster,<sup>62</sup> this has never materialised and there is no means of funding. The policy references to the importance of sport are legion. The proposed development would secure the delivery of this important facility by means of an appropriate financial contribution. So, hand in hand with provision of enhanced facilities for the more elite at Belhus Park, the applicant also provides for the needs of those less fortunate.
- 8.52 The sports hall is also reasonably related in scale and kind to the development. A sports hall cannot be provided in part, and the need has remained for over six years without funding. There is no other source.
- 8.53 The public sector equality duty (section 149 of the Equality Act 2010) requires the Secretary of State to have due regard to the desirability of advancing equality of opportunity for those with a protected characteristic (such as disability) and those who do not share that characteristic. If, as is submitted, it is legitimate in principle to give this provision weight, it is worthy of very significant weight. No one doubts that this special school requires a sports hall. In providing for it, the proposed development strikes a powerful blow for equality of opportunity in Thurrock, delivering sporting facilities both at the Borough's hub (Belhus Park) and at the specialist school, Treetops.
- 8.54 Fifth, the development delivers outstanding community benefits. As well as the community facilities proposed within the application site, the development will deliver a long standing aspiration of the Aveley Village Community Forum, namely an intergenerational Community Hub less than a mile away from the application site. This is a grand name for a building which brings a range of facilities together on a single site in an essentially sustainable way. Indeed, the Aveley by-pass development made a contribution of some £1 million towards the facility.<sup>63</sup> However, in terms of the range of facilities to be provided, which were then geared to an ambitious timetable and a much lower budget, it is very out of date. The briefing note at CD H3 Appendix 6 is more helpful on this point, as are the representations of the Aveley Village Community Forum to the Secretary of State,<sup>64</sup> to which considerable weight should be given, in that they represent the views of the local community. Still, the facility for which a pressing need has been identified for several years, remains undelivered. It is a distinct, but complementary, facility to the small scale provision for community facilities to be made on site.
- 8.55 The site for the Hub lies within Aveley village and has the 'in principle' support of the Council, having been proposed for designation for this purpose in the previous draft Local Development Framework.<sup>65</sup> Despite lottery funding and other developer contributions, the funds necessary to deliver this project still fall short of the necessary £2.8m. The proposed contribution represents the final piece of funding necessary to deliver this project.<sup>66</sup>

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<sup>62</sup> CD J9

<sup>63</sup> CD H3 (Appendix 5 paragraphs 3.6.2, 3.6.3 and 4.8.)

<sup>64</sup> CD F20

<sup>65</sup> CDG4 (Appendix 9)

<sup>66</sup> CD F20

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***Is the Applicant providing too much?***

- 8.56 The package of benefits was offered in good faith as very special circumstances. The financial contributions to Belhus Park, Treetops, and the Community Forum must be judged, not by referring to normal development control policy expectations for requiring planning obligations designed to mitigate the impact of a development, but by reference to what they deliver and whether it is legitimate to take that into account. Thus, the familiar tool of the planning obligation is being used for a relatively unfamiliar, and certainly innovative, but not unknown, purpose. The same was tried in the Basildon appeal, by securing an area of open space in perpetuity, and while this was given only moderate weight it was accepted as a legitimate approach to very special circumstances.<sup>67</sup>
- 8.57 So, in relation to each contribution, the question for the Secretary of State must be, is the CIL condition satisfied in whole, or in part, by the contribution? This is essentially a planning judgment. If the Secretary of State considers that it is not met, the Council has the opportunity to divert the financial contribution to the provision of affordable housing.
- 8.58 As set out in the evidence, the amount of affordable housing provided has satisfied the Council in viability terms, subject to a minor criticism by officers which could not affect the outcome. The Planning Obligation Strategy Contribution is 40% of the total offered. It is notable that, even in the Committee Report, the Council put the full payment of that contribution ahead of the delivery of additional affordable housing (they only seek a diversion of the funds proposed for the package of off site benefits referred to above). Thus, on this site, providing affordable housing on site has not been the priority of officers over legitimate planning obligations, and that balance is one which is legitimate to strike locally. However, as set out in the Note to the Inquiry on the planning obligation,<sup>68</sup> any surpluses, and any sums not found to meet the CIL condition, will find their way to the delivery of affordable housing. This Council is well set up to deliver affordable housing via this route and it is an effective means of provision on appropriate sites.
- 8.59 It is submitted by the Applicant that each of the financial contributions is necessary to make the development acceptable in planning terms. If they overshoot the mark of necessity, the contributions will be trimmed via an appropriate finding in relation to the CIL condition. This is a matter of individual judgment, since the three financial contributions concerned are said to contribute, cumulatively, to very special circumstances which, together with all other considerations, clearly outweigh the harm to the Green Belt. It is a judgment upon which individuals may, reasonably, disagree. Should the Secretary of State disagree on this point, he will find that permission should be granted but subject to less in the way of financial contributions than the applicant made provision for. If that is the case, the applicant will not complain.
- 8.60 Each contribution is directly related to the development in its individual way, as referred to above and as explained cogently by Mr Bennett in answer to

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<sup>67</sup> CD 13

<sup>68</sup> Doc 11

questions from the Inspector. Each is fairly and reasonably related in scale and kind to the development. What is fair and reasonable must depend upon the prospect of use by those living and working within the application site following development, and the degree to which they will put further strain on existing facilities, or (in the case of Treetops particularly) find that their needs are not met by existing provision. Again, Mr Bennett has given this express consideration in his evidence. These locally important measures will make a difference to people's lives in a range of direct ways, which are obviously and tangibly beneficial. It is not often that a proposal within the Green Belt can claim a petition in favour of the grant of permission and a resolution to grant by the democratically elected local authority.

- 8.61 Indeed, the right decision in this case is pointed to by the pattern of recent decision making. Some Secretary of State decisions taken locally, and taken very recently, are provided by way of context and illustration, although it is emphasised that each case is a balance of considerations reached in its own particular circumstances. The Butts Lane decision<sup>69</sup> was a call-in following a resolution to approve by the TTGDC and pre-dates publication of the National Planning Policy Framework. Whilst much has moved on, the Green Belt policy was substantially the same then as applies now to development of this kind.<sup>70</sup> What is notable is the lack of housing land even then, and the imperative to address it in the particular context of the role of Thurrock. This was given very significant weight. At the time, housing land supply in Thurrock was 3-3.5 years, but Thurrock had the lowest stock of vacant properties when compared to the adjacent authorities of Basildon and Southend, but that those areas were expected to contribute most to employment growth between 2010-2030,<sup>71</sup> and 1,030 new dwellings were needed per annum up to 2021.<sup>72</sup> Strategic Open space was provided with the development, to deflect visitors from areas of ecological sensitivity (the nearby SSSI, SPA and Ramsar site).
- 8.62 Bata Field<sup>73</sup> was even longer ago than Butts Lane, but shows the period over which housing land supply has been a problem and the persistent failure of the Council to address it.
- 8.63 The essential reasons for refusal of permission in Basildon,<sup>74</sup> were that insufficient very special circumstances had been shown. Housing land supply was the most compelling argument for allowing the appeals, but other factors were variously of 'no particular advantage' and 'moderate weight'. The Pinewood decision on the other hand,<sup>75</sup> and the more locally relevant and local decision at Ponds Farm,<sup>76</sup> both show how individual an assessment this is and that the particular circumstances of the case need to be put into the balance.
- 8.64 Bearing in mind the negligible harm to the Green Belt that would be caused beyond its policy designation (to which significant weight must be given); the urgent need for Green Belt releases ahead of the review of the Core Strategy

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<sup>69</sup> CD 11

<sup>70</sup> CD 11 (paragraph 14)

<sup>71</sup> Ibid (paragraph 48 of the Inspector's Report)

<sup>72</sup> Ibid (paragraph 50)

<sup>73</sup> CD 12

<sup>74</sup> CD 13

<sup>75</sup> CD 14

<sup>76</sup> CD F10-F15

and the prospect of this site being an allocation in the forthcoming Local Plan review; and the package of benefits tailored to local needs not otherwise deliverable, this case provides the very special circumstances required, and permission should be granted.

## **9. The Case for the Council**

- 9.1 The Council called no witnesses in support of its position. However, Councillor Hipsey, who currently serves as chair of the Council's planning committee and was chair on both the occasions this application was considered, chose to present evidence, the intention being to explain some basic facts in relation to the case, and the reasons the committee supported the application contrary to the officer's recommendation for refusal. His evidence was confined to the balancing exercise considered by the committee in coming to its decision, assessing the benefits of the scheme against the implications for the Green Belt. It was confirmed that he had no authority to speak on behalf of the Council, or the planning committee, either generally, or in relation to circumstances that were not before the committee at the times that the application was considered. He read out his written statement<sup>77</sup> to the Inquiry.
- 9.2 In answer to questions from those opposing the scheme, Councillor Hipsey confirmed that he believed that the £500,000 education contribution secured by the planning obligation would be spent on facilities local to Aveley. In answer to my questions however, he agreed that the contribution was not specifically secured for spending on Aveley/Kennington schools.
- 9.3 He also confirmed that the committee had not asked for any further information about the 'other relatively minor issues' concerning the content of the Transport Assessment referred to by the Council's Highways Development Control officer, as set out in the committee report.<sup>78</sup>
- 9.4 In the Councillor's view, notwithstanding the housing land supply position of the Council, the Council's Green Belt policies were not out of date because they were not policies for the supply of housing.
- 9.5 Whilst he confirmed that he was aware of the tests for planning obligations referred to at paragraph 204 of the National Planning Policy Framework, and in Regulation 122 of the Community Infrastructure Levy Regulations, the Councillor could not offer any information to help explain how the committee came to the view that the contributions and arrangements secured by the planning obligation, over and above those required by the Planning Obligations Strategy, met those tests.
- 9.6 In answer to my query as to how the replacement bowling green and clubhouse, and the replacement pitches, were a benefit of the scheme, he commented that the bowls club would be at the heart of the development and that the club and the pitches would provide brand new, improved facilities. With regard to the proposed improvements to the leisure centre at Belhus Park, he commented that Thurrock had many good sports individuals and

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<sup>77</sup> CD H2 and H3

<sup>78</sup> I asked the same question of Mr Trowbridge. He too confirmed that he had not made further enquiries as to what those concerns were.

teams who would benefit from the package of benefits and that the improved facilities would be well used.

- 9.7 In terms of the balance that needs to be addressed, the Councillor's proof made no reference to the impact of the development proposed on the openness of the Green Belt and how that was weighed in the balance. In re-examination however, he confirmed that openness was dealt with by reference to the officer's report.

## 10. The Case for Interested Parties

- 10.1 Oral representations made in addition to written submissions:

Miss Doyle-Price MP<sup>79</sup>

- 10.2 The MP reported that she had received many representations against this development, key concerns being the impact on local infrastructure, in particular schools and the GP surgery; loss of open space and Green Belt; and, in particular, the loss of the village character of Aveley.
- 10.3 Some 500 new homes are being built currently on the Aveley by-pass, a planning application that was approved by the Secretary of State in the teeth of significant local opposition. Approval of the current application would see the effective merger of Aveley with Purfleet and would transform these two distinct communities. This Green Belt area is crucial to provide a buffer, while both communities continue to expand.
- 10.4 In opposing the current proposal, the officer's report to the planning committee gives a very full account of how the application is not compatible with local policy. The application should be rejected on the basis that it is not compatible with the Council's planning policies or with national planning policy.
- 10.5 Even though the MP had been approached by the applicant's agent on a couple of occasions, she confirmed that she had not met with the developer, or his representatives, to discuss the proposal. She confirmed also, that she did not generally involve herself with planning matters, relying instead on the Council, in particular the planning committee, to exercise its functions in accordance with national policy and policies agreed locally by the Council. She held that, in approving the application against the recommendation of officers, in advance of the emerging Local Plan, the committee had failed in this regard.
- 10.6 **Green Belt** – Government policy states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
- 10.7 It has been suggested that Thurrock's need for more housing merits special circumstances. However, in a Written Ministerial Statement (July 2013)<sup>80</sup>, it was said that:

*The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the*

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<sup>79</sup> CD J6 and Doc 6

<sup>80</sup> See footnote 57

*single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt.*

- 10.8 On its own, therefore, the issue of a shortfall in housing land will be unlikely to comprise very special circumstances to justify inappropriate in the Green Belt. That is amplified by the Council's own policies. The Council is committed to a policy of maintaining Green Belt and resisting development where there would be any danger of coalescence. Green Belt exists for the purpose of preventing neighbouring towns from merging into one another. The site is located adjacent to and in between the built-up area of Aveley to the east, Purfleet industrial estate to the west, and the settlement of Purfleet to the south. Consequently, the application site is crucial to preventing these two neighbouring settlements from merging into one another. Moreover, following public consultation on the Local Development Framework, this site has already been rejected as an allocation for new housing.
- 10.9 **Road Network** – A new point of access would be formed at the existing signal controlled junction of Arterial Road (A1306) and New Tank Hill Road (A1009) and would have the effect of creating a new crossroads. This is an important road which carries traffic seeking to join the A13 and the M25. According to the highway authority, this is likely to have a significant adverse impact on the free flow and safe movement of traffic. For reasons of road safety and capacity, the proposal is not compliant with planning guidance in respect of the impact on the road network.
- 10.10 **Affordable Housing** – The proposal does not meet the Council's threshold with regard to affordable housing. Council policy requires that at least 35% of the dwellings on site should be provided as affordable units, at least 70% of which should be affordable rented accommodation to meet identified housing needs. The affordable housing proposed amounts to just 5% and is thus not compliant with the Council's policy and should not have been considered as acceptable. The developer argues that the Council does not have sufficient land allocated for housing to deliver its obligations and that this merits the application being approved.
- 10.11 **Section 106 Agreement** – The support for Treetops School contained within the obligation amounts to a financial contribution of up to £800,000. The school should have a sports hall already. That it does not, is because it has been badly served by the local authority who has failed to discharge its responsibilities to the school and furnish it with buildings that are fit for purpose. The school had been promised funding for the sports hall back in 2009, but the Council failed to deliver on that arrangement. The consequence of that is that the specialist school is still without a sports hall. It is no surprise therefore, that the Governors have seized the opportunity afforded by applicant. The school, one of Thurrock's leading educational establishments, should not be left to the mercy of planning applications and associated planning obligations, to secure funding for new facilities.
- 10.12 The MP is fully supportive of Treetops school and the urgent need for a new sports hall there but, in her opinion, the arrangement proposed is not the way to secure that and due process should not be abused simply to deliver an

outcome everyone wants. The impact of the development on the community of Aveley is significant and Section 106 monies should be used first to mitigate the impact of the development on the local infrastructure, before spending money on facilities at Treetops, particularly when those facilities ought to have been provided already. In her view, the planning obligations secured by the Section 106 Agreement are not compliant with the law, given the failure to address the impact of the development proposed on the community of Aveley and the Council needs to find another way of delivering its obligations to the school.

- 10.13 The MP had received representations suggesting that, by opposing the development proposed she was blocking a return of Grays Athletic Football club to Grays. In addition, there were suggestions in the media that the creation of the sports hall at Treetops would pave the way for the Club to create a permanent home there. However, that is not part of the planning application and in no way precludes anyone from making such an application in the future.
- 10.14 All in all, the Section 106 Agreement does not amount to the very special circumstances necessary to justify approving the application in the Green Belt. Furthermore, the affordable housing provision is significantly below that required by the Council's policies. If the required provision cannot be provided, then the Section 106 contribution should be enhanced in this regard. Since it is deficient, it does not mitigate a lower volume of affordable housing.

Councillor Ray

- 10.15 The application scheme is one of a number that are currently on the table. He felt that the area was being pushed to receive large scale development at the same time as schools and surgeries were under such pressure that they are currently unable to cope with the existing population. Although contributions were being made, they were not sufficient to address the problem.
- 10.16 He referred to the domino effect of development decreasing the quality of life for residents. In particular, he was concerned that the area was being used as an overspill location, with new housing not being readily accessible to local people, since it was snapped up by inner London Boroughs to rent to their residents, who were in housing need. In turn, that was driving up prices locally, making it harder still for people to get a foot on the housing ladder. There were also problems associated with the transient nature of such populations.

Councillor Mrs M Pearce

- 10.17 Aveley village has few good quality green spaces. This makes the application site all the more important. Its importance is heightened given the recent permission for the Ponds Farm development just to the north. The application site has already been rejected twice by the Council for housing, as part of the Local Plan process. That was not addressed when the committee resolved to approve the scheme.
- 10.18 Concerns were also raised in relation to the LWS designation and the impact of the development on that. Councillor Pearce shared the concerns of others in relation to junction arrangement proposed and its implications for the safety

and free flow of traffic, and also was of the view that affordable housing provision had not been properly addressed having regard to the significant shortfall in provision.

- 10.19 The financial contributions proposed are not sufficient to compensate for the loss of the playing fields and the impact of the traffic. In particular, the direct impact on the residents of Aveley has not been addressed. Rather, consideration has been given to the provision of facilities further afield. If permission is granted, it will drive a coach and horses through the Council's properly adopted policies. The highways, education and housing departments all had concerns which have not been addressed. The application should be refused.

Mr D Gregory

- 10.20 Mr Gregory confirmed that he had attended the September committee meeting when the application had been first considered, and expressed concern about the procedure that had been followed. For instance, the absence of any reply in the report from the Education Authority.<sup>81</sup>

Mr T Partridge

- 10.21 Mr Partridge advised that he had lived in the area for some 32 years and that his garden backed onto the sports club site. The land has always been Green Belt and he was very shocked at the scale of the development proposed. He is not a NIMBY, but believed that Green Belt should be protected. The development would cause an upheaval for the local community. In relation to the demands of the development proposed on local infrastructure, he had concerns that the local schools are already full to capacity and that the local doctor's surgery was under such pressure that he had to wait for up to two weeks to get an appointment. He also had concerns about the capacity of the local highway network, and its ability to accommodate traffic from the development proposed safely, and without exacerbating existing problems in terms of congestion and delays.

Mr R J Burnley<sup>82</sup>

- 10.22 Together with his brother, Mr Burnley is part owner of Fanns Farm and is an agricultural tenant of the adjacent farm land. He also runs an agricultural contracting business from the holding.
- 10.23 The Local Development Framework was produced after a good deal of time and effort by the planning department. Many stakeholders were consulted during the process and localism could therefore be seen to be in action. The protection and enhancement of Green Belt areas of the Borough are important policy planks. It is bizarre, therefore, for Members now to go against their own policy and resolve to approve this application. If no notice is to be taken of adopted policy, why was so much money spent on its preparation? There is little point in having a professional planning department if forward planning is not to be conducted and decisions made in such a manner.

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<sup>81</sup> A reply from the Education Department was recorded in the November report (CD F7 paragraph 1.4)

<sup>82</sup> Doc 9

- 10.24 Green Belt is a very important part of countryside protection and should be held on trust for future generations. Our ever increasing population means that, when world food resources become difficult, sports fields and golf courses may be needed to go under the plough again. Once land is built on, it disappears forever from food production and wildlife conservation. The mature trees on the site are protected and give structure to the local landscape. They support a large population of insects, birds and mammals which are dependant upon them. There are also grass snakes on the site.
- 10.25 The development proposed is not ribbon development infill, but a considerable construct that would forever change the concept of Aveley and Purfleet as separate communities. Facilities such as schools, doctors, dentists, hospitals, police and bus services are all struggling to meet the demands of the existing local population. There is no provision for more staff or premises for any of these services, so the development will only add to the continued loss in the quality of life for those that depend on them. For example, the local GP services fail its population: so many patients cannot get an appointment that they turn to the local minor injuries unit at Orsett which, in turn, cannot cope either. Things will only get worse if the population expands without a commensurate increase in the supporting infrastructure, disadvantaging the existing population unfairly. The money being offered is nowhere near enough to address these issues.
- 10.26 Mr Burnley reported that the main sewer runs under his meadows and is chronically under capacity, as evidenced by its overflowing into the fields via various manholes, most recently in March 2012. Previous such events meant, for example, the closure for months of public footpath No 145 for environmental health reasons, when some 4 acres were flooded with raw sewage. He is not aware of any investment being made to improve that situation which is a worry, because of the new housing currently under construction on the Aveley by-pass.
- 10.27 He also had concerns in relation to surface water drainage. Fanns Farm is at a lower level than the application site and lies within the flood plain of the River Mardyke, resulting in regular flooding in winter months. Any more water heading that way as run-off from the development proposed would exacerbate those problems.
- 10.28 In relation to traffic, Mr Burnley was concerned that the development would exacerbate existing problems on the A1306. He currently experiences problems taking farm equipment in and out of the farm chase. Together with other building development planned in Purfleet, the development proposed would only exacerbate the already long queues at the traffic light junction.
- 10.29 Fanns Farm is grade II listed. In such close proximity and at a higher level, it was held that the development proposed would not protect its setting.
- 10.30 Mr Burnley also indicated that he felt that his entitlement to the peaceful enjoyment of his property and way of life would be jeopardised by the development, and that his Human Rights may be violated.

Mr P Stoker

- 10.31 Mr Stoker was a supporter of the scheme. He argued that young people in the Borough were crying out for somewhere to live and this would present an

opportunity for them to get onto the housing ladder. He plays bowls at the club on the site and believed that the replacement facilities proposed could only be good for the club, providing it with a new lease of life as it would be more attractive to a wider range of people. Those currently using the club were all getting older and it would be likely to fold.

Mrs A Martin

10.32 Mrs Martin is a Purfleet resident. She commented that the site is divided from Purfleet by the A1306 and that building houses on it would not affect that divide. She shared Councillor Ray's concerns about London renters, but still felt that the development would provide an opportunity for local renters to access the market. There was nothing in Purfleet at the moment and she would rather see people living on this Green Belt site than the land being used by people for walking their dogs.

Mr P Ward

10.33 Mr Ward agreed with Mrs Martin about preferring the site to be developed with houses, rather than for use by dog walkers. He suggested that there was a large RSPB site at Purfleet if people wanted open space. His house backs onto the site and he felt that the development would address current security problems with abandoned horses on the land, and break-ins/burglaries. The site was run down and he had to put up with problems from it on a near daily basis. His children will want their own home in the future, but the lack of an affordable supply means that they would probably need to move out of the area.

Mr G Jarvis

10.34 Mr Jarvis supports the proposal and believes it will have benefits for the wider area of Thurrock, not just Aveley. The development will provide good quality family housing with reasonable gardens to meet an increasing local need. The land is not in the flood plain, unlike much of the Borough.

10.35 The Planning Obligations Strategy contributions would deal with the direct impact of the development on local infrastructure and it would enhance existing sports and community provision in the area. The relevant authorities do a great deal of work trying to keep Thurrock residents healthy and away from trouble. The benefits that the proposed Belhus Park arrangements would provide are very much welcomed in this regard. Were permission to be refused, those gains would be lost.

Mr Woodman

10.36 The development proposed is necessary. The existing facilities on the site are past their 'sell by' date and are falling into disrepair. New housing is needed. The scheme includes development in other areas, such as Belhus Park and Treetops School, which can only be good for the area. The bowling club will also benefit and will become the hub of the new community that would be created. Without people, the club will fail to grow.

## 11. Written Representations

- 11.1 As set out in the Officer's reports,<sup>83</sup> the application attracted a total of 16 individual letters of objection, a petition with almost 140 signatories objecting to the scheme, and 445 individually signed 'standard' letters of objection. Letters of objection were also received from the Thurrock Biodiversity Action Group, Thurrock Wildlife Society, Essex Field Club, and the Botanical Recorder for Essex.
- 11.2 In support of the proposal, a petition containing 96 signatures and another with 568 signatories was received. The applicant also submitted letters of support from Treetops School (two from the head teacher and 44 letters from parents of pupils), Impulse Leisure and Aveley Community Forum Limited. A petition of support containing 5 names was received from Aveley Residents Committee and a letter of support was submitted by the Phoenix Bowls Club (currently based on the site).
- 11.3 Following the calling in of the application, further letters were received from Thurrock Biodiversity Action Group, Thurrock Wildlife Society, Essex Field Club, Buglife, Miss Jackie Doyle-Price MP, Sport England, NHS Property Services and Treetops School, plus 20 individual letters of support, one accompanied by a petition, and 9 letters of objection.<sup>84</sup> The correspondence from Miss Doyle-Price MP was accompanied by a petition of objection<sup>85</sup> and she submitted a further petition during the Inquiry.<sup>86</sup>
- 11.4 The representations made at the time of the planning application are summarised in the officer's committee reports.<sup>87</sup> The responses submitted following the calling in of the application, summarised here, cover much the same ground.

### Objections:

- Highway safety – new junction and general increase in traffic on local roads. The local highway authority continues to have concerns.
- Impact on local infrastructure that is already struggling – schools, surgeries, dentists, hospitals
- Loss of village character
- Loss of open space/playing fields
- Loss of Green Belt
- Impact on Local Wildlife Site (Jill's Field)
- The package of sports and community facilities is provided at the expense of the appropriate level of affordable housing
- Impact on the landscape and other visual receptors

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<sup>83</sup> CD F6 and F7

<sup>84</sup> CD J1-J10

<sup>85</sup> CD J6

<sup>86</sup> Doc 6

<sup>87</sup> CD F6 (paragraphs 4.28-4.36) and F7 (paragraphs 1.2-1.3)

- The Grays Northern Extension is a much more logical location for new development and is being promoted through the development plan process
- Application is premature pending the new Local Plan, preparation of which has commenced and would undermine the process.
- The application site has been rejected twice as a housing site from the Site Allocations DPD. It is outside the Key Centre for Development and Change, is not an area prioritised for regeneration, and falls outside the Council's Broad Locations for Growth.
- The existing planning permission for new pitches for Aveley Football Club at Belhus Park would conflict with the pitches proposed to be created as part of the relocation of the existing pitches on the application site.
- The design fee element of the viability appraisal is too high
- Provision of the sports and community package leaves in its wake a fundamental breach of the Council's policies including shortfalls in education and affordable housing provision
- Some of the benefits prayed in aid are not benefits, since they are replacement facilities for those that would be lost.
- Already have housing development in progress on the Aveley by-pass (118 units) and West Thurrock is seeking permission for 320 houses on the edge of the Lakeside shopping centre.
- The contributions and facilities proposed would not directly benefit the community most affected, Aveley.
- Inadequate sewerage capacity/flooding
- Flooding
- Air pollution
- Contrary to the adopted policies of the development plan

Support:

- Improved supply of good quality affordable housing for the local community
- Existing facilities on the site are dated and in need of repair
- Replacement of the existing bowling green
- Financial contribution towards a new community hub in Aveley as identified as part of the Site Allocations work and in the LDF.
- The provision of a much needed sports hall at Treetops Special School
- New pitches at Belhus Park
- Improvements to the leisure centre and golf facility at Belhus Park
- Improvement to the landscape

## 12. Conditions

- 12.1 In the event that planning permission was to be granted, recommended conditions are attached at Appendix C below. They are based on the draft conditions agreed prior to the Inquiry by the applicant and the Council,<sup>88</sup> together with additional conditions that emerged during the related discussion at the Inquiry.<sup>89</sup>
- 12.2 I have considered the conditions in the light of the advice in the Framework, and the recently issued planning guidance, as discussed and agreed at the Inquiry. I have made other minor alterations to the conditions as presented, in the interests of brevity and precision.
- 12.3 At the Inquiry, it was agreed that suggested conditions 4, 9, 17, 21, 41 and 42 (which deal respectively with maximum building heights; details for the residential element; materials; cycle parking facilities; specification for the bowling green pavilion; archaeology; and phasing for implementation of the bowling green pavilion) either relate to the reserved matters, and thus are not appropriate at this stage, or duplicated/could be combined with other conditions.
- 12.4 The Council wanted to retain suggested condition 5, relating to the provision of public open space and the Eco Corridor. However, its provision can be covered by minor alterations to suggested condition 15 and/or would be covered in any event through the submission of the landscaping reserved matters over which the Council would have control in any event. On that basis, I have not included it as a separate recommended condition.
- 12.5 Landscaping is a reserved matter. I am not persuaded, therefore, that that part of suggested condition 15 relating to the replacement of specimens that might die or are removed etc is necessary at this outline stage. I have combined suggested condition 16 within the details required to be submitted as part of the hard and soft landscaping.
- 12.6 Suggested condition 35 relates to a requirement for flood evacuation plans. Although the edges of the site are within Flood Zones 2/3, the majority of the site lies within Flood Zone 1. Since all the built development proposed would be within Flood Zone 1, it was agreed that the suggested condition was unnecessary.
- 12.7 Suggested condition 39 relates to the possible need for a further ES in relation to the reserved matters submissions, where they would be likely to give rise to any new or different significant impacts from those addressed in the ES that accompanied the application. However, the procedure for screening subsequent applications, where environmental information was provided at an earlier stage, is set out in Regulation 8 of the EIA Regulations 2011. The local planning authority would have to assess whether the environmental information before it at that time it was considering any reserved matters details, was adequate to assess the environmental effects of the development - if the information was considered to be inadequate, the Council would need

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<sup>88</sup> CD F2

<sup>89</sup> Doc and Doc 15

to serve a Regulation 22 notice seeking further information. On that basis, I consider the suggested condition to be unnecessary.

- 12.8 Suggested condition 43 seeks to control the tenure arrangements for the replacement bowling green pavilion. It was agreed that such control was not relevant to planning and that the condition be deleted.
- 12.9 The time limits for the submission and approval of the reserved matters and commencement of development are foreshortened, agreed with the applicant as being necessary to ensure that the housing is brought forward quickly so as to boost supply and meet the housing needs of the Council. Were permission to be granted, this would be one of the justifications for the development to proceed. **Conditions 1, 2, 3** of Appendix C attached hereto, which address the submission of reserved matters, reflect that arrangement.
- 12.10 Given the scale of the development proposed, and the sports facilities that need to be replaced, together with the stated intention to deliver the scheme in phases, a phasing strategy is required to ensure that the necessary infrastructure, and replacement facilities, are provided in a timely manner and to protect the amenities of the area (**condition 4**).
- 12.11 Otherwise than as set out in the decision and conditions, it is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (**condition 5**). Since access is a matter for determination at this stage, I have added the plans showing the new access onto the A1306 and the alterations to the existing access on to Purfleet Road to the list of plans set out in this condition.
- 12.12 Although this is an outline application, only matters of appearance and landscaping are reserved for future consideration. As a consequence, a considerable amount of supporting information accompanied the application. The EIA was based on that information. It is necessary to ensure that the development relates to the ES, and to the Design and Access Statement and masterplan, which were based on the ES. **Conditions 6, 7, 8, 9** ensure that the vision and design principles set out therein are carried forward in the final development.
- 12.13 Construction is likely to take place over a number of years. Whilst local residents and those travelling through this part of the Borough will undoubtedly be inconvenienced by that, the adverse impacts can be reduced if an effective Construction Traffic Management Plan is in place. An Environmental Construction Management Plan, and control over hours of work would further mitigate adverse impacts in this regard, on the amenities of local residents and on the environment. These are provided for by **conditions 10, 11, 12**.
- 12.14 **Conditions 13, 14, 15, 16** are necessary to ensure that the buildings are sustainable over the lifetime of the development and that they will provide for the long term needs of the community.
- 12.15 There are a significant number of important trees within the site, which are to be retained. **Conditions 17, 18** ensure that these would be protected during the construction period, in order to protect the character and appearance of the area. **Condition 19** specifies further details that are required in

connection with the proposed landscaping and is necessary for a development of this scale to protect the character and appearance of the area generally, and to ensure an appropriately high quality environment within the development itself. A strategy for the implementation, maintenance and long term management of the landscaped areas and open spaces is also necessary, to mitigate the visual impact of the development. This is secured by **condition 20**, which I have distilled from suggested condition 15.

- 12.16 Part of the application site lies within the Jill's Field Local Site of Wildlife Interest. The masterplan also includes an Eco Corridor. The ES, and the additional ecological information submitted to the Inquiry, comment on the opportunity to increase biodiversity and create more diverse habitats. **Conditions 21, 22** secure necessary ecological mitigation and enhancement.
- 12.17 **Condition 23** secures the submission of details of the bin storage for the residential units and the commercial/health/ community floor space, in the interest of visual amenity and to ensure that future occupiers are provided with necessary facilities.
- 12.18 In the interest of highway safety, a Grampian type condition is necessary to prevent occupation of any part of the development until the new access onto the A1306, together with the improvements to the existing access onto Purfleet Road, have been carried out. For the same reason, it is necessary to discourage 'rat-running' through the site, between the A1306 and Purfleet Road (**conditions 24, 25**).
- 12.19 In order to promote more sustainable modes of transport, and in the interest of highway and pedestrian safety, **condition 26** ensures that the development includes a comprehensive system of footways, cycleways and green links both within the site itself and linking to the off-site footways/footpaths /cycleways. **Condition 27** is necessary to ensure that there is adequate car and cycle parking to serve the needs of development. Although a draft Residential Travel Plan was submitted with the application, a fully detailed Travel Plan that deals with both the residential units and the commercial/healthcare/ community floor space is required, to promote the use of more sustainable modes of transport, in accordance with national and local policies and guidance. (**Condition 28**).
- 12.20 The ES identifies the parts of the site that would be affected, potentially, by noise and poor air quality. **Conditions 29, 30** include necessary provisions to ameliorate that impact.
- 12.21 It is possible that the archaeological remains of a medieval farmstead, recorded to the north of the application site, extended further south into the application site. In addition, Avey Sands and Silts recorded within the site from depths of approximately 1 metre below ground level, may include currently unrecorded Pleistocene faunal deposits. The ES confirms that those interests would not preclude development of the site and recommends that an appropriate scheme of archaeological mitigation be agreed in advance of construction. On that basis, I consider a generic condition, requiring that a scheme be submitted to and agreed with the local planning authority to be sufficient to protect possible archaeological interests, in place of the four more detailed conditions suggested. (**Condition 31**) I have, however, omitted any

reference to the need for such works prior to the submission of a detailed layout, since layout is not a reserved matter.

- 12.22 In order to protect visual amenity of the surrounding area and within the site itself, **condition 32** requires the submission of details of any external lighting within the development.
- 12.23 The scheme will displace existing sports facilities. The bowling green and clubhouse are to be relocated within the site. Condition 4 secures the phasing arrangements in this regard. It is also necessary to ensure that the replacement provision is of sufficient quality so as to provide a suitable replacement. That is secured by **condition 33**. The timing of the replacement facilities is governed by condition 4.<sup>90</sup> The displaced football pitches are to be re-provided off-site, at Belhus Park. The wording for suggested condition 44, a Grampian type condition precluding commencement of development until the replacement football pitches and associated facilities have been provided, was amended at the Inquiry.<sup>91</sup> The revised wording is reflected in **condition 34**. I have, however, deleted the reference to 'or otherwise agreed' pursuant to the phasing condition, since there is no reference in that condition to the Belhus Park pitches.
- 12.24 **Conditions 35 and 36** relating to surface water drainage and sewerage are necessary to ensure that the development is satisfactorily serviced and drained, and to avoid increasing the risk of surface water flooding both on the site and elsewhere. At the Inquiry, it was agreed that a condition based on the wording of the PINS model sustainable drainage condition would be more appropriate than suggested condition 30, particularly given the need for long term management of such schemes. Condition 36 is based on the comments of Essex and Suffolk Water, and acknowledges problems experienced in the past in relation to the existing sewerage system in the area.
- 12.25 The ES identifies potential sources of contamination within the site. These relate to an electrical substation, an area of burnt ground/tyres, and the presence of made ground associated with the levelling of the site and deposited through the southern areas. In addition, there is potential for materials containing asbestos to have been used in the existing pavilion. Industrial premises to the south and west of the site, and nearby landfills, are also a potential source of contamination. **Conditions 37, 38** are therefore necessary, although I consider the suggested requirement for bunded storage for fuels etc during construction, to be more appropriate as part of the Environmental Construction Management Plan.

### 13. Section 106 Agreement

- 13.1 The executed version of the Agreement, received after the Inquiry with my consent, is dated 27 August 2014.<sup>92</sup> In order to assist the discussion at the

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<sup>90</sup> Page 102 of the Design and Access Statement (CD A3) shows that phases 1 and 2 would enable all the existing sports fields and bowling green to remain in use during construction. Phase 3 would require demolition of the pavilion, although the bowling green would remain operational during that phase of development.

<sup>91</sup> Doc 15

<sup>92</sup> Doc 22

Inquiry on the obligations secured, the applicant submitted a Note to explain the provisions of the Agreement.<sup>93</sup>

- 13.2 The Council's interim Planning Obligations Strategy (POS)<sup>94</sup> identifies a full standard charge for new residential and commercial development, based on an estimate of the overall costs for providing much of the essential infrastructure for the area. It excludes infrastructure that is to be wholly funded by the public sector. Annex A to the Strategy sets out the breakdown of the standard charge. It includes, for example, education, community facilities, sports/leisure centres, playing pitches, GP health centre (including dentists) and intermediate healthcare.
- 13.3 The POS recognises that, in most cases, the full standard charge cannot be met by developments in the current market and that seeking to levy charges at those levels would inhibit regeneration and development. On that basis, taking account of current market conditions and the viability of development, the POS includes a discounted charge of £5,000 per dwelling and £50 per square metre of commercial floorspace. The POS contribution secured in relation to the development proposed, amounts to £2,554,250, based on 501 dwelling units and 985 square metres commercial/community/health floorspace.
- 13.4 Affordable Housing – 25 units are secured as affordable housing on the site, together with a contribution of £500,000 for the provision of additional units elsewhere. In addition, the Agreement includes the following:
- A highway contribution of £180,000.
  - An education contribution of £500,000.
  - A contribution of £1,000,000 towards works at Belhus Park for upgrade works.
  - A contribution of £500,000 towards a new sports hall at Treetops Special School.
  - A contribution of £800,000 towards the provision of a community centre in Aveley village.
- 13.5 The Agreement also secures the payment of £5000 towards the monitoring of the obligations in the deed and £4730 in relation to legal costs. These are not, of themselves, obligations, nor are they listed as such. They are simply the payment of fees to the Council and are not, therefore, subject to the same tests that are applied to the obligations.
- 13.6 Consideration of the obligations must be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations. These require that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to it.

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<sup>93</sup> Doc 11

<sup>94</sup> CD E1

- 13.7 Annex A of the POS sets out a list of all the types of infrastructure items which contribute to the build up of the full standard charge. I am in no doubt that the development proposed would increase demand for, and add to existing pressures on, the local facilities and infrastructure listed at Annex A. Indeed, local residents spoke very eloquently about existing pressures, particularly in relation to education and access to healthcare, including GP surgeries and dentists. I am satisfied, therefore, that the POS contribution meets the tests.
- 13.8 Affordable housing is an important element of the overall housing need in the area. To that end, policy CSTP2 of the CSPMD looks to secure a minimum of 35% of properties (approximately 175 in this case) as affordable dwellings. The planning obligation secures 5% (25 units) with a further £500,000 included for off-site provision which, as confirmed in the evidence of Councillor Hipsey, could provide a further 10 units.<sup>95</sup> I deal with the implications of the shortfall in provision in more detail in my Conclusions below. As far as it goes however, I consider that the provision secured meets the tests.
- 13.9 The highway contribution is secured for the purposes of providing four new bus stops on the A1306, with associated bus lay-bys (where required) and associated works, on the north and south sides of the New Tank Hill Road junction. The bus stops would enable connections to existing bus routes 11 and 44 within the Borough and would encourage future residents of the development proposed to use public transport. Again, I am satisfied that the contribution meets the tests.
- 13.10 In relation to education provision, an email to the Council's solicitor from the planning officer, dated 28 July 2014,<sup>96</sup> confirms that some £3,317,232 is required to offset the impact of the development proposed in terms of its direct impact just on education infrastructure. That figure is based on the pupil yield of the development, as referred to in the evidence of Councillor Hipsey.<sup>97</sup> I recognise that some of the obligations strategy contribution is intended to be used towards education provision. However, not only has the discounted rate been applied but, even if the whole of that contribution was directed towards education, there would still be a shortfall. I am satisfied, in this regard, that the additional specific education contribution of £500,000 meets the tests.
- 13.11 A package of benefits, namely contributions totalling £2,300,000 for the upgrading of facilities at Belhus Park, the provision of a new sports hall at Treetops School and as a contribution towards a new community centre in Aveley, is promoted as an 'other consideration' in the Green Belt balance, given that the development scheme comprises inappropriate development. However, for the reasons set out in my Conclusions below, I consider that the contributions do not meet the statutory tests. As such, they fail to comply with Regulation 122(2) of the Community Infrastructure Levy Regulations.

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<sup>95</sup> CD H2 paragraph 4.19 The calculation is based on c.£25,000 land and c.£25,000 works per dwelling.

<sup>96</sup> Doc 17

<sup>97</sup> CD H3 Appendix 2

## 14. Inspector's Conclusions

- 14.1 The following conclusions are based on my report of the oral and written representations to the Inquiry, and on my inspection of the site and its surroundings. The numbers in parentheses thus [ ], refer to paragraphs in the preceding sections of this Report from which these conclusions are drawn.
- 14.2 The Council has a significant and long standing shortfall in its five year housing land supply.<sup>[8.30, 8.67, 8.68, 8.27-8.33, 8.68]</sup> Accordingly, having regard to paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up to date. In such circumstances, Framework paragraph 14 confirms that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 14.3 The application site lies within the Metropolitan Green Belt<sup>[3.2]</sup> and it is a matter of agreement that the development proposed comprises inappropriate development.<sup>[8.2, 8.41]</sup> As set out in Framework paragraph 87, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 14.4 In light of the housing land supply position, the applicant sought to argue that the Council's Green Belt policy, PMD6, is out of date.<sup>[8.3, 8.4]</sup> However, in relation to decision taking, Framework paragraph 14 makes it clear that, even if relevant development plan policies are out of date, the presumption to grant permission does not apply where specific policies in the Framework indicate that development should be restricted. The Framework does include specific policies indicating that inappropriate development, which includes general housing, should be restricted in the Green Belt. Accordingly, I consider that the position of the applicant in this regard, has little, if any merit.
- 14.5 Therefore, the main considerations in this case relate to:
- the effect of the development proposed on the openness, permanence and purposes of the Green Belt;
  - the effect on the character and appearance of the surrounding area;
  - the effect on the setting of the adjacent grade II listed Fanns Farmhouse;
  - its effect on the free flow of traffic and on highway safety;
  - the effect on arboricultural/ecological interests; and,
  - whether the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development proposed.

### ***Openness, Permanence and Purposes of the Green Belt***

- 14.6 Framework paragraph 79 confirms that the Government attaches great importance to Green Belts. It confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts being their openness and permanence.

- 14.7 Other than the sports pavilion, bowls club house, and associated outbuildings and structures, the 14.5 hectare application site is open in that it is, for the most part, free from built development. Although the applicant maintains that approximately 10% of the site is previously-developed,<sup>[8.8]</sup> that calculation includes the bowling green itself, the access roads within the site, the car parking area and grassed areas in between.<sup>98</sup> I am mindful, in this regard, that the Glossary at Annex 2 of the Framework excludes recreation grounds from the definition of previously-developed land, although I recognise that that is within urban areas. In any event, even were I to take the applicant's 10% figure, the remaining 90% is not previously-developed land and is free from any form of built development.
- 14.8 Notwithstanding that the development proposed would include areas of public open space and ecological enhancements (calculated by the applicant as some 26% of the total site area)<sup>99</sup> the development proposed, which includes 501 residential units and some 985 square metres of commercial/healthcare/ community floor space, would reduce significantly the openness of this part of the Green Belt.
- 14.9 The applicant maintains that the current open character of the site is only appreciated internally and that it is not read within any wider open landscape context. It is also the applicant's intention to reduce the visual impact of the development through landscaping around much of the site perimeter and through careful management of the layout and massing of the buildings. To my mind however, those considerations relate more to character and appearance, than an assessment in relation to openness.
- 14.10 The other essential characteristic of the Green Belt, identified by the Framework, is its permanence. Were the application to be successful, the effect would be the permanent loss of some 14.5 hectares of the Metropolitan Green Belt. As noted by a colleague Inspector dealing with an appeal relating to Green Belt development in Basildon,<sup>100</sup> the fundamental aim of preventing urban sprawl by keeping land permanently open, is a slightly different concept from the stated purpose of checking the unrestricted sprawl of large built-up areas. She did find though, that, once it was accepted that there would be a permanent loss of openness, as is the case here, the fundamental aim of the Green Belt designation would be harmed. I have no reason disagree with that view.
- 14.11 Paragraph 80 of the Framework sets out five purposes served by Green Belt:
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns;
  - and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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<sup>98</sup> CD G3 (paragraph 3.36 and Tab 4)

<sup>99</sup> Ibid (paragraph 3.37)

<sup>100</sup> CD I3 (paragraph 226 of the Inspector's Report)

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*To check unrestricted sprawl*

- 14.12 Although it was maintained that the application site does not physically adjoin the settlement of Purfleet, it seems to me, from what I saw during the site visit, and as shown on the plan at Appendix 3 to the proof of Mr Bennett<sup>101</sup> (although I recognise that the plan is intended to demonstrate the contrary) that, whilst the Industrial Estate projects north-west from the main part of Purfleet, it is seen on the ground as an extension to, and is visually related to, the main settlement. The application site lies adjacent to the Industrial Estate, albeit on the opposite side of the road. Moreover, notwithstanding its location within the Green Belt, land immediately to the north-east (the Ponds Farm site) has outline planning permission for some 38,686 square metres of employment floor space.<sup>102</sup> Given its context, I consider that the application site *is* seen as lying adjacent to Purfleet.
- 14.13 The approved plans for Ponds Farm show it extending right up to the boundary of the site with the A13 trunk road.<sup>103</sup> I recognise that the application site is bounded by ribbon development along its northern, and part of the western, boundaries. However, with the exception of the permitted (but as yet unbuilt) Ponds farm scheme, there is no development of any substance between the A1306 Arterial Road and the A13 here.
- 14.14 Whatever the background to that permission, I saw that Ponds Farm is a self-contained triangular site, enclosed on all sides by the A13, the A1306 Arterial Road and Purfleet Road. The application site, on the other hand is not so self-contained. Whilst it is bounded by roads on three sides, the boundary to the south-east is less well defined, adjoining Fanns Farm and with open, largely undeveloped land beyond. Although the applicant maintained that the land there could not be developed largely because of flood risk issues,<sup>104</sup> that is not borne out by the plans that accompany the Flood Risk Assessment,<sup>105</sup> which clearly show a band of land in that area, extending along the south side of the A13, as being outside the flood zones.
- 14.15 The application site does not comprise a pocket of land surrounded by urban structures and uses. Moreover, it extends further to the west than the Ponds farm site, albeit still bounded by the A13. All in all, I consider that the development proposed would spread the existing (and committed) extent of built development further into this part of the Green Belt, equating to sprawl on this edge of the settlement. There would be some harm in this regard, to the first of the stated purposes for Green Belt.

*To prevent the merging of neighbouring towns*

- 14.16 The application site forms part of what I consider to be a relatively narrow section of the Green Belt, between the built up edges of Purfleet and Aveley. That separation is perhaps not readily appreciated on the ground, particularly along Purfleet Road, where the visual separation is blurred somewhat by the finger of ribbon development that already extends out from Aveley, along both

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<sup>101</sup> CDG4

<sup>102</sup> CDs F10-F15

<sup>103</sup> CD F14

<sup>104</sup> CD G3 paragraph 3.19

<sup>105</sup> CD A5 Appendix 8.1

sides of Purfleet Road almost as far as the A13, and the continuation of ribbon development on the far side of the A13, up to the junction of Purfleet Road with the A1306 - those properties back onto the application site. As a consequence, the sense of leaving Aveley and entering Purfleet (and vice versa) and the separation between the two settlements, is already compromised to some extent. What feeling of separation there is currently would, in my view, be further eroded with the building of the Ponds Farm scheme on the north side of Purfleet Road. However, that only serves, to my mind, to enhance the importance of the remaining open space between the two settlements.

14.17 The undeveloped and open nature of the site, and the space within which it lies, can readily be seen from the elevated section of New Tank Hill Road where it crosses the railway; when passing the site on the A1306; and through filtered views from the south-east.<sup>106</sup> Indeed, the supplemental Landscape and Visual Impact Assessment (LVIA) confirms that the site is visible from seven of the nine viewpoints assessed, three of which (the three I have referred to) can be considered as significant.<sup>107</sup>

14.18 I recognise that the visual 'envelope' in terms of views from the wider area, is quite limited. However, the development proposed would extend the built up edge of Purfleet, further to the west than it is at present, bringing it closer to Aveley and undermining the current separation. Indeed, that is a concern of the local MP and some local residents.<sup>[10.3, 10.25]</sup> I consider that there would be some harm in this regard, to the Green Belt purpose of preventing the merging of neighbouring towns.

*To assist in safeguarding the countryside from encroachment*

14.19 In support of the application, much was made of the appearance of the site as urban fringe<sup>[8.8, 8.10, 8.47]</sup> which, it was argued, combined with the use of the site as sports pitches, means that the site should not be considered as countryside.

14.20 Countryside encompasses many different landscape characters and, as acknowledged by the applicant, can include urban fringe.<sup>[8.47]</sup> The applicant comments that the main swathes of countryside in the Borough are located to the north of Aveley.<sup>108</sup> That may well be the case. However, I saw that the application site forms part of a curving swathe of largely open and undeveloped land between the A1306, with Purfleet to the south, and the village of Aveley to the north.<sup>109</sup> I see no reason as to why the green and largely undeveloped application site, which has open land to the east, on the far side of the A13, and to the south/southeast, including Fanns Farm, should not be considered as part of this area of countryside, albeit that it comprises part of the urban fringe here.

14.21 Even were I to consider that the managed sports pitches did not fall into the category of countryside, a substantial proportion of the site is not actively managed, comprising rough grassland, and has a more informal appearance, some of which area lies within the Jill's Field Local Site of Wildlife Interest

<sup>106</sup> CD A5 Appendix 14.2

<sup>107</sup> CD F9 paragraph 5.3

<sup>108</sup> CD G3 paragraph 3.27

<sup>109</sup> CD C2

(LWS).<sup>[3.2]</sup> At the very least therefore, a sizeable proportion of the site can properly be considered, in my view, as countryside. Notwithstanding that some of that non-sports pitch land would be retained within landscape/eco buffers as part of the proposal, the residential development proposed would encroach not only across the existing green sports pitches, but also into that less 'manicured' area. On balance therefore, I conclude that the development proposed would encroach into the countryside, at least to some extent. There would be some harm therefore, to this Green Belt purpose.

*To preserve the setting and special interest of historic towns*

14.22 Since there are no historic towns in the immediate vicinity, this purpose is not relevant to the application site.

*To assist in urban generation by encouraging the recycling of derelict and other urban land.*

14.23 Whether or not the buildings on the site might be considered as derelict, I am of the view that, whilst it may well lie with the urban fringe, it is not, of itself, urban land. However, in terms of other urban land, the effect of the proposal is less clear cut than with the assessments in relation to other of the stated purposes of the Green Belt. There is no evidence before me, for instance, of any alternatives to the proposal that would involve the recycling of urban land. At a *prima facie* level however, there is a risk that the release of Green Belt sites might discourage, rather than encourage, the impetus for urban regeneration.

14.24 In the light of the impact of recent economic change on the delivery of new housing, and in order to further accelerate the significant progress being made in driving forward the growth agenda for Thurrock, the Council's Cabinet resolved, at its meeting on 12 February 2014, to review the adopted CSPMD and to prepare a new Local Plan for the area.<sup>110</sup> As a consequence, the Council is no longer pursuing its Site Allocations Local Plan. However, the emerging focussed Core Strategy Review and new Local Plan are at a very early stage and can therefore be afforded very little weight.<sup>[4.7]</sup>

14.25 I recognise that the Council may well need to release some Green Belt land to meet its growth agenda. Indeed, that scenario is recognised even in the current CSPDM (policy CSSP1). I am mindful, in this regard, that the application site does not lie within the main areas for growth identified in the 'Further Issues and Options' Site Allocations and Policies Local Plan,<sup>111</sup> although I recognise that that Plan is not being progressed.<sup>[3.7]</sup> I am also mindful that, since 2006, the site has been promoted by the applicant.<sup>[4.6]</sup> In the absence of a planning witness for the Council there was little definitive evidence as to why the Authority had consistently resisted release of the land for development through the development plan process. I understand that a Green Link (Ship Lane to Purfleet) was identified as passing through the site, the south-eastern part of the site is identified as lying within an LWS, and part is identified as a private sports pitch.<sup>112</sup>

<sup>110</sup> CD F3

<sup>111</sup> CD F5 and G3 Tab 7

<sup>112</sup> CD C2

- 14.26 However, the evidence of the applicant is that the Green Link actually passes immediately to the south of the site, not through it<sup>113</sup> and, as set out later in these conclusions, whilst part of the site does lie within an LWS, it is now of little ecological interest. Moreover, since provision is made to replace the existing sports facilities on a like for like basis, there would be no overall loss of provision and thus no harm in this regard. That said, whatever the reasons for the continued resistance of the Council to allocate the site for development, the fact that it has been consistently promoted by the applicant over the years, is not a matter that weighs, in my view, in favour of the development proposed, notwithstanding the resolution of Members to approve the application. So, whilst it is possible that the application site might come forward as a result of the Local Plan consultation process yet to be embarked upon, it is by no means certain.
- 14.27 Were the application were to fail, it is suggested that the site would fall into further disrepair, with attendant security issues, including fly tipping, and that best use would not be made of the land.<sup>[8.5-8.7, 8.53]</sup> The suggestion also is that sports activity would not continue on the site, even to the limited extent that it currently does.<sup>[8.6]</sup> It is noted, in this regard, that the main pavilion building is boarded up and that the football pitches are in need of grounds maintenance. However, whilst the SoCG suggests that the bowls club makes only occasional use of the bowling green, that is not borne out by the fixtures list for 2012.<sup>114</sup> Indeed, I saw, during my visit, that the green was very well maintained. Nonetheless, there would be some harm in this regard. Having said that, whether or not the site continues to provide some sports facilities is not a determinative factor in this case. Moreover, although the site and buildings are starting to become a little run-down, they are far from being a blot on the landscape. Indeed, they are relatively unobtrusive in the landscape.
- 14.28 Given that the essential characteristics of the Green Belt are its permanence and openness, the Framework makes it clear that its boundaries should only be altered in exceptional circumstances, and then through the Local Plan process. It is not for me to prejudge the outcome of that process. Overall, I am not persuaded that the development proposed materially advances this particular Green Belt purpose.

### ***Character and Appearance***

- 14.29 The application site comprises the former Fire Brigade Sports and Social Club, including numerous football pitches, sports pavilion, bowling green and club house, and car parking provision, as well as a more unmanaged area of land within the south-eastern part of the site, which is becoming overgrown. This part of the site forms part of the larger LWS, which extends across onto the far side of the A13. Of itself, the application site is unremarkable, with little in terms of character and appearance to commend it, other than the fact that it is largely free from built development. As reported earlier, whilst it forms part of a curving swathe of largely open and undeveloped land between the A1306, with Purfleet to the south, and the village of Aveley to the north, the site is adjoined by ribbon development, largely housing, that fronts onto Purfleet

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<sup>113</sup> Doc 2 Appendix 6a

<sup>114</sup> CD A5 Appendix 13.2

Road and the A1306. There is also the extant, outline permission, for employment floorspace on the north side of Purfleet Road.

- 14.30 In introducing 501 dwellings and 985 square metres of commercial, community and health floor space, there is no doubt that the character and appearance of the application site would change. There would be some harm in this regard, to its open and green character and appearance. That said, once constructed, the development would be seen as an urban extension to, and in the context of, Purfleet and would not appear as isolated, or necessarily out of place.
- 14.31 The LVIA, as supplemented,<sup>115</sup> concludes that, without mitigation, the visual impact of the development would be significant in those views referred to in paragraph 14.17 above. It confirms that, with mitigation, the degree of change in relation to the wider area would be low.<sup>116</sup> I have no reason to disagree with that view, which is agreed by the Council's consultant. The mitigation measures proposed include tree and hedgerow planting to the western boundary, additional native hedgerow planting along the southern boundary, the management and maintenance of existing trees and hedgerows, and planting within the scheme to boost biodiversity and amenity, would limit the landscape character impact and could be addressed via appropriate conditions. All in all, whilst the development would be seen, I am satisfied, given its context, that it would not intrude unduly into those identified views and that its impact on the character and appearance of the area would be limited.

### ***Fanns Farmhouse***

- 14.32 Fanns Farmhouse is a grade II listed building, lying to the south of the application site.<sup>[3.1, 8.15]</sup> As heritage assets, listed buildings possess significance, which the Framework defines as their value to this and future generations because of their heritage interest. Significance derives not only from the assets' physical presence, but also from their setting, although in general, setting is not a heritage asset of itself. Rather, its importance lies in what it contributes to the significance of the asset. There is a statutory duty in this respect, to have special regard to the desirability of preserving the setting of listed buildings,<sup>117</sup> with paragraph 132 of the Framework advising that the significance of a heritage asset can be harmed by development within its setting.
- 14.33 To my mind, the special interest of this late 18<sup>th</sup> Century farmhouse derives from its design, proportions, materials and historical development. It sits well back from the main road, behind a telephone exchange and is separated from the application site by a complex of smaller buildings of various materials that I saw to be in a variety of uses. I saw nothing which leads me to suppose that, other than possibly a former agricultural use, the application site, which is at a higher level than the farmhouse (although I recognise that the levels have been changed in recent times through tipping at this end of the application site) had any formal relationship or designed vistas across it

<sup>115</sup> The original LVIA was supplemented

<sup>116</sup> CD F9

<sup>117</sup> Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

related to the farmhouse. Outside of its immediate curtilage, I am not persuaded that views of the listed building would change to any material degree as a consequence of the development proposed, and am satisfied that the application site makes no meaningful contribution to the significance of the listed building and its setting.

- 14.34 The ability to appreciate and understand the listed building would not be materially affected by development of the application site and I agree with the comments set out at paragraph 6.80 of the committee report<sup>118</sup>, that open space/landscaping and careful consideration of the detailed design of the nearest part of the development site to the farm house, could mitigate any minor harm. I find, therefore, that the special interest and significance of Fanns Farm, and its setting, would be preserved. There would be no conflict in this regard, with policy PMD4 of the CSPMD, or with the Framework, which together, seek to protect the fabric and setting of heritage assets.

### **Traffic and Highway Safety**

- 14.35 The MP and local residents had concerns about the implications of the development proposed on the performance of the junction of the A1306 with the A13 trunk road.<sup>[10.21, 11.4]</sup> However, initial concerns of the Highways Agency in relation to both that junction, and the performance of the M25 (including the operation of junctions 30 and 31) were addressed by further information submitted by the applicant. In correspondence dated 22 May 2013, the Highways Agency withdrew its Holding Direction, issuing a Form TR110 to that effect.<sup>[8.19]</sup> No objective evidence was submitted that leads me to a different view on this matter.
- 14.36 A further matter of particular concern to local residents<sup>[10.9, 10.21, 10.28, 11.4]</sup> and the local highway authority (notwithstanding the resolution of Members to approve the application) is the proposal to construct a new 'arm' at the existing traffic light controlled junction of New Tank Hill Road (A1090) with Arterial Road (A1306),<sup>119</sup> which is classed as a Level 1 – Rural Distributor.<sup>120</sup>
- 14.37 Among other things, policy PMD9 of the CSPMD is only permissive of new accesses (or increased use of existing accesses) on any route, where there is no possibility of safe access taken from an existing or lower category road. In addition, there is a presumption against new accesses, or increased use of an existing access, onto Level 1 Routes (corridors of movement). In addition, policy PMD10 requires, among other things, that applications such as this should be accompanied by a Transport Assessment/Statement and Travel Plan<sup>121</sup>.
- 14.38 In part, it is proposed to serve the proposed development via an existing access off Purfleet Road, which would be upgraded. There is no opportunity to create a further access onto that road from the application site. The main access proposed is onto the A1306. There would be conflict, in this regard, with policy PMD9. However, whilst the development plan is the starting point

<sup>118</sup> CD F6

<sup>119</sup> Referred to in the applicant's transport evidence as London Road

<sup>120</sup> Paragraph 2.23 of CD A9

<sup>121</sup> A draft residential travel plan was submitted with the application and one of the suggested conditions would secure the submission of a fully detailed travel plan.

for planning decisions, regard must also be had to material considerations. One such consideration is the Framework, which post-dates the development plan here. Among other things, Framework paragraph 32 makes it clear that development that would generate a significant amount of traffic should be supported by a Transport Statement or Assessment (a Transport Assessment has been submitted)<sup>122</sup> and that decisions should take account of whether improvements can be undertaken within the transport network that limit the significant aspects of the development. It adds that development should only be prevented or refused on transport grounds, where the residual cumulative impacts of development would be severe. In my view, the outright presumption in policy PMD9 against any new access onto a Level 1 Route, is not consistent with the generally more permissive stance of the Framework.<sup>8.16]</sup> Having regard to the provisions of paragraph 215, the Framework provisions outweigh the development plan policy in this case.

- 14.39 At peak times, the existing junction arrangement results in delays for drivers. The evidence of the applicant indicates that, at present, the maximum degree of saturation is 83.1%, with queuing spread over two lanes southbound on the A1306, and one lane northbound, and two lanes from New Tank Hill Road. The same data indicates that the Percentage of Reserve Capacity (PRC) is some 8.4%.
- 14.40 The projected operation of the existing junction in 2017, taking account of already committed developments (including the Ponds Farm scheme) and Department of Transport (DoT) growth rates over the five year period, suggests that the junction would operate within the recognised threshold degree of saturation of 90%<sup>123</sup>, with the PRC reducing to some 6.6%. Whilst there would be an increase in queuing times at the junction when traffic from the application scheme is added to that data, with the predicted maximum queue of 33 vehicles spread over two lanes and the PRC reducing to just 0.4%, the junction would still operate within the 90% degree of saturation in a worst case scenario. Moreover, it is proposed to employ the Compact MOVA<sup>124</sup> system at the junction, which would provide a responsive signal control that would react to traffic conditions and would be likely to reduce queuing times.<sup>125</sup>
- 14.41 The scheme proposed would not introduce a new signal controlled junction onto the A1306 where there is none at present. Rather, it would involve alterations to an existing controlled junction with the introduction of a new 'arm' to that junction. On the basis of the technical evidence before me, and in the absence of any substantiated evidence to the contrary, I consider that the proposed junction alterations could adequately mitigate the impact of the increase in traffic movements associated with the development proposed. I am satisfied, therefore, that any residual impacts of the development in terms of the free flow of traffic, would not be severe.<sup>[8.20]</sup>

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<sup>122</sup> CD A9

<sup>123</sup> In relation to traffic growth, the applicant's Transport Assessment (CD A9) confirms that overall traffic volumes in the area have in fact reduced, or at least remained neutral over the last few years and, in including committed developments as well as a figure for five year growth, there is an element of double counting. On that basis, I agree with the applicant that the figure can be considered robust.

<sup>124</sup> Microprocessor Optimised Vehicle Actuation

<sup>125</sup> Government's Traffic Advisory Leaflet 1/09 (Appendix D to CD G5)

14.42 There is no objective evidence either, to support local concerns in relation to highway safety. The applicant's Transport Assessment notes that road traffic accident data confirms a low number of accidents at the existing junction. Whilst the development proposed would increase traffic movements in the locality, there is nothing to suggest that there would, necessarily, be an increase in danger to highway users, including pedestrians, and there is no prejudice in this regard.

14.43 I note that the comments of the Highway Authority include reference to a number of unspecified minor issues relating to the content of the Transport Assessment. Those concerns are not specified anywhere, and none of the witnesses at the Inquiry was able to provide any further information as to what those concerns might be. Having said that, in terms of the safety and free flow of traffic, whilst there would be conflict with policy PMD9, there is no objective evidence to contradict the conclusions of the applicant's Transport Assessment and I find no conflict with policy PMD10. All in all, I am satisfied that there would be no material harm to the safety and free flow of traffic in the locality.

### ***Arboriculture and Ecology***

#### *Trees*

14.44 The application was accompanied by an Arboricultural Assessment and a Tree Report.<sup>126</sup> The Assessment identifies that a total of 16 individual trees (a number of which are included in the two Tree Preservation Orders that cover the site) and two small tree groups, would need to be removed to facilitate the development proposed. The condition of 14 of the trees to be removed is category U, that is that they are unsuitable for retention and would need to be removed in any event, pursuant to good arboricultural practice. Removal of two Limes (categorised as B1) and one of the small groups comprising three Common Limes (categorised as C1) is required due to the location of the internal roads proposed. Removal of the other small group (two Lombardy Poplars categorised as B2) is necessary to facilitate the proposed access onto the A1306.

14.45 The proposed layout allows for the retention of the vast majority of the trees and hedgerows within the site. The buffer along the western edge of the site would allow sufficient space for the remaining Poplars to be retained and to thrive. There would be space there too, for additional planting to bolster that buffer area. From my observations during the site visit, whilst the loss of seven of the protected trees would be unfortunate, that must be considered in the light of the amount of tree cover that would be retained, and the scale of landscaping that could be secured via condition, which could provide a good sustainable tree stock in the longer term. I find no overall harm in this regard.

#### *Ecology*

14.46 Although there are no statutory ecological designations affecting the application site, part lies within the Jill's Field Local Wildlife Site (LWS),<sup>127</sup> a non-statutory designation. The LWS extends to some 4.8 hectares in total,

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<sup>126</sup> CDs A7 and A8

<sup>127</sup> CD A5 (Tab 10.3)

comprising a series of grasslands that range from short, dry acid grassland, through to more lush, damp and nutrient rich swards. The LWS is bisected from northwest to southeast by the A13, which is in a cutting at this point. The northern portion of the LWS supports an exceptional range of local and Essex Red Data List plants. Until relatively recently, the fields within the southern portion (all but the very southern tip of which lie within the application site) ranged from similar acid grassland in the north, to damper grasslands in the south.

- 14.47 In November 2012, the Council found that fly tipping on the site was being removed by scraping topsoil from parts of the site, with new topsoil being imported. However, no breach of planning control was found to have occurred.<sup>128</sup> On a site visit in January 2013, after the planning application had been lodged, officers found that there had been extensive relocation and re-profiling of material in the south-eastern corner of the site. Those works, which had been undertaken after the assessments that informed the ES, had a direct impact on the ecology of the LWS. In effect, the interest of those areas of the LWS which were shown for retention and enhancement as part of the mitigation measures for the partial loss of the LWS, had been removed.<sup>129</sup>
- 14.48 The surveys that informed the ES (carried out before the works) found the application site component of the LWS to be of limited ecological interest, due to the lack of sympathetic management and consequent invasion of the previous areas of acid grassland by scrub and ruderal species. On that basis, it seems likely that the subsequent earth moving works would have had a more limited impact on the interest of the site than might otherwise have been the case. Even if they did have an impact or, as is maintained by local wildlife groups, the botanical interest was greater than is reported by the applicant,<sup>[10.18, 10.24, 11.4]</sup> designation as an LWS does not bring with it any legislative protection. There was no suggestion, in this regard, of any powers that might be available to enforce restitution of the original interest which led to the LWS designation. So, whilst those works are clearly unfortunate, my consideration of the ecological impact of the proposal is based on the condition of the site as it is now.
- 14.49 As a whole, the application site is dominated by grassland, much of which comprises sports pitches, the rest, being largely unmanaged. Tall ruderal vegetation and bramble-dominated scrub has invaded much of the unmanaged grassland within the site. There are also areas of re-colonising vegetation and developing scrub woodland, in addition to two Elm dominated hedgerows and several rows of mature trees.
- 14.50 The development proposed would result in the loss of less than 25% of the LWS area as a whole. Given the current state of that part of the LWS within the application site, I am satisfied that any detailed scheme could include sufficient measures to mitigate that loss. Indeed, I am persuaded that there would be some benefit in this regard.<sup>[8.15]</sup> There is currently no obligation to undertake any proactive management of the existing site in terms of its ecology. Whilst this is an outline application, layout is a matter for consideration at this stage. Numerous areas of open space are shown within

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<sup>128</sup> CD F6 para 6.85

<sup>129</sup> Ibid paragraph 6.86

the layout plan for the site, including a corridor adjacent to the A1306, north of the main point of access to the site; a linear space alongside the proposed entrance road, which would include flood balancing ponds; further planted areas extending to some 1.06 hectares adjacent to the southern boundary; and what is described in the application as an 'Eco Corridor' along the eastern boundary/south-eastern corner of the site.<sup>[6.6]</sup> It is proposed that those areas would be actively managed so far as might be necessary to secure their long term development.

14.51 All in all, I consider that the development proposed would not have a material adverse impact on the biodiversity and ecological interest of the site. There would be no conflict therefore, with policy CSTP19 of the CSPMD, or the objectives of the Framework in this regard, which together seek to minimise the impact of development on biodiversity and trees, providing net gains where possible.

### **Other Considerations**

14.52 As set out at the start, the harm to the Green Belt by reason of inappropriateness is acknowledged. I have also found, contrary to the view of the applicant, that there would be harm to the openness, permanence and at least three of the stated purposes of the Green Belt. Framework paragraph 88 confirms that, when considering any planning application, **substantial weight** is to be given **to any harm** to the Green Belt (my emphasis) and that very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The case for the applicant in this regard, is based largely on the shortfall in housing land supply,<sup>[8.21-8.34, 8.45, 8.46]</sup> and the package of benefits secured by the planning obligation.<sup>[8.49-8.55]</sup>

14.53 One of the principal objectives of the Framework is to boost significantly the supply of housing. There is no dispute that the Council has a significant, if not acute, shortfall in its five year housing land supply. At best, on the Council's own figures, the supply is less than three years. Although the applicant has not challenged those figures, attention was drawn to the disparity between delivery on the ground, against anticipated delivery, as set out in the Authority's latest AMR,<sup>130</sup> the implication being that the need is great, and is getting greater.<sup>[8.3]</sup>

14.54 The applicant has agreed terms for delivery of the proposed scheme with a national house builder, and I was advised that there would be no constraints to delivery, once any pre-commencement conditions were complied with, the site forming part of their building programme for 2015-16.<sup>[8.46]</sup> Indeed, development of the site could provide over one third of the current annual requirement within the next five year period. It is clear, therefore, that the development would make a valuable contribution towards the supply of housing land in the Borough. That is a consideration to which I afford substantial weight, as did the Secretary of State in decisions drawn to my attention (Butts Lane<sup>131</sup> and Bata Field<sup>132</sup>).<sup>[6.67]</sup>

<sup>130</sup> CD E3

<sup>131</sup> CD I1

<sup>132</sup> CD I2

- 14.55 However, a Written Ministerial Statement of 1 July 2013 confirms, among other things that, in relation to conventional housing, *'the single issue of unmet demand is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt.'*<sup>[8.45]</sup>
- 14.56 Certain of the arrangements and contributions secured by the planning obligation, and suggested conditions, are aimed at addressing the direct impacts of the development proposed on the infrastructure of the area, including replacement of the sports facilities that would be lost.<sup>[8.48]</sup> In addition however, the obligation secures further contributions, including £800,000 towards the provision of a new community centre at Aveley; the contribution of £1,000,000 towards building works at Belhus Park Leisure Centre;<sup>133</sup> and the contribution of £500,000 for a new sports hall at Treetops Special School.<sup>[8.49, 8.50-8.55, 13.11]</sup>
- 14.57 I heard much evidence as to the state of the existing sports facilities at Belhus Park<sup>[8.55]</sup> and, during the site visit, I saw that they would benefit from the improvement works that could be brought about by the contribution proposed (over and above the proposed facilities that would be a direct replacement for those that would be lost at the application site). Indeed, the improvement of the facilities there is a longstanding ambition of the Council, with Belhus Park being identified as a Sports Hub and a key flagship site in the CSPMD (policy CSTP9). In addition, the contribution towards the community centre at Aveley, which would complete the funding necessary to deliver another longstanding objective of the both the Parish and Borough Councils,<sup>[8.60, 8.61]</sup> would be very welcome,<sup>134</sup> although I am mindful, in this regard, that some 317 square metres of the community floorspace element proposed is intended for community hall use.<sup>135</sup> I am in no doubt either, that pupils at the Tree Tops Special School would benefit from the provision of a sports hall there, which could be secured with the contribution proposed and which would provide a much needed facility.<sup>[8.56-8.59]</sup><sup>136</sup> Without the contributions proposed, none of those schemes is likely to come forward in the foreseeable future.
- 14.58 The statutory provision for planning obligations is found at Section 106 of the Town and Country Planning Act 1990 (as amended) with further policy guidance in relation to the exercise of that power set out at paragraphs 203-204 of the Framework. The statutory regulation of planning obligations is contained within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 which provides that, where a determination is made which results in a planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission if the obligation meets the tests set out in Framework paragraph 204. As such, it would be unlawful to take an obligation into account if it does not meet the tests.

<sup>133</sup> Including relocation of the existing bar, catering, function room and golf shop facilities in the 'Capability Brown' building at Belhus Park to the Leisure Centre, remodelling and resurfacing of the Belhus Park car park to increase capacity, and the 'making good' following demolition of the Capability Brown, including remodelling of the golf hole layout to accommodate a new golf shop, together with an extension to the sixth hole and provision of a new tee for the seventh hole, including drainage and irrigation as required.

<sup>134</sup> CD H3 Appendix 6

<sup>135</sup> CD A3 page 82

<sup>136</sup> CDs J9 and H3 Appendix 4

14.59 Looking at each of the tests in turn:

- 14.60 *Are the obligations secured necessary to make the development acceptable in planning terms?* The package of benefits proposed is clearly attractive to Members and many local residents, as well those who are reliant on the special school. Whilst those arrangements may well be very desirable, they are not necessary to make the development acceptable in terms of addressing an unacceptable impact in planning terms. They are not intended, for instance, to remedy, either in whole or in part, some external 'cost' that would be consequential upon the development the subject of the planning application.
- 14.61 Framework paragraph 203 advises that planning obligations should only be used where it is not possible to address *unacceptable impacts* by planning condition (my emphasis). The harm that the obligations are seeking to redress stems from the nature of the development proposed, namely that it is inappropriate in terms of Green Belt policy. Of itself, that is not an unacceptable *impact*, rather, it is a policy harm which is not made acceptable by the package of benefits proposed.
- 14.62 *Are the obligations secured directly related to the development proposed?* It is well established that planning permission should not be granted because of unrelated benefits offered by an applicant. To my mind, the benefits secured have no direct connection or linkage with the proposed development, since they are not intended to address direct harms arising from the scheme – those direct harms are addressed by other provisions secured by the obligation,<sup>13.3-13.10]</sup> which provisions are supported by the POS.<sup>137</sup> Neither do the beneficiary schemes themselves form part or parcel of the application for which planning permission is sought. Indeed, it seems to me, that the 'benefits' are only related to the proposal to the extent that they are being offered by the developer. That relationship is too tenuous, in my view, to meet this particular test.
- 14.63 *Are the obligations secured fairly and reasonably related in scale and kind to the development proposed?* I have already acknowledged that the benefits secured are very attractive to many of those who are, or might in the future be reliant on the special school and/or who live, work and play sports in the area. Again, though, that does not mean, necessarily, that they are fairly and reasonably related in scale and kind to the development proposed. The POS sets out clearly what might be considered as fairly and reasonably related. The benefits being offered evidentially go far beyond what is envisaged by that document. To my mind, therefore, any connection between the benefits secured, and the development itself, is too remote to be considered as reasonable in terms of its scale and kind.
- 14.64 The presence of what might be considered as extraneous inducements should not influence planning decisions. I have given careful consideration, in this regard, to the benefits being offered and am mindful that the ability of sites to deliver community infrastructure and sports facilities has been identified by the Council as an important factor in weighing the merits of potential Green Belt releases. However, that is in relation to the potential strategic release of Green Belt land for development and is an aspiration, in an emerging plan that

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<sup>137</sup> CD E1

is at a very early stage; a plan to which, as I have already indicated, I afford little weight.

- 14.65 The package of 'benefits' secured would not meet the relevant tests. In the light of current legislation and guidance it would be unlawful, therefore, to take those arrangements into account. Accordingly, the respective obligations cannot carry any positive weight in favour of the development proposed.
- 14.66 The provision of affordable housing is another consideration to put into the balance in this case. The 5% provision secured (25 on-site), plus a contribution that would secure a further 10 units off-site,<sup>138</sup> falls substantially below the minimum 35% requirement (175 units) for a development of this size as indicated by CSPMD policy CSTP2.<sup>[13.8]</sup> The quantum proposed is based on the findings of the applicant's viability consultants (agreed with the Council) that the scheme would not be viable with a higher proportion of affordable units. That is precipitated, largely, by the package of sporting and community benefits reported above.
- 14.67 The Agreement also provides that, if the Secretary of State finds that a lesser sum than is provided for is appropriate for any of the contributions, the difference shall be paid to the Council to be applied towards the provision of affordable housing.<sup>[8.58]</sup> In the same vein, if planning permission for the community centre in Aveley is not granted within four years following commencement of development, then the balance of the related contribution shall be paid to the Council to the same ends.
- 14.68 I have found that contributions relating to the POS, highways, and education, all meet the statutory tests and no lesser sum would be appropriate in this instance. Moreover, since I have found that the contributions to Belhus Park, Aveley Community Centre, and the sports hall at Tree Tops School are not CIL compliant, the arrangement to, in effect, transfer those monies to the provision of affordable housing would not, in my view, accord with the 'CIL Condition' as defined in the obligation (namely a finding by the Secretary of State that the obligations meet the Regulation 122(2) tests). Thus, were permission to be granted, it seems to me that those obligations would not 'bite'. Even if I am wrong in this regard, and the totality of those contributions, some £2,300,000, was redirected to the provision of affordable housing, there would still be a significant shortfall in provision (based on Councillor Hipsey's evidence, £2,300,000 would provide around 46 units).
- 14.69 A further concern is the proportion of affordable units that would be provided off-site. Paragraph 50 of the Framework makes it clear that affordable housing should be accommodated on-site, unless off-site provision (or a financial contribution of broadly equivalent value) can be robustly justified, for example to improve, or make more effective use of, the existing housing stock, and the agreed approach contributes to the objective of creating mixed and balanced communities. Whilst policy CSTP2 indicates that contributions towards off-site provision may be acceptable, that is where there the local need for such housing is less than 35%, the contribution then being used to provide affordable housing to meet priority needs elsewhere in the Borough. There is nothing in the evidence before me to suggest that a contribution

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<sup>138</sup> Based on the evidence of Councillor Hipsey CD H2

towards off-site provision is appropriate in relation to the application site. Furthermore, in answer to my questions at the Inquiry, Mr Bennett accepted that there was no robust justification for off-site provision. Rather, I was advised that it was a pragmatic decision that had been taken as the scheme evolved in discussions with the Council and that, if the provision was to be met on-site, the layout would need to be altered.

- 14.70 Moreover, whilst the on-site provision of affordable housing attracts a POS contribution, there is no equivalent arrangement for what could be a significant off-site provision, even though future occupiers of those properties would also further increase demand on already stretched local services and facilities.
- 14.71 The obligation also requires the Council to either repay any unexpended contributions balance by a particular date, or apply that unexpended balance towards the provision of affordable housing. Whilst that arrangement is to be welcomed, there is no indication, on the basis of the evidence before me, that this is likely to lead to any material increase in affordable housing provision here.
- 14.72 I afford some weight to the provision of an element of affordable housing within the scheme. However, there would be a significant shortfall when assessed against the development plan requirement. The off-site element of that provision would also be contrary to the drive for inclusive mixed communities as set out in the development plan and the Framework. The applicant's case for the level of provision proposed, both on and off site, is not sufficiently robust, in this instance, as to persuade me that it is an appropriate arrangement in this case, let alone amounting to a consideration that carries any significant weight in terms of the Green Belt balance.
- 14.73 Local residents, supported by their Councillors, spoke very eloquently at the Inquiry, about the difficulties already experienced in accessing school places and healthcare facilities in the area, due to existing demand on those services. The development proposed would clearly exacerbate that, increasing pressure on already overstretched facilities. The evidence of the applicant and Councillor Hipsey suggests, in this regard, that the additional education contribution secured (£500,000) would be a benefit of the scheme.
- 14.74 An email to the Council's solicitor from the planning officer, dated 28 July 2014,<sup>139</sup> confirms that the POS contribution would be spent only on education and healthcare. That same email confirms that a total of £3,317,232 is required to address the pupil yield arising from the development, plus some £171,100 to help meet increased demand on healthcare facilities.<sup>140</sup> The entire POS contribution (£2,554,250) is less than the sum total of the education and healthcare requirements (£3,488,332). Accordingly, whilst the education contribution may be a benefit of the scheme, in that it adds to the POS contribution, it would nowhere near address the substantial shortfall that has been identified. That limits the weight it can be afforded.
- 14.75 To conclude on this issue, I find that, even in their totality, the combined

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<sup>139</sup> Doc 17

<sup>140</sup> CD H3 Appendices 2 and 7

weight of the valuable contribution of the site to the serious shortfall in housing land, and the weight that can be afforded to the provision of some affordable housing (which weight is tempered by the shortfall in provision and the fact that at least half of that provision would be off-site) and the weight I afford the education contribution, does not clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness, loss of openness and permanence, and conflict with at least three of the five stated purposes for Green Belt. There would also be some harm, albeit limited, to the character and appearance of the area. On balance therefore, very special circumstances to justify the proposal do not exist in this case. Other decisions drawn to my attention (Basildon<sup>141</sup> [8.45, 8.56, 8.61, 8.63] and Pinewood<sup>142</sup> [8.63]) plus the Ponds Farm decision<sup>143</sup> simply demonstrate that there is a balancing exercise to be undertaken, confirming, as acknowledged by the applicant,<sup>[8.69]</sup> that it is the particular circumstances of the case that need to be put into the balance. That is what I have done.

### **Other Matters**

- 14.76 Development of the site would result in the loss of the existing sports facilities there. However, planning permission has been granted for nine new playing pitches with associated changing room facilities and car parking, at Belhus Park,<sup>144</sup> as a direct replacement for those at the application site. One of the suggested conditions would prevent phase 3 of the development for which permission is sought, until those replacement pitches etc, or an agreed alternative provision, have been provided and made available for use.<sup>[12.23]</sup> Another of the suggested conditions secures a replacement bowling green and associated clubhouse within the development site.<sup>[12.23]</sup> There would be no loss of sports provision and there would be no conflict therefore, with CSPMD policy CSTP9 which seeks to safeguard existing sports provision.
- 14.77 At the Inquiry, representations were made by Mr Burnley, of Fanns Farm, to the effect that the development proposed would have an adverse impact on his peaceful enjoyment of the property, jeopardising his way of life.<sup>[10.30]</sup> His rights, in these regards, are protected by Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, that consideration must be balanced against the rights and freedoms of others. If this development were to go ahead, I am satisfied that its effect on Mr Burnley would not be disproportionate, particularly having in mind my findings that there would be no material harm in relation to the safety and free flow of traffic on the A1306, or in relation to the special interest of the listed farmhouse, both matters of particular concern to him. The degree of possible interference therefore, would be insufficient to give rise to a violation of rights under the Articles.
- 14.78 Mr Burnley was also concerned in relation to surface water drainage and to the capacity and state of repair of existing local sewerage system, given problems experienced in the past.<sup>10.27]</sup> Based on the applicant's Flood Risk Assessment, the Environment Agency takes no issue in relation to surface water drainage,

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<sup>141</sup> CD I3

<sup>142</sup> CD I4

<sup>143</sup> CDs F10-F15

<sup>144</sup> CDs F23 and F24

subject to conditions. To this end, the Council's suggested conditions include one relating to the use of sustainable surface water drainage works (SuDS). Surface water drainage and flooding problems have clearly been taken into account, with the ES confirming that the use of SuDS, in order to provide attenuation, would ensure that discharge is maintained at the greenfield run-off rate, even from those areas that are currently hardstanding. The cumulative effect of the development proposed and the Ponds Farm scheme was taken into account in the calculations. I have no reason to suppose, in this regard, that the scheme would not provide effective mitigation for surface water run-off. In relation to sewage, Essex and Suffolk Water confirms that, whilst the development would impact upon its apparatus, it raises no objection, subject to conditions. Again, a relevant condition is included in the list of those suggested by the Council and I have no reason to suppose that it would not be effective.

## **15. Planning Balance and Overall Conclusion**

- 15.1 There is a significant shortfall in the Authority's five year housing land supply and thus, policies for the supply of housing cannot be considered as up to date. As such, the development proposed needs to be considered in the context of the presumption in favour of sustainable development, elaborated at Framework paragraph 14.
- 15.2 The Framework confirms that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. In terms of social gains, I attach much weight to the fact that the scheme would deliver open-market housing at a time when there is a significant shortfall in the supply of housing sites, together with some much needed affordable housing, in a sustainable location in terms of access to everyday services and facilities. There being no overriding physical constraints to development of the site, it is highly likely that, were permission to be granted, it would bring development forward faster than awaiting potential allocation through the emerging Local Plan. I am also mindful of those matters secured by the planning obligation which are CIL compliant. These include an additional contribution towards education, over and above the POS contribution, and the potential to add further to the supply of affordable housing. However, any weight to be afforded in this regard is tempered by the significant shortfall in provision in both regards and additionally, in relation to the affordable housing, the provision of a large proportion off-site.
- 15.3 The development would also assist the local economy through, for example, the generation of construction and other jobs and increased local spend. The combination of these factors accords with the principal thrusts of the Framework of securing economic growth and boosting significantly the supply of housing, and are sound arguments weighing in favour of the proposal.
- 15.4 However, whilst the scheme may meet the economic and social dimensions of sustainable development, it fails, in my view, given the harm that I have identified to the Green Belt, to meet the environmental dimension: in particular, the potential harm by reason of inappropriateness, and the harm to the openness, permanence and at least three of the stated purposes of the Green Belt. Substantial weight is to be given to that harm, which for the

reasons set out, is not outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development proposed.

- 15.5 The Framework makes clear that the presumption in favour of sustainable development does not mean that development proposals should be approved where specific policies in the Framework indicate that it should be restricted, as in the case of land designated as Green Belt. That harm is serious enough, in this instance, to significantly and demonstrably outweigh the scheme's benefits and brings it into conflict with the development plan and the Framework as a whole. On that basis, the proposal cannot be regarded as sustainable development. Accordingly, it does not enjoy the presumption in favour of such development.

## **16. Recommendation**

**File Ref: APP/M1595/V/14/2214081**

- 16.1 For the reasons set out above, I recommend, on balance, that planning permission be refused. Should the Secretary of State come to a different conclusion, the conditions set out at Appendix C attached hereto are recommended.

*Jennifer A Vyse*

INSEPECTOR

## **APPENDIX A:**

### **APPEARANCES**

#### FOR THE APPLICANT:

Mrs H Townsend, of Counsel She called	Instructed by Metropolis Planning and Design
Dr D Simpson BSc(Hons), PhD(BMS), MCIEEM	Associate Director at Aspect Ecology
Mr A Trowbridge HND(CivEng)	Senior Engineer with Waterman Infrastructure and Environment Limited
Mr N Bennett BA(Hons), MRTPI	Partner with Metropolis Planning and Design

#### FOR THE LOCAL PLANNING AUTHORITY:

Mrs V Williams Planning and Regeneration Solicitor for the Council. Mrs Williams called no witnesses

*Also,*

Mr M Beard, of Counsel	Mr Beard appeared on the second day of the Inquiry, to call Councillor Hipsey
Councillor T Hipsey	Chair of the Council's Planning Committee

In addition, Mr M Gallagher, Principal Planner (Major Projects) with the Council, attended the Inquiry. He did not give evidence but participated in the discussion on possible conditions and the S106 contributions.

#### INTERESTED PERSONS:

Miss Doyle-Price MP  
Councillor Mrs M Pearce  
Councillor R Ray  
Mr D Gregory  
Mr T Partridge  
Mr R J Burnley  
Mrs B Marrow  
Mr P Stoker  
Mrs A Martin  
Mr P Ward  
Mr G Jarvis  
Mr C Geeves  
Mrs B Davies  
Mr D Woodman

## **APPENDIX B:**

### **CORE DOCUMENTS**

#### **A: Planning Application Documents**

- A1** Application Forms and Covering Correspondence
- A2** Planning Statement
- A3** Design and Access Statement
- A4** Environmental Statement
- A5** Environmental Statement Appendices
- A6** Environmental Statement Non-Technical Summary
- A7** Arboricultural Impact Assessment
- A8** Tree Report
- A9** Revised Transport Assessment (May 2013) & Appendices
- A10** Draft Travel Plan
- A11** Draft Planning Obligations / S106 Heads of Terms Position Statement
- A12** 1271/D1000/REV00- location plan
- A13** 1271/D2100/REV02 - proposed ground floor masterplan
- A14** 1271/D2104/REV03- proposed masterplan
- A15** 1271/D2500/REV00- proposed site sections
- A16** 1271/D2105/REV00- proposed massing plan

#### **B: National Planning Policy**

- B1** National Planning Policy Framework (NPPF)
- B2** Planning Practice Guidance (21a Use of Planning Conditions, 23b Planning Obligations)

#### **C: Development Plan**

- C1** Thurrock Core Strategy and Policies for Management of Development, Development Plan Document (December 2011)
- C2** Thurrock Core Strategy Proposals Map Extract

#### **D: Emerging Policy Documents**

- D1** Thurrock Core Strategy and Policies for Management of Development, Development Plan Document (Focused Review: Consistency with National Planning Policy Framework) Proposed Submission Draft (May 2013)
- D2** Thurrock Core Strategy and Policies for Management of Development, Development Plan Document (Focused Review: Broad Locations and Strategic Sites) Issues and Options (January 2013)

#### **E: Background Thurrock Documents / Guidance**

- E1** Planning Obligations Strategy
- E2** Thurrock Council Landscape Capacity Study (March 2005)
- E3** Thurrock Council Annual Monitoring Report 2013
- E4** Thurrock Council Local Development Scheme (LDS) May 2014

## **F: Inquiry Documents**

- F1** Statement of Common Ground
- F2** Draft Planning Conditions (NCPU Letter 2 December 2012)
- F3** Thurrock Council Cabinet Report 12<sup>th</sup> February 2014
- F4** Thurrock Council Full Council Meeting Report 28<sup>th</sup> November 2012
- F5** Location Plans for Sites Identified as Candidates for Green Belt Release
- F6** Thurrock Council Planning Committee Report September 2013
- F7** Thurrock Council Planning Committee Report November 2013
- F8** Applicant Design and Access Extract (Phasing Plan)
- F9** Supplemental Landscape and Visual Impact Assessment, Ecology Representations and Appendices including Plumb Associates Letter (May 2014)
- F10** 2011 Ponds Farm Decision
- F11** 2011 Ponds Farm Committee Report
- F12** 2011 Ponds Farm Application Drawings
- F13** 2014 Ponds Farm Decision
- F14** 2014 Ponds Farm Application Drawings
- F15** 2014 Ponds Farm Committee Report
- F16** Treetops Decision (06/00170/TTGFUL)
- F17** Treetops Application Drawings (06/00170/TTGFUL)
- F18** Treetops Decision (07/00148/TTGFUL)
- F19** Treetops Application Drawings (07/00148/TTGFUL)
- F20** Aveley Village Community Forum Representations
- F21** Affordable Housing Plan and Schedule
- F22** Draft S106
- F23** Belhus Park Decision Notice
- F24** Belhus Park Application Drawings

## **G: Applicant Documents**

- G1** Applicant Statement of Case
- G2** Summary Proof of Evidence of Mr Nigel Bennett
- G3** Proof of Evidence of M. Nigel Bennett
- G4** Appendices to Proof of Evidence of Mr Nigel Bennett
- G5** Proof of Evidence of Mr Andrew Trowbridge
- G6** Ecology Statement of Dr Dan Simpson

## **H: Thurrock Borough Council Documents**

- H1** Thurrock Statement of Case
- H2** Proof of Evidence of Councillor Hipsey
- H3** Appendices of Evidence of Councillor Hipsey

## **I: Appeal Decisions**

- I1** Butts Lane
- I2** Bata Field
- I3** Basildon
- I4** Pinewood

## **J: Third Party Representations (Following call-in)**

- J1** Essex Field Club
- J2** Buglife (1 of 2)
- J3** Buglife Objection (2 of 2)
- J4** Thurrock Biodiversity Action Group
- J5** Thurrock Wildlife Society
- J6** Jackie Doyle-Price (letter and petition)
- J7** Sport England
- J8** NHS Property Services
- J9** Treetops
- J10** Individual Letters

## **DOCUMENTS TABLED AT THE INQUIRY**

- Doc 1** Draft Planning Obligation (revised)
- Doc 2** Updates to the Appendices to the proof of Mr Bennett
- Doc 3** Opening statement for the Applicant
- Doc 4** Extract from Hansard 25 June 2014 (Jackie Doyle-Price)
- Doc 5** Letter regarding further bat surveys conducted at the site (12 March 2013)
- Doc 6** Ms Doyle-Price speaking notes and further petition
- Doc 7** Redhill Aerodrome Limited v SSCLG, Tandridge District Council & Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin)
- Doc 8** Extract from the Council's Definitive Rights of Way Map
- Doc 9** Speaking notes of Mr Burnley
- Doc 10** Draft Planning Obligation (further revised)
- Doc 11** Note from the Applicant explaining the Planning Obligation
- Doc 12** Figs 11045-1 AM Peak and 11045-1 PM Peak from the Transport Assessment
- Doc 13** Draft condition re 'rat-running'
- Doc 14** Enlarged aerial photo from the Design and Access Statement (page 41)
- Doc 15** Further suggested conditions
- Doc 16** Applicant's letter to Jackie Doyle-Price (3 May 2013)
- Doc 17** Supplementary table to the evidence of Councillor Hipsey—education contribution
- Doc 18** Thurrock Outdoor Sports Strategy (November 2010)
- Doc 19** Inspector's Report into the Council's Core Strategy (paragraphs 23 and 24)
- Doc 20** Closing submissions for the Applicant

**DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY**

**Doc 21** Engrossed version of the Planning Obligation

## **APPENDIX C:**

### **RECOMMENDED CONDITIONS IN THE EVENT THAT PLANNING PERMISSION IS GRANTED**

#### **Reserved Matters**

- 1) Before any phase of development begins, written approval shall first be obtained from the local planning authority for details of appearance and landscaping (hereinafter called 'the reserved matters') relating to that phase. Development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters for any phase shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.

#### **Phasing**

- 4) Development shall not commence on any phase until a detailed Phasing Strategy has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Strategy. The Strategy shall include:
  - a plan defining the extent of the works comprised in each phase;
  - details of the number and mix of residential units within each phase;
  - a strategy for accommodating affordable housing;
  - the infrastructure works within each phase;
  - a timetable for the provision of the commercial/community/healthcare floor space, the replacement bowling green and club house, and associated parking;
  - details of the quantum of public open space within each phase, and a timetable for its provision.

#### **Plans**

- 5) Insofar as matters of access, scale and layout are concerned, the development hereby permitted shall be carried out in accordance with the following approved plans: 1271-D1000-rev00-Location Plan; 1271-D2100-rev02-Ground Floor Master Plan: Proposed; 1271-D2104-rev03-Master Plan: Proposed; 1271-D2105-rev00-Massing Plan: Proposed; 1271-D2500-rev00- Site Sections: Proposed; and TRN11045-01B and TRN1105-02 (both at Appendix L to the Transport Assessment (May 2013)).

#### **Development Parameters and Arrangement of Buildings**

- 6) The residential element of the development hereby permitted shall not exceed a maximum of 501 dwelling units, no more than 29% of which (in totality) shall be flats.
- 7) No more than 985 square metres (gross) of commercial/community/healthcare floor space shall be provided on the site.

- 8) The arrangement of buildings within the site, by use, shall accord with the Land Uses drawing at page 82 of the Design and Access Statement (December 2012).

### **Design Code**

- 9) Prior to development beginning in any phase, a Design Code for that phase shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The Design Code shall, where relevant, have reference to the Design and Access Statement (December 2012) but, in any case, shall address and codify the following matters:
- built form;
  - public realm;
  - private space;
  - character areas.

### **Construction**

- 10) No development shall begin on any phase of the development hereby permitted, including any works of site clearance/preparation, until a Construction Traffic Management Plan (CTMP) for that phase has been submitted to and approved in writing by the local planning authority. The approved CTMP shall be adhered to throughout the construction period of each phase.
- 11) No development shall begin on any phase of the development hereby permitted, including any works of site clearance/preparation, until an Environmental Construction Management Plan (ECMP) for that phase has been submitted to and approved in writing by the local planning authority. The ECMP shall be prepared in accordance with the principles set out at sections 15.6.3 and 16.6.10 of the Environmental Statement (December 2012) and shall address, but is not limited to, the following matters:
- site waste management;
  - dust management;
  - noise controls, including a noise complaints procedure;
  - security lighting;
  - the storage of fuels, lubricants and chemicals required during demolition and construction in a secure bunded area.

The approved ECMP shall be adhered to throughout the construction period of each phase.

- 12) With the exception of piling, no works of demolition, site clearance, or construction, including the use of plant and machinery on the site, shall take place outside the following times: 08.00-18.00 hours Monday to Friday and 08.00-13.00 hours on a Saturday; nor at any time on Sundays or bank/public holidays. If piling is required, such operations shall only take place during the following times: 09.00-18.00 hours Monday to Friday. No piling shall take place on a Saturday, Sunday or bank/public holiday.

### **Sustainable Design and Construction**

- 13) Applications for the approval of reserved matters for any phase shall be accompanied by a Sustainable Design and Construction Code, the parameters for which shall previously have been agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) Those dwellings completed or, in the case of apartment buildings, are substantially completed, before 1 January 2016, shall achieve, as a minimum, Level 4 of the Code for Sustainable Homes. Those dwellings completed or, in the case of apartment buildings which are substantially completed, on or after 1 January 2016, shall achieve, as a minimum, Level 6 of the Code for Sustainable Homes (or the equivalent Government target prevailing at the time). No dwelling unit shall be occupied until a Final Code Certificate for it (issued for it by a suitably qualified person certifying that the required level has been achieved) has been submitted to the local planning authority for approval.
- 15) At least 10% of the energy requirements for those dwellings completed or, in the case of apartment buildings which are substantially completed, before 1 January 2015, shall be secured from decentralised, renewable and low carbon energy sources: between 1 January 2015 and 31 December 2020 the minimum shall be 15%, and for dwellings completed or, in the case of apartment buildings which are substantially completed after then, the minimum shall be 20%. Construction shall not commence on any residential unit until details of how the relevant target is to be achieved, and a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable and shall be retained as operational for the lifetime of the development thereafter.
- 16) The dwelling units hereby permitted shall be constructed so as to meet Lifetime Homes Standards.

### **Trees/Ecology/Landscape/Open Space**

- 17) No development shall begin, including any works of ground clearance or site preparation, until all existing trees shown as being retained on plan Nos 1271-D2100-rev02, 1271-D2104-rev03 (i.e. all those trees other than those scheduled for removal as set out at 3.1.1 of the Arboricultural Impact Assessment (21 November 2012)) have been protected by fencing or other means of enclosure, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 18) Nothing shall be stored or placed in any area fenced in accordance with this condition 17 and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written approval of the local planning authority. The protective fencing and associated exclusion zones shall not be removed, other than in accordance with a timetable that shall previously have been submitted to and approved in writing by the local planning authority.
- 19) The hard and soft landscaping details to be submitted pursuant to condition 1, including provision of the areas of public open space and the Eco

Corridor (in accordance with the Amenity Space drawing at page 88 of the Design and Access Statement (December 2012)) shall include, but are not limited to: hard surfacing materials; existing and proposed ground levels; the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure); and minor artefacts and structures (e.g. street furniture, means of enclosure, signs etc). Soft landscaping details shall include a planting plan; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation timetable; and ongoing management and maintenance arrangements. Development shall be carried out in accordance with the approved details.

- 20) All hard and soft landscape works shall be carried out in accordance with a Landscape and Open Space Strategy which shall previously have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Strategy. The Strategy shall include:
  - a) a programme for implementation;
  - b) long term design objectives;
  - c) long term management responsibilities;
  - d) maintenance schedules for all hard and soft landscape areas and open spaces (other than private gardens) and any associated features.
- 21) No development shall begin on any phase of the development hereby permitted, including any works of site clearance/preparation, until a Biodiversity Mitigation and Enhancement Plan (BMEP) for that phase has been submitted to and approved in writing by the local planning authority. The BMEP shall incorporate the measures set out at sections 10.8.1-10.8.45 of the Environmental Statement (December 2012) and shall include a timetable for implementation of the mitigation and enhancement measures. Development of each phase shall be carried out in accordance with the approved BMEP for that phase.
- 22) No development shall begin on any phase of the development hereby permitted, including any works of site clearance/preparation, until a Habitat Management Plan (HMP) for that phase has been submitted to and approved in writing by the local planning authority. The HMP shall include details of the long term management and maintenance arrangements for retained and new ecological habitats. Development of each phase shall be carried out in accordance with the approved HMP for that phase.

### **Bin Storage**

- 23) Prior to first occupation of any building, bin stores shall have been provided for that building, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The facilities provided pursuant to this condition shall be retained thereafter.

### **Access/Parking/Travel Plan**

- 24) No part of the development hereby permitted shall be occupied until the new access onto the A1306, as shown on plan No TRN11045-01B, and the alterations to the existing access onto Purfleet Road, as shown on plan No

- TRN1045-02 (both at Appendix L to the Transport Assessment (May 2013)) have been completed and are operational.
- 25) Prior to the commencement of development within any phase, details of measures to prevent 'rat-running' through the site, between London Road (A1306) and Purfleet Road, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and the measures installed shall be retained thereafter.
- 26) The detailed plans submitted pursuant to condition 1 shall include a comprehensive system of footways, cycleways and green links within the site, including links across the site, and from the site to the adopted off-site footways and cycle way network and public footpath network, in accordance with the principles set out by the indicative Street Network and Access drawing at page 81 of the Design and Access Statement (December 2012). Development within any phase shall be carried out in accordance with the approved details.
- 27) The detailed plans submitted for each phase pursuant to condition 1 shall include full details of the parking/garaging/cycle storage for that phase, in accordance with Section 5 of the Transport Assessment (May 2013) and the Parking and Cycle Parking drawings at pages 84 and 85 of the Design and Access Statement (December 2012). No building shall be occupied until the related parking/garaging/cycle storage facility has been provided in accordance with the approved details. Once provided, the facility shall be retained thereafter and shall be used for no other purpose.
- 28) No building shall be occupied until a detailed Travel Plan, for both the residential properties and the commercial/health/community floor space, and a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the principles set out in the Draft Travel Plan (28 November 2012) and shall be implemented as approved.

### **Air Quality/Noise Mitigation**

- 29) The detailed plans submitted pursuant to condition 1 for any phase that includes plot Nos A27 and A36-49 (as shown on plan No 1271-D2104-rev03), shall include a scheme of air quality mitigation for those properties, to address the impact of NO<sub>2</sub> exceedences. The approved mitigation measures shall be implemented in accordance with the approved details prior to first occupation of those plots and shall be retained thereafter.
- 30) Prior to commencement of development, a scheme of noise mitigation is to be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and the noise mitigation measures provided shall be retained thereafter. The scheme to be submitted shall ensure that:
- a) all habitable rooms within the residential units achieve a 'good' internal level as set out in BS8233: 1999 (Sound Insulation and Noise Reduction for Buildings) - the scheme shall identify and state the glazing specifications for the affected windows and the room acoustic ventilation; and,

- b) the noise exposure for outdoor living areas to the residential units is below the WHO standard of 55dB  $L_{Aeq,16h}$  where the position and orientation of the property would not provide the required level of protection from noise.

### **Archaeology**

- 31) No development shall begin, including any works of ground clearance or site preparation, until an archaeological deposit model of the overall development area has been submitted to and approved in writing by the local planning authority. If the model determines a requirement for archaeological evaluation within any phase, development shall not begin in that phase, including any works of ground clearance or site preparation, until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation that has previously been submitted to and approved in writing by the local planning authority.

### **External Lighting**

- 32) Prior to commencement of development, details of any external lighting (other than for private gardens) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### **Replacement Sports Facilities**

- 33) The detailed plans submitted pursuant to condition 1 for any phase that includes the replacement bowling green and club house, as indicated on the Land Uses drawing at page 82 of the Design and Access Statement (December 2012) shall include a detailed specification for the playing surface of the replacement bowling green and details of the replacement bowls club house. Development shall be carried out in accordance with the approved details and in accordance with the timetable agreed pursuant to condition 4.
- 34) Development of phase 3 of the scheme hereby permitted (as shown in the Indicative Phasing and Programme at page 102 of the Design and Access Statement (December 2012)) shall not begin until the replacement football pitches, associated changing and car parking facilities and other associated works, permitted as part of application No 13/00340/FUL, or an agreed alternative provision, have been provided and made available for use.

### **Drainage**

- 35) No part of the development hereby permitted shall be brought into use until sustainable surface water drainage works, based on the Indicative Surface Water Drainage Strategy (drawing No TRN11045\_03D included at Appendix D of Appendix 8.1 to the Environmental Statement (December 2012)) have been implemented in accordance with details that shall have previously been submitted to and approved in writing by the local planning authority. The details to be submitted shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii) include a timetable for its implementation in relation to each phase of the development; and,
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.
- 36) No development shall take place until a foul water drainage scheme has been approved in writing by the local planning authority. The scheme shall include all of the works needed to enable foul sewage from the development to be discharged to the public sewer network. No building shall be occupied until the necessary works have been completed in accordance with the approved scheme.

### **Contaminated Land**

- 37) Other than as may be required by an approved scheme of remediation, no development in any phase, including works of ground clearance and site preparation, shall begin until a remediation strategy to address the potential effects of the contamination identified at Section 9.9 of the Environmental Statement (December 2012) has been submitted to and approved in writing by the local planning authority. The strategy, which shall comply with the principles set out at Section 9.6 of the Environmental Statement, shall include:
- a) a targeted intrusive investigation in the vicinity of the existing electricity sub-station;
  - b) an assessment of fill materials and made ground;
  - c) a ground gas survey;
  - d) a Type 3 asbestos survey within the existing pavilion building;
  - e) details of the results of the site investigation, including the results of all sampling/site testing and an assessment of the conditions found;
  - f) proposals, including timescales for implementation, for dealing with any conditions or contamination which might be present on the site and details of the proof testing regimes to be used to ensure that the remedial measures will be effective; and,
  - g) a contingency plan for dealing with unexpected contamination not previously identified, that may be encountered during development.
- 38) No dwelling or other building shall be occupied or brought into use until all remedial or precautionary measures required to deal with contamination in that area have been completed, and the approved regime of proof testing has been implemented to demonstrate the effectiveness of the remediation work, and the results have been submitted to and agreed in writing by the local planning authority.
-



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

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

#### **Challenges under Section 288 of the TCP Act**

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

#### **SECTION 2: AWARDS OF COSTS**

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

#### **SECTION 3: INSPECTION OF DOCUMENTS**

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

***<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>***