

IN THE MATTER OF

**LAND SOUTH OF RADWINTER ROAD,
SAFFRON WALDEN, ESSEX**

APP/C1570/W/22/3296426

OPENING STATEMENT

MADE ON BEHALF OF

THE APPELLANT

No5
BARRISTERS
CHAMBERS

Summary Positions

1. It is important to be very clear at the start of the Inquiry about the evolving positions' of the parties.
2. Having originally refused the scheme back in March, the Local Planning Authority ("LPA") has now, in consultation with Essex County Council ("ECC"), withdrawn all four substantive reasons for refusal relating to transport and biodiversity. Besides some ongoing negotiation over the s.106, there remains nothing in dispute between the LPA and the Appellant. Mr Dawes' Proof makes clear that the LPA's position is now that "*the balance clearly weighs in favour of granting planning permission for this outline scheme for 233 residential dwellings*".¹ A remarkable turnaround.
3. On the other hand, the Rule 6 Party's complaints have multiplied. They submitted unexpected Proofs on heritage and landscape. The Scott Schedule raised 13 different areas of objection.² However, they have provided no evidence in support of most of those assertions, and in the end, while Proofs on air quality and landscape were served, only one Rule 6 expert witness, on heritage, is now being called at the Inquiry.
4. The Appellant has provided a detailed expert response to all of the concerns raised by the Rule 6 Party.³ None of them amount to a valid reason to refuse permission.
5. At this stage, the main issues for the Inquiry are likely to be Transport, Landscape, Heritage, and the Planning Balance. In Opening, we provide a very brief summary of the Appellant's case on each, and we also briefly address the developments yesterday regarding Air Quality. But first we set out some important background context.

The Need and Development Plan

6. This is a scheme that will provide up to 233 homes, of which some 93 (40%) will be affordable⁴ and 7 will be serviced custom-build plots. The proposed tenure split for the

¹ Mr Dawes Proof CD E1 at §5.32

² a useful summary of their position can be found in the Scott Schedule CD B45

³ See summary in Mr Frampton's Proof CD F1

⁴ In compliance with Policy H9 of the adopted Uttlesford Local Plan 2005.

affordable homes is 70% rented, 25% First Homes and 5% shared ownership. There is a very obvious need for each of these types of housing in this area.

7. The LPA concedes that it cannot demonstrate a 5 year housing land supply ("5YHLS"), with the agreed supply at just **3.52** years. The Council's witness Mr Dawes himself acknowledges that this is a "**significant shortfall**".⁵ The affordable housing position is equally urgent, as is clear from Mr Stacey's detailed Proof setting out the extent of the local problem.⁶ While 5YHLS can seem to some like a technical gripe, the reality is severe social consequences for people who cannot get the homes they need.
8. None of this can be in dispute. What also cannot be in dispute is the fact that there is no plan-led solution to this local housing crisis in anything but the long term. The Uttlesford Local Plan **2005** is, unsurprisingly, not performing. Its policies only provided for development needs up to 2011 and are predicated on strategic regional policies that are now irrelevant.⁷ Even on its own case, the LPA is not aiming for adoption of a replacement Plan until spring 2025.⁸ There will be at the very least three years until a plan-led solution.
9. Furthermore, as Mr Frampton will explain, the need to deliver more housing in this area will necessarily require release of greenfield land beyond existing settlement boundaries.⁹ To promote locational sustainability, that new development is best steered towards the three main Urban Areas of the District – Saffron Walden is one of those.
10. That is exactly what this scheme proposes: new housing adjacent to an existing Urban Area, with sustainable access to a wide range of facilities and transport. Not only that, but as the Appellants' evidence makes clear, the appeal site can easily accommodate development of this kind and scale without unacceptable environmental impacts.
11. Turning then briefly to each of the Rule 6's four main concerns.

⁵ CD E1 Mr Dawes' Proof at §3.21

⁶ Mr Stacey's Proof at CD D7

⁷ The Essex and Southend Strategic Plan and the Regional Spatial Strategy for East of England no longer form part of the development plan

⁸ Mr Dawes' Proof CD E1

Transport

12. ECC as Highways Authority has **no objection** and has signed up to a Statement of Common Ground (“SoCG”) which states that “**all transport matters are now agreed between the Appellant and ECC**”.¹⁰ All issues identified by Rule 6 Party in the Scott Schedule have been satisfactorily addressed with ECC, and the LPA concurs.
13. Nonetheless, we understand that the Rule 6 Party will have a speaker to make an objection on highways grounds. Because of this and to assist the Inspector, Mr Elliott has provided detailed written evidence to deal with the Rule 6’s four main categories of complaint.¹¹ The key points Mr Elliott makes are that:
- a. Sustainability: The proposals include a comprehensive package of sustainable measures that will facilitate travel by non-car modes. These comprise provision for walking/cycling (including a path to the western boundary), a bus contribution of £2,600/dwelling, an electric vehicle car club, and a Travel Plan.
 - b. Access: The Appellant’s robust analysis, including a Stage 1 Road Safety Audit, demonstrates that the proposed access is forecast to operate well within capacity with no queueing predicted, that it can safely serve the proposed development, and that it will have no adverse effect on the immediate public highway network.¹²
 - c. Wider highway network: The Appellant is proposing improvements at three off-site junctions; Thaxted Road / Radwinter Road, Thaxted Road / Peaslands Road and High Street / Church Street. These will address not only the additional development traffic but also **existing** capacity issues. To address the previous reason for refusal, more detailed design work has been undertaken at the High Street / Church Street junction to demonstrate the deliverability of the works.

⁹ See e.g. CD A226 at §9.4

¹⁰ CD B40. The agreed transport measures to be delivered are at Table 5.1.

¹¹ Mr Elliot’s Transport Proof is at CD D4 and his Rebuttal is at CD D29

¹² RSA, CD A76, Appendix F

- d. Chaters Hill Bridge: There will be no additional conflict between vehicles and the bridge structure and road sign, because these elements will not be in the carriageway. The development is not forecast to result in additional traffic on Chaters Hill, and existing damage is unlikely to have been done by cars.
14. ECC agree that the proposal complies with the key policy tests in the National Planning Policy Framework (“NPPF”) and Policy GEN 1 of the Local Plan, as well as the relevant ECC Highway Development Management Policies.¹³

Landscape

15. There is no landscape or visual impact reason for refusal, and the LPA’s Landscape Officer has not objected to the scheme.
16. The Appellant fully acknowledges, as is always the case when new homes are built on greenfield land, that there will inevitably be a landscape impact on the site itself. However, as Mr Williams will explain, Mr Morrish’s assertion of substantial adverse effects is simply not supported by the evidence and is an inaccurate representation of the LVIA.¹⁴
17. First, the appeal site is a wholly appropriate location for development of this kind and scale. The site is not within a statutorily designated landscape and is not a valued landscape under the NPPF. It is located directly adjacent to a recent, largely complete residential development within Saffron Walden, and the development will be perceived as a natural extension to that edge of the town. The LPA’s emerging landscape evidence base identifies the part of Saffron Walden in which the appeal site is located (‘3 to 5’ on its clockface) as the least sensitive part of the town in landscape terms.¹⁵
18. Secondly, the appeal scheme has been landscape-led in its formulation, as is clear from Mr Williams’ evidence of the design evolution.¹⁶ More than 55% of the appeal site will

¹³ §§5.4-5.5 of the Highways SoCG CD B40. Local Plan is at CD G3 DMP at CD G5, p.3 page 3

¹⁴ Mr Williams’ Rebuttal CD D27 §10

¹⁵ LUC Assessment at CD H16

¹⁶ CD D17

comprise open space – well over double the amount required by policy.¹⁷ In the LPA's own words, the scheme provides an "*adequate amount of green infrastructure ... in keeping with the countryside character*" meaning that "*its impact on the landscape will be mitigated and thus acceptable*".¹⁸

19. In terms of visual impact, the Council's Landscape's Officer has made clear that, in their professional view, the visual impact on the wider landscape can be mitigated by an appropriate scheme of landscaping.¹⁹ This is not surprising: the landscape-led design approach was familiar to Officers when making those comments.²⁰ While Mr Morrish considers the impact of landscape mitigation to be overstated, he does not assess this and presents no additional evidence (including no LVA/LVIA).²¹ So his Proof provides little assistance to the Inquiry.

20. The final landscape issue raised by Mr Morrish is alleged coalescence with Swards End. There is no objection by the Council on matters of coalescence. The proposal has been prepared in spatial terms to form a sustainable urban extension to Saffron Walden, and will neither function nor be perceived as an extension of Swards End.²²

21. When considering coalescence, the focus should be on whether the settlements' separate identity is unacceptably diminished. Here it is not – there will be a physical separation of over 250 metres at the closest point, and on all linking routes and from the wider landscape the settlements will still be perceived as distinct and separate.²³ The tree lined Radwinter Road and a number of treed fields will remain in the intervening gap.

22. In all, the agreed professional opinion is that the appeal scheme is appropriate, policy-compliant, and can be successfully mitigated into the landscape.

¹⁷ Design and Access Statement CD A17 -- see pp. 22 to 37 for design evolution and p.58

¹⁸ CD B38 Planning SoCG at §4.13

¹⁹ CD A111

²⁰ CD D27 at §32

²¹ CD D27 at §§31-32

²² Mr Frampton Proof CD D1 at §3.32

²³ CD D27 at §22 and §31

Heritage

23. The site does not contain any designated heritage assets and none lie nearby. All key heritage matters are agreed between the LPA, ECC, and the Appellants. The Heritage Officer has confirmed that no heritage assets would be harmed by the development.²⁴
24. Nonetheless, the Rule 6 Party's Proof asserts harm to a number of different assets, including the Saffron Walden Conservation Area in general and various assets within it, the Common (Castle Green), Grade I St Mary's Church at the heart of the town, and Grade II Pounce Hall in Swards End, north east of the site.
25. However, as Mr Stephenson will explain, the Rule 6 evidence does not set out clearly how the setting of these assets is considered to enhance their significance and how the proposed development would affect appreciation of that significance. Change to setting in and of itself does not mean harm, with much change having a neutral effect.²⁵
26. Mr Stephenson finds that there will be no harm to any designated assets from the development on the site itself, which is well-screened on its boundaries. He considers that the proposals for the Church Street / High Street junction could have, at most, a less than substantial adverse effect at the very lowest end of the spectrum.²⁶ However, improved traffic flows would improve the setting of these designated assets and counteract harm from the lights, and there would be no harm to historic fabric. It is important to remember that the installation of traffic lights in historic town centres is not unusual and generally accepted by the public as part of modern living. Indeed, there are existing traffic signals on the High Street. In Mr Frampton's view, the public benefits of the scheme far outweigh this minimal potential harm.
27. As to archaeology, evaluation across the main site area confirmed low archaeological potential. Provision for more detailed excavation can be secured through a planning condition, consistent with local and national policy.

²⁴ Heritage Officer Comments at §9.22 of Committee Report CD A226

²⁵ Mr Stephenson's Proof Rebuttal at CD 26 §2.5

²⁶ Mr Stephenson's Proof is at CD 13 and his Rebuttal at CD 26

Air Quality

28. Turning finally to air quality. It is agreed with the Council that, with appropriate mitigation secured by condition, the development will not have an adverse impact on air quality.²⁷
29. The Rule 6 Party provided a Proof querying the comprehensiveness of the air quality model. In response, the Appellant carried out a further modelling exercise that concluded, in line with previous findings, that the scheme complies with all relevant policy.²⁸
30. Yesterday, the Rule 6 Party confirmed that they accept those findings and now agree that the development is not considered to have an adverse impact on air quality, in line with IAQM guidance.²⁹ Air quality is no longer in issue.

Benefits and the Planning Balance

31. Lastly, we address benefits and the balance. The LPA agrees that the tilted balance in paragraph 11(d) of the NPPF applies, meaning that permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits.
32. The housing position in this district is particularly poor. Because of the lack of 5YHLS, the Local Plan policies constraining housing are automatically deemed out of date,³⁰ and much reduced weight should be placed on any conflict with these. In addition, Mr Frampton considers that some key policies are inconsistent with the 2021 NPPF.
33. The Appellant acknowledges some conflict with Local Plan policies on countryside (S7), settlement areas (S1) and agricultural land (ENV5). But those conflicts arise inevitably from the site being a greenfield site in a district of high quality agricultural land. The LPA has recognised that it is inevitable that future development will probably have to use best

²⁷ Planning SoCG CD B38 at §4.14

²⁸ CD D30 at §5.1.6

²⁹ §2.6 and §3.1 of Rule 6 Air Quality Final Position Note CD F8

³⁰ Agreed with the LPA in the Main SoCG CD B38 at §4.10

and most versatile agricultural land to meet housing needs.³¹ As such, Mr Frampton ascribes only **very limited weight** to those conflicts.³²

34. Also to be weighed in the planning balance is the less than substantial heritage harm at very lowest end of spectrum resulting from the traffic lights. While Mr Frampton has placed “great weight” on this harm, he is more than clear that the public benefits from the development very substantially outweigh it.³³ Those public benefits are substantial, urgent, and cover all three dimensions of sustainability. We give a very brief overview.

35. The **social** benefits include provision of much needed market, affordable, and custom-build housing. Mr Stacey will explain the particular and worsening affordability problem in Uttlesford: substantial numbers on the housing register, rising waiting times, rising affordability ratios, and rising house prices and rents. Clearly, the 93 affordable homes the scheme provides will make a tangible impact.³⁴ It is little wonder that LPA agree that **substantial weight** must be given to the provision of affordable and market housing.³⁵

36. As to self and custom-build housing, Mr Moger’s Statement demonstrates that there is “*substantial unmet demand*” locally and a “*demonstrable statutory duty failure*” by the LPA.³⁶ So the provision of custom-build plots also attracts **substantial weight**.³⁷

37. The **economic** benefits include job creation and household expenditure of new residents that would support the local economy and fund the Council. The key **environmental** benefit is the opportunity to achieve a biodiversity net gain of circa 13% measured against Defra’s Metric 3.1.³⁸ There are also further benefits arising out of the s.106.

38. The benefits are numerous and very weighty, set against minimal adverse effects. The LPA agrees that the balance clearly weighs in favour of granting planning permission.

³¹ CD A226 at §9.4

³² Detailed analysis in Mr Frampton’s Proof CD D1 at §§3.18-3.29

³³ See sections §4.2 of Mr Frampton Proof CD D1

³⁴ Mr Stacey’s Proof CD D7 at §§3.1-3.124, §§ 13.16-13.17.

³⁵ §5.20 of Mr Dawes’ Proof CD E1

³⁶ (CD D19) §§4.3-4.5

³⁷ §3.9 of Mr Frampton’s Proof CD D1

³⁸ Assessment at Appendix 7 of Mr Frampton’s Proof CD D21

The Rule 6 Party have not disputed that. In fact, the Rule 6 have not carried out a planning balance: they present a one-sided case, entirely ignoring the public benefits.

39. In all, this is a very clear-cut case, and the Inspector will, in due course, be invited to allow the appeal.

6 SEPTEMBER 2022

CHRISTOPHER YOUNG QC

ODETTE CHALABY

No5 Chambers

Birmingham – Bristol – London



IN THE MATTER OF

**LAND SOUTH OF RADWINTER ROAD
SAFFRON WALDEN, ESSEX**

APP/C1570/W/22/3296426

OPENING STATEMENT

ON BEHALF OF

THE APPELLANT
