

IN THE MATTER OF

LAND SOUTH OF RADWINTER ROAD,
SAFFRON WALDEN, ESSEX

APP/C1570/W/22/3296426

CLOSING SUBMISSIONS

MADE ON BEHALF OF

THE APPELLANT

No5
BARRISTERS
CHAMBERS

Introduction

1. *“Everyone should have the opportunity for a decent home, which they can afford, in a community where they want to live”*. Yet with housing costs continuing to rise, *“home ownership and access to the private rental market is out of reach for many young people and families.”* Those important words are not Mr Stacey’s but the Council’s, found in the introduction to the recent Uttlesford Housing Strategy 2021 to 2026.¹
2. Similarly, the simple but powerful statement, *“there are few things more important in life than having a roof over your head”*, comes straight out of the Uttlesford Homelessness and Rough Sleeping Strategy 2020 to 2025.²
3. It would seem that this is a Council that recognises at a corporate level that it is in the midst of an urgent housing crisis. However, actions speak louder than words, and unfortunately the agreed deliverable housing land supply remains as low as just **3.52 years**, a serious shortfall set against the minimum 5 year requirement.
4. In short, the Council has failed to enable sufficient houses to be built through the existing planning process. It has also utterly failed in its quest to replace the defective Local Plan from 2005 that only planned for development needs to 2011: a replacement is still at least 3 years away.³
5. Step forward this proposal, a scheme for up to 233 dwellings of which 40% are to be provided as on-site affordable housing, situated right on the edge of one of the main Urban Areas of the District, in a sustainable location at some distance from any designated heritage assets. The need to deliver more housing in Uttlesford necessarily requires greenfield land beyond existing settlement boundaries to be released, and this is an eminently suitable greenfield site.

¹ Uttlesford Housing Strategy 2021 to 2026 (CD L1) p.3

² Uttlesford Homelessness and Rough Sleeping Strategy 2020 to 2025 CD L2 page 3

³ Mr Dawes’ Proof CD E1 - Council’s own case is that it “aims” is for adoption in spring 2025

6. In this light, we should perhaps not be too surprised that the Local Planning Authority (“LPA”) and Local Highway Authority (“LHA”) are now both supportive of the scheme, having conceded pre-Inquiry that permission should be granted.
7. Despite this, the Rule 6 Party pressed on with no less than 13 different sets of objections. The issues raised in the Scott Schedule and Proofs required the Appellant to provide wide-ranging expert evidence, from written statements on noise, drainage and biodiversity to new air quality modelling.
8. It is clear from all this evidence and from the conclusions of Mr Frampton on planning matters that none of the concerns amounts to a sustainable reason to refuse planning permission. Indeed, given that in the end the only expert the Rule 6 Party called was on heritage, it seems they too are largely satisfied that their concerns have been addressed.
9. These Closing submissions follow the structure of the matters dealt with at the Inquiry. These are:
 - a. Transport and Sustainability;
 - b. Landscape;
 - c. Heritage;
 - d. Other Matters; and
 - e. Benefits and Planning Balance.
10. Air quality has been fully addressed and is now not in issue between any of the parties, so we do not repeat Mr Grubb’s detailed evidence again here.

Transport and Sustainability

11. Essex County Council (“ECC”) and the LPA both agree that the previous reasons for refusal have been satisfactorily addressed by a package of sustainable transport measures and additional work to demonstrate the deliverability of the off-site junction

improvements.⁴ It is now common ground with those authorities that subject to implementation of the mitigation, the proposal will have no adverse impact on the public highway network.⁵

12. The Rule 6 Party, on the other hand, has continued to make a number of objections on highways grounds. However, they have provided no evidence or expert witness to back up their assertions, and at the start of the Inquiry their speaker Mr Knowles confirmed that they were not questioning the effectiveness of the agreed mitigation proposed. Mr Elliott told the Inquiry that it would be very difficult for the Rule 6 Party to engage a professional consultant to object to the scheme on highways grounds when the proposed mitigation leads to an overall **highways capacity improvement**.

13. The key objection the Rule 6 continues to make is really a heritage point regarding the junction improvements in the Conservation Area, dealt with below. Besides that, Mr Knowles and two other local residents who spoke at the Inquiry made a number of general points: that insufficient walking and cycling infrastructure has been provided (in particular towards Swards End), and that Saffron Walden is a saturated medieval town with narrow streets and daily traffic and congestion problems.

14. First, in terms of **sustainability**, the proposals will form an extension to Saffron Walden, within walking and cycling distance of a range of facilities and services including an infant and junior school, a Tesco superstore, and Saffron Walden Community Hospital.⁶ The Appellant will provide a comprehensive package of measures to facilitate travel by sustainable modes, including:⁷

- a. provision of an enhanced pedestrian crossing at the Tesco site access on Radwinter Road, a benefit to future residents of the development and existing pedestrians, to improve the walking route to key facilities;⁸

⁴ The position with ECC is set out in the Statement of Common Ground (“SoCG”) on Transport Matters (CD B39) and Supplementary SoCG on Transport Matters (CD B40). The agreed package of measures are summarised Table 5.1 of CD B40

⁵ CD B40 at §§5.2-5.3

⁶ See Mr Elliott’s Proof CD D4 at §5.3

⁷ See Mr Elliott’s Proof CD D4 at §§2.1-2.32

⁸ Highways SoCG CD B40 at §2.12

- b. a footpath/cycle path to the western boundary of the site to facilitate a potential connection into the committed adjacent housing development;
- c. a significant financial contribution of £2,600 per dwelling to ensure the site will be served by a regular bus linking to key services and destinations and provision for bus stops;
- d. an electric vehicle car club and electric vehicle charging points; and
- e. provision of a Travel Plan and the associated monitoring fee.

15. The Rule 6 speaker and residents were concerned that no provision has been made for walking/cycling to Swards End, and that cycling/walking on Radwinter Road is too dangerous. As Mr Elliott explained, ECC have not identified any pedestrian demands to Swards End (which has just a church, village hall and village green) from the proposed development.⁹ As to Radwinter Road, Mr Elliott confirmed that this is a satisfactory route for cyclists, and he has observed bicycles using the road to get to town. Mr Toy, another resident, has stated that this “*is a well-used cycle and pedestrian route from the village into the town*” (albeit he sought to withdraw from this orally).¹⁰

16. In reality, this is a remarkably sustainable site in what is a generally a rural District.¹¹ A significant number of critical facilities are in walking or cycling distance, from shops and restaurants to schools and medical facilities. However, this excellent connectivity has simply been ignored by the Rule 6 Party.

17. The second transport issue to deal with is the **access**. ECC agree that a safe and suitable vehicular access can be provided via the proposed new priority junction with Radwinter Road.¹² This will include a ghost island turning lane in the centre of the carriageway, meaning those turning right into the site can wait without blocking traffic. There will be a new footway link to the existing footway on Radwinter Road.

⁹ Highways SoCG CD B39 and B40

¹⁰ Mr Toy's Written Comments CDA181 at p.2

¹¹ SoCG with LHA CD B39 p.5 table 3.1 sets out agreed distances from appeal site to various local facilities.

¹² despite some confusion of local residents this is not a roundabout

18. This access has been designed in accordance with relevant design standards and is forecast to operate well within capacity with no queueing or adverse effect on the immediate public highway network predicted.¹³ It has been subject to a Stage 1 Road Safety Audit, and it is agreed with ECC that this does not raise any issues that either have been addressed already or could not be satisfactorily addressed as part of the s.278 design process.¹⁴
19. Thirdly, the proposal will not have an adverse impact on the **wider highway network**. Improvement works are proposed at three off-site junctions, and subject to those being completed, ECC are satisfied that there is full policy compliance.¹⁵ While residents expressed concern that Saffron Walden is already congested, the proposed highway works would not only mitigate the effect of the new development but would go further and address existing capacity issues at all three junctions, resulting in an overall improvement in performance during peak periods.¹⁶
20. As Mr Elliott pointed out, some traffic congestion is typical in towns in England, and it is not unreasonable for residents anywhere to experience some queueing at peak hours. What must be kept in mind is the key test under the National Planning Policy Framework (“NPPF”) §111 – that development should only be refused on highways capacity grounds if it has “severe” impacts on the road network. In this case, ECC has confirmed that with the agreed mitigation in place there will be no such severe impact. It is not the aim of policy to protect the convenience of commuting car drivers, particularly in sustainable locations and where choices of travel exist.
21. To address the previous reason for refusal, more detailed design work has been undertaken to demonstrate the deliverability of the traffic signals and associated works at the High Street/Church Street junction. Mr Elliott told the Inquiry that this junction currently suffers from congestion issues due in part to the limited visibility of

¹³ Mr Elliott Proof CD D4 at §§3.2-3.10

¹⁴ RSA, CD A76, Appendix F

¹⁵ A trip generation assessment was undertaken as part of the application –Transport Assessment CD A22

¹⁶ Mr Elliott Proof CD D4 at §§4.1-4.4

emerging vehicles. The Appellant's analyses have shown that the signals will provide a clear benefit in terms of performance of the junction.

22. As Mr Elliott explained, it is entirely usual and reasonable to implement new traffic lights and signals in a town centre. Indeed, there is an existing signal-controlled junction on Saffron Walden High Street some 150m south of this location. The Appellant has gone much further than usual at planning stage to demonstrate deliverability. There has been a topographical survey and ground penetrating radar to confirm locations of cellars. ECC experts have confirmed that the additional design work has adequately demonstrated deliverability of the proposed works, which would also be subject to further detailed design and technical approval post-planning.
23. Mr Kratz was particularly concerned about the possibility of needing a Traffic Regulation Order ("TRO") to implement these, and the highways capacity impacts if there are any difficulties with that.¹⁷ The obvious response is that ECC, who has requested the lights, would facilitate rather than object to any TRO. Additionally, Condition 21 requires any TRO to be implemented before occupation of the homes, so even if there was any issue with the TRO, that would not result in unacceptable highways impacts.
24. Lastly, two issues were also raised in relation to the **Chaters Hill Bridge**. The Rule 6 Party had alleged that there will be conflict with the bridge structure and road sign as well as damage to the Bridge from increased vehicular traffic. However, as Mr Elliott explained, these concerns were entirely misplaced.¹⁸ The final design would not result in any wall, bridge pier or road sign being within the carriageway, and would be subject to full technical approval by ECC. Furthermore, the assessment work undertaken does not forecast any additional traffic on Chaters Hill from the development, as agreed with ECC, meaning no change to traffic conditions in this location. There is also no evidence that the existing damage was caused by vehicles, which seems unlikely as there is a 1.3m footway on the western side.

¹⁷ Highways SoCG CD B40 at §§3.4-3.5. DfT's Traffic Signs Manual Chapter 6 Traffic Control (2019) at §1.9.1 confirms that there is typically no traffic regulation order required to install traffic signals.

¹⁸ See Mr Elliot's Rebuttal Proof CD D29 at §§3.3-3.6

25. In all, it is agreed with the authorities' experts that the proposal complies with the key national and local policy tests (including Local Plan policy GEN1) in full and that there are no outstanding transport concerns.¹⁹ The Site is in a remarkably sustainable location, with access by non-car modes to all critical facilities.

Landscape

26. The Council has never resisted the scheme on landscape or visual impact grounds. As to the Rule 6 Party, Mr Morrish produced a Proof of Evidence that makes a number of bold assertions entirely unsupported by evidence. Oddly, he did not attend the Inquiry to answer questions on that Proof, and so very little weight can be placed on what he says.

27. The only substantiated evidence of the landscape impacts before the Inquiry is that of the Appellant and Mr Williams, who together with the LPA Landscape Officer is clear that the proposed scheme and site are wholly appropriate.

28. The first point to note is that, as the residents and Rule 6 Party have stated, the appeal site in policy terms is clearly beyond the edge of the existing settlement and in a "countryside" location. Inevitably, there will be a landscape impact within the site boundary, as is always the case when countryside is built on. However, because (a) the Local Plan 2005 only planned for development needs up to 2011 and (b) there is now a housing land supply shortfall, the settlement boundary policies can no longer dictate the limits of future development. As Mr Frampton explained, the need to deliver more housing in Uttlesford requires release of greenfield land beyond existing boundaries.

29. The appeal site is a particularly suitable greenfield site for a large housing development. It is located on the edge of one of the main Urban Areas of the District, next to a recent residential development, and it lies squarely within an area that the Council has identified for future housing growth in the emerging landscape evidence for Local Plan.²⁰ What that Landscape Sensitivity Assessment says, considering landscape resilience, robustness

¹⁹ §§5.4-5.5 Highways SoCG CD B40. Key policy tests at §§110, 112 and 113 of NPPF and Policy GEN1 (Access) of the Uttlesford Local Plan and DM1, DM9, DM11 and DM15 and of the ECC Highway Development Management Policies

and value, is that the part of Saffron Walden that includes the appeal site is the least sensitive part of the town. It is the part most likely to accommodate residential housing development of 2-3 stories and a density of 30-40 dph, such as is proposed here, without undue consequences.²¹ That is a very clear endorsement of the south east of the town being the least sensitive direction of growth.²²

30. This study was published after the Appellant's LVIA was completed, but they both arrive at the same conclusion regarding the sensitivity of the site. Those findings do not sit well with the Rule 6 Party's striking assertion that the appeal site is the "*worst possible place*" for the proposed development.²³ Indeed, unlike many parts of Uttlesford, the site is not within a statutorily designated landscape and is not a valued landscape under the NPPF.

31. And it is not just "luck" that the appeal site is suitable (as suggested by Mr Kratz). As Mr Williams explained in cross-examination, Rosconn have progressed this site in consultation with landscape experts.

32. This reduced sensitivity does not mean the design approach should not be a sensitive one, and here the appeal scheme is demonstrably landscape-led in its formulation.²⁴ Mr Williams told the Inquiry that a careful understanding of the local landscape and townscape has directly shaped the scheme since his appointment back in 2020, including: topography (with development restricted to lower ground); views of local landmarks (with a view corridor retained to St Mary's Church); and sensitivity towards the more rural edges (reducing density and height to the east to assimilate into the finer grain field pattern around Swards End). For example, the large proposed public park on the high ground is not required by policy, but has been chosen to make use of the striking views.

²⁰ CD H16

²¹ §12 of Mr Williams' Rebuttal Proof CD D27. The proposed scheme is 36 dph

²² §15 of Mr Williams' Rebuttal Proof CD D27

²³ Parish Councillor Adrian Knowles' in his oral remarks on day 1

²⁴ This is clear from Mr Williams's evidence of the design evolution and separately the submitted Design and Access Statement at the Design Evolution section on pages 22 to 37.

33. This is also evidenced by the facts and figures – the site is 18.3 hectares in size and the majority of this (>55%) will be provided as various types of public open space and landscaping, more than double the amount that policy demands.²⁵ While this is an outline application, Mr Williams explained that the green infrastructure proposals are part of the Parameter Plans, within the confines of which the detailed design at reserved matters stage will need to take place.²⁶
34. Overall, the sensitive design approach will allow the proposed development to be mitigated successfully into the landscape – a position recognised by the Council’s Landscape Officer who states that *“given the adequate amount of green infrastructure coverage throughout the site in keeping with the countryside character, the impact on the landscape will be mitigated and is thus acceptable”*.²⁷ While Mr Morrish’s Proof stated that the impact of landscape mitigation has been overstated, he makes no assessment and provides no new evidence.
35. The Parish Councillor Mr Knowles told the Inquiry that the Rule 6 Party is specifically concerned about the removal of hedgerow for the visibility splays. Mr Williams explained that while removal of an approximately 100m section of vegetation is necessary, the result will not be a hole but a reconstructed hedgerow within about 2-3m of the current alignment. A significant length of existing hedgerow will also remain alongside the replanting and repositioning. There would be no removal of the veteran tree.²⁸
36. Finally on landscape, while the Council has never raised an objection on coalescence, a local resident and the Rule 6 Party stated boldly on day 1 of the Inquiry that the proposal will effectively merge Swards End with Saffron Walden. Those claims are simply inaccurate. The development is designed as part of Saffron Walden and will neither function nor be perceived as an extension of the village.

²⁵ See the Design & Access Statement CD A17 at page 58

²⁶ CD A10 Dwg No. DE436_023 Green Infrastructure Parameters Plan

²⁷ See CD B38 Planning SoCG at §4.13 and CD A11. Appendix 10.2 of the ES sets out a summary of the landscape assessment via a schedule. This identifies a worst case assessment of landscape impact on the site’s landscape elements at construction stage of moderate-major, reducing to moderate and minor after 15 years. For the character of the site and local landscape the assessment is moderate adverse reducing to moderate-minor and minor after 15 years.

²⁸ T5, shown on retention plan CD A24 Appendix 8 p. 40 – confirmed by Mr Frampton in examination in chief

37. Mr Williams told the Inquiry that the key question when determining issues of coalescence is over identity: will it become difficult to understand or recognise the separate identities of the settlements? In his professional view, that requires a quantitative and qualitative assessment, walking between the routes and experiencing the interaction of the town and the village.
38. In this case, with the scheme in place the tree lined Radwinter Road and two to three well-treed fields will remain between Swards End and Saffron Walden, with separation distances between buildings ranging between **250** and **475** metres. The appeal scheme would move in the direction of Swards End, but in no way diluting or diminishing the separate identity of the village due to the distances and critically the intervening landscape. Mr Williams' "*overwhelming conclusion*" is that there will be no coalescence: at no point would anyone be in doubt as to which settlement they were in, and the separate identities and spatial settings will be preserved.²⁹ Furthermore, contrary to Mr Knowles' assertions, it is simply irrelevant that the appeal site formally lies within the Parish of Swards End.
39. In conclusion, the professional opinion that the scheme is appropriate and can be successfully mitigated into the landscape is shared by the Appellant and the Council, and the LVIA assessment of the site's sensitivity is closely aligned with the emerging evidence base for the new Local Plan. The visual impacts can be successfully mitigated with 50% of the site given over to green infrastructure, which will establish into a significant landscape element enveloping and containing the proposed development.³⁰

Heritage

40. Unusually, this Inquiry faces a situation where professional officers did not raise a heritage reason for refusal, but members included the traffic lights in the first reason for refusal. As far as the Appellant is aware, this was not on the basis of any further professional advice. Shortly after the CMC, the LPA then confirmed that it would not be pursuing the traffic lights point and had no heritage objection. This means that all key

²⁹ Mr Williams in Examination in Chief

heritage matters are now agreed between the Appellant, the LPA and their professional advisors at ECC. It is the view of the officer that no heritage assets would be harmed.³¹

41. However, despite this consensus, Ms Newell asserts harm to the Conservation Area, to several listed buildings within it, to The Common, to St Mary's Church, and to Pounce Hall. Not only that, but she told the Inquiry that the harm she asserts from the traffic lights and to Pounce Hall is at the top end of a spectrum of less than substantial harm. This is frankly absurd, equating the harm from traffic lights in one location and the supposed harm to Pounce Hall, which cannot even be seen from the appeal site, to something just below substantial harm.
42. Given what Ms Newell said, it is important to first repeat some basics. When assessing heritage impacts of a proposal, the focus must be on what contributes to the significance of the assets, and how changes would affect significance.³² While the key significance of a listed building typically relates to its actual fabric, setting may also contribute. However, change to setting does not mean harm, with much change having a neutral effect. Unfortunately, Ms Newell's written and oral evidence simply failed to follow this guidance.
43. Turning first to the **traffic lights**. Not only did Ms Newell assert a "high" level of less than substantial harm to the entire Conservation Area and affected listed buildings, she also asserted that there would be "partial demolition" of the listed buildings. With respect, this evidence was not remotely credible. Substantial harm is often reserved for demolition of a listed building or something affecting the whole nature of the listed building. What is being proposed here are traffic lights in a town centre that already contains traffic alongside the associated signals, lights, signs, and roadmarkings that entails.³³ ECC heritage experts have been part of discussions over the proposed lights, as they will be in final detailed design.³⁴ The Appellant has undertaken surveys to demonstrate that a scheme could be put in place without harm to any sub-surface cellars, and Ms Newell confirmed that, in any event, these structures are not visible to members of the public.

³⁰ CD D27 at §§40-41

³¹ confirmed in an ECC letter dated 7th December 2021. See also §9.22 of Committee Report CD A226

³² CD 19 Historic Environment Good Practice Advice in Planning Note 3 and Mr Stephenson's Rebuttal Proof CD D26 §2.4 and §2.5

³³ Ms Newell accepted this in cross-examination

44. Ms Newell's explanation for her striking conclusion on harm seemed to be that she considers this to be the most important part of the Conservation Area, and that the location of one traffic light would be below an "extremely important" overhanging cornice. Mr Stephenson confirmed that there is plenty of vertical space to accommodate a traffic light under the overhang, with the possibility of using a swan neck design. He also made clear that he disagrees that this junction, with its eclectic mix of old and new buildings with a heterogenous appearance, is the most important part of a town that contains many Grade I and Grade II* listed buildings. Ms Newell's claim about this relative importance is not supported by any local policy or appraisal: it is simply assertion.
45. Ms Newell also took the Inquiry to Historic England's Streets for All Guidance.³⁵ That was unable to assist her any further. There is no suggestion in that Guidance that traffic signals are inherently unacceptable in Conservation Areas. Indeed, the Guidance recognises that these can be accommodated: its focus is to emphasise the importance of restricting signs and signals to those that are necessary.³⁶ In this case, conservation principles (and the Conservation Officer) will be part of the final design process, and measures such as buff tactile paving can be used to minimise harm.
46. Finally, Ms Newell accepted that she has not factored into her analysis any of the potential heritage benefits the traffic lights could bring. These could including freer flowing traffic and reduced congestion, rationalisation of existing street signage, and removal of some of the large painted street markings. Mr Kratz put to Mr Stephenson that it would not be possible to achieve freer flowing traffic – surely, Mr Kratz said, this is designed as mitigation and not to improve the existing situation. However, that simply failed to take into account the clear evidence of Mr Elliott that there will be capacity improvements at all three affected junctions.³⁷

³⁴ As confirmed in an email from Mr Elliott dated 7 September 2022

³⁵ CDI10 Historic England Guidance: 'Streets for All' April 2018

³⁶ See e.g. p.25 of CDI 10

³⁷ See e.g. Mr Elliott's Proof at CD D4 §4.2

47. In all, Mr Stephenson “*disagrees very strongly*” with Ms Newell’s untenable conclusion on harm from the traffic signals.³⁸ In his expert view, there would be no harm to the fabric of any listed building, and only very minimal indirect harm at the lowest end of the spectrum to the setting and character and appearance of the Conservation Area.
48. Dealing then with the Rule 6 Party’s allegations of harm to the setting of other listed assets. Ms Newell first asserts harm to **St Mary’s Church**, albeit only at the lower end of the scale. Despite asserting this harm, she admitted in cross-examination that she did not know how far the Church, all the way in the centre of town, would be from the proposed development. In part due to that significant distance, Mr Stephenson (in agreement with the Council) is clear that the appeal site does not enhance the significance of the Church or the appreciation of it. He told the Inquiry that there are no important designed views between the site and Church, and the scheme would not interrupt any such views. With the development in place, it would still be obvious that the Church sits at the centre of a historic town, the topography of the Church on elevated ground would still be appreciable, and the Church would still reflect the historic wealth and success of Saffron Walden.
49. Mr Stephenson fully acknowledged that you can see the spire from parts of the appeal site. However, he warned against falling into the erroneous trap of “*you can see it, therefore there is harm*” – and this is exactly what the Rule 6 Party has done. While the scheme proposes to retain a view through to the Church from the site’s highest, south eastern part, this has other benefits and is not required as heritage mitigation.³⁹
50. Ms Newell also asserts harm to **Pounce Hall**, and remarkably she told the Inquiry in examination-in-chief that this, like the traffic lights, would be at the upper end of less than substantial, so approaching substantial. Again, it became clear in cross-examination that her evidence is wholly unreasonable. Ms Newell conceded that she has never been onto the appeal site (and has never requested access). If she had done, she would have seen that Pounce Hall is not visible. Not only that, but Ms Newell also admitted that she had not been inside Pounce Hall when she wrote her Proof asserting that the development would harm alleged views from a number of different windows. She has provided no

³⁸ Mr Stephenson in XiC

photographs to support those assertions, and while she took the Inquiry to Figure 14 of her Appendix CN3, this turned out to be a photograph from booking.com in which the site cannot be seen. Ms Newell also acknowledged that when asserting this harm, she had not taken into account the parameters or layout of the proposed development, and has proceeded as if there would be development within the entire red line boundary.

51. On the other hand, Mr Stephenson considers there would be no views at all to the developable area of the appeal site from Pounce Hall. There are several intervening layers of trees through field boundaries, including some substantial foreground trees of 10-20m high. The part of site at the highest elevations would be free from development. More importantly, he reminded the Inquiry that even if the Inspector were to find some visibility, these are not designed views or views of any particular importance, and there would be no impact on heritage significance (the opinion also taken by ECC's Place Services Officer).⁴⁰ As with the Church, seeing does not equate to harm.
52. The last designated asset to which Ms Newell asserts harm is to **The Common**, here only at the lowest end of the spectrum. Again, this harm is not supported by the evidence.⁴¹ Mr Stephenson told the Inquiry in examination-in-chief that you will simply not be able to see the appeal scheme from The Common. Even if distant rooftops were to be visible, there would simply be no harm to the character and appearance of the Conservation Area by virtue of that. Changes to the highways layout would involve a small additional sliver of highways land and would not harm any trees or other features of note within or affecting the character of the Conservation Area.
53. While she acknowledged that they have no heritage designation, Ms Newell also asserted that there will be heritage harm arising from the necessary removal of **hedges** from the site boundary for the visibility splays. In response to a question from the Inspector, all Ms Newell could say about the heritage value of the hedges is that historic maps show them as part of the setting to Pounce Hall. Mr Stephenson was happy to accept that the

³⁹ Mr Stephenson's Proof CD D13 at §5.7

⁴⁰ CD D26 §§2.49- 2.54

⁴¹ The images provided by the Rule 6 Party, Figures 5 & 6 in CD F4 Heritage Appendix CN 3 indicate that the proposed development, as that in place, is unlikely to be perceptible by those using the open space

hedges may fall within the asset's wider setting, but he made clear that they do not contribute to the heritage significance of Pounce Hall. Indeed, he explained that the hedge in question is not even visible from Pounce Hall and is likely to reflect a replacement due to more recent widening of Radwinter. Mr Frampton confirmed that the Hedgerows Regulations do not prevent granting planning permission.

54. Turning finally to **archaeology**, Mr Stephenson explained that evaluation across the main site area has confirmed low archaeological potential. One likely enclosure was identified in the north east of the site area through a geophysical survey. It is agreed with the Council's archaeology advisor that the likely nature of the remains and their limited extent make it acceptable to defer further investigation, secured by condition. This approach is consistent with national and local policy.
55. In conclusion, Ms Newell's evidence was untenable and out of line with basic heritage guidance, associating change with harm and asserting intervisibility where it simply does not exist. There is a gulf between her views and the consultation responses of the professional officers, who say there will be no harm to the significance of designated assets and make no objection.⁴² The reality is that there is at most only one instance of very minimal heritage impact at the lowest end of the scale to weigh in the balance.

Other Matters

56. The LPA and ECC have confirmed that the s.106 is now agreed and that it satisfies both the legal requirements and resolves the Council's objections set out in putative reason for refusal 5.
57. The Rule 6 Party has concerns regarding the deliverability of two obligations that it says are "necessary" to make the development acceptable, namely the western pedestrian /cycle path and the Tesco crossing.
58. Mr Elliott, the Appellant's transport witness, was clear in his cross-examination by Mr Kratz that, in his expert view, neither of these obligations is "necessary" to make the

⁴² See CD A105 and A112

development acceptable, having regard to the CIL Regulations. On the Tesco crossing, Mr Elliott said explicitly when asked if the crossing is necessary that “*if an appropriate scheme can’t be provided, there is still the existing pedestrian crossing*” and that “*the [appeal] scheme **could still proceed** without those works*”. As to the western cycle link, when asked if that was necessary having regard to the CIL tests, Mr Elliott was equally clear: “***it is not necessary** for the development to proceed – the development is still accessible*” and “*the scheme makes reasonable provision for pedestrian and cycle access without [it].*”

59. Mr Elliott then faced further questioning from Mr Burton. Mr Burton put to Mr Elliott that the package of mitigation measures identified at §5.1 in the Transport Statement of Common Ground (“SoCG”) were necessary. Mr Elliott agreed that they were necessary, but on this occasion he was not taken through them one by one.
60. Mr Frampton’s evidence was that there is all likelihood, in any event, that the link can be secured. It is in the adjacent landowner’s clear interest to do a deal, and the best way to achieve that is not through a Grampian condition, which would lead to a ransom strip situation. Mr Frampton also make clear that if the Council does indeed consider the link to be necessary in the interests of good planning, it could acquire the land itself compulsorily for minimal value if and when a permission is granted.
61. The reality is that on the Rule 6 Party’s case, the entire development and the substantial and urgent affordable and market housing benefits it brings to a District facing a serious housing crisis, should be refused on the basis of provision of a pedestrian link to an adjacent development on land outside the Appellant’s control, in circumstances where the site is already accessible by foot and bicycle via the Radwinter Road. That cannot be correct.
62. As to other matters raised, on the first day of the Inquiry, the Rule 6 speaker Mr Knowles and a local resident both expressed a concern about pressure on school places. However, ECC has assessed the situation and decided not to seek a secondary school contribution, and as to primary schools, the developer is providing the amount

requested.⁴³ The Appellant is not denying that it may already be challenging for some parents living in Swards End to ensure their children get into their first choice school – but that is the reality everywhere in this country. The appeal scheme cannot solve for all local problems that it does not create.

63. Flooding was also a concern of two local residents. Mr Frampton explained to the Inquiry in response to a question from the Inspector that the appeal site is wholly within flood zone 1, so at the least probability of flooding. The same amount of rain will fall on the site with the development in place. The issue with built development is the rate of runoff. Modern developments are required to hold back enough discharged water to ensure no worsening of the existing runoff rate. In this case, the storage areas and attenuation proposed will actually result in a lower prospect of offsite discharge with the development in place. Any fears are thus unfounded.

64. Indeed, the Inspector will note the remarkable extent of support from statutory consultees for the scheme. All technical matters are now agreed with the relevant consultees: from flood risk and drainage to noise and air quality.

Approach to Development Plan

65. Turning then to planning matters. As we all know, pursuant to s.38(6) of the Planning and Compulsory Purchase Act 2004, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

66. Critically, this is a case where the tilted balance in paragraph 11(d) of the NPPF applies by virtue of footnote 8. The result is that the Inspector should be “*disposed to grant the application unless the presumption [in favour of sustainable development] can be displaced*”.⁴⁴

67. The first limb of paragraph 11(d) relating to protective policies that provide a clear reason for refusal does not apply here. That is because of the clear result of the heritage

⁴³ECC Infrastructure Consultation at CD A114

⁴⁴*Suffolk Coastal DC v Hopkins Homes Ltd & Richborough Estates* [2017] UKSC 37 at §85

balance under §202 of the NPPF. Mr Frampton has placed great weight and considerable importance on the very low level of harm identified by Mr Stephenson.⁴⁵ However, Mr Frampton told the Inquiry that the public benefits “stratospherically” outweigh that heritage harm. In his view, the 93 households facing the social misery of not having a home and who could secure affordable housing through this scheme would find it incredulous that their homes could be denied because of new traffic lights at one junction, which in turn will assist with traffic movement.

68. Because the heritage balance is satisfied, the presumption can only be displaced, pursuant to 11(d)(ii), if the adverse impacts would significantly and demonstrably outweigh the benefits, assessed against the policies in the NPPF as a whole.⁴⁶ Those include protective policies, but also NPPF §60, which requires the significant boosting of housing supply.

69. The key development plan policies are contained within the Uttlesford Local Plan 2005 and are set out in the Statement of Common Ground.⁴⁷ Here, only reduced weight can apply to any conflict with these. That is firstly because the LPA agrees that because of the lack of 5YHLS the most important locational and environmental policies are out of date.⁴⁸ As the Supreme Court has explained, “*if a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated.*”⁴⁹

70. The Local Plan is also out of date because it does not provide for or contemplate growth or housing needs beyond 2011.⁵⁰ Not only that, but its provision of land to meet needs up to 2011 was predicated on the Essex Structure Plan and the Regional Spatial Strategy for the East of England, both of which have been revoked. Again, according to the Supreme Court, the Inspector is entitled to conclude that the weight to be given to the restrictive

⁴⁵ See sections §4.2 of Mr Frampton Proof CD D1

⁴⁶ Contrary to Mr Kratz’ comments in Opening, 11(d)(ii) does not preclude consideration of development plan policies, see *Gladman Developments Ltd v SSHCLG* [2021] EWCA Civ 104

⁴⁷ CD B38

⁴⁸ CD B38 SoCG at §4.10

⁴⁹ *Suffolk Coastal DC v Hopkins Homes Ltd & Richborough Estates* [2017] UKSC 37 at §83

⁵⁰ That the Plan was out of date for this reason as well as lack of 5YHLS was accepted by Mr Dawes in cross-examination

policies is reduced to the extent that they derive from settlement boundaries that in turn reflect out of date housing requirements.⁵¹

71. In addition, Mr Frampton considers that key policies within the Local Plan are now inconsistent with the NPPF 2021, in particular Policy **S7**, which seeks to protect the countryside for its own sake, and Policy **ENV5**, which requires a sequential approach to best and most versatile agricultural.⁵²

72. The plan-making process to replace the Local Plan is not going to resolve the deficiency in housing land supply promptly. Anticipated programmes for plan-making are invariably optimistic, and at best the Council is not predicting a plan-led approach to housing to be in place until 2025.⁵³

73. In light of all these considerations, the Appellant invites the Inspector to find that the weight given to Local Plan policies restricting housing must be much reduced.

Planning Balance

74. In this context, we then turn to the planning balance. This is a scheme where the adverse impacts do not outweigh, let alone demonstrably and significantly, the substantial benefits.

75. Although it is a material consideration, there is no conflict with the relevant emerging Saffron Walden Neighbourhood Plan policies in light of the mitigation proposed.⁵⁴

76. There is some inevitable conflict with Policies S1 (settlement limits), S7 (countryside), and ENV5 (agricultural land). However, in a District lacking available brownfield land for housing, there is, realistically, an inevitable requirement to build on greenfield agricultural land outside existing settlement boundaries to re-establish a 5YHLS.⁵⁵ The Council

⁵¹ *Suffolk Coastal DC v Hopkins Homes Ltd & Richborough Estates* [2017] UKSC 37 at §63

⁵² See CD J5 Twynning §§7-9 and CDJ12 Appeal Ref: APP/C1570/W/19/3243744 – Land east of Elsenham, Inspector Wildsmith at §166 and

⁵³ Tim Dawes' Proof of Evidence CD E1 (§3.18) anticipates adoption Spring 2025

⁵⁴ INQ10 Saffron Walden Neighbourhood Referendum Plan 2021-2036 See §10.1.12 at p.65 and SW15 p. 71

⁵⁵ §§3.39-3.41 PJF PoE

agrees,⁵⁶ and in this light Mr Frampton considers that only **very limited weight** can attract to these conflicts.⁵⁷ Mr Stephenson has also found some less than substantial heritage harm at very lowest end of the spectrum resulting from new traffic lights in the already-trafficked town centre Conservation Area that needs to be weighed in the balance.

77. The Rule 6 Party Scott Schedule identifies a number of additional alleged concerns beyond those dealt with at the Inquiry itself. Mr Frampton is clear that none of these amount to valid planning reasons for refusal. He has carefully addressed each and every one of the matters raised in his Proof, and that analysis is not repeated here.⁵⁸

78. Turning then to the benefits of the scheme, these are significant and cover all three dimensions of sustainability.

79. The **social benefits** are not just the provision of **market housing** in the context of the agreed significant shortfall and ongoing housing crisis, but also the provision of **affordable and custom-build housing**.⁵⁹ Lack of 5YHLS is not a matter of simple theoretical consequence, but has severe social consequences for people who are unable to secure the homes they need. The revised NPPF is clear that local authorities should deliver a mix of housing sizes, types and tenures for different groups, which include “*those who require affordable housing, families with children... people who rent their homes and people wishing to commission or build their own homes*” (§ 62).

80. Mr Stacey’s evidence speaks for those whose voices are rarely heard at public inquiries. His oral evidence on the local context for the appeal scheme was that:⁶⁰

- a. there is no doubt that there is a severe housing crisis nationally;
- b. home-ownership is generally excluded from those who do not have parental help;
- c. there is a particularly acute affordability crisis locally, with substantial numbers on the housing register, rising waiting times, rising affordability ratios (the median

⁵⁶ CD A226 at §9.4

⁵⁷ Detailed analysis in Mr Frampton’s Proof CD D1 at §§3.18-3.29

⁵⁸ See sections §§3.30-3.83 of Mr Frampton Proof CD D1

⁵⁹ At 3.52 years set against a minimum requirement of 5 years, the LPA accepts that they face a “significant shortfall – see CD E1 Mr Dawes’ Proof at §3.21

ratio in Uttlesford stands at 13.40 compared to a national average of 8.04), and rising house prices and rents;

- d. local residents are mostly unable to afford local prices, resulting in younger workers and families having to move away to cheaper districts;
- e. the Council has recognised that there is problem of hidden homelessness, and Mr Stacey has identified that there are some 1,268 on the housing register, of which 461 had expressed a preference for Saffron Walden and 94 for Swards End Civil parish; and
- f. annual delivery of affordable homes is predicted to decrease over the next five years.

81. Mr Stacey stated that he had confidence that every one of the affordable homes (up to 93) would be occupied by someone in need.

82. In short, the evidence illustrates that this is an authority in the depths of an affordable housing crisis, and one in which urgent action must be taken. The appeal scheme offers 40% affordable housing, in accordance with Policy H9, which will make a significant and tangible impact to the lives of real households in need. This is a compelling material consideration that weighs in favour of this scheme and it is agreed with all parties that it must be accorded **substantial weight**.⁶¹

83. As to self and custom-build housing, Mr Moger's uncontested Written Statement refers to a "*substantial unmet demand*" for self-build and custom plots within Uttlesford.⁶² He finds that for the Council to meet its statutory duty, this would require a minimum of 198 plots to be permissioned within the next three months. In light of this shortfall, Mr Moger and Mr Frampton agree that the proposed seven custom-build plots also attract additional **substantial weight** in the balance.

84. The **economic benefits** include direct and indirect job creation through construction, and also significant household expenditure of new residents. This is a fairly large

⁶⁰The detail and supporting evidence is set out in Mr Stacey's Proof CD D7

⁶¹ §5.20 of Mr Dawes' Proof CD E1

scheme for up to 233 dwellings and given the current economic circumstances, the economic benefits should be afforded further **moderate weight**. This is agreed with the LPA.⁶³

85. As to the **environmental benefits**, the Parameter Plans present an opportunity to achieve a significant biodiversity net gain of circa 13% measured against Defra's Metric 3.1.⁶⁴ Agreed Condition 18 also requires the development to achieve net gain of at least 10%. This too attracts further **moderate** weight (Mr Dawes gives it "modest" weight).⁶⁵

86. Mr Frampton also gives additional **moderate** positive weight to the wider public benefits arising from the s.106, in particular the provision of the very extensive town-wide public open space (more than two and half times the policy requirement), the bus services contribution, and the car club contribution.⁶⁶

87. In short, this is a powerful set of benefits weighed against only very minimal harm. Inspectors, including very recently Inspector Woodward at Stotfold, have repeatedly recognised the weight that can be given to such a strong package.⁶⁷ Mr Frampton concluded in examination-in-chief that the adverse impacts do not come near to outweighing the benefits, and that even on a straight balance material considerations would outweigh the development plan harm.

88. Prior to the Inquiry, the Rule 6 Party had undertaken no planning balance, presenting a one-sided case that entirely failed to consider these extensive public benefits. In Opening, we learnt that the Rule 6 Party accepts the tilted balance applies. Despite this, Mr Kratz in Opening asserted that the housing would only be a "limited" benefit (he later agreed it should attract substantial weight) and that this would be demonstrably and significantly outweighed by "*the awful [heritage] impact on an historic market town*". With respect, this analysis is wholly unreasonable and unjustified by any of the evidence.

⁶² CD D19 §§4.3-4.5

⁶³ §5.21 of Mr Dawes' Proof CD E1

⁶⁴ Assessment at Appendix 7 of Mr Frampton's Proof CD D21

⁶⁵ §3.17 of Mr Frampton's Proof CD D1. Mr Dawes says "modest"

⁶⁶ §3.14 and §3.17 of Mr Frampton's Proof CD D1

⁶⁷ Including public open space and self-build. Appeal Ref 3289401, 31st August 2022

Conclusion

89. In conclusion, it is abundantly clear that there is only a very limited impact in terms of the environmental dimension of sustainability to be weighed against a number of very significant benefits in social, economic, and environmental terms. Chief among them, but certainly not exclusively, is the provision of much needed market and affordable housing.
90. So for the reasons set out above, and for the many compelling reasons articulated by the Appellant, the Inspector is invited to allow the appeal.

13 SEPTEMBER 2022

CHRISTOPHER YOUNG KC

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BARRISTERS
CHAMBERS

IN THE MATTER OF

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

APP/C1570/W/22/3296426

**CLOSING SUBMISSIONS
ON BEHALF OF
THE APPELLANT**
