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## Appeal Decision

Inquiry held on 13 – 16, 20 July 2021

Site visit made on 19 July 2021

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

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

**Decision date: 21 September 2021**

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**Appeal Ref: APP/C1570/W/21/3271310**

**Land west of Pennington Lane, Stansted Mountfitchet, Essex CM24 8XU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Bloor Homes Limited, Bower Croft Limited and Oaks Croft Limited against Uttlesford District Council.
  - The application reference UTT/20/2121/OP is dated 19 August 2020.
  - The development proposed is outline planning application with all matters reserved except access for up to 168 dwellings (Class C3) including 40% affordable homes, public open space including local equipped area for play, sustainable drainage systems, landscaping and all associated infrastructure and development.
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### Decision

1. The appeal is dismissed and planning permission is refused for up to 168 dwellings (Class C3) including 40% affordable homes, public open space including local equipped area for play, sustainable drainage systems, landscaping and all associated infrastructure and development on land west of Pennington Lane, Stansted Mountfitchet, Essex CM24 8XU.

### Preliminary Matters

2. On 20 July 2021, the day the Inquiry closed, an updated National Planning Policy Framework (the Framework) was published. My decision reflects this, having first sought and considered the further comments of the parties over any implications for their respective cases.
3. As described above, the application was made in outline with all detailed matters reserved for later consideration apart from access. I have dealt with the appeal on this basis. A series of parameter drawings and an illustrative masterplan supported the original application. These were superseded at appeal by a single parameter plan (drawing no. 477-019 rev C). I accepted this revised plan under the Wheatcroft principles, and the appellants carried out local household consultation over this just prior to the Inquiry.
4. The appeal was made on 18 March 2021 against non-determination within the statutory period. The Council did issue a notice that same day, which provided six putative reasons for refusal (RfRs) had it been in a position to determine the application.
5. These RfRs refer to various policies in the Uttlesford Local Plan 2005 (LP) which is the part of the development plan relevant to this proposal. As subsequently

agreed with the appellants in a Planning Statement of Common Ground, conflict with LP policies GEN2 and GEN8 and the Essex Design Guide, cited in RfRs 1 and 5, is no longer relied upon by the Council. These policies cover detailed matters of design and car parking which are not part of this outline application.

6. The Council later conceded that the proposal could deliver a net gain in biodiversity and so found no conflict with LP Policy GEN7 in relation to nature conservation, as cited in putative RfR 5. The Council's evidence also clarified that it did not rely on conflict with either LP Policy ENV3, with regard to loss of open space and trees, or ENV8 over landscape elements of importance to nature conservation, as referenced in putative RfRs 1 and 5.
7. Reference is made within RfR 2 to the loss of agricultural land. However, LP Policy ENV5, which seeks to protect such land, was not cited within the RfR nor was it a ground subsequently relied on by the Council at the Inquiry.
8. An agreement pursuant to section 106 of the Town and Country Planning Act 1990 (s106) was completed between the appellants and Uttlesford District and Essex County Councils shortly after the Inquiry. The s106 provides for 40% affordable housing, five self/custom-build plots, public open space, a residential travel plan, off-site landscaping and financial contributions towards education, health, libraries, public transport and off-site highway works. Subject to the completion of the s106, the Council's case did not rest on conflict with either LP Policy GEN6, over the provision of supporting infrastructure, or H9, concerning affordable housing. Accordingly, putative RfRs 3 and 6 relating to these matters were not pursued at the Inquiry.
9. The s106 makes a financial contribution towards the delivery of off-site Strategic Access Management Measures to mitigate any indirect harm from increased recreational pressure to Hatfield Forest Site of Special Scientific Interest and National Nature Reserve, as sought under advice published by Natural England. The Council's evidence to the Inquiry confirmed that the mitigation proposed would address this particular matter.
10. The Council's putative RfR 4 reflected the holding objection then in place from the local highway authority (LHA). This was subsequently rescinded through the LHA agreeing to a range of off-site highway mitigation measures and financial contributions, securable either through conditions or the s106. On this basis, the Council found no outstanding conflict with LP Policy GEN1 in respect of the proposal providing safe and suitable access.
11. The Council's case was not one of principle due to the site falling outside the development limits established by the LP. Rather, as covered in putative RfRs 1, 2 and 5, its case related specifically to harm from the loss of open countryside important to the character of the area, and the setting of the Bentfield Green Conservation Area (BGCA) and other heritage assets in the vicinity.
12. The group Save Stansted Village (SSV), in combination with Stansted Mountfitchet Parish Council (SMPC), were awarded Rule 6 party status at the Inquiry and represented the views of many local residents. Along with its own evidence over landscape and heritage effects, the Rule 6 party addressed

further issues in relation to highway safety and capacity, foul and surface water drainage and education services.

## **Main Issue**

13. On the basis of the unresolved elements of the Council's putative RfRs 1, 2 and 5, the main issue in this appeal is the effect of the development proposed on the character and appearance of the site and surrounding landscape, including the significance of the BGCA and other nearby designated and non-designated heritage assets in respect of their setting.

## **Reasons**

### *Site and surroundings*

14. Stansted Mountfitchet is one of the main urban centres within the otherwise largely rural Uttlesford District. It is set within countryside on the opposite side of the M11 motorway to London Stansted Airport, with the larger Hertfordshire town of Bishop's Stortford lying to its south.
15. The appeal site comprises some nine hectares of arable farmland, occupying adjacent parts of two fields that are separated by a dense tree belt. The appeal site lies alongside Pennington Lane, a narrow country road which runs along the outward edge of the built-up part of Stansted Mountfitchet to the north-west. Existing housing nearby comprises the twentieth century Hargraves residential estate and the more recent Walpole Meadows development beyond this. The northward extent of the appeal scheme corresponds roughly to that of the newly built Walpole Meadows development on the opposite side of Pennington Lane. The LP settlement boundary follows Pennington Lane up to the allotments north of Rainsford Road and returns across the northern edge of the Hargraves estate. The Walpole Meadows development and the appeal site lie outside the settlement boundary as currently defined by the LP.
16. Vehicular access to the proposed housing would be from an extension to Rainsford Road. This serves the Hargraves estate and currently ends at its T-junction with Pennington Lane. From this access point, the spine road serving the proposed development would turn to run roughly parallel with Pennington Lane, with areas of housing to either side as shown in the parameter plan.
17. The parameter plan indicates housing as either one or two storeys and set within broad landscaped margins. The landscaping shown also includes areas of native woodland, tree belts and new hedgerows. The tree belts and new hedgerows would also extend off-site, in some cases following reinstated field boundaries. A new permissive footpath running alongside fields west of the site is proposed to formalise that currently used by local residents. This would then join an existing permissive path in the countryside further to the north, which itself connects to a bridleway that runs back to Pennington Lane. The appeal site falls within a wider area of open farmland beyond the settlement edged by Pennington Lane and Bentfield Green. From each end of these roads, footpaths run into the countryside that form a loop around this wider area.

### *Landscape character*

18. The appeal site is located within the Stort River Valley Landscape Character Area A3 (the LCA), as described in the Uttlesford Landscape Character Assessment (2006). The key characteristics of the LCA include a medium to

large scale landscape of gently sloping arable farmland, with a small to medium scale field pattern defined by hedgerows, tree belts, and woodland blocks in places. It refers to the landscape being relatively more peaceful and rural in character to the north of Stansted Mountfitchet, compared with its south. Open and continuous views are cited as frequent along slopes of higher ground and, as referred to in the LCA, Stansted Mountfitchet is visible across the farmland from the north.

19. In a local context, the appeal site lies within the valley slope to one side of Ugley Brook. This is a watercourse which runs through Stansted Mountfitchet and joins the River Stort as a tributary further south. In this context the farmland rises gently away from Pennington Lane up this valley side to a high point from where wider views of an open arable landscape beyond are evident and the built-up edge of Stansted Mountfitchet can be seen when looking back.
20. The LCA refers to the principal landscape sensitivity being the main Stort River Valley and the views afforded across it. I consider that the valley slope to Ugley Brook possesses its own landscape sensitivity as a part of this wider area, particularly in providing the immediate setting to the north west of Stansted Mountfitchet. As is common ground between the parties<sup>1</sup>, the appeal site does not comprise a valued landscape as defined and protected under paragraph 174 a) of the Framework. That said, I consider it to be rather more than just ordinary countryside. It has its own, albeit local value given its role of framing the settlement edge to this side of Stansted Mountfitchet, currently well-defined by Pennington Lane. The latter comprises a narrow country lane, without footways and street lighting and with natural verges backing up to hedges with occasional mature trees. It is both a scenic and strongly rural thoroughfare and, although housing already runs to one side, offers an experience of nature and the countryside adjacent to the built-up area. As such, this is an area that in my view is particularly sensitive to change.
21. In respect of the proposal's effects on the character and appearance of the site and surrounding area, a Landscape and Visual Impact Assessment (LVIA) was provided by the appellants, based on the parameter plan. The LVIA and the specialist landscape evidence given on behalf of the parties has been considered in reaching my conclusions.
22. Although the parameter plan provides wide planted margins to the development, with the housing set back further from the road than at Walpole Meadows, the proposal would nevertheless result in suburban development to both sides of Pennington Lane. Its hedged sides would be interrupted by the two pedestrian access points and, more significantly, the wider and more pronounced vehicular access from Rainsford Road. These access points would open up the site, revealing the large extent of development proposed within this part of the gently rising valley side. The conclusions of the Council's and Rule 6 party's landscape witnesses, over the proposals having a major adverse effect, seem to me reasonably based. Despite the wide margins allowed for planting, this development would cause a major change to, and have a substantially harmful impact upon, the rural landscape beyond Pennington Lane that currently provides a backdrop along this edge of Stansted Mountfitchet.
23. I recognise that the recently built Walpole Meadows development has breached the settlement boundaries defined in the LP and would have encroached into

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<sup>1</sup> See CD8.7 and CD8.15

what was also once open countryside. However, that site was contained between Pennington Lane and the B1383. In that context, the development could have been seen as comprising a relatively organic extension to the existing built-up area. In contrast, the scheme the subject of this appeal would encroach beyond the robust settlement edge provided by Pennington Lane, into an area less distinguishable from the wider farmed landscape of which it forms an integral part. In this context, the relatively less well-defined character of the appeal site would result in the scheme comprising a particularly stark and damaging incursion of suburban development into a landscape of open, arable countryside.

24. The proposal depends on a comprehensive landscape mitigation strategy to both define the site and soften the impact of housing in this rural setting. The strategy involves extensive planting, including native woodland copses and lengthy stretches of 10m wide tree belt, together with both new and infill hedgerow. The tree belts and reinstated hedged field boundaries extend well beyond the appeal site and further into the arable landscape. Agricultural intensification will have previously altered this landscape by grubbing up hedgerows to enlarge fields so as to accommodate modern farming practices. As such, there would be some benefits to both biodiversity and historic landscape character in the scheme both restoring some of these old field patterns and adding additional planting. However, these benefits would be heavily outweighed by the far greater degree of harm to landscape character caused by the introduction of a large amount of new housing into the undeveloped valley slope.
25. The LCA refers to tree belts as existing landscape features. Indeed, they are in this location, both dividing the appeal site and bordering the open edges of the southern field it part occupies. This entire southern field had been the subject of an earlier refusal of a scheme for up to 140 dwellings, which was subsequently the subject of an unsuccessful appeal<sup>2</sup>. In comparison with that proposal, this similar amount of housing is moved away from the BGCA and further north along Pennington Lane, straddling the tree belt that bisects the site and entering the relatively more open arable landscape beyond.
26. The stark incursion of this suburban scale development into the open landscape necessitates the further stretches of tree belt planting proposed, at both ends of the scheme and projecting beyond into farmland. Taking into account those mature sections that already exist, the extent of further tree belt planting required to screen this proposal would amount to these becoming over-dominant, appearing as unduly enclosing features, in sharp and harmful contrast to the generally more open landscape character of this wider area.
27. A degree of landscaping comprises a part of any well-designed proposal. I also have no reason to suppose, were the appeal to succeed, that the dwellings would be anything other than of intrinsically good quality design. However well designed though, this amount of housing, in this location, would comprise a discordant feature in the landscape, exacerbated by the incongruous amount of further tree belt planting required as screening.
28. For the above reasons, I lean strongly towards the opposing parties' assessment of the scheme having an overall major adverse effect on local landscape character, rather than the moderate adverse effect, reducing to a

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<sup>2</sup> Appeal Ref: APP/C1570/A/13/2201844 Land at Bentfield Green, Stansted Mountfitchet, Essex - January 2014

slight adverse effect after 15 years of maturing landscaping, claimed by the appellants on the basis of their LVIA. Despite the comprehensive landscape mitigation strategy, indeed partly because of this, the proposal would be highly intrusive, causing substantial harm to the established landscape character at this sensitive edge of settlement location.

#### *Visual effects*

29. The visual effects are assessed from along Pennington Lane and the field boundary footpaths that form a loop beyond the outer edge of the appeal site. As with landscape character, the visual impact of the development would be most pronounced at the settlement edge and along the adjacent stretch of Pennington Lane, where receptors would experience the closest views.
30. Pennington Lane would be closed as a through route for motorised vehicular traffic as part of the proposal. At the time of my visit, it appeared lightly trafficked but relatively popular with walkers, runners and cyclists. The proposed closures either side of the site entrance would, it seems to me, make this road safer and potentially even more popular with non-motorised users. Its closure is already being pursued through a prospective neighbourhood plan. The northern section of Pennington Lane has Protected Lane status and the heritage implications of this are addressed separately.
31. The appeal site, seen intermittently between hedgerow gaps along the adjacent section of Pennington Lane, provides kinetic views of open farmland. Such views would be relatively more sustained and appreciated by walkers, runners and cyclists, compared with motorists travelling at greater speeds and focussing on the road ahead. Such visual receptors, who appear to make frequent use of Pennington Lane, would be relatively more sensitive to the changes brought about by this proposal.
32. The visual impact would be greatest at the proposed site entrance at the end of Rainsford Road. This would create a new vista into housing development, where currently open farmland lies beyond a hedge. To either side of this entrance, the housing would be set back from Pennington Lane behind landscaped margins of a minimum 30m width. However, at least until whatever planting agreed had matured, there would remain intermittent views of the housing, including at the proposed pedestrian access points. Even should the matured landscaping completely screen the development in the sections between the entry points, there would remain the closing up of the intermittent views of open countryside. These form a valuable part of the general visual experience provided kinetically to road users travelling along this narrow, rural lane.
33. Viewpoint P7 of the Verified Views provided by the appellant, looking south at Pennington Lane, is a representative example of the proposal's visual effects along this route. I generally accept the conclusions of the Council's and Rule 6 party's landscape witnesses of, respectively, high negative and major adverse visual effects resulting from this scheme. This is rather than the appellants' assessment of, at most, a slight adverse impact. The loss of these countryside views from Pennington Lane would in my estimation give rise to a substantial degree of visual harm.
34. Further north along Pennington Lane there is a bridleway running off in a westerly direction. This continues up the shallow valley side, from where the



appeal site features in more distant, panoramic views to the south. There is a middle-distance hedge partially intervening, but views across the farmland to the settlement edge are otherwise quite open, from where the Walpole Meadows housing is partially hidden within surrounding trees and vegetation. The proposal would extend housing across Pennington Lane and further into this panoramic view towards Stansted Mountfitchet.

35. The parameter plan provides for a 10m tree belt along the north boundary of the appeal site. This would continue into the open landscape to connect with an isolated woodland block. On maturity this tree belt could screen the development, restricting open views towards Stansted Mountfitchet from along this bridleway. I do not accept the appellants' conclusions that, once operational for 15 years, the overall visual effects of the proposed housing would not be significant. For walkers and horse riders, relatively sensitive visual receptors, the proposal with its tree belt screening would still have a significant adverse impact by foreshortening views across open farmland.
36. Beyond the ridge, the bridleway descends the opposite valley slope and a permissive path then turns south. Eventually views would emerge across farmland of the outer edge of the housing proposed, from where the permissive path is extended as part of the proposals. Screening would be provided by another tree belt across the intervening arable field. Beyond that, historic hedges would be reinstated, with copse and other planting along the currently undefined and curved outward edge to the site. Continuing along this currently informal path, existing tree belts then obscure views of the southern part of the site. Where this is visible from gaps to the ends of these, on the approach to Bentfield Green, the southern edge of the housing would then be screened by another tree belt, as along that to the north.
37. The mitigation of adverse visual impacts on the more distant views of the scheme from the paths that loop the arable landscape to the north and west depend primarily upon further tree belt planting. Whilst these are referenced as features within the LCA, this scheme relies on substantial further sections to screen what would otherwise be a visually prominent incursion of development in the open countryside. In my view, the reliance upon a lattice of thick tree belt planting itself creates an over dominant feature in a generally quite open landscape. Should this eventually block views of the development, there would remain the significant visual harm from this scheme foreshortening the currently more open public views of the countryside edging Stansted Mountfitchet.
38. Leaving the fields and continuing the circuit, public views of the proposal would be screened from Benfield Green by the development along its northern side. The housing would only become evident once reaching Pennington Lane, where the visual impacts have already been discussed. Taken as a whole, the development of housing on these arable fields would have a substantially adverse impact upon the existing public views towards and across the appeal site from surrounding routes.
39. Concluding on the visual effects, and the landscape considerations addressed in the preceding section, there would be conflict with LP Policy S7, in respect of the scheme's appearance not protecting or enhancing the particular character of the part of the countryside where it is proposed.

### *Heritage assets*

40. The Grade II Wealden-style house at 16-18 Bentfield Green (the Wealden house) is a medieval timber-framed building, significant mainly for its architectural and historic interest. Such interest is best appreciated in views from Bentfield Green, where the proposals would have a negligible impact on its setting. However, the property was historically a farmhouse associated with a wider land holding to the rear, falling partly within the appeal site. The appeal scheme would reduce the extent of farmland, impacting on the historic functional relationship of that land with the listed house and which, as part of its setting, comprises an element of its significance. There is thus a degree of harm that conflicts with LP Policy ENV2, which requires that development affecting listed buildings be in keeping with their scale, character and surroundings.
41. The significance of the BGCA relates to the historic core of buildings facing onto the Green, many either statutorily or locally listed. These form the nucleus of a once isolated village entirely surrounded by countryside. Through growth in more recent years, Bentfield Green now forms a part of the outer edge to Stansted Mountfitchet. Nevertheless, the undeveloped farmland to the north helps preserve a historic agrarian setting. As with the Wealden house, the proposal encroaches into this, harming the significance of the BGCA as historically a small, agricultural hamlet. The separation provided by the undeveloped farmland between the proposal and BGCA is, however, such that any harm would be at the lower end of the less than substantial range. Whilst the Council referred to conflict in this regard with LP Policy ENV1, that relates specifically to development within conservation areas. The appeal site lies well beyond the conservation area boundary and so I am of the view that this policy is not engaged in this instance.
42. From its northern stretch along the side of the appeal site and beyond, Pennington Lane has Protected Lane status and is identified as a non-designated heritage asset. Pennington Lane is significant as the historic route to Bentfield Green and its cluster of historic buildings, which now comprise the BGCA. The new entrance to the development, and the closures either side, as well as the housing along its undeveloped edge, would alter the historic rural character of Pennington Lane, as a part of the landscape and visual harm already discussed, with consequential, albeit limited harm to its heritage significance. That harm brings the development scheme into conflict with LP Policy ENV9, which addresses historic landscapes, including protected lanes, and states that development likely to harm these will not be permitted unless its need outweighs the historic significance of the site.

### *Other Matters*

43. The Rule 6 party and other local residents raised concerns over the effects of the proposal on local highway safety and capacity. Subject to off-site highway mitigation measures and financial contributions, securable either through conditions or the s106, the LHA had removed an earlier holding objection. No substantiated evidence was before me sufficient to demonstrate that there would be any unacceptable impact on highway safety or capacity, or the scheme would cause severe residual cumulative impacts on the surrounding road network.



44. The s106 secures the financial contribution sought by the local education authority (LEA) to mitigate for the proposal's impacts on school capacity in the area. The Rule 6 party expressed strong concerns over the potentially adverse effects of the proposal on Benfield Primary School, in respect of its current capacity and particular role in meeting special learning needs. However, the contribution satisfies the LEA, which is responsible for where developer school funding is applied across the local area. I am content, therefore, that the proposal makes adequate provision for any additional demand made on local education services and is acceptable in this regard.
45. The Rule 6 party also expressed concerns in respect of surface and foul water drainage. These were addressed in rebuttal evidence by the appellants. The Lead Local Flood Authority had raised no objection to the development Flood Risk Assessment and preliminary designs for surface water drainage, subject to appropriate planning conditions. I have no reason to take a different view.
46. Regarding foul water drainage, under the Water Industry Act 1991, the statutory undertaker responsible, in this case Thames Water, is required to provide network capacity and any necessary upgrades to facilitate the additional flows of the proposed development. There are no planning grounds for the proposal to be resisted due to any inability to adequately address foul water drainage.

#### *The benefits of the proposal*

47. It was a matter of agreement between the parties that the Council cannot demonstrate a five-year supply of housing land at the present time. The Council claims a supply of 3.11 years, with the appellant accepting this, with both agreeing this to be a significant shortfall. In that context, a lack of planned provision to address this in the short term and a reliance on permissions granted to similarly speculative housing schemes, means that the provision of up to 168 dwellings is a significant benefit. The scheme also gains support from the Government's objective of significantly boosting the supply of homes. Secured through the s106, the scheme's 40% affordable housing provision and five self-build plots enhance the benefits of the residential offer. I am satisfied that the scheme is deliverable within five years and that, in all, the housing supply benefits of this proposal attract significant weight.
48. The economic benefits of this housing scheme, based on the estimated creation of jobs through construction and its supply chain, along with increased household expenditure in the local economy, attract significant weight.
49. The environmental benefits of the net biodiversity gain provided by the scheme, both on and off site, are given modest weight. The health benefits of access to fully permissive paths and the improved safety and amenity for non-motorised users of Pennington Lane through the proposed closures gain similarly modest weight. The enhanced frequency of bus service through the estate is a benefit that may also be given limited weight.

#### *Planning Obligation*

50. The completed s106 provides for the matters covered in preceding paragraphs. Based on the Council's CIL Compliance Statement, and the advice from the LHA over its requirements, the obligations meet the tests of the CIL Regulations and are necessary to make the development acceptable in planning terms, are

directly related to it and fairly and reasonably related in scale. I am satisfied with the form, drafting and content of the agreement and have therefore attached weight to its provisions as appropriate, including the affordable housing provision and self-build plots.

### **Overall Planning Balance and Conclusion**

51. The indicators of weight I have used in the preceding paragraphs apply also to the following planning balance, running incrementally from negligible, limited, modest, moderate, significant to substantial.
52. Framework policies that protect areas or assets of particular importance include those relating to designated heritage assets. In coming to an overall view on the scheme, I need to undertake an 'internal' heritage balance. Paragraph 202 of the Framework requires that any harm to designated assets be weighed against the public benefits of the scheme, with paragraph 203 setting out that any harm to a non-designated asset is also to be taken into account having regard to the scale of such harm and the significance of the asset.
53. I have found harm to the heritage significance of the grade II listed Wealden-style house and the Conservation Area, albeit at the lower end of less than substantial. The harm in relation to the listed building brings the development into conflict with LP policy ENV2. The harm to the significance of the non-designated asset that is Pennington Lane would be limited. Nevertheless, that brings it into conflict with LP policy ENV9.
54. I am content that the significant public benefits that would arise from the appeal scheme, referred to in paragraphs 47-49, are sufficient to outweigh the designated heritage asset harm that I have identified. In respect of paragraph 11 d) i, the Framework policies that protect designated heritage assets would not provide a clear reason for dismissing the appeal.
55. In the absence of a five year supply of housing land, the most important policies for determining this appeal (LP policies S7, ENV2 and ENV 9) are out of date and the so-called tilted balance as set out in Framework paragraph 11 d) ii is engaged. In other words, permission should be granted unless the presumption in favour of sustainable development can be displaced. That is not to say, however, that any conflict with relevant policies should be disregarded. That will depend on their consistency, or otherwise, with the policies in the Framework.
56. I have found that the development proposed would have a substantial adverse landscape and visual impact, with corresponding harm to the character and appearance of the appeal site itself and the surrounding countryside. That brings the scheme into conflict with LP policy S7 over its requirements for development to protect or enhance the character of the countryside within which it is to be set. However, the further parts of this policy are out of date in light of the housing land supply situation, and inconsistent with the Framework in seeking to protect the countryside for its own sake and placing a general blanket restraint on building. Overall, I therefore afford only moderate weight to the policy S7 conflict.
57. Nonetheless, there would remain conflict with paragraph 174 b) of the Framework which requires that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty

of the countryside. There is conflict also with the Framework's environmental objectives, as an overall part of achieving sustainable development (paragraph 8), in making sufficient provision for conservation and enhancement of landscapes (paragraph 20 d) and achieving well-designed places through ensuring developments are sympathetic to local character, including the surrounding landscape setting (paragraph 130).

58. Regarding the conflict with LP Policy ENV2, the wording of this policy is now out of step with how the Framework applies protection to designated heritage assets, such as listed buildings. This requires an assessment of how any effect on the setting of the Wealden House might harm its significance. I concur with the main parties who broadly agree that whilst there would be some harm in this regard, it would be less than substantial, and at the lower end of that range.
59. Notwithstanding that the outcome of that internal heritage balance, a finding of less than substantial harm in relation to the designated heritage assets does not equate to a less than substantial planning objection. I am mindful that section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a legal duty to have special regard to the desirability of preserving the setting of the Wealden house in considering this appeal. In this regard, whilst less than substantial, I must give considerable importance and weight to the desirability of preserving this setting when carrying out the balancing exercise.
60. Policy ENV9 requires the need for the development to be balanced against the historic significance of Pennington Lane. It does not use the term non-designated heritage asset and differs with how the Framework now deals with these. In paragraph 203, the Framework requires the proposal's effect on the significance of a non-designated heritage asset to be taken into account. In weighing the proposal's direct and indirect effects, the Framework seeks a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. As a non-designated heritage asset, Pennington Lane would be at the lowest tier of importance as such, whereby its significance would weigh lightly against the need for the proposed housing. On the basis of this, and the reduced weight given to it through a lack of consistency with the more recent Framework, I find limited harm from the conflict with LP Policy ENV9.
61. The benefits of the scheme are significant. I am particularly mindful in this regard, of the market, affordable and self-build housing that would be provided at this time of undoubtedly pressing need. However, those benefits do not, even collectively, overcome the very substantial weight I attach to the harms identified as being consequential on the development proposed. In my view, the adverse impacts in this case significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.

62. Consequently, I dismiss the appeal and refuse planning permission.

*Jonathan Price*

Inspector

## **APPEARANCES**

### *FOR THE LOCAL PLANNING AUTHORITY:*

Josef Cannon, of Counsel  
He called

|                                    |                                                                         |
|------------------------------------|-------------------------------------------------------------------------|
| Alison Hutchinson MRTPI            | Partner at Hutchinson's Planning Consultants                            |
| Graeme Drummond                    | Director, Open Spaces Limited                                           |
| BSc(Hons) Dip LA, CMLI,<br>FArborA | Historic Environment Manager at Place<br>Services, Essex County Council |
| Tim Murphy IHBC MCIfA              |                                                                         |

### *FOR THE APPELLANTS:*

Chris Young, of Queen's Counsel  
He called

|                                                 |                                                              |
|-------------------------------------------------|--------------------------------------------------------------|
| Geoff Armstrong BA<br>(Hons) MRTPI              | Director, Armstrong Rigg Planning                            |
| James Stacey BA (Hons)<br>Dip TP MRTPI          | Senior Director, Tetlow King                                 |
| Andrew Williams BA<br>(Hons) Dip LA Dip UD CMLI | Director, Define                                             |
| Thomas Copp BA (Hons)<br>MA Assoc IHBC          | Director (Heritage), RPS Group                               |
| Matthew Last BEng (Hons)<br>MCIHT               | Director, Ardent                                             |
| Ben Hunter BA (Hons) Dip<br>MS                  | Consultant, Educational Facilities<br>Management Partnership |
| Tim Burrows, BEng (Hons)<br>MCIHT               | Director, Wormald Burrows Partnership                        |
| Toni Weston                                     | Gowlings WLG Solicitors                                      |

### *FOR RULE 6 PARTY SAVE STANSTED VILLAGE AND STANSTED MOUNTFITCHET PARISH COUNCIL :*

Simon Thompson BSc (Hons)  
He called

|                                              |                                    |
|----------------------------------------------|------------------------------------|
| Steven Stroud LLB MA<br>MSc(Oxon) MRes MRTPI |                                    |
| James Hogg BEng(Hons) CEng<br>FIMechE MCIBSE |                                    |
| John Black MSc Management                    |                                    |
| Peter Jones BA(Hons) (Oxon)                  |                                    |
| Jacqueline Bakker MLA CLMI                   | Senior Landscape Architect, Guarda |

*INTERESTED PERSONS:*

|                          |                     |
|--------------------------|---------------------|
| Councillor Alan Dean     | Ian Rossington      |
| Councillor Geoffrey Sell | Elizabeth McClymont |
| Councillor Ayub Khan     | Anthea Harrison     |
| Ruth Clifford            | Raymond Woodcock    |
| Michael Bacon            | L K Thain           |
| Nicky Folwell            | Ben Reed            |
|                          | Jonathan Fox        |

**DOCUMENTS HANDED UP DURING/AFTER THE INQUIRY**

- 1 Agreement pursuant to s.106 Town and Country Planning Act 1990 relating to outline application for up to 168 dwellings on land west of Pennington Lane, Stansted, Essex (Planning Application Reference UTT/20/2121/OP) - Essex County Council (1) Uttlesford District Council (2) Bower Croft Limited and Oaks Croft Limited (3) Bloor Homes Limited (4) – completed and signed 6 August 2021
- 2 Comments in respect of 2021 update to National Planning Policy Framework – Armstrong Rigg Planning for appellants dated 5 August 2021.
- 3 Opening and closing submissions on behalf of the Uttlesford District Council by Josef Cannon – 20 July 2021
- 4 Opening and closing submissions on behalf of Rule 6 Party Save Stansted Village and Stansted Mountfitchet Parish Council – Simon Thompson BSc (Hons) 20 July 2021
- 5 Opening and closing submissions on behalf of the appellants - Christopher Young QC and Nina Pindham, No5 Chambers – 20 July 2021
- 6 Finalised CIL justification with email from Essex County Council Highways dated 29 June 2021 and email from National Trust dated 30 June 2021 and Hatfield Forest SSSI NNR Mitigation Strategy May 2021

**INQUIRY CORE DOCUMENTS LIST**

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| <b>CD1.2</b>  | Air Quality Assessment, March 2020                                                           |
| <b>CD1.3</b>  | Arboricultural Impact Assessment, March 2020                                                 |
| <b>CD1.4</b>  | Archaeological Desk Based Assessment, April 2020                                             |
| <b>CD1.5</b>  | Biodiversity Checklist                                                                       |
| <b>CD1.6</b>  | Built Heritage Statement, April 2020                                                         |
| <b>CD1.7</b>  | Design and Access Statement, July 2020                                                       |
| <b>CD1.8</b>  | Interim Ecological Impact Assessment, March 2020                                             |
| <b>CD1.9</b>  | Flood Risk Assessment (incl. Drainage Strategy), March 2020                                  |
| <b>CD1.10</b> | Landscape and Visual Impact Assessment, February 2020                                        |
| <b>CD1.11</b> | Noise Assessment, March 2020                                                                 |
| <b>CD1.12</b> | Phase 1 Study, March 2020                                                                    |
| <b>CD1.13</b> | Planning Statement, June 2020                                                                |
| <b>CD1.14</b> | Statement of Community Involvement, July 2020                                                |
| <b>CD1.15</b> | Transport Assessment, March 2020                                                             |
| <b>CD1.16</b> | Utilities Statement, March 2020                                                              |
| <b>CD1.17</b> | Location Plan – Drawing No. 18018-07b                                                        |
| <b>CD1.18</b> | Illustrative Masterplan - Drawing No. 18018-06i                                              |
| <b>CD1.19</b> | Land Use Parameter Plan - Drawing No. 18018-08c                                              |
| <b>CD1.20</b> | Building Height Parameter Plan - Drawing No. 18018-09c                                       |
| <b>CD1.21</b> | Green Infrastructure Parameter Plan - Drawing No. 18018-11d                                  |
| <b>CD1.22</b> | Illustrative Landscape Strategy - Drawing No. JBA 19-180D                                    |
| <b>CD1.23</b> | Detail Access Drawing - Drawing No. E3927-700E                                               |
| <b>CD2</b>    | <b>Additional Amended Reports/Plans Submitted after Validation</b>                           |
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| <b>CD2.2</b>  | Updated Flood Risk Assessment, December 2020                                                 |
| <b>CD2.3</b>  | Updated Transport Assessment, February 2021                                                  |
| <b>CD3</b>    | <b>Representations Received during the Planning Application</b>                              |
| <b>CD3.1</b>  | Uttlesford District Council – Housing, 26 August 2020                                        |
| <b>CD3.2</b>  | Thames Water – 26 August 2020                                                                |
| <b>CD3.3</b>  | Essex County Council – Green Infrastructure, 8 September 2020                                |
| <b>CD3.4</b>  | Place Services (Essex County Council) – Archaeological Advice, 8 September 2020              |
| <b>CD3.5</b>  | Essex County Council – Lead Local Flood Authority, 2 September 2020                          |
| <b>CD3.6</b>  | Place Services (Essex County Council) – Historic Buildings & Conservation, 14 September 2020 |
| <b>CD3.7</b>  | Place Services (Essex County Council) – Ecology, 15 September 2020                           |



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| <b>CD3.8</b>  | Essex County Council – Libraries S106, 15 September 2020                                                                            |
| <b>CD3.9</b>  | Essex County Council – Energy & Low Carbon, 15 September 2020                                                                       |
| <b>CD3.10</b> | NATS Safeguarding, 11 September 2020                                                                                                |
| <b>CD3.11</b> | MAG London Stansted Airport, 17 September 2020                                                                                      |
| <b>CD3.12</b> | West Essex Clinical Commissioning Group – 7 October 2020                                                                            |
| <b>CD3.13</b> | Essex County Council – Education, 8 December 2020                                                                                   |
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| <b>CD3.15</b> | Essex County Council – Highways Authority, 21 December 2020                                                                         |
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| <b>CD3.19</b> | Save Stansted Village, 22 September 2020                                                                                            |
| <b>CD3.20</b> | Highways England, 29 September 2020                                                                                                 |
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| <b>CD3.22</b> | Quendon & Rickling Green Parish Council, 2 November 2020                                                                            |
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| <b>CD3.24</b> | Highways England, 2 February 2021                                                                                                   |
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| <b>CD3.26</b> | Stansted Mountfitchet Parish Council, 25 February 2021                                                                              |
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| <b>CD5.2</b>  | APP/C1570/A/13/2201844 – Land at Bentfield Green, Stansted Mountfitchet, Essex                                                      |
| <b>CD5.3</b>  | Committee report relating to outline planning application reference UTT/13/1618/OP – Land at Walpole Farm, Cambridge Road, Stansted |
| <b>CD5.4</b>  | Land at Bentfield Green, Stansted Mountfitchet - Transport Assessment (i-Transport for Taylor Wimpey, 2013)                         |
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| <b>CD6</b>    | <b>Planning Policy and Evidence Base</b>                                                                                            |
| <b>CD6.1</b>  | Uttlesford Local Plan 2005                                                                                                          |
| <b>CD6.2</b>  | Essex Design Guide – Essex County Council, 2018                                                                                     |
| <b>CD6.3</b>  | Development Management Policies (Highways) – Essex County Council, February 2011                                                    |
| <b>CD6.4</b>  | Uttlesford Local Plan 2005 – National Planning Policy Framework Compatibility Assessment, July 2012                                 |
| <b>CD6.5</b>  | Uttlesford District Council Local Plan: Local Development Scheme 2020, October 2020                                                 |

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| <b>CD6.6</b>  | Housing Delivery Test and 5 Year Land Supply Statement, January 2021                                                                                                                                                             |
| <b>CD6.7</b>  | Emerging Uttlesford Local Plan Issues and Options Consultation 2020 – Theme 8 ‘Homes’                                                                                                                                            |
| <b>CD6.8</b>  | Uttlesford Housing Strategy 2016 – 2021, January 2017                                                                                                                                                                            |
| <b>CD6.9</b>  | Homelessness Strategy and Review 2016 – 2021, April 2018                                                                                                                                                                         |
| <b>CD6.10</b> | Uttlesford Corporate Plan 2019 – 2023, 2019                                                                                                                                                                                      |
| <b>CD6.11</b> | West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA) 2015                                                                                                                                                |
| <b>CD6.12</b> | West Essex and East Hertfordshire Strategic Housing Market Assessment – Affordable Housing Update, July 2017                                                                                                                     |
| <b>CD6.13</b> | Self-build and Custom Housebuilding: Progress Report, December 2020                                                                                                                                                              |
| <b>CD6.14</b> | Uttlesford Local Plan Highway Impact Assessment: Assessment of Highway Impact of Potential Local Plan Sites - Essex Highways, October 2013                                                                                       |
| <b>CD6.15</b> | Uttlesford Local Plan Inspectors Report, January 2020                                                                                                                                                                            |
| <b>CD6.16</b> | Bentfield Green Conservation Area Appraisal and Draft Management Proposals, Uttlesford District Council, 2014                                                                                                                    |
| <b>CD6.17</b> | Uttlesford Landscape Character Assessment, Chris Blandford Associates, 2006                                                                                                                                                      |
| <b>CD6.18</b> | Historic Settlement Character Assessment, Uttlesford District Council, 2007                                                                                                                                                      |
| <b>CD6.19</b> | Protected Lanes Assessment, Essex County Council, March 2012                                                                                                                                                                     |
| <b>CD6.20</b> | Essex Landscape Character Assessment, Chris Blandford Associates, 2003                                                                                                                                                           |
| <b>CD6.21</b> | Uttlesford Strategic Flood Risk Assessment, May 2016                                                                                                                                                                             |
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| <b>CD7</b>    | <b>National Advice and Technical Guidance</b>                                                                                                                                                                                    |
| <b>CD7.1</b>  | Planning Practice Guidance (relevant extracts)                                                                                                                                                                                   |
| <b>CD7.2</b>  | Guidelines for Landscape and Visual Impact Assessment (3 <sup>rd</sup> Edition, 2013) (GLVIA3) – Landscape Institute/ Institute of Environmental Management and Assessment (only for screen use for the purpose of this Inquiry) |
| <b>CD7.3</b>  | Guidelines for Providing for Journeys on Foot - Chartered Institute of Highways & Transportation, 2000                                                                                                                           |
| <b>CD7.4</b>  | Fixing our Broken Housing Market – Housing White Paper, February 2017                                                                                                                                                            |
| <b>CD7.5</b>  | Planning for the Future - Policy Paper, March 2020                                                                                                                                                                               |
| <b>CD7.6</b>  | Planning for the Future – Planning White Paper, August 2020                                                                                                                                                                      |
| <b>CD7.7</b>  | Manual for Streets – Department for Transport, 2007                                                                                                                                                                              |
| <b>CD7.8</b>  | Manual for Streets 2 – Chartered Institute of Highways & Transportation, 2010                                                                                                                                                    |
| <b>CD7.9</b>  | Guidelines for the Environmental Assessment of Road Traffic – Institute of Environmental Assessment, 1993                                                                                                                        |
| <b>CD7.10</b> | TA79/99 Traffic Capacity of Urban Roads - Highways Agency, 1999                                                                                                                                                                  |
| <b>CD7.11</b> | How far do people walk? Wakenshaw & Bunn/WYG, 2015                                                                                                                                                                               |
| <b>CD7.12</b> | Home to school travel and transport guidance – Department for Education, 2014                                                                                                                                                    |

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| <b>CD7.13</b> | TRICS Guidance Note on changes in travel behaviour - TRICS/Basford Powers, 2019                         |
| <b>CD7.14</b> | Traffic Advisory Leaflet 2/04 – Department for Transport, 2004                                          |
| <b>CD7.15</b> | Technical Guidance Note 06/19 Visual Representation of Development Proposals, Landscape Institute, 2019 |
| <b>CD7.16</b> | National Character Area Profile 86: South Suffolk and North Essex Clayland, Natural England, 2014       |
| <b>CD7.17</b> | Better Planning, Better Travel, Better Places - Chartered Institute of Highways & Transportation, 2019  |
| <b>CD7.18</b> | Planning for Walking - Chartered Institute of Highways & Transportation, 2015                           |
| <b>CD7.19</b> | The Setting of Heritage Assets – Historic England Advice Note 2                                         |
| <b>CD7.20</b> | Statements of Heritage Significance – Historic England Advice 12                                        |
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| <b>CD8.6</b>  | Highways Statement of Common Ground (Appellants & UDC)                                                  |
| <b>CD8.7</b>  | Landscape Statement of Common Ground (Appellants & UDC)                                                 |
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| <b>CD8.10</b> | Appeal Form                                                                                             |
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| <b>CD8.12</b> | LPA Questionnaire (where not duplicated elsewhere)                                                      |
| <b>CD8.13</b> | S106 Agreement                                                                                          |
| <b>CD8.14</b> | Heritage Statement of Common Ground (Appellants & Rule 6 Party)                                         |
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| <b>CD9.2</b>  | Mr E Moore, Essex County Council – Libraries, 17 May 2021                                               |
| <b>CD9.3</b>  | Ms F Oakley, Stansted Resident, 17 April 2021                                                           |
| <b>CD9.4</b>  | Mrs P Bowes, Stansted Resident, 20 April 2021                                                           |
| <b>CD9.5</b>  | Mr R Woodcock, Stansted Resident, 25 April 2021                                                         |
| <b>CD9.6</b>  | Mr P Yarnold, Stansted Resident, 28 April 2021                                                          |
| <b>CD9.7</b>  | Mrs S McClymont, Sawbridgeworth Resident, 5 May 2021                                                    |
| <b>CD9.8</b>  | Mr B Meads, Stansted Resident, 25 <sup>th</sup> June 2021                                               |
| <b>CD9.9</b>  | Affinity Water, 1 <sup>st</sup> July 2021                                                               |
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| <b>CD9.19</b> | Mr P Oliver                                                  |
| <b>CD9.20</b> | Mr & Mrs Hedge                                               |
| <b>CD9.21</b> | Mr I Rossington                                              |
| <b>CD9.22</b> | Mrs N Rossington                                             |
| <b>CD9.23</b> | Mr V Ruff                                                    |
| <b>CD9.24</b> | Mr M Saul                                                    |
| <b>CD9.25</b> | Mrs A Thomas                                                 |
| <b>CD9.26</b> | Mrs T Thompson                                               |
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| <b>CD9.28</b> | Mrs A Campbell                                               |
| <b>CD9.29</b> | Mrs S Thrush                                                 |
| <b>CD9.30</b> | Mr M Vincent-Rogers                                          |
| <b>CD9.31</b> | Mr A Dockerty                                                |
| <b>CD9.32</b> | Mrs B Dockerty                                               |
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| <b>CD9.34</b> | Mr R Shervington                                             |
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| <b>CD9.39</b> | SSV Petition                                                 |
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| <b>CD10</b>   | <b>Additional Appeal Plans &amp; Documents</b>               |
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| <b>CD10.2</b> | Note to Accompany Revised Parameter Plan                     |
| <b>CD10.3</b> | Consultation Letter                                          |
| <b>CD10.4</b> | Consultation Responses to consultation on new Parameter Plan |
| <b>CD10.5</b> | Verified Views – V3D V3D 210601, June 2020                   |
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| <b>CD11</b>   | <b>Relevant Legal Authorities</b>                            |
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| <b>CD11.2</b> | Peel Investments (North) Limited [2019] EWHC 2143 (Admin)    |
| <b>CD11.3</b> | Gladman v Daventry DC [2016] EWCA Civ 1146                   |
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| <b>CD12</b>   | <b>Opening Statements</b>                                    |
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| <b>CD12.3</b>  | Opening Statement on behalf of the Appellants                             |
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| <b>CD13</b>    | <b>Third Party Statements</b>                                             |
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| <b>CD13.3</b>  | Statement by Nicky Folwell – 9 <sup>th</sup> July 2021                    |
| <b>CD13.4</b>  | Statement by Liz McClymont – 11 <sup>th</sup> July 2021                   |
| <b>CD13.5</b>  | Statement by Cllr Alan Dean – 12 <sup>th</sup> July 2021                  |
| <b>CD13.6</b>  | Statement by Cllr M Catton – 12 <sup>th</sup> July 2021                   |
| <b>CD13.7</b>  | Statement by Mr Rossington – 12 <sup>th</sup> July 2021                   |
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| <b>CD14.3</b>  | Graeme Drummond – Landscape Proof of Evidence                             |
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| <b>CD14.5</b>  | Tim Murphy – Heritage Proof of Evidence                                   |
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| <b>CD15.4</b>  | John Black & James Hogg – Education Proof of Evidence & Appendices        |
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| <b>CD15.6</b>  | Peter Jones – Highways & Access                                           |
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| <b>CD16.3</b>  | Andrew Williams – Landscape Proof of Evidence                             |
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| <b>CD16.5</b>  | Thomas Copp – Heritage Proof of Evidence                                  |
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| <b>CD16.11</b> | Ben Hunter – Education Rebuttal Proof of Evidence & Appendices                                    |
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| <b>CD17</b>    | <b>Other Documents / Miscellaneous</b>                                                            |
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| <b>CD17.3</b>  | Minutes of Highways Sub-Committee 2 <sup>nd</sup> June 2021, Stansted Mountfitchet Parish Council |
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