Town and Country Planning Act 1990 (as Amended)
Town and Country Planning (Inquiry Procedure) (England) Rules 2000

Appeal by Hallam Land Management Limited Against the Decision of East Hertfordshire District Council to Refuse to Grant Outline Planning Permission for:

Up to 600 Dwellings (C3), Elderly Accommodation (C3), Mixed Use Local Centre (Including Flexible Use E, F and Sui Generis), First School, Informal and Formal Open Space, Associated Works and Infrastructure Including a New Access from the A507 and Pedestrian Bridge over the A10, With all Matters Reserved Except Access

at

Land North of A507, West of A10 Buntingford, Hertfordshire

Proof of Evidence of Phillip E Hughes MRTPI on Planning Matters on Behalf of East Hertfordshire District Council

PINS Ref: 6008238

EHDC Ref: 3/24/0966/OUT

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Phillip Eric Hughes will say:

I am the Principal Director of PHD Chartered Town Planners Limited, a town planning consultancy that I established in 1995. I had also worked at a senior level in local government for 10 years in both Planning Policy and Development Control.

I have a Bachelor of Arts Honours Degree (BA [Hons]) in Town and Country Planning and have been a corporate member of the Royal Town Planning Institute (MRTPI) since 1990. I am a Fellow of the Royal Geographical Society as well as being a Fellow of the Royal Society for Arts. I also have a Diploma in Management Science (Dip Man), and I am a Member of the Institute of Management (MCMI). I am also a member of the Town and Country Planning Association (TCPA) and an affiliate member of the Royal Institute of British Architects (RIBA).

I have represented a wide variety of clients at appeals ranging from Local Planning Authorities (including LB Camden, RB Kingston, Spelthorne, Bedford, Hertsmere, Watford and Walsall Boroughs and Central Bedfordshire, Epping Forest and Bassetlaw Districts), Parish Councils (including Bovingdon, Loddington, Angmering, Bourne End and Tetsworth), to housebuilders (New Homes Estates Limited, MASMA Limited, Whittleworth Homes, MS Oaklands Limited, Fusion Residential, Henry Homes plc etc.), developers (Lanz Group, ACRE London, Mitre Property Management Limited, Mark Stephen Limited etc.), property companies (Orb Estates, Property Matters LLP, Property Matters LLC, Albermarle Property Investments plc), businesses (Super Toughened Glass Limited, Williams Tenders Limited, JIRWL, Hollywell Spring Limited), amenity groups (Anglefield Residents Association, Stopit Action Group, Paynes Lane Association, Hemley Hill Action Group, Birch Green Residents Group, Bury Gate Residents Association) and individual householders.

I have visited the appeal site and general locality on a number of occasions, and I am familiar with the policies applicable to the site. I am familiar with the local, national and regional planning policies relevant to this appeal. I first visited the appeal site ahead of accepting instructions in this matter.

The evidence that I have prepared and provide for this appeal has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

Phillip E Hughes BA(Hons) MRTPI FRGS FRSA Dip Man MCMI

1 Introduction

1.1. This appeal by Hallam Land Management ('**the Appellant**') relates to East Hertfordshire District Council's ('**the Council**') decision to refuse to grant outline planning permission for a *development of up to 600 dwellings (C3), elderly accommodation (C3), Mixed Use Local Centre (including flexible use E, F and Sui Generis), First School, informal and formal open space, associated works and infrastructure including a new access from the A507 and pedestrian bridge over the A10, with all matters reserved except access* ('**the proposed development**') at Land North of A507, West Of A10 Buntingford **('the Appeal Site').**

1.2. Planning permission was refused by decision notice dated 24 October 2025 for three reasons:

1. *Due to its siting, the proposals would be isolated and physically severed from the rest of Buntingford by the A10, with poor quality active travel connections to services within the town. As such the proposals are likely to be car dependent and result in increased vehicle trips and pressure upon the highway network. The proposals represent an unsustainable form of development and residents and visitors would be heavily reliant on the private car to access employment, main food and comparison shopping elsewhere. The proposals fail to provide a genuine choice of alternative travel modes and would not amount to sustainable development (in accordance with the NPPF) and would result in a form of development outside of the settlement boundary that amounts to a significant conflict with the Development Strategy within the District Plan and objectives of the Buntingford Community Area Neighbourhood Plan. The proposal would be contrary to Policies DPS2 and TRA1 of the East Herts District Plan (2018), policy HD1 of the Buntingford Community Area Neighbourhood Plan and paragraphs 110 and 115 National Planning Policy Framework.*

2. *The proposals by reason of scale, form, visual impact and siting on the west side of the A10 outside of the Buntingford Settlement Boundary, would intrude upon and have a significantly harmful urbanising impact upon the 'Cherry Green Arable Plateau' (LCA 141) character area within the East Herts District Landscape Character Assessment (2007). The development would also fail to preserve and value the Rib Valley setting of the Buntingford Community Area by virtue of the substantial presence of built form at the elevated parts of the landscape. As such the proposals comprise a substantial urban extension outside of and adjacent to Buntingford which encroaches into the rural area beyond the Green Belt. The development would therefore result in significant harm to the rural landscape character and would fail to recognise the intrinsic character and beauty of the countryside, conflicting with Policies GBR2 and DES2 of the District Plan (2018), Policies ES1 and HD2 of the Buntingford Community Neighbourhood Plan (2017) and paragraph 187(b) of the National Planning policy Framework.*

3. *The harms and policy conflicts identified are considered to significantly and demonstrably outweigh the benefits of the proposals in terms of delivery of new housing and other public infrastructure, having regard to NPPF paragraph 11d. As such the proposals fail to constitute sustainable development and would therefore conflict with the National Planning Policy Framework and Policies INT1, DPS2, GBR2, TRA1 and TRA2 of the District Plan (2018) and Policies BE2, ES1, HD1 and HD2 of the Buntingford Community Neighbourhood Plan (2017).*

> *4. In the absence of a completed legal agreement the application fails to secure appropriate financial contributions to infrastructure to off-set the impact of the development on local infrastructure or to provide any affordable housing, custom/self-build housing, or active travel provisions and public transport improvements. As such the proposal is contrary to policies TRA1, DPS4, DEL1, DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the East Herts District Plan 2018, policies of the Buntingford Community Area Neighbourhood Plan and the National Planning Policy Framework.*

1.3. A copy of the Council's Officer Report which recommended the above reasons for refusal and outlined the consultee responses is included at CD3.2 and the decision notice is at CD3.3.

1.4. The Appellant also submitted an outline application on land to the south of the A507, West Of A10 Buntingford for employment land development (reference 3/24/1255/OUT) which was also refused planning permission and is now the subject of another appeal that will be heard at an Inquiry opening in November 2026.

1.5. A copy of the decision notice and site location plan for application reference 3/24/1255/OUT is included at CD7.2.

1.6. For the reasons outlined in correspondence with the Appellant (see Appendix C to the Council's Statement of Case at CD6.1) the Council intends to call highway safety evidence to address issues associated with the highway and connectivity proposals associated with the present appeal. The Highway Authority's position on the safety implications of use of the at grade crossing articulated in respect of application 3/24/1255/OUT is self-evidently highly material to the present appeal. Consistent with the Council's position on application 3/24/1255/OUT relating to the same crossing proposals, and in reliance on the evidence of Kate Carpenter, I will be inviting the Inspector to dismiss this appeal on highway safety grounds.

1.7. Since the application the subject of this appeal was refused the Education Authority's position has evolved and firmed insofar as they no longer support the provision of a new school at the appeal site and thus land for a school would not be necessary and any such provision would fail the Regulation 122(2) tests. EFM on behalf of the Appellant wrote to the Education Authority pursuant to the discussion at the CMC and the indications in the Council's Statement of Case. I will review the weight to be given to the Appellant's offer of land for a new lower school which I understand is not supported by the Education Authority and thus a school (as opposed to the land) will not come forward.

1.8. Since the CMC the Appellant has provided some information in respect of the local centre, which I will review in allocating weight to such matters.

1.9. As previously noted, reference to Policy BE2 of the Neighbourhood Plan in reason for refusal 3 is an administrative mistake and should be disregarded.

1.10. I rely on the evidence of the following witnesses in undertaking my planning balance:

Mr Bobby Browne BSc (Hons) MA CMLI – Landscape and Visual matters
Mrs Kate Carpenter BEng CEng FICE FCIHT FSoRSA FSaRS – Highway Safety
Mr Richard Lewis BA(Hons) DipTP MRTPI MCIHT – Location and Connectivity

1.11. Where in this proof I discuss planning weight, I use the following scale:

Substantial
Significant
Moderate
Limited
None

1.12. I have used a variety of photographs in my statement. I have recognised where images are taken from Google Earth or Google Streetview and identified Google as the source - © Google.

1.13. Where I have included photographs, I took them in 2026 (PH); they are not taken to professional standard and are intended to assist the Inspector in appreciating the impacts I refer to overall in this statement.

1.14. I consider that any experiences of the site and surroundings are best done kinetically in visiting the site and surrounding area and not experiencing the environment in static viewpoints. Therefore, photographs and imagery are intended to provide a useful guide that may assist the Inspector when undertaking his site visit.

1.15. Any Ordnance Survey imagery is reproduced under licence from His Majesty's Stationary Office and Ordnance Survey (PHD - AC0000855692).

2 Site and Surroundings

2.1 The appeal site comprises 49.43 hectares of open rural countryside to the north of the A507 Baldock Road and the west of the A10 trunk road. The land is in agricultural use and comprises a significant area (almost 50 hectares) of best and most versatile agricultural land.

2.2 The site is bound to the north by Throcking Lane, to the east by the A10 (with Buntingford beyond), Buntingford Business Park and an area of woodland, to the south by the A507 Baldock Road and to the west by open agricultural land. There is agricultural land immediately beyond the site to the north, south and west.



The Appeal Site from Footpath 40 Looking North (PH)

2.3 There is a central ditch within the site, associated grassland, a small, wooded area and boundary hedgerows. The site is on undulating topography consistent with surrounding land, rising centrally before descending gradually eastward toward Buntingford, and the north-eastern boundary.

2.4 Open views from the A10 alongside the northern part of the appeal site are available over the appeal site as the boundary is delineated by a post and rail fence with some sparse intermittent scrub planting. Throcking Lane is generally open to the appeal site with extensive views available over the appeal site and surrounding countryside from Throcking Lane. Views from the northern part of the A10 are available over the appeal site.



Public Rights of Way in and Around the Appeal Site (Base Level © Google)

2.5 Two public rights of way cross the site: 'Cottered 41' passes through the north eastern extents of the site; and 'Cottered 40' runs east/west through the centre of the site and in conjunction with the existing footbridge over the A10 links with public rights of way within Buntingford to the east and a network of rural footpaths to the west. Footpaths 'Cottered 46' and 'Aspenden 10' are close to the site.

2.6 The closest settlement is Buntingford situated to the east of the A10. Buntingford is identified in the District Plan as being a small town located at the centre of a large rural area in the northern half of the district.

2.7 The appeal site is located within the civil parish of Cottered with the west boundary of Buntingford Parish delineated by the A10.



The Appeal Site Looking South West from the A10 Junction with Throcking Lane (PH)

2.8 Mr Browne describes the landscape, its character and the visual environment of the site and area and I adopt his description noting the site is located within Landscape Character Area 141, the Cherry Green Arable Plateau. The appeal site is also located close to Area 140 Ardeley/ Cottered Settled Plateau and Area 142 High Rib Valley. Mr Browne describes the site at Section 4.3 and concludes:

> *Taken together, these characteristics create a landscape that is overwhelmingly rural in nature. The combination of open agricultural land, varied topography, limited visual influence from adjacent employment development, minimal perception of strategic road infrastructure, and restricted glimpses of the settlement edge ensures that the appeal site is principally perceived as part of the open countryside surrounding Buntingford rather than as an extension of the existing developed area.*

2.9 Mr Lewis describes the connections and location of facilities relative to the site and I adopt his description, noting he describes the site as follows:

> *The site is not situated within the defined settlement of Buntingford, but rather to the west of it, separated from the main settlement by the A10 which runs north-south*



The A10/ A507 Roundabout Looking South from the A10 © Google

2.10 I have carefully selected the above image to show the roundabout junction and area of the proposed crossing when cars were absent from this part of the northern limb. In my experience that is not the usual position on the A10 and even if this Google image was taken a few metres north at the same time, then a number of vehicles are evident on the northern limb and at the junction (this obscuring a view of the junction itself).

2.11 Ms Carpenter describes the highway network and junctions relative to the site in particular the A10/ A507 roundabout and the at grade crossing to the north of that junction, and again I adopt her description. She identifies the A10 as a primary distributor road and the A507 as a main distributor road, whilst Throcking Lane is an unclassified road. She notes the 60 mph speed limit on the three roads abutting the appeal site.

3 The Application the Subject of this Appeal and Planning History

3.1 The application seeks outline planning application for development of up to 660 dwellings (including affordable housing and elderly accommodation – both C3), a mixed use local centre (including flexible use E, F and Sui Generis), land for a first school, informal and formal open space, associated works and infrastructure including a new access from the A507 and pedestrian bridge over the A10, with all matters reserved except access.

3.2 The application was accompanied by detailed plans showing the vehicular access to the site and measures for off-site highway works. An illustrative masterplan[1] and a Land Use Components Plan[2] were also submitted with the application as well as a number of plans purporting to be parameters plans[3].



Illustrative Masterplan

1 HLM082/029 Rev H at CD2.6
2 HLM082/018 Rev R at CD2.5
3 Including Building Heights Plan HLM082/036 Rev C at CD2.18 and Residential Density Plan HLM082/037 Rev D at CD2.19

3.3 537 letters of objection, 4 neutral responses and 5 letters of support were received in respect of the application. Objections were also received from Buntingford Town Council, Cottered and Throcking Parish Council and Westmill Parish Council.

3.4 Objections were received from the Council's Landscape Officer, Planning Policy team, Urban Design Officer and the Highway Authority and Archaeology Services. The Design Review Panel and Active Travel England did not support the application, and Thames Water noted the lack of current foul water treatment capacity. Copies of all responses were included with the Council's Questionnaire, and a summary of the responses was included in the Officer Report at Appendix A to the Council's Statement of Case.

3.5 Planning permission was refused for the four reasons set out in Section 1 and set out on the decision notice at CD3.3. The Planning History of the land in the vicinity of the appeal site is set out at section D of the Officer Report included at CD3.2.

3.6 The only update is to record that application 3/24/1255/OUT for the land south of the A507 and west of the A10 has been refused planning permission for the reasons set out below:

1. *Due to its siting and location, the proposals would be isolated and physically severed from the rest of Buntingford by the A10, with poor quality and unsafe active travel connections to the town. The provision of a signal-controlled crossing, at grade, located on the A10 in close proximity to the Baldock Road (A507/A10) roundabout due to its current road geometry, the characteristics of the traffic flows and unpredictable operation (of signalling) would create an unsafe environment for pedestrians, cyclists and other highways users. As such the proposals represent an unsustainable and unsafe form of development and would not be acceptable in highway safety terms. The proposals would not provide a genuine choice of alternative travel modes, would not ensure that safe and suitable access can be achieved for all users and would not amount to sustainable development (in accordance with the NPPF). The development would also result in a form of development outside of the settlement boundary, which in addition to the above harm identified, amounts to a significant conflict with the Development Strategy within the District Plan and objectives of the Buntingford Community Area Neighbourhood Plan. The proposal would be contrary to Policies DPS2, ED1, TRA1 and TRA2 of the East Herts District Plan (2018), policy BE2 of the Buntingford Community Area Neighbourhood Plan, policies 1 (The Transport Users Hierarchy) and 5 (Development Management) of the Hertfordshire County Council Local Transport Plan 4 (May 2018)), and paragraphs 110 and 115 National Planning Policy Framework).*

2. *The proposals by reason of scale, form, visual impact and siting on the west side of the A10 outside of the Buntingford Settlement Boundary, would intrude upon and have a significantly harmful urbanising impact upon the 'Cherry Green Arable Plateau' (LCA 141) character area within the East Herts District Landscape Character Assessment (2007). The development would also fail to preserve and value the Rib Valley setting of the Buntingford Community Area by virtue of the substantial presence of built form at the elevated parts of the landscape. As such the proposals comprise a substantial urban extension outside of and adjacent to Buntingford which encroaches into the rural area beyond the Green Belt. The development would therefore result in significant harm to the rural landscape character and would fail to recognise the intrinsic character and beauty of the countryside, conflicting with Policies GBR2 and DES2 of the District Plan (2018), Policies ES1 and BE2 of the Buntingford Community Neighbourhood Plan (2017) and paragraph 187(b) of the National Planning policy Framework.*

3. *The proposed development results in a conflict with Policies BUNT3, INT1, DPS2, GBR2, DES2, ED1, TRA1 and TRA2 of the District Plan (2018) and Policies ES1 and BE2 of the Buntingford Community Neighbourhood Plan (2017). Thus, the proposals fail to comply with the Development Plan as a whole. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004), the harms and policy conflicts identified are considered to significantly and demonstrably outweigh the benefits of the proposals in terms of delivery of new employment floorspace and other public infrastructure, having regard to NPPF paragraph 11d, which forms another material consideration. As such, the proposals fail to constitute sustainable development and would therefore conflict with the National Planning Policy Framework. The application of the tilted balance does not constitute a further material consideration which indicate a decision should be made otherwise than in accordance with the Development Plan.*



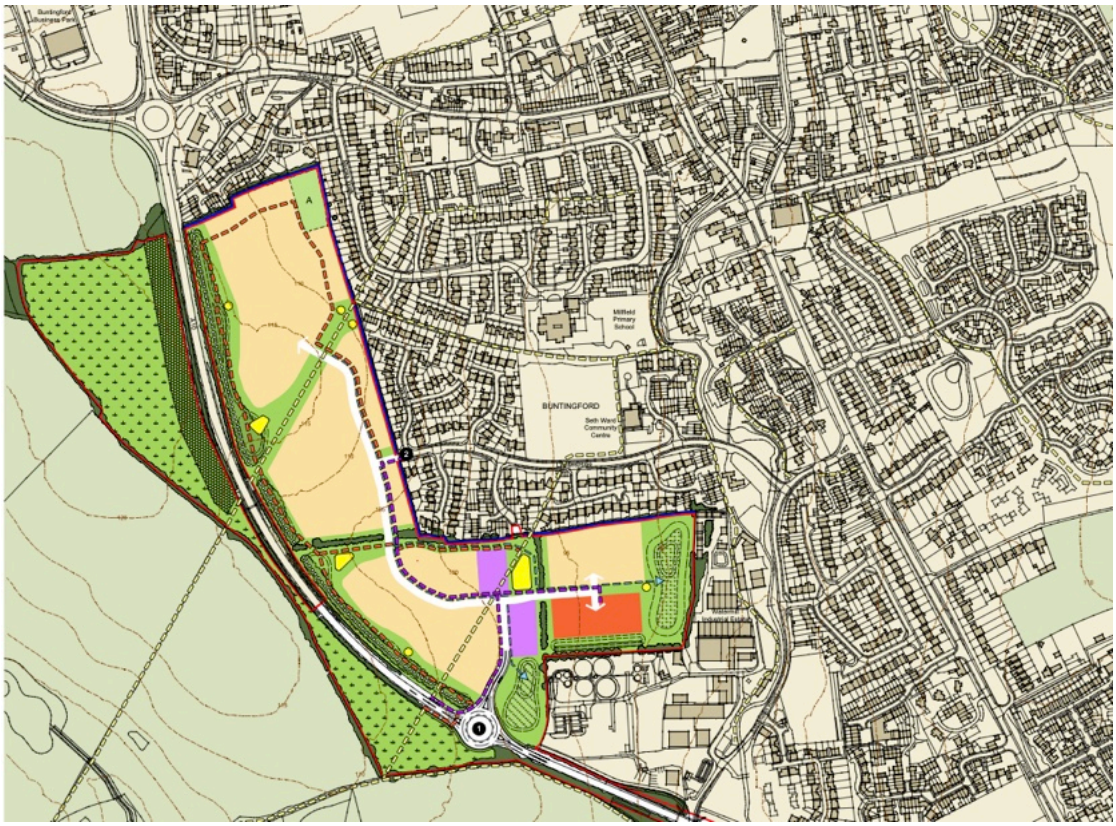
Illustrative Masterplan Application 3/24/1255/OUT

3.7 As noted in Section 1 and appeal has been submitted and that Inquiry is scheduled to open in November 2026. The implications for this appeal of the highway safety concerns raised in respect of that appeal are addressed above in Section 1 as well as in the proof of Ms Carpenter.

3.8 I would also draw the Inspector's attention to an appeal decision at land east of the A10 Buntingford for outline permission for up to 350 dwellings, 4400m^2 of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping. The appeal was allowed and planning permission was granted[4] on 22 August 2024.

[4] APP/J1915/W/24/3340497 at CD7.2

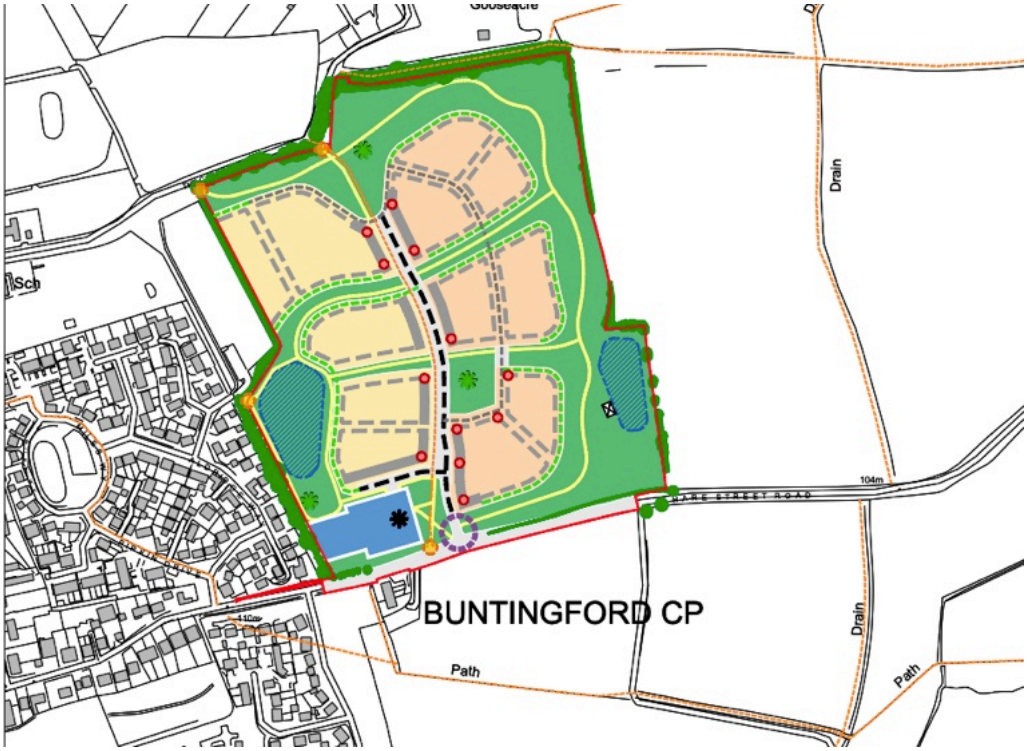
(a) A copy of that appeal decision is included at CD7.2 and below is an extract from the illustrative framework plan that accompanied the application the subject of that appeal.



Development Framework Plan 3/23/1447/OUT (a)

(b) I also note that there have been other residential developments in and around Buntingford including:

(b) A hybrid permission for 214 dwellings and a medical centre permitted at Land North of Hare Street Road Buntingford under reference 3/24/0294/OUT. This site is located to the east of Buntingford. Permission was granted subject to conditions on 12 February 2026, and a copy of the decision notice and masterplan is included at CD7.3.



Land Use Parameters Plan 3/24/0294/ OUT (b)

(c) Outline Permission has been granted for 58 dwellings at land North West of Buntingford (East of the A10) off Neale Drive (3/22/1030/OUT) in March 2024 and the reserved matters are before the Council for Consideration, copy of the decision notice at CD7.4.



Site Layout Plan (Rotated) from Reserved Matters Application 3/25/1921/ REM (c)

(d) Full permission was granted at appeal for 68 dwellings at London Road in Buntingford (ref 3/23/1390/FUL) on 2 May 2025, a copy of the decision notice and planning layout plan are included at CD7.5.



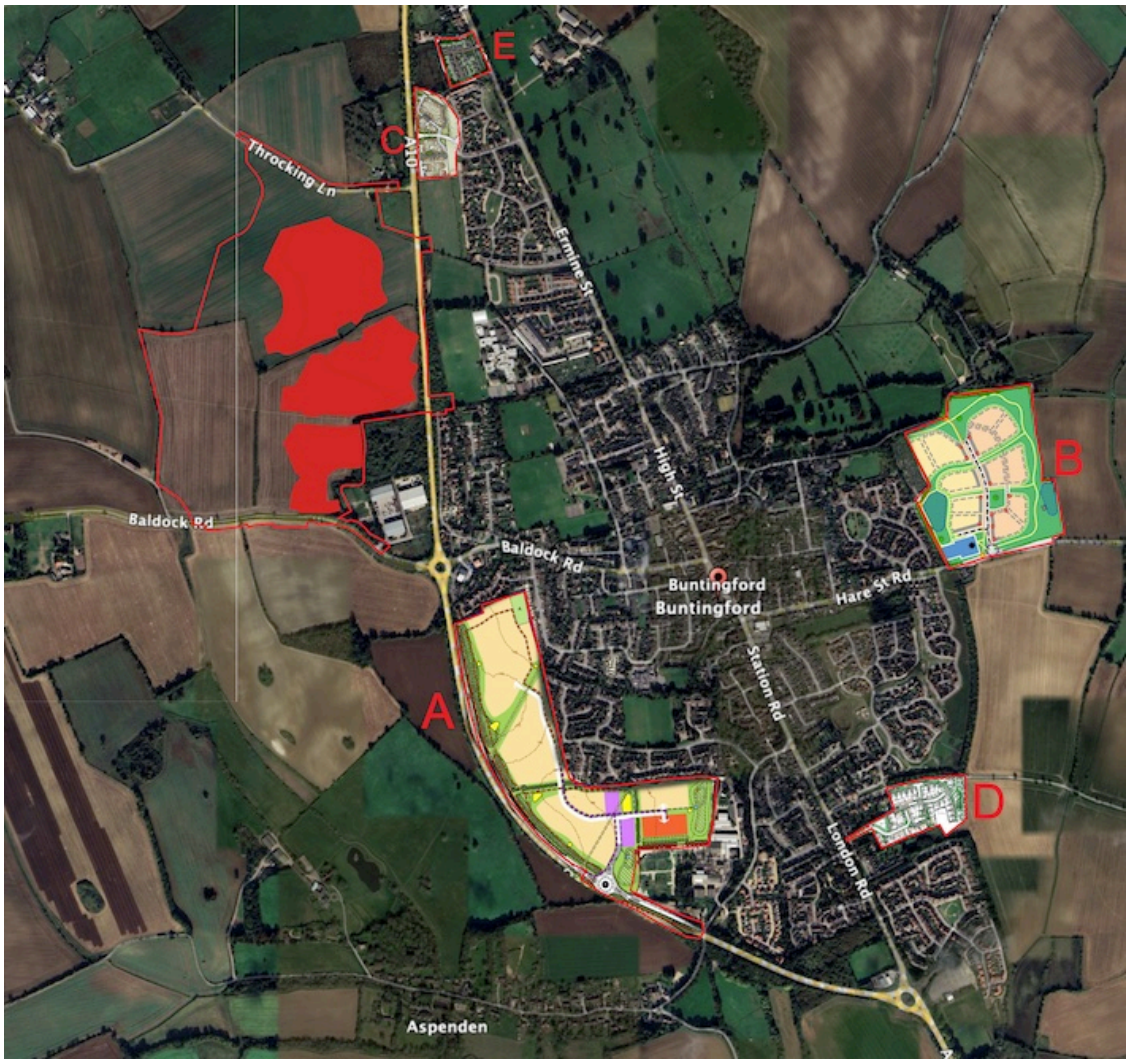
Planning Layout Plan 3/23/1390/FUL (d)

(e) In July 2026 the Council resolved to grant full permission granted for 25 dwellings at Toreen comprising land at the north of Buntingford and west of Ermine Street and east of the A10 Buntingford (ref. 3/25/1270/FUL). A copy of the plan is included at CD7.6.



Planning Layout Plan 3/25/1270/FUL (e)

3.9 Therefore, in the last few years over 700 dwellings have been permitted in and around Buntingford as shown on the plan at **Appendix PH1** and the extract below.



Approximate Location of Planning permissions (a) – (e) in and around Buntingford (Base Layer © Google)

4 Policy Context

4.1 The development plan comprises the East Hertfordshire District Plan 2011-2033 adopted 2018 ('**EHDP**') included at CD5.1 and the Buntingford Community Area Neighbourhood Plan 2014-2031, made May 2017 ('**BNP**') and included at CD5.2.

East Hertfordshire District Plan 2011-2033 adopted 2018 ('**EHDP**')

4.2 The Statement of Common Ground ('**SoCG**') at CD11.1 lists the relevant policies of the development plan[5] and the most important policies for determining this appeal include the following policies of the EHDP:

- INT1 Presumption in Favour of Sustainable Development
- DPS2 The Development Strategy
- DPS4 Infrastructure Requirements
- GBR2 Rural Area Beyond the Green Belt
- BUNT1 Development in Buntingford
- HOU3 Affordable Housing
- DES2 Landscape Character
- DES3 Landscaping
- TRA1 Sustainable Transport
- TRA2 Safe and Suitable Highway Access Arrangements and Mitigation
- HA1 Designated Heritage Assets
- HA3 Archaeology
- HA7 Listed Buildings

4.3 Given the housing land supply position, which I turn to later in this Proof, I accept that there is a case for the most important policies in relation to housing to be given reduced weight, but I cannot see how that could extend to those policies that seek to safeguard the intrinsic character and value of the countryside and the overall achievement of sustainable development as these remain in substance core policy objectives promoted in the NPPF.

4.4 Leaving aside the housing land supply position and its implications, I understand that the Court of Appeal[6] clarified that whether a policy is out-of-date (such that it might attract reduced weight) is a matter of planning judgement focused on consistency with national policy and other relevant changes. The relevant question is its consistency with the NPPF, not the age of a policy[7].

4.5 In determining whether a policy is out of date in this sense, the central consideration should be whether the policies have been "overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national

5 See Section 4
6 **Peel Investments (North) Ltd v SoSCLG** [2021] P.T.S.R. 298
7 **Wokingham BC v SOSHCLG**, [2019] EWHC 3158 (Admin)

policy, or for some other reason, so that they are now out-of-date". As such, the age of a development plan or policy is not itself determinative. Consistency with the current NPPF is the critical factor in assessing whether development plan policies should attract less weight in the context of undertaking the planning balance for the purposes of the presumption in favour of sustainable development[8].

4.6 As I detail in section 5, I consider Policy DPS2 to be a most important policy and one referred to in reasons for refusal and my case. Policy DPS2 sets out the Development Strategy which includes supporting development in accordance with the following Hierarchy of Development:

- *Sustainable brownfield sites;*
- *Sites within the urban areas of Bishop's Stortford, Buntingford, Hertford, Sawbridgeworth and Ware;*
- *Urban extensions to Bishop's Stortford, Hertford, Sawbridgeworth and Ware, and to the east of Stevenage, east of Welwyn Garden City and in the Gilston Area; and*
- *Limited development in the villages.*

4.7 Insofar as it relates to Buntingford the strategy is to develop brownfield sites and sites within its urban area. Urban extensions are to be located at settlements with the greatest range of facilities and transport options including railway stations, not Buntingford. Therefore, this part of the development strategy is consistent with the NPPF, which seeks to actively manage patterns of growth focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of travel modes.

4.8 Whilst DPS2 can be considered out of date in respect of the actual number of houses it advocates, the strategy of locating development at the most sustainable locations is consistent with national policy including the NPPF. Accordingly, I consider the development strategy insofar as it relates to the location of new development on brownfield land, within the urban area of Buntingford or in urban extensions to settlements not including Buntingford is broadly consistent with the NPPF and should carry significant, albeit not full, weight.

4.9 I also consider Policy GBR2 to be consistent with the NPPF. It is consistent with the Development Strategy which I have analysed above and seeks to allow certain forms of development in the countryside provided they are compatible with the character and appearance of the rural area. Such an approach is consistent with the NPPF which seeks to ensure decisions contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside (187b) and are sympathetic to local character including landscape setting (135c). Therefore, I consider this policy too should, carry significant, albeit not full, weight as it is broadly consistent with national policy.

[8] After Encyclopaedia of Planning Law and Practice 5-220.3.1 r

4.10 Policy DES2 relates to Landscape Character and requires proposals to demonstrate how they conserve enhance or strengthen the character and distinctive features of the district's landscape. The requirements of the policy are entirely consistent with the NPPF and paragraph 187b. Therefore, the Policy should be given full weight in the assessment of any proposals.

4.11 Other decision-making policies which are considered 'most important' in the context of para 11 of the NPPF include TRA1 and TRA 2 of the EHDP. Policy TRA1 relates to sustainable transport, requiring development to be located in places which enable sustainable journeys to be made, taking account of the local transport plan as well as ensuring that a range of sustainable transport options are available which may involve the improvement of pedestrian links, cycle paths, passenger transport network (including bus and/or rail facilities). Such a policy is consistent with Chapter 9 NPPF and in particular paragraphs 109, 110, 111,115 and 117. It should be given full weight.

4.12 Policy TRA 2 requires development to inter alia provide safe and suitable access and is again consistent with chapter 9 NPPF and should be accorded full weight.

The Emerging Local Plan

4.13 A review of the Local Plan has commenced but it is not envisaged that a document will be adopted until 2028/9. I agree that no weight can be given to the emerging Plan at this stage.

Buntingford Community Area Neighbourhood Plan 2014-2031 ('**BNP**').

4.14 The BNP was made over 5 years ago and does not allocate land for housing as such conflict with the neighbourhood plan would not merit application of paragraph 14 NPPF to conclude that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

4.15 The most important policies of the BNP comprise Policies HD1, HD2 and ES1.

4.16 Policy HD1 permits of residential development within the settlement boundaries of Buntingford and Cottered. Outside the settlement boundaries it allows for development consistent with Policy HD2 comprising *inter alia* small scale infill, rural exception sites for affordable housing and development that is needed within the countryside.

4.17 Policy HD2 requires new development to be sensitive to the landscape and not to impact adversely on views in the surrounding countryside, it then requires that:

> *All development proposals should demonstrate how they conserve, enhance or strengthen the character and distinctive features of the BCA landscape.*

4.18 Policy ES1 requires development to be appropriate to and maintain the Rib Valley setting of the Buntingford Character Area.

4.19 Policies HD2 and ES1 are consistent with NPPF 129, 135, 139 and 187 and can therefore be afforded full weight.

Other Local Documents

4.20 The SoCG also identifies relevant Supplementary Planning Documents and Other Guidance.

National Planning Policy Framework

4.21 The National Planning Policy Framework was revised in December 2024 ('**NPPF**'). The requirement to provide for the housing needs of the Borough and boost significantly the supply of housing is a long standing policy aim of Government included at §61 of the NPPF. The principle of Policy seeking to significantly boost the supply of housing as a matter of principle is not a matter in dispute between the parties.

4.22 The Local Plan exceeds five years in age and I accept on behalf of the Council (and such matters are common ground) that they are unable to demonstrate a five year supply of housing land, therefore policies most important for determining the appeal are out of date and as such the decision will need to be taken in the context of the presumption in favour of sustainable development pursuant to paragraph 11d of the NPPF (the so called *tilted balance*). I consider that the presumption is not disengaged by reason of 11(d)(i) and footnote 7 and therefore that means granting permission unless:

> *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."*

4.23 Footnote 9 relates to the relevant policies outlined in paragraph 11d ii of the NPPF and it states:

> *The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.*

4.24 In that context NPPF paragraph 66 relates to the provision of a mix of affordable housing on major development sites and paragraph 84 resists isolated homes in the countryside. Paragraph 110 requires significant development to be focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 115 expects inter alia sustainable transport modes to be prioritised and safe access to be achieved for all users and paragraph 117 sets out a number of expectations for new development including giving priority to pedestrian and cycle movement. Paragraph 116 states:

> *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios*

4.25 Paragraph 129 NPPF states inter alia:

> *Planning policies and decisions should support development that makes efficient use of land, taking into account:*
> *[…]*
> *d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
> *e) the importance of securing well-designed, attractive and healthy places.*

4.26 Paragraph 135 states that planning decisions should ensure developments *inter alia*:

> *c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
> *d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
> *and*
> *f) create places that are safe, inclusive and accessible and which promote health and well-being, […].*

4.27 Paragraph 139 states that development that is not well designed should be refused.

4.28 Paragraph 187 relates to the appeal site which comprises land outside any designated settlement, therefore part of the countryside and within an area of attractive landscape, where paragraph 187(b) of the Framework directs that decisions on planning applications should:

> *"contribute to and enhance the natural and local environment by:*
>
> *b) recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services …"*

4.29 Consistent with the *Cawrey*[9] judgment the *De Souza*[10] judgment, this 'recognition' of the intrinsic character and beauty of the countryside necessarily imparts a degree of protection to those matters. Such protection and the degree of protection will be commensurate to the circumstances of the countryside, its contribution and its condition and quality. In the case, having regard to the evidence of Mr Browne I consider that the degree of protection should be at a high level.

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9 ***Cawrey Ltd v SoSCLG*** *[2016] EWHC 1198 (Admin) paragraph 49*

10 ***Alwyn De Souza v SoSCLG*** [2015] EWHC 2245 (Admin), para 32.

Planning Practice Guide ('**PPG**') and National Design Guide ('**NDG**').

4.30 I have had cognisance of the Planning Practice Guide ('**PPG**') and National Design Guide ('**NDG**').

4.31 The National Design Guide ('**NDG**') identifies the role of context in design, and it notes:

> *"The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. […]"*

4.32 The NDG as referenced in the PPG sets out 10 characteristics and states that good design considers how a development can make a positive contribution to all 10 characteristics. The NDG notes the importance of context and identity in achieving well-designed places.

4.33 The first of the ten characteristics is context within which the role of good design is to enhance the surroundings. The NDG advises that well designed new development responds positively to the surrounding context and details a number of physical features including existing built development including layout form, scale etc.

5 The Council's Case

5.1 I have structured this section to address the correct decision making approach, the landscape and visual impacts on the area, the accessibility of the site and its connectivity to Buntingford.

Decision Making Approach

5.2 I accept, on behalf of the Council, that for the purposes of this appeal that they can only provide clear evidence to demonstrate a 2.88 years' supply of housing land for the period 2025/26 to 2029/30 and thus are unable to demonstrate a five year supply of deliverable housing land.

5.3 Therefore, given the Council's housing land supply position, the presumption in favour of sustainable development i.e. the so called *tilted balance* of NPPF 11(d) is engaged. Further it is accepted that the application of policies in the NPPF that protect areas or assets of particular importance[11] do not provide a strong reason for refusing permission for the development proposed and thus the tilted balance is not disengaged.

5.4 Therefore, the context for determining the application the subject of this appeal – and the basis on which I carry out my planning balance - is that permission should be granted unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

5.5 The appeal site comprises part of the countryside beyond any settlement and the western extent of Buntingford is clearly and unambiguously marked by the A10 trunk road or features to the east of the trunk road.

[11] Per footnote 7 to the NPPF

Principle of Development

5.6 The spatial strategy for East Hertfordshire is to direct development to the main towns of the district and outside those towns strategic development is to be accommodated to the east of Stevenage, east of Welwyn Garden City and in the Gilston Area. The strategic objectives of the EHDP include protecting the countryside from inappropriate development and the guiding principles of the development strategy include the protection and enhancement of the rural areas outside the allocated development areas.

5.7 Policy DPS2 sets out the Development Strategy which includes supporting development in accordance with the following locational hierarchy:

- *Sustainable brownfield sites;*
- *Sites within the urban areas of Bishop's Stortford, Buntingford, Hertford, Sawbridgeworth and Ware;*
- *Urban extensions to Bishop's Stortford, Hertford, Sawbridgeworth and Ware, and to the east of Stevenage, east of Welwyn Garden City and in the Gilston Area; and*
- *Limited development in the villages.*

5.8 Insofar as it relates to Buntingford the strategy is to develop brownfield sites and sites within its urban area. Urban extensions are to be located at settlements with the greatest range of facilities and transport options including railway stations, not Buntingford. Therefore, the development strategy is consistent with the NPPF, which actively manages patterns of growth focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of travel modes. In that respect I note the Examining Inspector for the EHDP noted:

> *The general approach towards directing growth to existing urban areas where there are good facilities and public transport opportunities, and limited development in less accessible areas is consistent with the overarching aim of the NPPF to provide sustainable development…Buntingford has limited services, infrastructure and poor transport links. However, the level of development already committed through the approval of planning applications is over 1,000 homes. Because of its poor infrastructure, no further housing sites are allocated… A very comprehensive and wide range of documents including SHLAA, SA, settlement appraisals, supporting documents, character, environmental, Green Belt, transport and infrastructure studies, support the choices made. They show a comprehensive and well considered evidence base, leading to a preferred approach which has been tested.*

5.9 The proposals comprise development of significant / strategic scale within the rural area beyond the Green Belt, outside any settlement within the countryside, on a site which is not allocated for development. The EHDP describes Buntingford as:

> *the only town in East Herts that is not served by a railway, and bus service connections to other settlements are limited, resulting in a reliance on the*

> *private car as a means of transport to access larger nearby settlements for employment and leisure purposes. However, this relative remoteness has enabled the town to retain its Market Town character… and therefore the development strategy for Buntingford is focused on seeking to ensure that the impacts of development can be mitigated and managed within the overall infrastructure of the town*

5.10 As such, the proposals would conflict with the District Plan Spatial Strategy as well as EHDP Policy DPS2 and Policy GBR2. In this regard the Inspector in the appeal at land to the East of the A10 described that site outside the settlement limits of Buntingford but within the A10[12] in the following terms:

> *The location of the site outside the settlement boundary and the absence of compliance with any of the identified exceptions in the policy means that there is conflict with the development plan and the strategy that underpins it. The proposal would conflict with Policies DSP2 and GRB2 of the District Plan, the provisions of which are identified above, and Policy HD1 of the Neighbourhood Plan which amongst other things restricts development outside settlement boundaries to small infill development in defined locations, affordable housing on rural exception sites and development for which there is a demonstrable need for a location in the countryside.*



The Appeal Site (Development Areas Shown in Solid Red) Base Image © Google

5.11 Furthermore, the separation of the site from Buntingford (it is located to the west of the A10 and thus separated from Buntingford by the primary distributor road) means it lacks integration with, and connectivity to, the settlement and its facilities. Therefore,

[12] DL7 of Appeal Decision APP/J1915/W/24/3340497 dated August 2024 at CD7.2

future occupiers of the proposed development could not conveniently access these services and facilities by sustainable modes (walking, cycling and buses). This contrasts with recently permitted schemes in and around Buntingford (where all the proposed dwellings are situated to the east of the A10 and not separated from the settlement by a main A Road.

5.12 In addition, the proposed at grade surface crossing of the A10 located north of the A507 roundabout is dangerous and leads to significant highway safety concerns that will of themselves lead to significant planning harm as well as further discouraging use of sustainable means of transport.

5.13 It is material to note that in the context of the development strategy and its provisions around growth at Buntingford, that over 700 dwellings have already been permitted in and around Buntingford in the last 2.5 years, i.e. since March 2024 (see section 3).

5.14 Overall, these harms are significant and weigh heavily against granting planning permission.

Landscape and Visual Impacts

5.15 Mr Browne sets out the Council's evidence in respect of the landscape and visual impact. I adopt his evidence in undertaking my planning analysis and balance.



The Appeal Site © Google

5.16 The appeal site forms part of the countryside rural area of East Hertfordshire wherein only restricted forms of development compatible with the character and appearance of the rural area are permitted in order to maintain it as a valued countryside resource. Mr Browne describes the site thus:

> *The site lies within the Cherry Green Arable Plateau (LCA 141) and displays many of the characteristics identified within the published character assessments. In particular, it forms part of a largely undeveloped agricultural landscape that contributes to the rural setting of Buntingford and the transition between the settlement and the wider countryside to the west.*

5.17 In describing and assessing the site itself he notes that whilst he does not consider it to comprise a valued landscape for the purposes of the NPPF (which I agree with):

> *it nevertheless possesses a range of attributes that contribute positively to landscape value, including its functional relationship with the countryside surrounding Buntingford, its recreational role through the Public Rights of Way network, its scenic qualities and its contribution to local landscape character. I assess the site itself to hold medium landscape value*

5.18 I have already shown that the development of up to 600 dwellings, 60 dwellinghouses for elderly persons and the related infrastructure and development conflicts with the spatial strategy of the adopted development plan as well as Policy GBR2.

5.19 The appeal site and surrounding area is currently characterised by an open arable landscape, offering extensive views across a gently undulating plateau. This rural setting forms a clear and attractive contrast to the built-up edge of Buntingford to the east with the A10 corridor providing a logical, clear, defensible and legible western boundary to Buntingford. In this respect in determining the appeal on land to the east of the A10 I note that the Inspector concluded[13]:

> *I am satisfied that the A10 would provide a buffer and defensible boundary between the urban edge and the countryside*

5.20 Development of the scale proposed within this rural area, beyond the existing settlement boundary, would be out of keeping with the prevailing landscape character and agricultural setting. Mr Browne notes:

> *The site, the character of the Cherry Green Arable Plateau, the adjacent landscape character areas and the footpath network all display a high susceptibility to development of the scale proposed. The site performs an important function in maintaining the distinction between the developed area of Buntingford and the countryside to the west and is therefore particularly susceptible to extensive urban expansion. Combining value and susceptibility, I assess the site and the principal landscape character receptors to be of high landscape sensitivity.*

5.21 Apart from the existing Business Park located to the east of the site (which was developed on the site of a former nursery and was treated as previously developed land), there is limited built development directly west of the A10. I consider the A10 to represent a legible, strong and defensible urban edge to the settlement of Buntingford which creates a strong sense of severance between the development site and adjacent settlement. Mr Browne assesses that:

> *The appeal scheme would result in the loss of a considerable area of agricultural land and would introduce a substantial urban extension onto the western side of the A10 […] [that] would replace the existing arable landscape. The proposals would fundamentally alter the existing character of the site and would significantly increase the urban influence experienced within the surrounding countryside.*

5.22 He assesses that the greatest effects would occur within the site itself and in respect of the experience on the PRoW network and that:

> *the appeal scheme would result in major adverse landscape effects on the character of the Site and its immediate surroundings during construction, at Year*

[13] DL20 of Appeal Decision APP/J1915/W/24/3340497 dated August 2024 at CD7.2

> *1 and at Year 15. Similarly, major adverse effects would occur on the character and experience of Footpaths 40 and 41, where extensive areas of open countryside would be replaced by built development and associated urban influences.*

5.23 In terms of the Cherry Green Arable Plateau (LCA 141), moderate adverse landscape effects are assessed by Mr Browne throughout the assessment period as they introduce substantial urban development into the host landscape character area eroding its established rural qualities. For the adjacent Ardeley/ Cottered Settled Plateau (LCA 140) and High Rib Valley (LCA 142), he assesses minor adverse landscape effects during construction, at Year 1 and at Year 15.

5.24 For the reasons set out by Mr Browne I conclude that this substantial development extending west beyond the A10 would be unacceptable in landscape character terms resulting in significant harm.



The Development West of the A10 (Base Layer © Google)

5.25 In visual terms Mr Browne generally agrees with the identified visual envelope and receptor groups but considers that the visual value of receptors, including footpath users and nearby residents, to be greater than that attributed by the Appellant. In terms of users of PRoWs within and adjacent to the appeal site he concludes:

> *I assess major adverse visual effects during construction, at Year 1 and at Year 15. Although mitigation planting would become established over time, it would not replace the existing open views across undeveloped countryside, nor would it prevent the development remaining a prominent feature in views from these routes. Pedestrians using nearby Public Rights of Way within 0.5 kilometres of*

> *the site would also experience substantial visual change. I assess major adverse visual effects during construction and at Year 1, reducing to moderate to major adverse effects by Year 15 as mitigation planting matures.*

5.26 In terms of closeby residents Mr Browne concludes that they would experience moderate adverse visual effects during construction and at Year 1 and residual visual effects of moderate to minor adverse by Year 15. For other receptors including road users and more distant residents and PRoWs he notes that the development would still be perceptible in a number of views and would contribute to an increased urban presence within the wider landscape.

5.27 He then concludes overall that:

> *Overall, it is my opinion that the appeal scheme would result in significant and permanent harm to the character of the appeal site and its immediate surroundings. This would erode the rural setting of Buntingford, weaken the role of the A10 as a clear edge to the settlement, and introduce a significant urbanising influence into the countryside west of the town. Whilst aspects of the mitigation strategy would provide localised landscape benefits, these measures would not offset the considerable adverse effects identified in relation to landscape character and visual amenity.*

5.28 The NDG is particularly focused on place-making and includes Context and Identity as central components of assessing good design. The NPPF identifies the need to create high quality, beautiful and sustainable buildings and places as fundamental to good design. Good design is a key aspect of sustainable development and bad design should be refused and contributes towards development that is not sustainable. The NDG advises that well designed new development responds positively to the surrounding context, that is not the case in the appeal scheme.

5.29 Accordingly, and relying on the evidence of Mr Browne, I consider that the proposed development would not comprise good design and fails to conserve, enhance or strengthen the character and distinctive features of the District's landscape and thus conflict with Policies GBR2 and DES2 as well as DES4 of the East Hertfordshire District Plan, Policies ES1 and HD2 of the Buntingford Community Area Neighbourhood Plan and paragraphs 129(d) and (e), 135(c) and 187(b) National Planning Policy Framework.

5.30 Given the evidence of Mr Browne, I agree that such harm is substantial having regard to the existing contribution of the site to the landscape character of the area and the permanent irremediable impact of the development to the character of the landscape and the significant adverse impacts on the visual amenity of the area enduring beyond 15 years. As such I consider **Significant weight** should be given to such harm.

Highway Safety

5.31 Ms Carpenter on behalf of the Highway Authority sets out the Council's evidence in respect of highway safety in particular with reference to the at grade crossing on the A10 north of the roundabout with the A507. I adopt her evidence in undertaking my planning analysis and balance. I note her conclusion that:

> *the proposals fail to provide sufficient evidence to demonstrate safe pedestrian and cycle routes for end-to-end journeys which meets the LTN 1/20 criteria.*

5.32 There are significant unresolved concerns regarding the operation, design, and highway safety of the proposed A10 toucan crossing. The findings of the most recent Road Safety Audit highlight persistent doubts about whether a safe and secure crossing can be successfully delivered at this location. In particular the location of a signalised surface crossing close to the A10/ A507 roundabout on the trunk road network as well as the effectiveness of localised speed reduction are not considered acceptable in highway safety terms. In respect of the proposed toucan crossing, she notes fundamental concerns about the deliverability and safety of the crossing noting that:

> *the proposed crossing is out of context with its surroundings and as such, likely to be subject to drivers failing to stop. Such non-compliance deters users as well as endangering them, compounding the safety and sustainability problems.*

5.33 As such, Ms Carpenter considers that the proposal is contrary to the objectives of the Local Transport Plan and I also consider the proposals to conflict with East Hertfordshire District Plan Policy TRA2 given it has failed to ensure that safe and suitable access can be achieved for all users in this application which includes details of access. It would also conflict with paragraphs 115 and 117 of the National Planning Policy Framework and permission should be refused on highway grounds due to unacceptable impacts on highway safety consistent with NPPF paragraph 116.

5.34 Given the evidence of Ms Carpenter relating to danger to the safety of pedestrians and cyclists crossing the A10, I agree that such harm is substantial given the risk to highway safety and the health and wellbeing of those using the crossing. As such, I consider **Substantial weight** should be given to such harm.

Connectivity to Buntingford

5.35 Mr Lewis sets out the Council's evidence in respect of the poor connectivity of the site to facilities in Buntingford. I adopt his evidence in undertaking my planning analysis and balance.

5.36 I note that Mr Lewis identifies the unresolved nature of the proposed links and in particular he highlights the following:

- the inadequacy of active travel measures and the failure of the proposals to prioritise active travel in accordance with paragraphs 115 and 117 of the NPPF, and policies TR4(1) and DP3 of the draft NPPF.

- Critical safety issues (NPPF paragraph 116) at the A507 / A10 junction identified by the Highway Authority following submission of the appellant's road safety audit, which exacerbates concerns about accessibility by non-car modes.

- A failure of the appellant to negotiate changes in the status of PRoW36 with the Highway Authority and the appellant having no control over the land over which the public footpath runs, therefore leaving a disconnection which severs the proposed development from Buntingford.

5.37 Mr Lewis acknowledges the improvements within the site and on the two bridges across the A10 in terms of walking and cycling. However, he notes that the proposed link from the A10 alongside the A507 is inadequate and is located within the urban area where shared surfaces are normally discouraged. He then highlights a number of issues and inadequacies of the proposed measures along the A507 and notes:

> *A cycling route is only as good as its weakest link. The infrastructure as proposed is sub-optimal because it is interrupted and indirect compared with the driving route, does not prioritise active travel modes, and makes no attempt to reduce car use through design. It requires cyclists to cross Baldock Road up to twice in addition to the proposed A10/A507 toucans and then to transfer to and from a largely unsuitable mixed traffic environment on Baldock Road and Bowling Green Road.*

5.38 In terms of measures to provide a useable width of footpath and cycleway to the east of the proposed upgraded southern bridge access into Buntingford town centre Mr Lewis notes that some of the works are proposed on land outside the control of the Appellant including land in the control of the Education Authority or the School Trust. He also notes that the footpath is hemmed in by vegetation and there is little natural surveillance along the route, therefore the route would be isolated especially after dark, even with good lighting, and is not suitable especially for those who are or feel vulnerable.

5.39 I understand that the proposed new bridge to the north of the site would include stepped access, and this would not be accessible to those with mobility issues, parents with prams, wheelchair users etc.

5.40 I conclude that on the basis of the evidence provided by Mr Lewis that:

a) Priority has not been given to active travel in the design of off-site access arrangements such that a genuine choice of transport modes would be available to future occupiers.
b) The proposed active travel routes and infrastructure as designed are not suitable for all users (especially disabled cyclists, people who cannot walk quickly, children, older people and people including women and girls who tend to be more vulnerable to attack in areas without good natural surveillance).
c) Subjectively and objectively safe accessibility is not achieved by the proposed infrastructure. Safety in this context means both road safety and social safety.

5.41 As a result, the proposed development would lack connectivity to Buntingford and be isolated and likely to be car-dependent due to a lack of safe and inviting active travel infrastructure. This situation exacerbates the site's isolation, making it likely future occupiers will be heavily dependent on the private car.

5.42 As such, I consider that the development would conflict with EHDC Policy DPS2 which seeks to locate development in the urban areas of Buntingford (and EHDC Policy TRA1 as the proposals would not achieve accessibility improvements that promote sustainable transport due to its location separate from Buntingford, the barrier to access comprising the A10, a failure to ensure that a range of sustainable transport options are genuinely available (this policy is consistent with the NPPF and carries full weight). In addition, the proposals would not accord with Policy HD1 of the Buntingford Community Area Neighbourhood Plan which restricts development outside Buntingford settlement boundaries to small scale infill development or small scale development adjoining significant clusters of development affordable housing on exceptions sites or where there is a demonstrable need for development to be located in the countryside.

5.43 I note that in determining the appeal at land to the east of the A10 within the boundary of the A10 immediately adjacent to Buntingford and not separated from it by the major A road, the Inspector concluded[14]:

> *the development would conflict with Policies DPS2 and GRB2 of the District Plan because it would not be in a location that aligns with the spatial strategy of the District Plan in terms of accessibility. It would also conflict with the part of Policy TRA1 of the District Plan that identifies that development should primarily be located in places that enable sustainable journeys to be made to key services and facilities.*

[14] DL13 of Appeal Decision APP/J1915/W/24/3340497 dated August 2024 at CD7.2

5.44 In that case the Inspector acknowledged the location of the site adjacent to the settlement and its access to day to day facilities allied with the economic and retail opportunities proposed as part of the scheme. I do not consider such factors assist in reducing conflict in the current scheme.

5.45 The current appeal scheme is in marked contrast to the land east of the A10 wherein the Highway Authority was satisfied that a suitable sustainable transport corridor was achieved along Aspenden Road and Luynes Rise and they considered that proposed sustainable transport mitigation measures would encourage modal shift[15]. The Highway Authority have objected to the current appeal scheme as they do not consider that modal shift would be achieved and the proposed measures are not adequate.

5.46 I also consider that the proposed development is not located at a site that is or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes contrary to Paragraph 110 NPPF. Given that sustainable transport modes have not been prioritised it would further conflict with NPPF paragraphs 115 and 129(c).

5.47 In that context overall I agree with Mr Lewis that the proposals would lead to significant harm both in terms of developing the wrong land in the wrong place and failing to provide a range of sustainable transport options that are genuinely available.

5.48 I consider that in such a context **Significant weight** should be afforded to such harm in the planning balance.

[15] DL53 of Appeal Decision APP/J1915/W/24/3340497 dated August 2024 at CD7.2

Loss of Best and Most Versatile Agricultural Land ('**BMV**')

5.49 I note that the proposals will lead to the loss of approximately 45 hectares of BMV (comprising c. 25 hectares of Grade 2 and c. 19 hectares of Grade 3a agricultural land[16]). The loss of BMV relates to land over the mandatory consultation threshold for applications resulting in the loss of BMV, i.e. 20 hectares[17]. Such a threshold is often used as a proxy for determining that the loss of BMV is significant.

5.50 The current use of the land for agriculture has not been shown to be no longer needed or viable, in conflict with EHDC Policy ED2.

5.51 The proposals will result in the loss of best and most versatile agricultural land within Grades 2 and 3a and such losses fall to be considered in the planning balance in accordance with NPPF 187b.

5.52 Overall, I consider moderate harm raises through the loss of approximately 45 hectares of BMV, and I agree with the Case Officer that **Limited weight** should be given to such harm in the overall planning balance.

5.53 I note that such weighting is consistent with that of the Inspector at Land East of the A10 which related to a site of 29 hectares in area.

Harm to Heritage Assets

5.54 I also note that it is common ground between the parties that the proposals will lead to less than substantial harm to the setting of the Grade II* Listed Holy Trinity Church at Throcking[18].

5.55 It is common ground that the public benefits of developing housing at the appeal site outweigh the less than substantial harm to the significance of any heritage assets including the Grade II* Listed Holy Trinity Church.

5.56 It is agreed that such harm is at the lower end of the spectrum of less than substantial harm. In terms of considering impacts the NPPF advises:

> *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

5.57 The parties agree that such harm should be weighed in the planning balance.

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16 Appellant's Agricultural Land Classification Report

17 Sch. 4y to The Town and Country Planning (Development Management Procedure) (England) Order 2015

18 See Heritage SoCG at 1.9 at CD11.4

5.58 Given it is common ground that some harm arises and the NPPF tells us that great weight should be given to the conservation of heritage assets there is some conflict with EHDP Policy HA7 and NPPF Chapter 16.

5.59 The harm is less than substantial and great weight should be given to the conservation of assets. In that context I agree with the Case Officer determining this application that the appropriate weight in the overall planning balance should be **Limited**.

Infrastructure

5.60 In the circumstances that the Inspector was minded to allow this appeal a §106 undertaking is required to secure necessary infrastructure *including financial contributions to infrastructure to off-set the impact of the development, provision of affordable and custom/self-build housing, active travel provisions and public transport* improvements. I understand it to be common ground that such matters are necessary (see SoCG at CD11.1), and I understand that the parties are working together to provide a satisfactory undertaking.

5.61 However, for completeness a failure to provide a satisfactory undertaking to deliver necessary infrastructure, contributions and obligations would justify the refusal of permission and would be contrary to policies TRA1, DPS4, DEL1, DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the EHDP, policies of the BNP and the National Planning Policy Framework. Such a failure would comprise substantial harm that would warrant substantial weight in the planning balance.

5.62 However, for the reasons I have explained I have not weighed this harm in the planning balance.

6 Benefits of the Proposal

6.1 I briefly address the weight to the benefits of the scheme below acknowledging that the SoCG sets out the position of the parties in terms of benefits, the weight is generally agreed[19] .

Housing

6.2 I acknowledge that the weight to be given to up to 660 C3 dwellings (including 40% affordable housing, 60 suitable for elderly persons and up to 6 custom self-build plots) should be **Very Significant**. For the purposes of my planning balance, I am equating the attribution of very significant weight with substantial on my scale.

6.3 Such matters were common ground at application stage and are set out in the Statement of Common Ground[20] and I am not aware of any changes in circumstances that would lead to a different weighting.

Provision of New Community Facilities

6.4 The Statement of Common Ground notes significant positive weight to the benefit of new community facilities comprising land for a school, if required, a medical centre if required and other uses in local centre. I consider these matters below before concluding on the overall weight to new community facilities as a benefit of the scheme.

School Land

6.5 The first matter to clarify is that the benefit on offer from the Appellant is land for a school and not, as misreported in several places (including the Officer Report), a school itself. Absent any funding any such school building, infrastructure, fittings, furniture, equipment and revenue costs would have to be funded and provided via the public purse through the Education Authority.

6.6 Further, I note that the position of the Education Authority has changed, and they no longer support the provision of land for a lower or first school at the appeal site. I note there are already three lower schools within Buntingford[21] and a further two in the Buntingford and Villages First Planning Area that provide places for pupils from Buntingford[22].

6.7 Buntingford First School opened in 2023 and offers two forms of entry ('**fe**'). I understand that capacity at Millfield First School expanded from 1.5fe to 2fe in 2018/2019. I also understand that capacity at Hormead has increased by 0.5fe as well.

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19 See the main SoCG
20 See Table after paragraph 5.25
21 Buntingford First School, Millfield and Layston
22 Hormead and Anstey

6.8 The Education Authority do not consider the land for another first school in Buntingford or another first school at the appeal site is necessary or required and in their CIL Compliance Statement Hertfordshire County Council State[23]:

> *"Analysis of pupil numbers, admission applications and current pupil forecasts indicate sufficient spare capacity across the existing first schools in Buntingford to mitigate this development."*

6.9 Given the Education Authority's updated position that the land is not required and that they do not consider a school is necessary (and thus as the body responsible will not provide one) I cannot weigh the "gift" of land for a school as a benefit of the scheme.

6.10 More fundamentally such a "gift" would have to be secured by way of a §106 obligation. As the Education Authority do not consider the land to be necessary because another first school is not required, then in my view any obligation would fail the §122(2) tests set out in the Community Infrastructure Levy Regulations ('**CIL Regs**"), i.e.

(a) It is not necessary
(b) It is not directly related to the development as school places can be provided in the Buntingford and Villages First Planning Area
(c) It is not fairly and reasonably related in scale and kind to the development for the same reasons

6.11 Therefore, not only does the Education Authority not support the provision of land for a school (and ultimately the provision of a school) at the site but in my view any such provision, via a §106 obligation, would conflict with CIL Reg 122(2) as well as NPPF paragraph 58.

6.12 As such, I do not see that a benefit arises and even if land was to be gifted the benefit of a school is unlikely to be delivered and as such any benefit will not arise.

6.13 In those circumstances I do not consider that any weight should be given to the provision of land for a school.

6.14 I note the description of development includes provision of a "*First School*", but without the support of the Education Authority that element of the development will not be delivered, and as matters stand it is my view that there is very little prospect of such a school being delivered at the appeal site. I therefore conclude that such matters do not comprise a benefit that should be ascribed any weight.

[23] See paragraph 6.2

Local Centre

6.15 Furthermore, I have difficulty affording weight to the benefit of provision of a local centre, having regard to a lack of clarity on what will be accommodated in the centre and any evidence pertaining to the viability of such provision.

6.16 Following discussions at the CMC the Appellant has provided two documents to support the provision of the local centre and its viability.

6.17 The first document comprises a document produced by Plunkett UK[24], a charity that supports community owned businesses such as shops. The document does not support provision at Buntingford and does not provide any viability evidence to support provision at the appeal site; it appears that it can be more accurately described as a brochure.

6.18 The Plunkett document is a generalised document that sets out Plunkett's general approach and engagement at stages of the site development. Indeed, it would appear that Plunkett have not been asked to provide any information as they conclude by stating:

> *Plunkett would be excited to be invited by Hallam Land to be commissioned to work closely with the local residents to embed a community-owned business as part of the Buntingford development planning application.*

6.19 It would seem that Plunkett have not (or at least not yet) been working with the Appellant or commissioned by them to provide any support for a community led business at the appeal site.

6.20 The second document is a letter from HDD[25], which envisages that the residents of the 600 dwellings and parents dropping off and picking up from the new school will form the majority of the users for the local centre. The school is emphasised as a key component of the customer base for the local centre. HDD note that Buntingford is well served by food retailers.

6.21 Despite this and without any detail HDD consider that a Local Centre:

> *is viable, given the 600 new dwellings, and the fact that it is adjoining the First School ….*

6.22 Obviously, this assumes the delivery of a new first school, about which I have already expressed my doubts. Overall, I must reserve my position at this stage, but I have yet to see any evidence that supports the viability of a local centre at the appeal site.

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24 "Supporting a community-owned business in Buntingford"

25 Henry Davidson Developments, letter of 13 May 2025

6.23 However, even if viable and provided it is unlikely to come forward until most of the dwellings have been completed as it is not until then that even HDD consider it to be viable and absent a school, (see section above) it may well be that HDD would adjust their outline position on viability for a 180m^2 convenience store and possibly two small 90m^2 units for health and beauty or takeaways[26].

6.24 Given the uncertainty and the lack of viability evidence at this stage I can only attribute at most Limited weight to the provision of a local centre.

Medical Centre

6.25 I understand that space for a medical centre is provided if required, on the basis that "*it's there if its needed*".

6.26 My understanding is that a new surgery building is being provided on site of the recent housing developments at Hare Street Road Buntingford (CD7.3). A full permission has been granted for the medical centre as can be seen at Section 3 and as such the facility is not required or necessary.

6.27 My understanding is that it is therefore highly unlikely to come forward and as such will not comprise a benefit of the scheme.

6.28 In those circumstances it should not be attributed any weight as a benefit of the scheme.

Conclusion – New Community Facilities

6.29 Given the school land and medical centre are not necessary and highly unlikely to come forward I have attributed no weight to them as benefits of the scheme. If the Inspector disagrees and allows the §106 to deliver land for a school, I consider that very limited weight should apply to such matters for the reasons I have outlined. In terms of the delivery and viability of a local centre such matters would garner only limited weight for the reasons I have outlined.

6.30 Therefore, the appropriate weight to be given to new community facilities overall would be **Limited** weight.

Biodiversity Net Gain ('BNG')

6.31 The agreed position between the parties is that Limited to Moderate weight applies to the benefit of BNG delivered from the proposed development. I agree with the Council's assessment (as set out in the Officer Report) that such matters should carry **Limited** weight in the circumstances of this case.

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[26] Given the position of the Education Authority in respect of the school land, I have not commented on the appropriateness of takeaway shops next to schools per NPPF paragraph 97

Economic Benefits

6.32 These benefits arise from the temporary construction phase through employment and supply chain receipts as well as from the spend and activity generated by the residents of the proposed dwellings in the local and wider economy supporting local shops and businesses (albeit there is no evidence that local shops and businesses require additional support, the additional business is a benefit).

6.33 I do not consider council tax receipts to comprise a benefit of the scheme as they provide revenue receipts to allow the Councils to provide necessary services for the future residents of the scheme.

6.34 It is agreed that **Moderate** weight should apply to such matters as a benefit of the scheme.

Green Space to Meet the Needs of the Development

6.35 I note the parties have agreed that limited weight should be applied to such matters as a benefit of the scheme.

6.36 The green space is required to meet the needs of future residents and without it the scheme would not function, the development would be unattractive to developers and future occupiers and presumably permission would be refused. Layout and landscaping remain reserved matters, and I am unclear where the benefit arises from such matters and to whom.

6.37 The provision of green space has to be assessed in the context of the loss of the site as a wider open space resource for all.

6.38 As such no more than the agreed position of **Limited** weight should be applied to such matters.

Provision of New Green/ Open Space Including a Country Park and Sports Pitches and a Pavillion to Meet Wider Needs in Buntingford

6.39 The agreed position is that such matters are a benefit of the scheme, I agree that they are and that they should carry significant weight. However, I note that the assessment of benefits also seeks to allocate separate weight to matters of green space to meet the needs of the development and also to the provision of sports pitches.

6.40 I am concerned that a degree of double counting takes place between these matters and in effect the areas of green/ open space on the site encompass open space for future residents, open space to meet the wider needs of Buntingford (including the proposed residents of the site) and the proposed sports pitches to meet the wider needs of Buntingford (including the proposed residents of the site).

6.41 I also note that the issues about the accessibility and connectivity of the appeal site to Buntingford also apply to the connectivity and accessibility of the open space and sports pitches at the appeal site to the residents of Buntingford. Therefore, all the shortcomings of the appeal scheme and its connectivity to Buntingford and its facilities equally apply to the sports pitches and country park located to the west of the A10 and their connectivity to the existing residents of Buntingford located east of the A10.

6.42 Therefore, whilst I adopt the **Significant** positive weight to be given to the benefit of providing green/ open space including a Country Park and Sports Pitches I do so in terms of green/ open space overall on the appeal site and not broken down into component parts.

Financial Contributions to Bus Services and Sustainable Transport Initiatives in Buntingford

6.43 It is common ground that such matters are a benefit of the scheme that carry **Moderate** positive weight. I have adopted this position for my planning balance.

7 Planning Balance and Summary

7.1 As I detail in sections 1 and 4 the decision is to be taken in the context of the presumption in favour of sustainable development pursuant to 11d ii of the NPPF.

7.2 In section 5 I have identified the harm and addressed the Council's reasons for refusal having regard to the main issues identified by the Inspector.

7.3 I have considered the benefits that arise with the grant of planning permission in Section 6. I now undertake the planning balance.

The proposals lead to significant harm in terms of landscape character (which cannot be mitigated) and visual impact which will reduce over time but will remain a significant adverse harm that carries significant weight. Added to the landscape harms are the conflict with the Development Strategy to which I have attributed significant weight given its consistency with the NPPF, but also reflecting that it is out of date. The development would conflict with the spatial strategy and therefore Policies DSP2 and GRB2 of the District Plan as the scheme would be located outside the settlement boundary of Buntingford, *beyond the A10 which provides a buffer and defensible boundary between the edge of the urban area and the countryside* and would not be appropriate development in the countryside. I have also identified conflict with the Neighbourhood Plan in particular Policies HD1, HD2 and ES1.

7.4 I have attributed significant weight to these conflicts, and I do not consider that the mitigating factors present on Land to the East of the A10 exist at this site such that the weight should be further reduced.

7.5 The location of the site to the west of the A10 and the poor connectivity of the site to the facilities in Buntingford comprises a significant harm that carries significant weight. I note the Inspector at Land East of the A10 noted the support of the HA for that scheme yet still found that accessibility to services and facilities was constrained and would generate a notable proportion of trips by motor vehicles. In that respect the present proposals would conflict with Policies DPS2 and TRA1 EHDP. Given the shortcomings of the current scheme including its location west of the A10 and the objection of the HA I consider significant weight is appropriate in the circumstances of this case.

7.6 The unsafe crossing on the A10 and unresolved elements of the proposed scheme leads to highway safety danger in conflict with Policy TRA2 that warrants substantial weight in the planning balance.

7.7 Added to these harms are also limited weight to the harm by way of the loss of c.45 hectares of BMV and to the less than substantial harm to the significance of a Grade II* listed building.

7.8 I have listed the benefits in section 6 and note that the provision of housing including affordable housing, elderly persons C3 housing and up to 6 custom self-build dwellings should carry very significant weight. I have also attributed significant weight to the benefit of providing open/ green space including for a country park and sports pitches and moderate weight to both the economic benefits and the physical works to include some sustainable transport measures in Buntingford. I have also attributed limited weight to the benefits associated with BNG and the provision of community facilities.

7.9 For the reasons I have outlined above and in section 5 the proposed development conflicts with the development plan taken as a whole and should be refused, because material considerations (including the NPPF 'tilted balance') do not indicate otherwise.

7.10 Notwithstanding the agreed significant benefit of developing the site for housing the adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole including paragraph 66, Chapter 9 and in particular paragraphs 110 and 115, paragraph 129(c) and (d), Chapter 12 in particular paragraphs 135(a), (c) and (f) as well as paragraph 139 also having regard to paragraph 187(b) and Chapter 16. Therefore, permission should be refused in the context of the tilted balance being engaged.

7.11 In coming to this judgment, I have regard to both policies of the NPPF including those referred to in footnote 9 especially those relating to providing affordable homes, directing development to sustainable locations and achieving well-designed places as well as Chapter 15 and in particular paragraph 187b and Chapter 16 in respect of heritage assets as well as policies of the development plan as set out above.

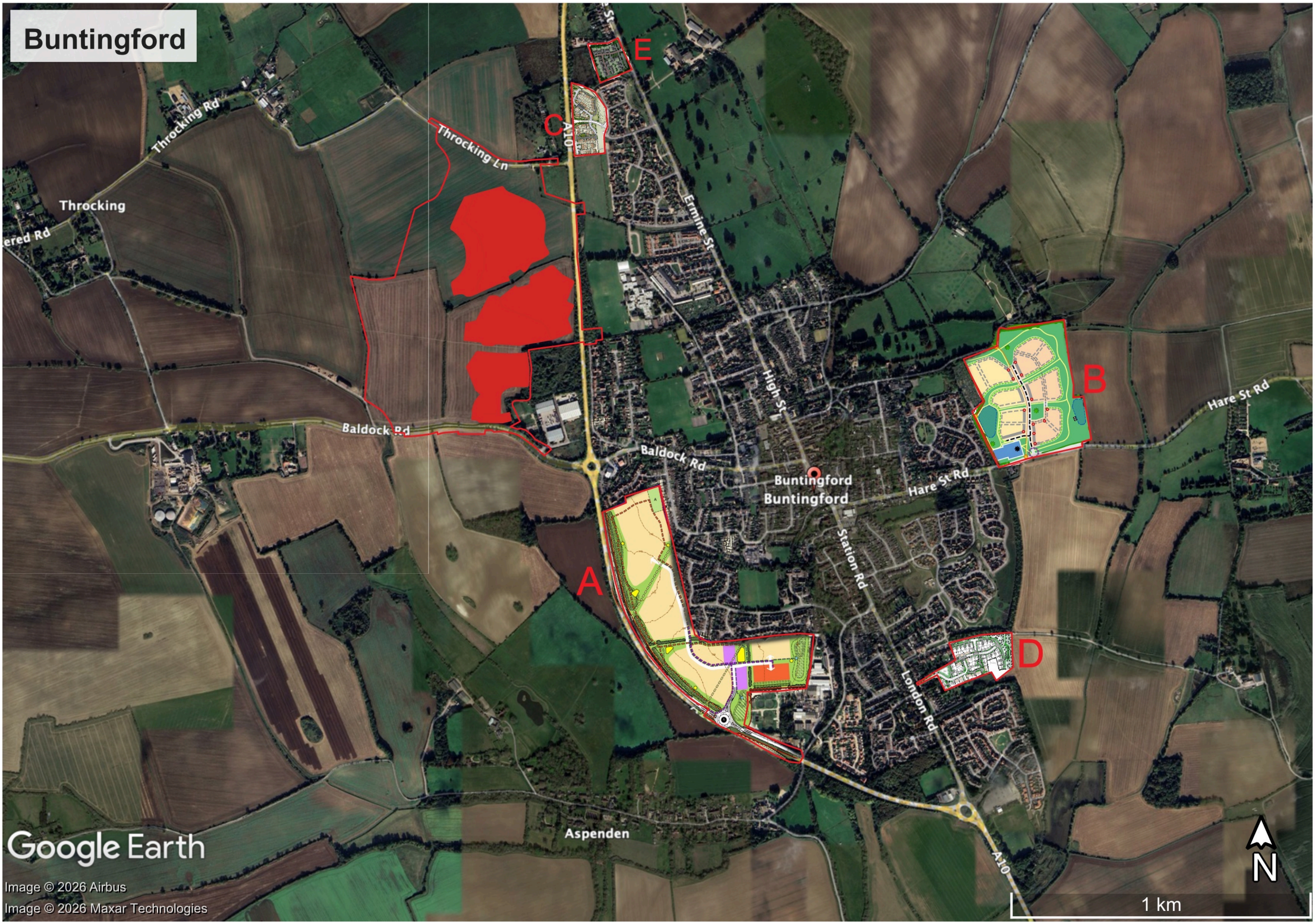
7.12 In coming to my judgement on the outcome of the planning balance, I have assumed that the Appellant will have provided a satisfactory §106 undertaking/ obligation to deliver necessary infrastructure. Absent such an undertaking the proposed development would *additionally* conflict with policies TRA1, DPS4, DEL1, DEL2, HOU3, CFLR1, CFLR7, CFLR9 and CFLR10 of the EHDP, policies of the BNP and the National Planning Policy Framework and would add to the matters weighing against the grant of permission, further confirming that permission is not warranted.

7.13 In that context I invite the Inspector to dismiss this appeal.

Appendix PH1


Hare St Rd
B
D
Hare St Rd
London Rd
Station Rd
Buntingford
Buntingford
High St
C
Ermine St
Baldock Rd
A
A10
E
C
Aspenden
Throcking Ln
Baldock Rd

Base © Google


Buntingford
E
C
A10
Throcking Rd
Throcking Ln
Throcking
ered Rd
Ermine St
High St
B
Hare St Rd
Baldock Rd
Baldock Rd
Buntingford
Buntingford
Hare St Rd
A
Station Rd
D
London Rd
Aspenden
A10
Google Earth
Image © 2026 Airbus
Image © 2026 Maxar Technologies
N
1 km

Appendix PH2


Throcking Rd
Throcking Ln
A10
Throcking
Cottered Rd
Ermine St
High St
Baldock Rd
Buntingford
Buntingford
Hare St Rd
Station Rd
London Rd
A10
N
1 km
Google Earth
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