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Our Ref: APP/J1915/A/11/2149483
APP/J1915/A/11/2149492
APP/J1915/A/11/2149488
APP/J1915/A/11/2149408
APP/J1915/A/11/2149401
APP/J1915/A/11/2149392

David Maxwell
Andrew Martin Associates
Croxtons Mill
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CM3 3PJ

Your Ref: 4854 & 05.124

10 September 2012

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 73 AND 78

**APPEAL A: BY THE GOVERNORS OF THE BISHOP'S STORTFORD HIGH SCHOOL
AND THE GOVERNORS OF THE HERTFORDSHIRE AND ESSEX HIGH SCHOOL AND
SCIENCE COLLEGE**

AT LAND AT WHITTINGTON WAY, BISHOP'S STORTFORD, HERTS

APPLICATION REFERENCE: 3/10/1012/OP

**APPEAL B: BY THE GOVERNORS OF THE BISHOP'S STORTFORD HIGH SCHOOL
AT LAND AT JOBBERS WOOD, GREAT HADHAM ROAD, BISHOP'S STORTFORD,
HERTS, CM23 4BS**

APPLICATION REFERENCE: 3/10/1044/FO

APPEAL C: BY HERTFORDSHIRE COUNTY COUNCIL

AT LAND TO THE SOUTH OF HADHAM ROAD, BISHOP'S STORTFORD, HERTS

APPLICATION REFERENCE: 3/10/1009/OP

APPEAL D: BY COUNTRYSIDE PROPERTIES PLC

**AT THE BISHOP'S STORTFORD HIGH SCHOOL FOR BOYS, LONDON ROAD,
BISHOP'S STORTFORD, HERTS, CM23 3LU**

APPLICATION REFERENCE: 3/10/1013/OP

APPEAL E: BY COUNTRYSIDE PROPERTIES PLC

**AT HERTFORDSHIRE AND ESSEX HIGH SCHOOL FOR GIRLS, WARWICK ROAD,
BISHOP'S STORTFORD, HERTS, CM23 5NJ**

APPLICATION REFERENCE: 3/10/1015/OP

APPEAL F: BY COUNTRYSIDE PROPERTIES PLC

**AT BELDAMS LANE SPORTS PITCHES, BELDAMS LANE, BISHOP'S STORTFORD,
HERTS, CM23 5LQ**

APPLICATION REFERENCE: 3/10/1014/OP

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Wildsmith BSc(Hons) MSc CEng MICE

FCIHT MRTPI, who held a public local inquiry which sat for 16 days between 20 September and 14 October 2011 into your clients' appeals as follows:

APPEAL A: by the Governors of the Bishop's Stortford High School and the Governors of the Hertfordshire and Essex High School and Science College against a decision by East Hertfordshire District Council (the Council) to refuse planning permission for comprehensive development comprising the change of use of land from agricultural to educational use (Class D1) and the erection of buildings with a combined total external floorspace of 26,000 square metres ("sqm"), plus related site works consisting of: the construction of an internal road; car parking areas; a temporary construction onto Obrey Way; a floodlit multi-use games area and all weather pitch; formation of playing fields and associated drainage works. Associated infrastructure works to Whittington Way to include: construction of 2 new roundabouts; provision of cycleway and footway links; and enhanced bus stop facilities at land at Whittington Way, Bishop's Stortford, Herts, in accordance with application reference 3/10/1012/OP dated 7 June 2010.

APPEAL B: by the Governors of the Bishop's Stortford High School against a decision by the Council to refuse planning permission for the change of use to school sports fields with associated changing facilities without complying with a condition attached to planning permission Ref 3/97/0520/FP dated 16 November 1998 at Jobbers Wood, Great Hadham Road, Bishop's Stortford, Herts, CM23 4BS in accordance with application reference 3/10/1044/FO dated 7 June 2010.

APPEAL C: by Hertfordshire County Council against a decision by the Council to refuse planning permission for residential development (up to 165 dwellings) and alterations to existing Patmore Close access plus related internal roads, landscaping and open space areas at land to the south of Hadham Road, Bishop's Stortford, Herts, in accordance with application reference 3/10/1009/OP dated 7 June 2010.

APPEAL D: by Countryside Properties Plc against a decision by the Council to refuse planning permission for the demolition of existing buildings and the erection of up to 220 residential properties and associated infrastructure at the Bishop's Stortford High School for Boys, London Road, Bishop's Stortford, Herts, CM23 3LU, in accordance with application reference 3/10/1013/OP dated 25 May 2010.

APPEAL E: by Countryside Properties Plc against a decision by the Council to refuse planning permission for the retention and refurbishment of the buildings fronting Warwick Road, demolition of existing buildings and the erection of up to 125 residential properties and associated infrastructure at Hertfordshire and Essex High School for Girls, Warwick Road, Bishop's Stortford, Herts, CM23 5NJ, in accordance with application reference 3/10/1015/OP.

APPEAL F: by Countryside Properties Plc against a decision by the Council to refuse planning permission for the demolition of existing buildings and the erection of up to 180 residential properties and associated infrastructure, at Beldams Lane Sports Pitches, Beldams Lane, Bishop's Stortford, Herts, CM23 5LQ in accordance with application reference 3/10/1014/OP.

2. On 5 April 2011, Appeal A was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it involves proposals for significant development in the Green Belt. Appeals B-F were also recovered on 5 April 2011 because they would be most efficiently and effectively decided with Appeal A.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that Appeals A, C, D, E and F be dismissed and planning permission be refused, and that Appeal B be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. In reaching his decisions the Secretary of State has taken into account the Environmental Statements relating to the Appeals A, C, D, E and F, which were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the additional information sought by a Regulation 19 Direction and the Inspector's comments at IR14 and IR867. The Secretary of State is content that the Environmental Statements, together with the additional information complies with the above regulations, and that sufficient information has been provided for him to assess the environmental impact of the proposals.

Matters arising after the close of the inquiry

5. The Secretary of State is in receipt of representations which arrived too late to be forwarded to the Inspector or were received following the close of the inquiry from Mrs A P Goldsmith (9 and 23 October 2011), Alyson Bailey, Chairperson - Thorley Manor Residents Association (11 October 2011), Lorna Cannon (23 October 2011), Dave Cannon (23 October 2011), Andrew Bowles (28 November 2011), Emmanuel Bonich (13 February 2012) and Mark Prisk MP (26 July 2012). However he does not consider that these representations raise matters which require him to refer back to parties before he proceeds to a decision.
6. Furthermore, the Government published the National Planning Policy Framework (March 2012) (the Framework) after the close of the inquiry. This document replaces the national planning policy documents set out in its Annex 3. Following its publication, the Secretary of State wrote to interested parties on 20 April 2012 seeking their views on the implications of its publication, if any, for these appeals. On 8 May, the Secretary of State circulated the responses, inviting further comments, and stating that he would then proceed to a decision. A list of those who responded is set out at Annex A below.
7. The Secretary of State has carefully considered all of these representations in his determination of these appeals. He considers that for the most part, the issues

raised in relation to the Framework cover those already rehearsed at the inquiry. In considering these further representations the Secretary of State wishes to make clear that he has not revisited issues which are carried forward in the Framework or development plan documents, and which have therefore already been addressed in the IR, unless the approach in the Framework leads him to give different weight. Notwithstanding that the majority of former national planning guidance has been replaced by the Framework, the Secretary of State considers that the main issues identified by the Inspector remain essentially the same.

8. Copies of all representations referred to in paragraphs 5 and 6 above are not attached to this letter but may be obtained on written request to the address or the email address at the foot of the first page of this letter.

Policy considerations

9. In deciding the appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan comprises the East of England Plan 2008 (the RS) and the saved policies of the East Hertfordshire Local Plan Second Review 2007 (the LP). The Secretary of State considers that the development plan policies that are particularly relevant to these appeals are those referred to in the Council's reasons for refusal and listed by the Inspector at IR42. Having had regard to the Inspector's comments at IR44, he attaches no weight to the Core Strategy "Issues and Options" consultation document published in November 2010. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the RS is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining these appeals.
11. Other material considerations which the Secretary of State has taken into account include: the Framework; Circular 11/95: *The Use of Conditions in Planning Permission*; the Community Infrastructure Levy (CIL) Regulations 2010 and 2011; the Policy Statement - Planning for Schools Development (August 2011); the Ministerial Statement by Rt Hon Eric Pickles MP – Housing and Growth (6 September 2012); and the Supplementary Planning Documents identified by the Inspector at IR43.

Main issues

12. Having taken account of the Inspector's comments at IR540, the Secretary of State agrees with him that Appeal B can be considered on its own merits. For the reasons given by the Inspector at IR539, he also agrees that the necessary first step in assessing Appeals A, C, D, E and F is to reach a decision on the acceptability or otherwise of Appeal A (IR541).

Appeal A

13. The Secretary of State considers that the main issues in Appeal A are those identified by the Inspector at IR543 and the relationship with the development plan.

Whether the proposal would constitute inappropriate development in the Green Belt

14. Having taken account of the Inspector's analysis at IR545 – 550 and national policy as now expressed in the Framework, the Secretary of State sees no reason to disagree with the Inspector's view that the Appeal A proposal as a whole would be inappropriate development in the Green Belt, and also conflicts with LP Policy GBC1 (IR551). In forming this view he has had regard to the Inspector's statement at IR559 that the fencing and floodlighting around the Multi Use Games Area and the All Weather Pitch would add to the reduction in openness.

Effect of the proposal on the openness and visual amenities of the Green Belt

15. For the reasons given at IR553-559, the Secretary of State agrees with the Inspector's conclusion at IR560 that, having had regard to the overall size and scale of the proposed buildings and the illustrative indications of their massing, the proposed development would have a very significant adverse impact on openness (IR560). The Secretary of State has taken account of the Inspector's views at IR554 and considers that, by extending development further south than the current settlement boundary, onto greenfield land, the proposal would conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. Like the Inspector, he attaches considerable weight to this matter (IR560).
16. The Secretary of State agrees with the Inspector's reasoning at IR561-574 and shares his conclusion at IR575 that the appeal proposals would have a significant adverse impact on the visual amenities of the Green Belt and therefore would be in clear conflict with LP Policies ENV2 and GBC14. Like the Inspector he attaches considerable weight to this matter against the Appeal A proposals as a result of both the clear policy conflict and the physical harm identified (IR575).

Effect of the proposed development on the Hertfordshire Way

17. For the reasons given at IR576-585 the Secretary of State agrees with the Inspector that there can be no doubt that the Appeal A proposals would have a significant adverse impact on the character, appearance and enjoyment of this section of the Hertfordshire Way, in both recreational and visual terms and would conflict with LP Policies ENV1, ENV2 and LRC9 (IR586). Like the Inspector (IR586), he considers that the harm which would arise should be regarded as significant.

The educational environment and the effects of aircraft noise

18. The Secretary of State agrees with the Inspector's reasoning and conclusions on aircraft noise at IR587-599. Like the Inspector, he concludes that the proposed

relocation of the Bishop's Stortford High School (BSHS) and Hertfordshire and Essex High School (HEHS) to the Whittington Way site would not result in an unacceptable noise environment either within the proposed school buildings or at outside teaching spaces, and that there is no conflict with LP Policy ENV25 (IR599).

Living conditions

19. The Secretary of State agrees with the Inspector's assessment in respect of living conditions at IR600-605 and with his conclusion at IR606 that although Scheme A would bring about a clear change to the nature and character of Whittington Way, and to some extent the surrounding area, these changes would not result in unacceptable harm to the living conditions of nearby residents through intrusive lighting or noise and disturbance.

Safety and convenience of users of the local highway network

20. Having had regard to the Inspector's reasoning and conclusions at IR607-636, the Secretary of State also concludes that the increased traffic movements and the need for some drivers to seek alternative routes would result in some increased travel costs and that, although the proposals would not result in any unacceptable travel impacts, their effect has to be regarded as weighing slightly against Appeal A (IR636).

Other considerations

Need for additional secondary school capacity

21. The Secretary of State has had regard to the Inspector's reasoning and conclusions on educational need at IR640-656 including his comment that the latest figures indicate that the shortfall in places is expected to rise from a value of 4 in 2012/13 to a maximum of 126 in 2018/19, before falling back to 110 by 2024/25 (IR642). Like the Inspector (IR655), the Secretary of State concludes that the need for additional secondary school capacity in the Bishop's Stortford Educational Planning Area (BS&S EPA) has been clearly demonstrated. He further agrees with the Inspector that, in the short-term, additional capacity in the form of some 45 spaces would be available at the Stansted Mountfitchet College, with the further provision of an additional 45 spaces not being needed until after 2015/16 (IR655). In conclusion, he agrees with the Inspector that the Appeal A proposals could provide the necessary additional spaces, but that the weight to be attributed to this benefit can only be determined following consideration of whether other options exist to provide the additional spaces (IR656).

Alternative options

22. After careful consideration the Secretary of State agrees with the Inspector's assessment and conclusions relating to alternative ways of meeting educational needs at IR657- 722. For the reasons given at IR659 – 669, he agrees with the Inspector that changes to admissions policies would not serve to increase the number of secondary school places available (IR669). He also agrees with the Inspector's analysis and with his conclusion that there is a clear possibility that

Leventhorpe School could be expanded to provide up to an additional 80 places and that, to date, such an option has not been fully and rigorously assessed (IR670 - 687). Furthermore, he shares the Inspector's view that, setting aside the issue of playing field space, it would be practical and feasible to expand and improve the Herts and Essex High School for Girls (HEHS) on its present site (IR696). Having had regard to the Inspector's comments at IR705 – 714, the Secretary of State agrees with him that there appears to be nothing inherently unacceptable or unworkable with the option of relocating the Bishop's Stortford High School for Boys (BSHS) to the Hadham Road site (IR711), and that the option of relocating the HEHS to the Beldams Lane site also appears to be worthy of some future consideration (IR714).

23. In conclusion on this matter, the Secretary of State sees no reason to disagree with the Inspector's view that Appeal A would achieve all the required educational objectives that were discussed at the Inquiry and would do so at modest net cost to the public purse provided Appeals C to F were also allowed (IR723). However, the Secretary of State also concurs with the Inspector's findings that there appear to be other possible ways of achieving the desired objectives, which could well give rise to less harm than Appeal A in planning terms (IR723).

Educational and community benefits

24. Having given careful consideration to the Inspector's analysis in respect of community benefits at IR729 – 733, in common with the Inspector, the Secretary of State attributes moderate weight to the community benefits that would arise from Appeal A (IR734). The Secretary of State has given very careful consideration to the Inspector's comments on educational benefits at IR724 – 734, including the fact that both the BSHS and the HEHS have been found to be "outstanding" (IR724), and he agrees that some significant educational benefits would arise from Scheme A in terms of curricula, infrastructure and administrative matters (IR728).

Flexibility for further expansion

25. The Secretary of State agrees with the Inspector's reasoning at IR735-738. He too concludes that some uncertainty would have to be attached to the prospects of any future expansion of the proposed schools to 8 form entry, such that the flexibility claimed by the Appellants has to be viewed as questionable (IR739).

The absence of significant harm to the integrity of the Green Belt

26. Having had regard to the Inspector's comments at IR740-742, the Secretary of State agrees with him that the absence of harm, or the limitation of harm to the integrity of the Green Belt could, at best, only be considered neutral in the overall balance and that it is not a matter which can be held to count in favour of the Appeal A proposal (IR742). Like the Inspector, he attaches no weight to this consideration (IR742).

Further matters

27. The Secretary of State has carefully considered the Inspector's comments regarding the Policy Statement - Planning for Schools Development and his conclusion that the Statement adds moderate weight in favour of Appeal A (IR743-748). The Secretary of State has had regard to the fact that the Statement sets out Government's wish to see new schools open, good schools expand and all schools adapt and improve their facilities and that the Statement remains a relevant material consideration in this case. He observes, however, that the Statement advises that the Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining appeals. The Secretary of State also observes that the Framework now provides a more recent expression of Government planning policy. The Framework states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities and goes on to indicate that, in planning decisions, great weight should be attached to the need to create, expand and alter schools.
28. The Secretary of State has found that there is a need for additional secondary school capacity in the BS&S EPA (paragraph 21 above). He has concluded that the flexibility for further expansion offered by Appeal A has to be viewed as questionable (paragraph 25 above), that Appeal A would achieve all the required educational objectives under discussion at the inquiry at a modest cost to the public purse (provided Appeals C to F were also allowed) (paragraph 23 above) and that some significant educational benefits would arise from Appeal A in terms of curricula, infrastructure and administrative matters (paragraph 24 above). Whilst the Secretary of State has had regard to the weight attributed to these considerations by the Inspector, he finds it more appropriate to consider the weight to be attributed to them in the round and in the light of paragraph 72 of the Framework. Taking these considerations together, notwithstanding the fact that he has found other possible ways of achieving the required educational objectives, the Secretary of State attributes great weight to the need to create, expand and alter schools.
29. The Secretary of State has had regard to the Inspector's comments at IR749 – 751. However, as set out at paragraph 10 above, he has attributed no weight to the Core Strategy "Issues and Options" consultation document. Given this, like the Inspector (IR750), he considers that no more than limited weight is attributable to Appeal A on the basis of its relationship to the housing proposed under Appeals C, D, E and F.
30. The Secretary of State has had regard to the Inspector's comments at IR751 that the Appellants argued that it is not uncommon for development for educational purposes to be granted planning permission within areas designated as Green Belt. The Inspector reports that none of the cases put before him were directly comparable to the details of Scheme A, and the Secretary of State does not consider that those decisions should carry material weight in this case.

Balancing of considerations

31. The Secretary of State has found (at paragraph 14 above) that the Scheme A proposal as a whole constitutes inappropriate development in the Green Belt and he attaches substantial weight to the harm that arises thereby. The Secretary of State has also identified a very significant adverse impact on openness to which he has attached considerable weight (paragraph 15 above), and a significant adverse impact on the visual amenities of the Green Belt (paragraph 16 above) to which he has also attached considerable weight. He has concluded (paragraph 17 above) that the proposals would have a significant adverse impact on the character, appearance and enjoyment of this section of the Hertfordshire Way and he attaches significant weight to this concern. He also attaches a small amount of weight to the travel impacts that he has identified at paragraph 20.
32. In respect of the considerations that weigh in favour of the appeal, the Secretary of State has concluded that there is a need for additional secondary school capacity in the BS&S EPA (paragraph 21 above), that Appeal A would achieve all the required educational objectives that were discussed at the inquiry at a modest cost to the public purse (provided Appeals C to F were also allowed) (paragraph 23 above) and that some significant educational benefits would arise from it in terms of curricula, infrastructure and administrative matters (paragraph 24 above). With reference to those conclusions and in the light of paragraph 72 of the Framework, he has attributed great weight to the need to create, expand and alter schools (paragraph 28 above). In addition he has attributed moderate weight to the community benefits that would arise from Appeal A (paragraph 24 above). He has also attributed limited weight to Appeal A on the basis of its relationship to the housing proposed under Appeals C, D, E and F (paragraph 29 above).
33. Overall, the Secretary of State concludes that the benefits which would arise from Scheme A would not be sufficient to clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and the other harm he has identified and that very special circumstances have not been demonstrated.
34. The Secretary of State has considered the Inspector's remarks at IR758 – 760 and he sees no reason to disagree with the Inspector's view (IR761) that, whilst Appeal A appeared to be finely balanced in 2010, matters have not now swung in its favour (IR761).

Appeals C, D, E and F

35. In light of his decision to dismiss Appeal A, the Secretary of State agrees with the Inspector that it follows that Appeals C, D, E and F should also be dismissed (IR763). He is satisfied, like the Inspector, that Appeal C could not be allowed to proceed as the Hadham Road site may still be needed for educational purposes, and that Appeals D, E and F could not proceed as the sites would be needed for the continued presence of the BSHS and the HEHS (IR763). In reaching this position the Secretary of State has taken account of representations from the parties in respect of the shortfall in East Hertfordshire's 5 year housing land supply and the Inspector's comments at IR765-843. However, in view of his conclusions above in respect of Appeal A and his view that the Appeal C site may

still be needed for educational purposes, it is his firm view that these sites are not available for housing at the current time.

Appeal B

36. The Secretary of State agrees with the Inspector's assessment of Appeal B at IR845-858 and shares his conclusion that varying Condition No 2 would not result in an unsustainable form of development and traffic movements and reliance on the private car (IR859). Like the Inspector, he also considers that making better use of an existing facility in a responsible and controlled manner would accord with the objective of achieving a sustainable use of resources, as required under LP Policy SD1 (IR859). Overall, like the Inspector, the Secretary of State sees no reason why Appeal B should not be allowed (IR860).

Miscellaneous matters

Conditions

37. The Secretary of State has considered the proposed conditions at Appendix C of the IR, paragraph 206 of the Framework, Circular 11/95 and the Inspector's comments at IR530-535, IR762, IR782-783, IR804-807, IR828, IR842 and IR860-861. He is satisfied that the proposed conditions that relate to the Appeal B, as reproduced at Annex B of this letter, are reasonable and necessary and meet all the relevant tests in Circular 11/95. In respect of Appeals A, C, D, E and F, the Secretary of State is satisfied that the conditions recommended by the Inspector are reasonable and necessary and meet the relevant tests in Circular 11/95. However, he does not consider they overcome his reasons for dismissing these appeals.

Obligation

38. The Secretary of State has considered the planning obligations submitted in relation to Appeals A, C, D, E and F, the Inspector's comments at IR536-538, IR780-781, IR798-803, IR826-827, IR839-840, IR868 and national policy as set out the Framework and the CIL regulations. He is satisfied that these planning obligations are necessary and compliant with the CIL regulations 2010. However, the Secretary of State does not consider that they overcome his reasons for dismissing these appeals.

Overall Conclusions

39. The Secretary of State has had regard to the Inspector's overall conclusions at IR865-868. In respect of Appeal A, having weighed up all the material considerations, the Secretary of State concludes that the factors which weigh in favour of Appeal A are not sufficient to clearly outweigh the harm to the Green Belt, and other harm identified and he does not consider that very special circumstances have been demonstrated to justify this proposal in the Green Belt.

40. The Secretary of State also concludes that, in these circumstances, it follows that the proposals under consideration through Appeals C, D, E and F should also be dismissed as the sites are required or may be required for educational purposes.
41. Overall the Secretary of State concludes that Appeals A, C, D, E and F are not in accordance with the development plan and he has found no material considerations of sufficient weight which would justify granting planning permission in this case.
42. With regard to Appeal B, the Secretary of State has found that the proposals would not result in an unsustainable form of development, and that making better use of an existing facility in a responsible and controlled manner would accord with the objective of achieving a sustainable use of resources, as required under LP Policy SD1. In conclusion the Secretary of State is satisfied that Appeal B complies with the development plan and with national policy and he sees no reason why it should not be allowed.

Formal Decision

43. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby:

Allows APPEAL B and grants planning permission for the change of use to school sports fields with associated changing facilities without complying with a condition attached to planning permission Ref 3/97/0520/FP dated 16 November 1998 at Jobbers Wood, Great Hadham Road, Bishop's Stortford, Herts, CM23 4BS in accordance with application reference 3/10/1044/FO dated 7 June 2010 subject to the conditions at Annex B.

Dismisses APPEAL A and refuses planning permission for comprehensive development comprising the change of use of land from agricultural to educational use (Class D1) and the erection of buildings with a combined total external floorspace of 26,000 sqm, plus related site works consisting of: the construction of an internal road; car parking areas; a temporary construction onto Obrey Way; a floodlit multi-use games area and all weather pitch; formation of playing fields and associated drainage works. Associated infrastructure works to Whittington Way to include: construction of 2 new roundabouts; provision of cycleway and footway links; and enhanced bus stop facilities at land at Whittington Way, Bishop's Stortford, Herts, in accordance with application reference 3/10/1012/OP dated 7 June 2010.

Dismisses APPEAL C and refuses planning permission for residential development (up to 165 dwellings) and alterations to existing Patmore Close access plus related internal roads, landscaping and open space areas at Land to the south of Hadham Road, Bishop's Stortford, Herts, in accordance with application reference 3/10/1009/OP dated 7 June 2010.

Dismisses APPEAL D and refuses planning permission for the demolition of existing buildings and the erection of up to 220 residential properties and associated infrastructure at The Bishop's Stortford High School for Boys, London

Road, Bishop's Stortford, Herts, CM23 3LU, in accordance with application reference 3/10/1013/OP dated 25 May 2010.

Dismisses APPEAL E and refuses planning permission for the retention and refurbishment of the buildings fronting Warwick Road, demolition of existing buildings and the erection of up to 125 residential properties and associated infrastructure at Hertfordshire and Essex High School for Girls, Warwick Road, Bishop's Stortford, Herts, CM23 5NJ, in accordance with application reference 3/10/1015/OP.

Dismisses APPEAL F and refuses planning permission for the demolition of existing buildings and the erection of up to 180 residential properties and associated infrastructure, at Beldams Lane Sports Pitches, Beldams Lane, Bishop's Stortford, Herts, CM23 5LQ in accordance with application reference 3/10/1014/OP.

44. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
45. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

46. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
47. A copy of this letter has been sent to East Hertfordshire District Council, the Bishop's Stortford Civic Federation and Thorley Parish Council. A notification letter has been sent to those interested persons opposing the proposal identified on page 160 of the IR, and to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

Annex A

Correspondence received in response to the Secretary of State's letter of 8 May 2012

Name / Organisation	Date
Thorley Parish Council	14 May
Bishop's Stortford Civic Federation	15 May
Vincent and Gorbing on behalf of the Appellant	15 May
East Hertfordshire District Council	21 May

Appeal B planning conditions

1. The use of the land shall only be for the beneficial use of The Bishop's Stortford High School, The Hertfordshire & Essex High School and for local organisations, as defined in condition 2 below.
2. Prior to the commencement of the use there shall be submitted to and approved in writing by the Local Planning Authority, details of the organisations (as set out in condition 1) other than the Bishop's Stortford High School and the Herts and Essex High School, which will have access to and use of the site. Once the details of those organisations has been agreed, use of the site shall be restricted to those organisations.
3. The existing building on the site shall be used for changing rooms and for the storage of equipment ancillary to the use of the site only and for no other purposes including any other purpose within class D1 of the schedule to the Town and Country Planning (Use Classes) Order 1987.
4. There shall be only one point of access onto the classified road (B1004)
5. Any gates provided shall be set back a minimum of 5.0 metres from the edge of the carriageway and shall open inwards into the site.
6. Notwithstanding any of the provisions of the Town and Country Planning (General Permitted Development Order), 1995 the areas shown for parking shall be retained for such use.
7. No external lighting of any form shall be installed within the application site.
8. Within 3 months of the date of this permission, a Travel Plan for the use of the site shall be submitted to and approved in writing by the Local Planning Authority and shall include proposals for all travel by modes other than individual private vehicle journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.



Report to the Secretary of State for Communities and Local Government

by **David Wildsmith** BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Date: 6 February 2012

TOWN AND COUNTRY PLANNING ACT 1990

EAST HERTFORDSHIRE DISTRICT COUNCIL

APPEALS BY

**THE GOVERNORS OF THE BISHOP'S STORTFORD HIGH SCHOOL,
THE HERTFORDSHIRE & ESSEX HIGH SCHOOL AND SCIENCE COLLEGE,
HERTFORDSHIRE COUNTY COUNCIL**

AND

COUNTRYSIDE PROPERTIES PLC

Inquiry opened on 20 September 2011

Land at Whittington Way, Bishop's Stortford, Herts;
Land at Jobbers Wood, Great Hadham Road, Bishop's Stortford, Herts;
Land to the south of Hadham Road, Bishop's Stortford, Herts;
The Bishop's Stortford High School, London Road, Bishop's Stortford, Herts, CM23 3LU;
The Hertfordshire & Essex High School, Warwick Road, Bishop's Stortford, Herts, CM23 5NJ;
Beldams Lane Sports Pitches, Beldams Lane, Bishop's Stortford, Herts

File Refs: APP/J1915/A/11/2149483, 2149492, 2149488, 2149408, 2149401 & 2149392

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Appeal A - File Ref: APP/J1915/A/11/2149483

Land at Whittington Way, Bishop's Stortford, Herts

Appeal B - File Ref: APP/J1915/A/11/2149492

Jobbers Wood, Great Hadham Road, Bishop's Stortford, Herts, CM23 4BS

Appeal C - File Ref: APP/J1915/A/11/2149488

Land to the south of Hadham Road, Bishop's Stortford, Herts

Appeal D - File Ref: APP/J1915/A/11/2149408

The Bishop's Stortford High School for Boys, London Road, Bishop's Stortford, Herts, CM23 3LU

Appeal E - File Ref: APP/J1915/A/11/2149401

Hertfordshire and Essex High School for Girls, Warwick Road, Bishop's Stortford, Herts, CM23 5NJ

Appeal F - File Ref: APP/J1915/A/11/2149392

Beldams Lane Sports Pitches, Beldams Lane, Bishop's Stortford, Herts, CM23 5LQ

- **Appeals A, C, D, E & F** are made under section 78 of the Town and Country Planning Act 1990 ("the Act") against refusals to grant outline planning permission.
- **Appeal B** is made under section 78 of the Act against a refusal to grant planning permission under section 73 of the Act for the development of land without complying with a condition subject to which a previous planning permission was granted.
- All appeals are made against the decisions of East Hertfordshire District Council ("EHDC" or "the Council").
- **Appeal A** is made by The Governors of The Bishop's Stortford High School and The Governors of The Hertfordshire and Essex High School and Science College.
- **Appeal B** is made by The Governors of The Bishop's Stortford High School.
- **Appeal C** is made by Hertfordshire County Council.
- **Appeals D, E & F** are made by Countryside Properties Plc
- For **Appeal A**, the application Ref 3/10/1012/OP, dated 7 June 2010, was refused by notice dated 30 September 2010.
- The development proposed is a comprehensive development comprising the change of use of land from agricultural to educational use (Class D1) and the erection of buildings with a combined total external floorspace of 26,000 square metres ("sqm"), plus related site works consisting of: the construction of an internal road; car parking areas; a temporary construction access onto Obrey Way; a floodlit multi-use games area and all weather pitch; formation of playing fields and associated drainage works. Associated infrastructure works to Whittington Way to include: construction of 2 new roundabouts; provision of cycleway and footway links; and enhanced bus stop facilities.
- For **Appeal B** the application Ref 3/10/1044/FO, dated 7 June 2010, was refused by notice dated 30 September 2010.
- The application sought planning permission for the change of use to school sports fields with associated changing facilities without complying with a condition attached to planning permission Ref 3/97/0520/FP, dated 16 November 1998.
- The condition in dispute is No 2 which states that: "This permission shall be solely for the beneficial use of the applicants, The Bishop's Stortford High School, and for no other persons, institutions or organisations."
- The reason given for the condition is: "To ensure that the permission is exercised only by the applicants, having regard to the personal circumstances of the case".
- For **Appeal C**, the application Ref 3/10/1009/OP, dated 7 June 2010, was refused by notice dated 30 September 2010.
- The development proposed is a residential development (up to 165 dwellings) and alterations to existing Patmore Close access plus related internal roads, landscaping and open space areas.
- For **Appeal D**, the application Ref 3/10/1013/OP, dated 25 May 2010, was refused by notice dated 30 September 2010.
- The development proposed is demolition of existing buildings and the erection of up to

220 residential properties and associated infrastructure.

- For **Appeal E**, the application Ref 3/10/1015/OP, dated 25 May 2010, was refused by notice dated 30 September 2010.
- The development proposed is the retention and refurbishment of the buildings fronting Warwick Road, demolition of existing buildings and the erection of up to 125 residential properties and associated infrastructure.
- For **Appeal F**, the application Ref 3/10/1014/OP, dated 25 May 2010, was refused by notice dated 30 September 2010.
- The development proposed is demolition of existing buildings and the erection of up to 180 residential properties and associated infrastructure.
- The inquiry sat for 16 days on 20 to 23 September, 27 to 30 September, 4 to 7 October and 11 to 14 October 2011 and was closed in writing on 21 October 2011. I made an accompanied site visit on the morning of 21 September and undertook further accompanied visits to the appeal sites and surrounding area on 19 & 20 October 2011.

Summary of Recommendation: That Appeals A, C, D, E and F be dismissed, but that Appeal B be allowed, subject to conditions.

Procedural Matters

1. The Appeals have been labelled "A" to "F" and the proposals they relate to are referred to as Schemes A to F. In addition, the convention has been used of referring to the Whittington Way site as Site A; the Jobbers Wood site as Site B; the Hadham Road site as Site C; the Bishop's Stortford High School ("BSHS" or "the Boys' school") on London Road as Site D; the Hertfordshire & Essex High School ("HEHS" or "the Girls' school") on Warwick Road as Site E; and the Beldams Lane site as Site F. As detailed above, the named Appellants vary from appeal to appeal. For ease and brevity, the term "the Appellants" has been used throughout this Report to refer to the appropriate Appellants for the appeal(s) in question. On occasions, "the County Council" has been used, rather than "the Appellants", where the comment or action is more directly attributable to that body.
2. The schemes and developments covered by these 6 appeals are an inter-related and inter-dependent package of proposals. Fuller details are given in later sections of this Report, but in summary the Appellants seek to relocate the BSHS and the HEHS from their current sites within the built-up area of Bishop's Stortford, to an area of Green Belt immediately to the south of the town at Whittington Way (Site A). The 2 schools would remain separate, but would share some facilities, such as communal buildings and sports facilities. The existing school sites (D and E) are proposed to be re-developed for housing, as is the HEHS detached sports field at Beldams Lane (Site F). In addition, a site safeguarded in the East Hertfordshire Local Plan Second Review April 2007 ("the Local Plan") as a Reserve Secondary School Site under policy BIS7 (Site C) would also be developed for housing.
3. Schemes A and C-F were submitted in outline, with only access to be determined at this stage. The Appeal B application sought to vary Condition No 2 of a previous planning permission so as to widen the use of the sports facility at Jobbers Wood to include the HEHS and local organisations. All the applications were considered by the Council's Development Control Committee on 30 September 2010, where all were refused planning permission. The reasons for refusal given at this time, and further details of each scheme, are listed in the Statements of Common Ground ("SoCG"), to be found at Core Documents ("CD") 2/1 to CD 2/6.
4. Appeals D, E and F were lodged on 16 March 2011, with Appeals A, B and C lodged on 17 March 2011. They were all subsequently recovered for determination by the

Secretary of State by letter dated 5 April 2011. The reason for recovery is that Appeal A involves proposals for significant development in the Green Belt and that the other appeals would be most efficiently and effectively decided with this lead appeal. The Secretary of State did not identify any specific matters upon which he particularly wishes to be informed, so my Report concentrates on the Council's reasons for refusal (modified as detailed below), along with other matters of concern raised by the Bishop's Stortford Civic Federation ("BSCF") and the Thorley Parish Council ("TPC") who both appeared at the inquiry as Rule 6 Parties.

5. Following the refusals of planning permission the Appellants submitted additional information and continued discussing matters with the Council, with agreement being reached on a number of topics. As a result the Council indicated that it would not pursue certain reasons for refusal (or parts thereof), at the inquiry, subject to certain provisos or clarifications. For ease of reference the reasons for refusal, as generally pursued at the inquiry, are detailed in the following paragraphs.
6. For **Scheme A** the Council was satisfied that the impact of the noise environment in the vicinity of the site, influenced by aircraft from nearby Stansted Airport, had been adequately assessed. It therefore did not pursue its reason for refusal relating to noise matters but limited its opposition to Scheme A to the following 2 reasons:
 - i. *The proposed development involves the provision of 2 schools located within the Green Belt which represents inappropriate development within the Green Belt. The extensive scale and amount of development would result in the site becoming dominated by buildings and extensive areas of hard surfacing. This impact would be emphasised by the extensive nature of the proposed changes in site levels and the limited opportunities for landscaping in between buildings, outdoor recreation areas and along the southern boundary. If permitted the proposals would be detrimental to the openness of this part of the Green Belt and the wider landscape setting of the town. Other harm is associated with the development which relates to the impact of traffic movements and general activity within the site, the impact on landscape features and rights of way. Whilst there is accepted to be an educational need for additional school places within the Bishop's Stortford Educational Area, this issue is not considered to outweigh the inappropriateness of the development and harm to the openness of the Green Belt or the other harm. The proposed development is therefore contrary to policy GBC1, ENV1, ENV2, ENV11, GBC14 and LRC9 of the East Herts Local Plan Second Review April 2007 and Planning Policy Guidance 2: Green Belts.*
 - ii. *The proposed development will result in a significant alteration to traffic movements within the town. Despite the package of measures proposed by the applicant the Council is of the view that the development will result in unacceptable levels of traffic congestion, in particular at the Whittington Way /Thorley Street/ London Road junction and other junctions northwards along London Road between the site and the town centre. Therefore the proposal would have a harmful impact upon the free flow of traffic and would also be contrary to policy TR1 of the East Herts Local Plan Second Review April 2007.*
7. For **Scheme B** the Council refused planning permission for the following reason:
 - i. *The proposed use of the site, by reason of its location and lack of accessibility by sustainable modes of transport, would result in an unsustainable form of development and traffic movements and reliance on the private car. The*

proposal would therefore be contrary to policies SD1 and SD2 of the East Herts Local Plan Second Review April 2007.

8. For **Scheme C** the Council refused planning permission for the following reason:
 - i. The proposed residential development of this site would result in the loss of a site which could contribute towards the provision of the specified need for education capacity within the town of Bishop's Stortford without that need being met in another way. The proposed development is therefore contrary to Policy BIS7 of the East Herts Local Plan Second Review April 2007.*
9. For **Scheme D** the Council refused planning permission for the following reason:
 - i. The proposed development would result in the loss of the existing High School as a community facility and its associated playing fields and other sports facilities and the loss of the Blues Pre-School without the provision of appropriate replacement facilities of at least equivalent quantity, quality, and accessibility elsewhere in the town. As such, it would be contrary to policies LRC1 and LRC11 of the East Herts Local Plan Second Review April 2007.*
10. Part of this reason for refusal relates to the loss of the Blues Pre-School which has been located within the BSHS grounds since 1987. However, subsequent to the refusal, a proposal to relocate the Pre-School was formulated and submitted to the Council. As a result, planning permission was granted on 25 May 2011 for the construction of an alternative facility for this Pre-School elsewhere in Bishop's Stortford. The County Council will fund this relocation, which is intended to take place regardless of the outcome of the current appeals (Doc APP/38 para 7.6). In view of these points the Council indicated that it did not intend to pursue this particular aspect of the reason for refusal, as long as measures could be put in place, such as appropriate conditions or a planning obligation, to ensure the re-provision of the Pre-School facility as part of any redevelopment of the London Road site. The Council's case proceeded on this basis.
11. For **Scheme E**, the Council's original reasons for refusal included a concern that insufficient information had been submitted in respect of the historic significance of the buildings on the HEHS site. However, the Appellants subsequently prepared a Heritage Statement (CD 8/4) to address this matter and submitted it to the Council in June 2011. The Council confirmed that it was satisfied with the extent of the information provided and that in its view the impact of the proposal in relation to the heritage significance of the building would be acceptable. Accordingly the only reason for refusal pursued by the Council at the inquiry was:
 - i. The proposed development would result in the loss of The Herts and Essex School, a community facility and its associated playing fields and other sports facilities, without the provision of appropriate replacement facilities of at least equivalent quantity, quality, and accessibility elsewhere in the town. As such, it would be contrary to policies LRC1 and LRC11 of the East Herts Local Plan Second Review April 2007.*
12. For **Scheme F** the Council refused planning permission for the following reason:
 - i. The proposed development would result in the loss of an outdoor sports and recreation facility without the provision of appropriate replacement facilities of at least equivalent quantity, quality, and accessibility elsewhere in the town. As such, it would be contrary to policy LRC1 of the East Herts Local Plan Second Review April 2007.*

13. It was agreed that other matters of concern could be addressed by suggested planning conditions, put forward jointly by the main parties (Doc JNT/1), although some differences of opinion on certain matters still remained, as detailed later in this Report. In addition, 5 separate planning obligations made under Section 106 ("S106") of the Act, comprising 1 Agreement and 4 unilateral undertakings, were also submitted to address further matters (Docs APP/73 to APP/77). I discuss these planning obligations and the suggested conditions later in this Report.
14. Scheme A meets the applicable thresholds of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999 No 293), as amended, and the Appellants have submitted an Environmental Statement ("ES" – CD A/13-16). Following discussions with the Council the Appellants have also submitted ESs for schemes C to F. These can be found at CD C/9-12, CD D/5-5A; CD E/10A-10B and CD F/10A-10/B. Additional environmental information was sought through a Regulation 19 Direction, following the Pre-Inquiry Meeting ("PIM") and this was duly submitted as Documents APP/41, APP/45 and APP/49. The main parties agree that the scope of the submitted ESs meet the requirements of the above Regulations and that the Appellants have assessed the significant environmental effects of the proposed developments.
15. During the morning peak period on 21 September 2011 I visited the Whittington Way area and London Road in the vicinity of the BSHS to observe traffic conditions in the company of representatives of the Appellants, the Council, BSCF and TPC. In particular I observed the operation of the London Road/Thorley Hill junction. Further accompanied visits were undertaken on 19 and 20 October 2011 to all of the appeal sites, together with other relevant locations, such as the Birchwood School within Bishop's Stortford and the Leventhorpe School at Sawbridgeworth. I also undertook a number of unaccompanied visits throughout the course of the inquiry, as requested by the parties. These included visits to observe traffic conditions in the vicinity of all the relevant Bishop's Stortford schools in the morning peak period and at the end of the school day, as well as observing traffic conditions at key junctions and visiting other important locations in the town generally.
16. My Report contains a description of the appeal sites and their surroundings; the gist of the matters agreed between the Appellants and the Council; the material points of the cases of the Appellants, the Council, BSCF, TPC and interested persons; and my conclusions and recommendations. Copies of the proofs of evidence and statements of those witnesses who provided them are included as accompanying documents. Appendix A lists those who appeared at the inquiry. Appendix B contains a list of core documents and other documents submitted at the inquiry (referred to in brackets). Appendix C contains the conditions which I recommend should be imposed on any planning permission granted in respect of any of the appeals. Appendix D contains details of the plans appropriate to each scheme. Finally, Appendix E is a list of abbreviations used throughout this Report.
17. It should be noted that prior to the commencement of the inquiry Ms Busch had been formally instructed to present the case for the BSCF and in the early stages of the inquiry she was also formally instructed to present the case for Thorley Parish Council. As a result, the closing submissions made to the inquiry by Ms Busch covered the relevant aspects of both the BSCF case and also that of TPC. Accordingly, I have dealt with these 2 Rule 6 Parties together when summarising their cases, later in this Report.

18. Evidence presented by Dr Ingate (representing Secondary School headteachers) and Mr Janke (a former Secondary School headteacher), closely echoed, supported and amplified many of the points made by the BSCF. Therefore, as a matter of expediency, Ms Busch assisted these witnesses to present their evidence. However, as neither Dr Ingate nor Mr Janke had sought formal Rule 6 Party status, I have recorded the main points of their respective cases under separate headings, later in this Report, rather than as sub-sections of the BSCF case. I have also reported the case of Mr Pigott, as agreed at the inquiry, although its direct relevance to the subject matter of the current appeals is somewhat questionable.

The appeal sites and their surroundings

19. A full description of all appeal sites and the surrounding areas can be found in the respective SoCG (CD 2/1 to CD 2/6), with the site and location plans also to be found within the Core Documents at CD A/3, CD B/3, CD C/3, CD D/3, CD E/3 and CD F/3.
20. In brief, **Site A** comprises some 23.29 hectares ("ha") of predominantly agricultural land located within the Green Belt on the southern fringe of Bishop's Stortford. It lies to the south of Thorley Lane, a former country lane which ran from the B1383 Thorley Street/London Road¹ in the east towards Thorley village in the west before being replaced by the distributor roads of Whittington Way and Obrey Way in about the 1970s. The main body of the site lies to the south of Whittington Way, which links residential areas in the Thorley Park area with Thorley Street/London Road to the east at a traffic signal controlled junction.
21. The eastern side of the site is bounded by the rear gardens of residential properties which face onto the B1383. Part of the site's western boundary is formed by Obrey Way, which links Whittington Way to the A1184 St James Way. This latter road forms part of the town's south-western bypass which runs some distance to the south of the site. However the bulk of the western and southern boundaries do not coincide with any physical features.
22. The appeal site includes a 30m wide construction access corridor, linking to Obrey Way to the west, and a 6m wide drainage corridor projecting to the south, immediately adjacent to the rear of the Thorley Street properties. The site also includes highway land in the form of Whittington Way itself and land either side of it, together with a thick belt of mature trees lying generally between Whittington Way and Thorley Lane. Bishop's Avenue and Pynchbek, which both join Whittington Way from the north at priority junctions, serve as main access routes to local residential areas. Under Scheme A these junctions would be converted to roundabouts, to also serve the proposed schools' site to the south.
23. Trees and intermittent hedgerows line the northern and eastern boundaries of the main part of the site and include an oak copse located just to the south of Whittington Way, subject to a Tree Preservation Order ("TPO"). The main body of the site is sub-divided into 3 separate parcels by hedgerows, ditches and an unsurfaced public footpath (Footpath 4/34, known as the Hertfordshire Way), which runs east-west across the site from Obrey Way in the west to Thorley Street in the east. In general terms the main part of the site falls gently from the north-west to the south and south-east.

¹ In general I have used the convention of referring to the stretch of the B1383 which lies to the north of Whittington Way as "London Road", and that stretch which lies to the south of Whittington Way as "Thorley Street"

24. The site is served by a field access on Whittington Way at the eastern extreme of the site frontage, with further accesses across the drainage corridor from Thorley Street and from a gated access on Obrey Way, from where the construction access would be taken. A further pedestrian right of way crosses the open land to the south of the site, in the form of the unsurfaced Footpath No 3.
25. Existing residential development lies to the north and north-west of the site, served by Friedberg Avenue and Villiers-sur-Marne Avenue which join Obrey Way. The small village of Thorley lies to the west of the site, on the top of a low hill, with the old Parish church on the highest point. The linear settlement of Thorley Street runs alongside the B1383 to the east and contains a number of old buildings, including listed buildings, details of which are given in Appendix ("App") 16.6 to CD A/15. Of particular note is Thorley House, a Grade II listed building which lies adjacent to the north-eastern boundary of the site, set in extensive grounds and surrounded by a high hedgerow and trees. Part of the Hertfordshire Way runs to the south of Thorley House and immediately south of this footpath are a number of terraced residential properties accessed from two short culs-de-sac off London Road (Highland Road and Hawthorn Rise), that end at the appeal site boundary.
26. **Site B** is owned by the BSHS and comprises a purpose-built sports ground which was granted planning permission in 1998. It extends to some 14.25ha and is located within the open countryside and Green Belt, about 1.2km from the western edge of the built-up area of Bishop's Stortford and 2.5km to the east of the village of Much Hadham. It lies immediately to the south of the B1004 and is bounded on all sides by mature hedgerows and fencing. An area of mature woodland known as Jobbers Wood lies immediately to the east. The sporting facilities on the site include 4 rugby pitches, 3 football pitches and 2 hockey pitches together with a changing pavilion and car parking. In the summer months, the site is used for 3 cricket pitches. None of the pitches are floodlit.
27. **Site C**, which is owned by the County Council, has an area of some 4.75ha and is located in the north-west of Bishop's Stortford to the south of Hadham Road. It comprises an agricultural field (the "northern field"), an area of grass verge and highway land in Hadham Road and Patmore Close. It is adjoined by 3 other areas of land, also in County Council ownership. To the south-west there is a further field which, until recently, was used for sporting purposes by Bishop's Stortford Rugby Club. To the south of the site is an area of woodland/former orchard and to the east, on the opposite side of Patmore Close, there is the Bishop's Stortford Fire and Ambulance Station, together with 2 rows of terraced houses.
28. The northern field is currently in arable agricultural use, and is accessed from a field access at the end of Patmore Close. Trees and hedgerows generally line its northern, western, southern and south-eastern boundaries, with a more open post and wire fence along the north-eastern boundary. The site is featureless and slopes gently from north-west to south-east. Together with the western field and southern woodland it was originally acquired by the County Council as a site for a new secondary school and has been held in reserve for that purpose for a number of years.
29. A chalet bungalow (171 Hadham Road) lies to the north-west of the site, together with a small area of mainly 2-storey detached houses (Hadham Grove and Grove Park). The Bishop's Park Neighbourhood Centre lies further to the west, and includes a Tesco superstore and a large car park. The Dane Park residential area lies to the east of the site, beyond the Fire and Ambulance Station, whilst further residential properties and playing fields lie to the south of the site, beyond the southern wood.

30. The northern part of the grass verge to Patmore Close contains some 11 car parking spaces, and the A1250 Hadham Road lies immediately to the north of the site, serving as the main route into Bishop's Stortford town centre from the west.
31. **Site D** comprises the BSHS, located in the southern part of the town. It is split into 2 distinct parcels of land totalling some 6.2ha, linked by a pedestrian pathway. The 2 parts are separated by Thorley Hill Primary School which is located immediately to the north of the linking pathway. The eastern half of the site, which contains the main school buildings, associated car parking and tennis courts, is roughly square in shape. It is reasonably level but drops away significantly towards the eastern boundary with London Road. The western parcel which comprises the school's grassed sport pitches and a pavilion is also reasonably level and square in shape. This part of the site has a vehicle access at the end of Twyford Gardens and pedestrian access from the Park Avenue woodland to the west and north-west.
32. The overall site is almost entirely enclosed by residential development, with the southern boundaries abutting the gardens of Twyford Gardens and Grace Gardens and the northern boundaries abutting the gardens of Park Lane and Thorley Park Road. The site's eastern boundary abuts London Road and includes the main access. Part of this eastern boundary comprises a densely wooded area covered by a group TPO. This woodland area is on a slope which rises steeply from London Road into the site before levelling off. The site's western boundary abuts Park Avenue woodland which includes a footpath running through it, linking Park Avenue with Thorley Park Road.
33. The site is situated just over 1.5km from the railway station and just under 2km from the town centre. There are bus stops in close proximity to the site on London Road, a key bus route into the town centre.
34. **Site E** comprises the HEHS, located to the east of the town about 0.75km from the town centre and less than 0.5km from the railway station. It is located to the north of Warwick Road, from where it takes its principal access. The site extends to some 2.7ha, is roughly rectangular and is reasonably level. It is bounded by Warwick Road to the south, Dunmow Road to the north, Grange Road to the west and Urban Road to the east. The southern part of the site contains the school buildings which are of varying ages, including the main 1910 building fronting Warwick Road and a caretaker's cottage lying to the west of the main entrance.
35. There are also a number of more modern buildings, including a new 3-storey block constructed between 1997-99, comprising 8 classrooms and additional dining accommodation, new sports/changing facilities together with a new entrance and reconfigured circulation. In addition, part of the original Edwardian buildings were refurbished and extended to provide a new sixth form centre (Doc APP/8 para 2.1.1). This southern part of the site also contains parking areas, gymnasium, indoor swimming pool, dance studio, tennis courts and informal recreation areas. Some community use is made of the school hall and facilities such as the indoor pool and the gymnasium.
36. The northern part of the site comprises the school's playing field and a "grasscrete" car park, located in a narrow piece of land furthest north with access from Dunmow Road. There are a number of mature trees on the boundaries of the site, including a row of poplars on the eastern boundary, together with a hedge screen. There is also a row of limes and a horse chestnut, protected by a TPO, marking the boundary between the northern and southern parts of the site. A group of trees in the south-eastern corner of the site are also protected. No part of the school site is either listed

or in a conservation area, nor are any buildings locally listed. As noted above, the main school building facing Warwick Road was built in 1910. It was altered and extended in the 1920s and has been further altered and extended on a number of occasions after the Second World War. The other buildings on the site all date from the post-war period and are of varying architectural quality and physical condition.

37. The appeal site is almost entirely surrounded by existing residential development, of varying densities, and its boundaries, in most cases, adjoin the back or side of those private gardens. Directly opposite the northern part of the site, on the northern side of Dunmow Road, is the Hockerill Anglo-European College and its associated sports ground. The school's music building, the Firlands Annex, lies opposite the main school site on the southern side of Warwick Road, but does not form part of the appeal site. The Hertfordshire and Essex Community Hospital lies further to the south of the site.
38. **Site F** extends to about 4.2ha, is generally rectangular and reasonably level, and accommodates the detached playing fields of the HEHS. It lies some 0.5km from the school's main Warwick Road site and is about 1.5km from the town centre and about 1km from the railway station. Its boundaries are edged with a variety of trees and fencing and the site is almost entirely enclosed by residential development, with the exception of the community hospital to the north.
39. The southern boundary abuts Beldams Lane and includes a gate to allow vehicular access for maintenance and similar activities. This boundary contains a row of mature trees which are covered by a group TPO. The eastern boundary abuts four culs-de-sac which terminate at the site's boundary and have junctions with Linkside to the east. The western boundary of the site abuts the rear gardens of houses in The Hedgerows whilst to the north of the site lies the Herts and Essex Community Hospital and the residential development that replaced the larger, former hospital.
40. The site itself has no formal public access, although there is an informal pedestrian access in the north-west corner, leading out to public footpath 44. The playing fields provide sports pitches and informal recreation space. The Appellants confirm that no formal community use is made of these facilities, although the County Council is in receipt of an application to register the site as a town or village green.

Planning Policy

The Development Plan

41. The development plan includes the East of England Plan ("EEP") "The Revision to the Regional Spatial Strategy ("RSS") for the East of England" (CD 3/1); and saved policies of the East Hertfordshire Local Plan Second Review, adopted in April 2007 (CD 3/2 & CD 3/3). Although the Secretary of State has signalled his intention to revoke the RSS through the Localism Bill, the EEP was part of the development plan at the time the inquiry was held and also at the time this Report was written.
42. Full details of the development plan policies agreed to be relevant to these appeals are given in the respective SoCG. Particularly relevant are those policies referred to in the Council's reasons for refusal, namely: GBC1 (Appropriate Development in the Green Belt), ENV1 (Design and Environmental Quality), ENV2 (Landscaping), ENV11 (Protection of Existing Hedgerows and Trees), GBC14 (Landscape Character), TR1 (Traffic Reduction in New Developments), SD1 (Making Development More Sustainable), SD2 (Settlement Hierarchy), BIS7 (Reserve Secondary School Site, Hadham Road), LRC1 (Sport and Recreation Facilities), LRC9 (Public Rights of Way) and LRC11 (Retention of Community Facilities).

43. The Council has adopted a number of Supplementary Planning Documents ("SPD") which are relevant to the appeal proposals, with fuller details given in the SoCG. In summary the documents are the "Landscape Character Assessment" SPD ("LCA" - CD 3/8); the "Planning Obligations" SPD (CD 3/5); the "Sustainability Appraisals; Indicators And Targets" SPD (CD 3/9); the "Vehicle Parking Provision At New Development" SPD (CD 3/6); the "Open Space, Sport And Recreation" SPD (CD 3/7); and the "Affordable Housing and Lifetime Homes" SPD (CD 3/4).
44. The Local Plan will eventually be superseded by a Local Development Framework ("LDF") comprising a number of Local Development Documents ("LDD"s). However, the preparation of these LDDs is at a very early stage, with a Core Strategy "Issues and Options" consultation exercise carried out in November 2010 (CD 3/13). The consultation document looks at a number of issues including the options for distributing the District's housing requirements which amount to some 8,500 additional dwellings in the period to 2031. Further details are given in the relevant Core Documents but it is agreed between the parties that this document does not carry weight as an adopted Development Plan Document ("DPD") at this stage.

National Planning Guidance

45. The SoCG also set out the relevant national planning guidance against which these proposals need to be assessed, with full details of the documents to be found at CD 3/16 to CD 3/28. In summary, the most relevant are Planning Policy Statement ("PPS") 1: "Delivering Sustainable Development" and its associated "Planning and Climate Change Supplement"; Planning Policy Guidance ("PPG") 2: "Green Belts"; PPS3: "Housing"; PPS5: "Planning for the Historic Environment"; PPS7: "Sustainable Development in Rural Areas"; PPS9: "Biodiversity and Geological Conservation"; PPG13: "Transport"; PPG17: "Planning for Open Space Sport and Recreation"; PPS22: "Renewable Energy"; PPS23: "Planning and Pollution Control"; PPG24: "Planning and Noise"; and PPS25: "Development and Flood Risk".
46. Also relevant are Circular 11/95: "The Use of Conditions in Planning Permissions"; Circular 05/2005: "Planning Obligations"; the Written Ministerial Statement ("WMS"), "Planning for Growth", March 2011 (CD 3/15); the Policy Statement on "Planning for Schools Development", August 2011 (CD 3/30); and the Draft National Planning Policy Framework ("NPPF"), the consultation period for which ended on 17 October 2011.

Planning History

47. With regards to **Site A**, the November 2004 version of the East Herts Local Plan (CD 3/10), proposed that a site of about 15ha to the south of the town, more or less corresponding to the current appeal site, should be excluded from the Green Belt and set aside for education purposes. The draft plan advised that the proposed allocation was required to remedy longstanding issues of secondary education provision and would enable the HEHS and the BSHS to relocate to the site. The allocation was on the basis of accommodating 2 6 form entry (FE) secondary schools, and associated sixth forms, but with capacity to expand to 8FE. The draft plan recognised that sports pitches associated with the schools would need to be located outside the allocated land on adjacent Green Belt land.
48. Although the proposed allocation was promoted by the Council at the Public Local Inquiry in 2005/2006, the Inspector took the view that it was not necessary to remove the land from the Green Belt to enable the secondary school needs of the town to be met (CD 3/11). The Inspector did not therefore support this allocation,

but considered that the Green Belt designation of the site should remain and that the circumstances of educational need, as well as the impact on the Green Belt, could be considered in the context of a planning application. Accordingly the Inspector concluded that the relevant policy should be deleted and advised that it may be that the County Council, as Education Authority, could pursue other options in the short term, such as further extension to Birchwood High School. She further concluded that the longer-term needs of the town could be pursued either at Whittington Way or in other locations, should other options arise.

49. In June 2008 a package of 6 development proposals, very similar to those which are now at appeal, were submitted to the Council. These were all due to be considered by the Council at a special meeting of its Development Control committee on 9 December 2008 (CD 3/12A). In the event, however, all the applications were withdrawn prior to the committee meeting, which therefore did not take place. For **Site A** the proposal was an outline planning application (Ref: 3/08/1117/OP) for the relocation and expansion of the 2 schools to the land to the south of Whittington Way.
50. For **Site B**, the SoCG (CD 2/2) indicates that in addition to the implemented planning permission (Ref: 3/97/0520/FP) a further application was submitted and granted planning permission in 2000, for a smaller, re-designed changing facility in a different location (Ref: 3/99/1726/FP). The withdrawn application, submitted in 2008, was identical to the current appeal application.
51. **Site C** is part of a larger site at Hadham Road which was first identified as a Reserve Secondary School Site on the Proposals Map in the 1993 Local Plan (see CD C/14). At the time this reflected the intention of the County Council, who wished to provide a school on the site. This allocation was carried forward in the 1999 adopted Local Plan Alterations, but during the review of the Local Plan the overall Hadham Road site was reallocated as a reserve housing site as the County Council then regarded the site as too small to be able to site a new school. At the Local Plan Inquiry in 2007 the Inspector concluded that the relevant policy, BIS7, provided a sufficient link between housing delivery and schools provision to ensure that the site is not lost to residential development until such time as the educational needs of the town have been properly resolved.
52. In 2008 the County Council submitted 2 alternative outline planning applications for the site. Application Ref 3/08/1116/OP sought permission for up to 165 dwellings on a site identical to the current appeal proposal, whilst Application Ref 3/08/1115/OP sought permission for up to 250 dwellings on the current appeal site plus the western playing field area. These were withdrawn before they could be determined.
53. **Site D** has been occupied by the BSHS since the 1950s and the planning history therefore relates to a range of buildings for educational/ancillary purposes. Of most relevance to the current appeal is the withdrawn 2008 planning application for an identical proposal to the current scheme. Also of relevance is the planning permission, recently granted in May 2011, for the construction of a replacement facility at Cox's Gardens, Elizabeth Road, Bishop's Stortford, for the Blues Pre-School Nursery. As noted earlier, this Pre-School currently occupies premises within Site D.
54. **Site E** has been occupied by the HEHS since the early 1900s. In similar fashion to the BSHS site, the planning history of Site E relates to a range of buildings for

educational/ancillary purposes. Once again, the most relevant is the withdrawn 2008 planning application for an identical proposal to the current scheme.

55. **Site F** was conveyed to the County Council in 1938. Once again, the most relevant aspect of the site's planning history is the withdrawn 2008 planning application for an identical proposal to the current scheme. It should also be noted that the County Council has received an application to register the site as a town or village green under the Commons Act 2006 (see Docs BSCF/9.2.3-9.2.4).

The Appeal Proposals

56. The descriptions of each of the development proposals are given in the banner heading at the start of this Report and further details can be found in each of the SoCG and the detailed evidence. This includes the various Design and Access Statements ("DAS") to be found at CD A/6, CD C/6, CD D/4, CD E/4 and CD F/4. The following paragraphs summarise the main aspects of each of the proposals, and set out the stated development parameters for these outline proposals.
57. Under **Scheme A** planning permission is sought for the change of use of the main body of the site from its current agricultural use to an educational use falling within Use Class D1 of the Use Classes Order 1987 (as amended). Application Plan 4663/123C, to be found at CD A/3, sets out the generally intended disposition of facilities on the site. There would be an access and parking area to the south of Whittington Way, with the school building area just to the south of this. Further south again there would be a hard play area, with playing fields wrapping around the western, southern and eastern parts of the site, to include areas of landscaping, habitat and balancing ponds. The area of the Hertfordshire Way corridor (footpath 4/34) would pass east/west across the site, generally between the school buildings and the parking areas. The other areas within the outline application site boundary (the construction access corridor to Obrey Way, the drainage corridor and the highway land) would remain or be reinstated to their existing use, following the completion of the development proposals.
58. The BSHS would occupy the western part of the site and the HEHS would occupy the eastern part, with both schools being expanded to 6FE (ie 180 pupils per school). Each school would remain as a separate entity, retaining its own particular traditions, identity and ethos, with the building form and design of each school reflecting this. Although detailed design would be something to be determined at reserved matters stage, the submitted evidence indicates that it would be the intention to arrange the HEHS around a courtyard, reflecting the courtyard on the existing HEHS site which is an attractive and well used space. In contrast, the faculty blocks of the BSHS would be arranged to offer a series of sheltered and generally south-facing gardens between buildings (Docs APP/8-APP/10).
59. A communal or shared-use building, containing "core" facilities such as school halls, dining and kitchen areas, a sports hall, a health and fitness gymnasium, squash courts, dance studios and swimming pool would be sited between the 2 schools, with separate accesses from each. The school buildings would have a total maximum gross external floorspace of some 26,000sqm, allowing for classroom facilities for a 6FE intake, whilst the core facilities would be sufficient for an 8FE intake (i.e. 240 pupils per school). If expansion to 8FE is considered necessary at some point in the future, further planning applications would need to be submitted for the additional school facilities, including classrooms (Doc APP/9 Apps 5 & 6).

60. Each school would accommodate up to 1,260 pupils and each would have around 180 staff, including part-time and contract staff. The school buildings would be up to 3 storeys in height with a maximum overall height of 12m to the top of buildings, plus an allowance of 2.5m for plant, giving an overall maximum height of 14.5m.
61. The sports facilities would include an artificial pitch/games area comprising a multi-use games area ("MUGA") and an all-weather pitch ("AWP"), positioned to the south of the school building area. It is anticipated that both of these facilities would be floodlit. The MUGA and AWP perimeter fencing would be combined with planting to lessen the visual impact and the northern edge of the games courts would likely be sunken into the landform to reduce the prominence of the fencing. A total of 1.13ha of hard play area would be provided, and 5.8ha of informal recreation area. These areas compare with a total of 0.36ha hard play area and 1.6ha of informal recreation space at the existing BSHS and HEHS combined.
62. To the south, east and west of the school buildings and hard play area, the Conceptual Layout shows an area mainly used as grass playing fields, pitches, running track and other predominantly grassed areas for sports and athletics use, to accommodate both winter and summer sport layouts (see App 3 to Doc APP/9). At about 7.31ha the grass pitch area would be slightly less than the combined total of 7.72ha available at the BSHS and HEHS (CD D/22 paras 7.11-7.12).
63. The site would be served by a maximum of 348 car parking spaces and would also contain significant areas of landscaping, which are shown in indicative form on the plan at CD A/4. In accordance with the Government's "extended schools" agenda some of the shared facilities such as the swimming pool, sports hall and MUGA would be available for out-of-school-hours use by the wider community, and the schools have indicated their willingness to enter into a Community Use Agreement in order to secure such use.
64. Access to the schools would be from 2 new roundabouts on Whittington Way, which would replace the existing priority junctions at Bishop's Avenue and Pynchbek. The construction of these roundabouts and associated works would require the removal of a number of existing trees and landscaped areas, and existing mounding and landscaping near the junction with Bishop's Avenue would also need to be cut back, re-contoured and landscaped. Further works are also proposed in the Whittington Way corridor, including a toucan crossing and two additional pedestrian and cycle crossing points on Whittington Way; a cycle route/path connecting Whittington Way to Thorley Lane; footways alongside Whittington Way; and improvements to existing bus stops, including provision of shelters, in Whittington Way.
65. **Scheme B** involves a relatively straightforward variation of planning condition. At the present time the use of the Jobbers Wood sports facility is restricted to the BSHS and is used for extra-curricular sports activities. The intention is to extend its use to allow the HEHS and other local organisations to also use the facilities.
66. Under **Scheme C**, planning permission is sought for the change of use of the northern field and part of the adjacent grass verge to a residential use. A development of up to 165 dwellings is proposed, comprising a mix of 2, 3 and 4 bedroom family dwellings and 1/2 bedroom flats and apartments. An illustrative layout is shown on the plan at CD C/5. The family dwellings are expected to comprise a mix of detached, semi-detached and terraced houses. No significant change is proposed to the existing site levels and the development would be of predominantly 2-storey buildings with a number of 2.5 storey and 3-storey

buildings. The tallest, 3-storey dwellings are proposed to have an eaves height of 8m and a ridge height of 12m.

67. The site would be accessed from Hadham Road via the existing Patmore Close junction which is considered to be adequate to serve the development without requiring any changes to its current geometry. A new footway would, however, be constructed on the western side of Patmore Close to connect the development to the existing footway running along Hadham Road. Patmore Close itself would be extended to serve the development. The existing small parking area, currently located within the western verge to Patmore Close, would be removed and relocated within the main body of the Fire and Ambulance Station site. This would need to be the subject of a separate planning application. An existing field access gate on Hadham Road to the west of Patmore Close, which currently provides vehicular access to the western field, would be closed to vehicles but retained as a route for use by pedestrians and cyclists. Although the detailed layout within the site would be a matter for a future reserved matters stage, it is intended that the layout would include a revised maintenance access to the adjacent western field.
68. The indicative layout also shows that the majority of the existing trees and hedges on the site would be retained, notably the tree belt on the Hadham Road frontage and the hedgerows and trees on the other site boundaries. The proposals would, however, involve the removal of a short section of hedgerow and trees on the south-western boundary of the site to provide the revised maintenance access to the western field. Full landscape details, including areas of proposed open space, would need to be determined at a reserved matters stage.
69. The indicative layout also provides for attenuated surface water run-off from the site to be discharged to the existing sewers in Patmore Close and Maple Spring. The proposed attenuation measures would comprise retention of the existing ditches on the south-west and southern boundaries of the site, subject to detailed design and an assessment of the impact on existing trees and ecology; sub-base storage in the Patmore Close verge; and balancing ponds at the south-western and south-eastern corners of the site.
70. Under **Scheme D** the existing school buildings on the site would be demolished and up to 220 dwellings would be constructed, together with associated infrastructure. The indicative layout (drawing 05.124/92 at CD D/3) demonstrates that this number of dwellings could be achieved on the site at a density of 38 dwellings per hectare ("dph"). The proposal includes a vehicular access road to link the western and eastern parts of the site, where currently only a pedestrian route exists. This corridor is currently too narrow to provide the intended vehicular link and a land exchange has therefore been agreed with the Thorley Hill Primary School to overcome this. A narrow strip of land currently owned by the primary school, has been included within the appeal site and an equivalent area at the eastern side of the BSHS playing fields would be transferred to the primary school. The total area of land occupied by the Thorley Hill Primary School would not be reduced.
71. A single, traffic signal controlled means of vehicular access to the site is proposed, directly from London Road. Several pedestrian and cycle accesses would be provided to the site from the existing surrounding residential area. The indicative layout indicates that proposal would also provide footpaths and cycleways, public open space, with the potential to incorporate play areas as necessary, landscaped structural planting, and a new drainage system.

72. There would be a mixture of house types ranging from flatted developments, small family starter housing and medium and larger family housing. These would be set back from London Road, thereby preserving its green setting, and also set back from existing residential properties surrounding the site. The proposed housing would be predominantly up to 2 storeys where close to existing neighbouring residential properties. New housing and flats would be provided up to 3 storeys further away from existing neighbouring residential properties. The indicative layout plan also indicates the intention to retain a large proportion of the existing mature trees on the site boundaries.
73. Under **Scheme E** the 1910 section of the main HEHS building fronting Warwick Road would be retained and converted to residential use. All other buildings on the site would be demolished and replaced with new dwellings, creating up to 125 dwellings in total, including those in the converted school building. The indicative layout, shown on drawing 05.124/63 (CD C/3), demonstrates that this number of dwellings could be achieved on the site at a density of 44dph. There would be a mixture of house types ranging from apartments through starter homes to larger family housing. Building heights are likely to range from 2, 2.5 and 3-storey with the taller buildings proposed for the central and northern parts of the site. A 2-storey block of flats is proposed to the rear of the refurbished 2-storey building facing Warwick Road.
74. The indicative plan indicates that in general, development would be set back from Warwick Road and Dunmow Road and also set back from existing residential properties surrounding the site. Buildings would also be set back from the trees to be retained, notably along the southern, eastern and northern boundaries. The indicative layout indicates that the proposal would also provide footpaths and cycleways, public open space and play space accessible to residents living within the proposed development and to existing residents living within the locality.
75. Two vehicular accesses are proposed. The primary access would be at the existing Warwick Road school entrance in the south. It should be noted, however, that the BSCF disputes the fact that the Appellants can achieve vehicular access to a residential development on this site from Warwick Road, in view of its private status. The second vehicular access would be from the north via the existing parking area access at Dunmow Road. This would only serve a limited number of dwellings and would not provide a through vehicle route to Warwick Road, although this route would be available for cyclists and pedestrians. Cycle and pedestrian accesses would also be provided from Warwick Road and Grange Road.
76. **Scheme F** seeks the demolition of existing buildings on the site and the erection of up to 180 dwellings and associated infrastructure. For clarification it should be noted that there are no buildings currently present on the site, although a storage/ changing facility once existed in the north-western corner. The only structure now present on the site is a large metal container, used to store sports equipment. The indicative layout shown on drawing 05.124/64a (CD F/3) demonstrates that the proposed 180 dwellings could be achieved on the site at a density of 43dph. It is intended that there would be a mixture of house types ranging from apartments through starter homes to larger family housing, with heights of 2, 2.5 and 3 storeys, with new buildings generally being set away from the site boundaries.
77. The building height plan (drawing 05.124/94A at CD F/3) indicates that housing would be predominantly of 2 storeys within the southern and northern-eastern part of the site, in keeping with and sympathetic to the character of neighbouring

residential properties. Housing within the central and north-western part of the site would be predominantly up to 3 storeys in height, being set further away from existing neighbouring housing. The indicative layout also indicates that the line of trees close to the eastern boundary of the site would remain, as would all but one of the protected trees on the southern boundary. There would be a single means of vehicular access to the site, from Beldams Lane, with a potential emergency vehicle access from Highfield Avenue and pedestrian/cycle only access from the residential culs-de-sac Greenway and Highfield Avenue which abut the site's eastern boundary.

78. Although layout is a matter which would need to be determined at any subsequent reserved matters stage, the indicative plan suggests that the proposal would include detached housing facing Beldams Lane and a large oval shaped area of public open space within the centre of the site overlooked by housing and flats. This open space would provide a publicly accessible area both for residents of the proposed housing and also for use by people within the existing neighbouring housing areas. Strategic landscaping would also be provided throughout the site.

Other Agreed Facts

79. The preceding sections have drawn primarily on the SoCG for these 6 proposals and indicate areas of general agreement between the Council and the Appellants. The SoCG confirm other areas of agreement and disagreement between the main parties but it is not necessary to refer to these specifically here as they are covered generally in the cases of the parties. Full details can, however, be found in the SoCG if necessary. One point of note is that although the Scheme A SoCG refers to a Transport SoCG, no such document was placed before me. A Statement was, however, submitted to the inquiry by the County Council as Highway Authority ("HA") (CD 6/4). In summary the HA raise no objection to any of the 6 proposals on highway grounds. I provide further details of the HA's case later in this Report.

Cases of the Parties

The Case for the Appellants

The material points were:

Overview of the Proposals and the Appeals

80. The case for allowing these appeals has withstood the scrutiny of 16 days of public inquiry and the arguments against have proved to be unsupported assertion and a blind prejudice against the proposals. Nevertheless quite a large degree of common ground and narrowing of the issues has emerged through the inquiry. The 6 linked appeals provide a package of proposed development aimed at providing more secondary school places in the Bishop's Stortford and Sawbridgeworth ("BS&S") Education Planning Area ("EPA") and allowing the expansion and continuing improvement of the HEHS and the BSHS. Both these objectives would be achieved by relocating the 2 schools to adjoining sites at Whittington Way.
81. The proposals would also give the flexibility to provide further school places if the demand which is currently forecasted does indeed arise. The proposals would be largely self-financing as their current sites, together with other land at Beldams Lane, would be sold to Countryside Properties to be developed for housing and the proceeds ploughed back into the costs of providing the new school buildings. Land at Hadham Road, currently owned by the County Council, would also be sold.

82. The proposals were first mooted with the schools in 2001 (para 3 to Doc APP/2 & Doc APP/58) and it is clear that by 2003 all the other secondary schools in the town and other stakeholders such as the Council and the BSCF were aware of the proposed package of development, including the relocation of the schools. The proposals have been fine-tuned in the light of detailed points made in consultation but in principle, and in their broad parameters, they remain those put forward formally in the draft Local Plan in 2004.
83. Since then they have been re-evaluated at each important stage in the process (Docs APP/1-2 & APP/4). On each occasion the County Council and the Boys' and Girls' Schools have re-affirmed that they consider the proposals are the best and most appropriate way forward. Others disagree and in particular they suggest that other alternatives have not been conscientiously examined. This is not correct. Even as late as July 2011 the County Council went to the point of making sure there was an opportunity for the Governors of Leventhorpe School to come forward with alternative proposals if they wanted to. The Governors of the school did not take up that invitation (Doc APP/6 & pg 13 of Doc APP/62).
84. The opposition of the 4 headteachers of the other secondary schools in the town appears based on a number of misunderstandings which have been allowed to grow by the opponents of the scheme but which do not stand scrutiny. The Boys' and Girls' Schools do not in fact run predatory admission arrangements. They do not take a greater proportion of children from Essex or elsewhere outside Bishop's Stortford than any other school. Their admissions criteria do not seek to promote academic children any more than the other schools in the area which take 10% of their pupils on the basis of aptitude in sports or music. Indeed the Hockerill Anglo European College takes 10% of its students on the basis of the more academic based skill of "aptitude for languages" (CD 4/5).
85. In terms of the appeals themselves, Mr Steptoe for the Council agreed in cross-examination that the housing development proposals covered by Appeals C, D, E and F are acceptable in principle if the appeal at Whittington Way is allowed. However, the Council's position is that Appeal B can stand alone. BSCF and other interested parties oppose allowing the new housing which is the subject of Appeals C, D, E and F, even if Appeal A were to be allowed. Each of the appeals are considered in turn in the following paragraphs.

Appeal A - The Site at Whittington Way

86. It is unsurprising that in an historic market town such as Bishop's Stortford the land necessary to relocate 2 secondary schools can not be found close to the centre, with its tight urban grain and historic street pattern. After a long search the site which meets the criteria for the proposals to succeed is Site A which lies adjacent to the southern edge of the town and is currently in agricultural use as arable fields. It is crossed by the Hertfordshire Way footpath and sits close to the top of rising ground which slopes away to the A1184 St James Way to the south (see aerial photograph at CD A/9 and site plan at CD A/3).
87. The appeal site is 23.29ha, including the construction access, and is hard up against the built-up edge of Bishop's Stortford, with built development on 3 sides, namely the areas of Bishop's Avenue and Pynchbek to the north, Thorley Street to the east and development behind Obrey Way to the west. There are local views of the site, but in the wider landscape views are limited by Thorley Wood to the south and the planting along the A1184. This is noted in the LCA SPD 2007 (CD 3/8, pg 178).

88. The site lies outside the settlement boundary of Bishop's Stortford and although it has been within the Metropolitan Green Belt since 1993 it is not identified as having any specific policy protection in landscape terms. It lies within the wider Area 85 Thorley Uplands (CD 3/8) within the EHDC landscape classification, although it is clear that the major elements of this landscape lie to the south and west of the appeal site. It lies close to, but not directly under, the path of aircraft arriving at or departing from Stansted Airport by the BUZAD flight path (App H to CD 5/6).

The Proposals at Whittington Way

89. The proposals seek to provide 2 new schools to replace the existing Girls' and Boys' Schools. They would be located adjacent to each other but remain separate, single-sex schools and each would maintain their current ethos and traditions. Shared core facilities are proposed, such as sports halls, swimming pool and drama facilities. However, each school would have its own dining room within its own site and its own teaching facilities. Common teaching would only be introduced at the sixth form, allowing a greater range of subjects to be covered and maintaining the benefit of both Schools having mixed sixth forms at the moment. The new schools would be fully accessible for disabled pupils, staff and visitors.
90. The core sports and drama facilities would be located in a separate building which would sit between the 2 schools' buildings (Doc APP/9). This would allow that building to be used in the evenings or at weekends by local community groups for activities such as indoor bowls, badminton, amateur dramatics, adult learners and disabled swimmers. In this regard it should be noted that the Bishop's Stortford Sports Hall Trust operates from the sports hall on the current BSHS site, with a 50 year lease dating back to 1984. However, at the inquiry Mr Stock indicated that the Trust has not been able to meet all its outgoings in recent years and would not be in a position to oppose any move to Whittington Way as it had not been able to fulfil all its obligations under its lease.
91. Mr Stock explained that he had met with the Trustees at the time the planning application was first submitted and they saw the move to Whittington Way as a satisfactory solution to their difficulties. Although evidence presented by Councillor Symons appeared to paint a different picture (see Doc IP/4), the Appellants maintain that Councillor Symons does not have the authority to speak on behalf of all the Trustees.
92. The Schools would have immediate capacity to expand to 6FE (25 extra pupils per year for the Boys' School and 20 extra per year for the Girls' School.) There would be the core facilities to expand to 8FE (a further 60 pupils per year at each school). An additional 45 pupils per year is actually a need for 5 x 45 (ie 225 places) from Year 7 to Year 11 and for up to 2 x 45 (ie 90 places) in the sixth form. Therefore although it is correct to say that the proposals are to create an immediate expansion of 45 places per year, the actual physical capacity needed is for a total of 315 additional secondary school places in the BS&S EPA. The total number of pupils educated in the 2 new schools, including the sixth forms, would be up to 3,000.
93. The buildings would be primarily 2 storeys with some elements of 3 storeys. An expansion to 8FE would require further planning permission and would see the buildings change from predominantly 2-storey to predominantly 3-storey. The buildings would be set in to the landscape with a maximum height of some 14.5m above existing ground level. The highest land would be occupied by the sports pitches immediately to the west of the buildings of the Boys' School. The site would

be terraced and careful consideration has been given to the extent of cut-and-fill to minimise soil movement. Larger pitches would be located on the flatter part of the site, with smaller pitches on steeper areas so that the scheme would work sensitively within the existing topography (see Doc APP/8 para 6.2.5).

94. In 2004 the Council supported the current proposals and promoted a policy in the emerging local plan (BIS24), which would have removed sufficient land from the Green Belt to accommodate the school buildings. This new policy would have left the edge of the Green Belt running just to the south of the school buildings with no natural defensible boundary. Objections to the policy were considered by an Inspector at the Local Plan inquiry who recommended that the policy be deleted. But her reasons for doing so did not relate to whether or not the merits of school development outweighed the harm arising from the inappropriate development of school buildings in this location. Rather, her concerns were that altering the Green Belt boundary to accommodate the school development would lead to inexorable pressure for that boundary to move further south, to accommodate housing or other development on land down to St James Way (CD 3/11 paras 11.48.4 & 11.48.5). Indeed, one of the objections before that Inspector was expressing interest in mixed-use development on the land between Whittington Way and the A1184 (CD 3/11 para 11.48.6). This led her to conclude:

"While not taking issue with the educational reasons for locating the 2 schools in this area, I do not accept that it is necessary to remove land from the Green Belt to enable the secondary school needs of the town to be met. The Green Belt designation of the site should remain; the circumstances of educational need, as well as the impact on the Green Belt, could be considered in the context of a planning application. After all, there are examples of educational establishments within the Green Belt elsewhere in the District, and the Council is able to exercise the level of control necessary in such locations. On the other hand, removal of the site from the Green Belt, to accommodate the identified need, weakens the Council's position in safeguarding the principle and permanence of the Green Belt. Other pressing needs could just as well prevail on this approach in arguing for further Green Belt releases" (CD 3/11 para 11.48.7).

95. It is because of the above points that planning applications were made and their refusals have now been appealed. Allowing the appeals would not alter the Green Belt boundary. The Green Belt status would continue to cover the appeal site and the rest of the land down to St James Way. Any alteration to the Green Belt boundary can only be considered through the LDF process. This means that the issues in relation to Appeal A are to be considered from scratch within the framework set by Government guidance in PPG2.

PPG2 paragraph 3.2 - Inappropriate Development

96. There is no dispute that the proposed school buildings, the car parking and the construction access route would represent inappropriate development in the context of paragraph 3.4 of PPG2. The remaining aspects of the proposals such as the outdoor sports pitches, outdoor space and landscaping are not inappropriate development. This includes the boundary treatment of the school grounds as a whole and the enclosure of the MUGA, as well as the floodlights which would come within the category of essential facilities for outdoor sport and outdoor recreation.

97. The primary policy test arising from paragraphs 3.1 and 3.2 of PPG2 is not in dispute. In summary it requires the Appellants to demonstrate that “other considerations” clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposals.
98. The construction route would be temporary and whilst it should not be discounted, it will have no more than a passing effect on the openness of the Green Belt. The car parking would occupy land closest to Whittington Way with the 364 spaces² arranged with intermediate planting. To this extent it would have limited effects on views across this area (CD A/6 pgs 37-38).
99. The buildings would have a footprint of up to 14.2% of the appeal site and their floorspace of 26,000sqm would be arranged in a series of articulated buildings rather than a single block. This built part of the proposals would only represent a small part of the overall area of land between Whittington Way, Obrey Way, St James Way and London Road, with the majority of this area remaining open (Doc APP/30 para 9.12). Moreover, Mr Hawkins points out that the buildings would be predominantly 2-storey, cut into the site topography and not located at the highest point of the site. He further comments that the sloping nature of the site can serve to preserve openness (Doc APP/8 paras 8.1.2-8.1.3), although it is accepted that the openness of this part of the Green Belt would be reduced. It is also acknowledged that PPG2 paragraph 3.2 requires that substantial weight be given to the harm caused by inappropriate development.
100. There are, however, a number of factors which need to be considered in determining the extent of the harm:
 - i. Allowing these appeals would not require any alteration to the Green Belt boundary. All land not covered by built development would remain protected by Green Belt policy. This is particularly important in the light of the reasoning of the Local Plan Inspector (CD 3/11 paras 11.48.4 and 11.48.5).
 - ii. The new schools would be a carefully controlled expansion of the southern edge of Bishop’s Stortford. The Appellants do not consider this can fairly be described as “unrestricted sprawl”.
 - iii. There would be “encroachment into the countryside”. However, if there are to be new schools in the general area south of Whittington Way then the appeal site creates the least encroachment as confirmed by Mr Clark and Mr Lewis (see also App 6 to Doc APP/13).
 - iv. The proposals would enhance access to outdoor leisure facilities both for pupils on the site and those members of the community given access under the proposals. This would also be the case for the facilities at Jobbers Wood which are currently used only by the Boys’ School.
 - v. The current arable fields are not picked out in any policy document as providing a setting for the historic town of Bishop’s Stortford, with the town’s southern boundary at this point being formed by late 20th Century housing development.
 - vi. The current school sites would be recycled and used for housing. This would reduce pressure for housing outside the current settlement boundaries.

² All the Environmental statements including the supplementary Environmental Statement are on the basis of 8FE (see paragraph 1.8 of the Supplementary ES). This is because the EIA Regulations require the full potential impact of any proposals to be assessed.

vii. Development on the appeal site would not close any gap between settlements – the closest being Sawbridgeworth some way to the south. The landscape buffer to the east of the site would reinforce the separation between Thorley House and the other dwellings in Thorley Street and the residential development currently forming the southern edge of the town. There is no question of the appeal site creating coalescence between Bishop's Stortford and Thorley village although this may have been a consideration if the options set out in Mr Clark's Appendix 6 (Doc APP/13) had been taken up.

101. It is no part of the Appellants' case to complacently dismiss the effect of the new school buildings and car parking on the openness of this part of the Green Belt. Nor do the Appellants forget that PPG2 paragraph 3.2 makes clear that the Secretary of State attaches substantial weight to the harm that arises simply from the presence of inappropriate development in the Green Belt. However, given the floorspace necessary to provide the new schools the selection of this land and the careful choice of the siting of the buildings within it would minimise that harm.

Other Harm - Effect on visual amenity and character of the landscape

102. The site lies within Area 85 "Thorley Uplands" of the Council's Landscape Character Assessment ("LCA" - CD 3/8). Under the proposals the immediate character of the appeal site would clearly change as the current open fields would be replaced by buildings settled into a landscape setting of playing fields and trees (see Doc APP/13 App 5). It is accepted this would be less typical of the Thorley Uplands Area as a whole than arable fields. However, the area between St James Way and Whittington Way is already distinct from the wider Area 85 as it is physically cut off by the bypass. The lighting associated with the roundabouts and the planting along St James Way also provide a degree of visual separation as noted in the LCA. From further south, Thorley Wood shields any extensive views.

103. The harm is the difference between the northern edge of the area being bounded by the planting along Whittington Way, introduced when that road was created, and being bounded by the new schools in their landscape setting. However, the effect of the new schools would not be wholly negative. Mr Clark maintains that even though the local landscape character would be altered by the development, there is no reason why the detailed landscape proposal should not reflect and build on, wherever it is practical, the surrounding landscape character of the area. He notes that the Landscape Character Area 85 includes a "Strategy and Guidelines for Managing Change", which is based on strengthening and conserving the area, and points out that the landscape proposals for Scheme A include a number of initiatives that are recommended in these guidelines (Doc APP/12 paras 2.29-2.30).

104. It is accepted however, that the current landscape would clearly not be conserved and views towards Bishop's Stortford from the south and south-east would include some elements of the buildings as well as the trees. Nevertheless, the new buildings would not appear together with Thorley church in any views from public footpaths, nor would they appear in any important views of listed buildings. Moreover, no houses to the north of Whittington Way currently look directly over the site from ground floor living rooms. It is acknowledged that there would be views of the new buildings from some dwellings at the southern edge of Thorley Street and from some in Hawthorne Rise and Highland Road (although these are orientated perpendicular to the site). However, even from these locations, topography and existing vegetation would mean the buildings should not be over-dominant.

105. Given the siting of the appeal development, the design possibilities for the buildings and the proposed landscape strategy, any harmful visual presence of the buildings would be mitigated. There would be no significant effects upon the character of the landscape beyond the immediate environs of the site, with the effects of the development on the character of the landscape certainly not spreading beyond St James Way or Thorley Wood at the very outside.

Other Harm - Floodlighting

106. Floodlighting can legitimately be associated with uses of land in Green Belts which are not inappropriate, such as for outdoor sports pitches. It is accepted that whilst this means there is no harm by reason of inappropriateness, the effect of floodlighting should still be taken into account in an overall judgement of the appeal proposals. As set out in the ES the maximum height of the floodlights, which would be sited around the MUGA and the AWP, would be 8 standards at 15m and 4 standards at 10m. The floodlights would be directional, both for reasons of efficiency and to avoid light spill. The hours of use could be controlled by condition. As also pointed out in the ES (CD A/13 para 7.46) this new lighting would be seen in the context of the extensive road lighting at the London Road/St James Way roundabout and the Obrey Way/St James Way roundabout. These are both existing sources of light which are further away from the current southern edge from Bishop's Stortford than is the appeal site.

Other Harm - Hertfordshire Way

107. The Hertfordshire Way would remain along its historic alignment joining Thorley Street with the St Michael's Mead area. For about half its length between Obrey Way and Thorley House, both views to the south and the track's current character as an unsurfaced rough track would be maintained (Doc APP/12 para 3.9). For the 316m stretch in front of the buildings (see Doc APP/72), it would be hard-surfaced and would run between the Schools and their car parking as a paved "plaza" area, which could be used for a range of informal leisure activities, both by the schools and community (out of school hours) (see Doc APP/8 para 3.3.20 and APP/9 App 8). This would not prevent it being used to walk from Thorley Street to Bishop's Stortford nor, other than at the beginning and end of the school day during the week, would it be particularly busy.
108. The character of the walk would change, but these changes would not constitute any significant recreational harm, when looked at in the context of the variety and scenic value of the whole route, nor any substantial harm in terms of visual amenity. Arguably the event of passing through a 21st century educational campus set within the Green Belt, would provide a dramatic and interesting aspect to the Hertfordshire Way (Doc APP/12 paras 3.9-3.11). In any case, this would be off-set by the creation of the new permissive path running through the landscape barrier at the eastern end of the site, as shown in CD A/3.
109. Mr Richardson gave evidence as the Deputy Chairman of the Friends of Hertfordshire Way and his affection for the Hertfordshire Way is clear. Unfortunately his evidence was not based on an accurate picture of what is proposed. The Hertfordshire Way would not be between 1.8m (6 foot) high fences nor would there be intrusive security cameras. He accepts that the facts set out in Mr Clark's proof as to the Hertfordshire Way running close to other schools are accurate, even though he believes that he would find the proposed schools less aesthetically pleasing than Beechwood (Doc APP/12 para 3.7). It is also

disproportionate to suggest that the alterations to a 316m section of the Hertfordshire Way would justify altering its route so as to wholly avoid the historic market town of Bishop's Stortford.

110. The Hertfordshire Way would not in any way be obstructed and indeed its integration with the drop-off area would improve passive surveillance of the footpath by staff and community members. Mr Richardson has looked at matters simply from the perspective of the views to be gained for those walking on long distance footpaths. However, in the overall planning balance, alterations to the Hertfordshire Way are just one factor amongst many considerations.

Other Harm - Wildlife and Biodiversity

111. The appeal site does not contain a notable diversity of wildlife at the minute. In the future, there will be an equal or greater number of trees as well as the habitats created around the retention ponds in the south east corner of the Site (see CD A/13 and CD A/16).

Other Harm - Trees

112. The Arboricultural survey identifies that 147 trees would need to be felled under the current outline development proposals. One Grade A tree may not survive the highway works creating the roundabout at Pynchbek although the footpath would be altered to go around it and it is hoped it would remain. Two Grade B trees would be lost by the creation of the new access roads into the site. There would also be the loss of a number of ungraded trees and shrubs (see App 9.2 in CD A/14).
113. However, the appeal proposals make significant provision for landscape mitigation, including tree planting. Although the trees lost will be mature, the replacement trees will result in a net gain, enhancing the street scene and maintaining future tree cover. Overall, and in time, the appeal landscape planting proposals would provide a net increase in the number of trees on the site and surrounding area (Doc APP/12).

Other Harm - Traffic

114. Whittington Way does not lie within the Green Belt, although Obrey Way does. However, the additional activity of traffic on this road would not materially affect the character or visual amenities of the Green Belt at this point and such matters do not therefore fall into this particular balance.

Other Harm - Noise

115. The proposals themselves of course would not create any aircraft noise so this is not an element of harm which would arise from the grant of planning permission. The issue of aircraft noise is considered below, in the context of assessing the suitability of the Whittington Way site for school development.

Conclusions on harm

116. The appeal proposals would be on currently undeveloped land within the Green Belt and in planning terms the built elements would cause harm by reason of their inappropriateness. There are also other consequences of the appeal proposals as set out above. All Green Belt land is protected by policy and it would be facile to suggest that the new buildings needed to provide 2 new schools would go unnoticed or make no difference to the current character and appearance of the landscape.

However, the harm caused by the proposals would be limited by reason of their proposed siting, design and landscape setting. Whilst it would be preferable, in planning policy terms, to develop land not currently included within the Green Belt, no such realistic option is available.

Other Considerations weighing in favour of the Appeal Proposals

Educational need

117. The County Council is the Local Authority ("LA") with responsibility for education within the maintained sector, within its electoral boundary. LAs are subject to a number of statutory duties and responsibilities which include:

- i. promoting high standards of education;*
- ii. planning and commissioning school places in its area;*
- iii. extending diversity and choice;*
- iv. co-ordinating admissions for all maintained schools;*
- v. resourcing shared maintenance, improvement to and provision of the built environment, and securing value for money.*

In coming to a view about the most appropriate strategy the LA is looking for a solution which takes into account each of these elements.

118. The County Council began considering the long term strategic problem of a shortage of secondary school places in the BS&S EPA as long ago as 2000/2001 (Docs APP/2 & APP/4). It was faced with a number of issues, not limited to a simple need to provide more places. It also needed to consider the existing stock of school buildings within the town and how they were to be brought up to date. The County Council has neither in policy nor in practice chosen to support the interests of any particular school over any other. Instead, it has worked through a clear governance framework and applied published criteria, used throughout the County, to plan for the increase and improvement of secondary education within the EPA.

119. In contrast, those now promoting alternative solutions do so for a number of reasons, none of which seek to provide a disinterested solution to the needs of the EPA. This is demonstrated by the increasingly desperate promotion of further expansion at Leventhorpe. This is simply the wrong place to provide additional capacity, as well as ignoring the cost of leaving the Boys' and Girls' Schools on their current sites with their current facilities. In truth, Leventhorpe is promoted only because it is not Whittington Way and does not require the residents of Bishop's Stortford to face further housing being supplied within the town.

120. A second strand of opposition has been articulated by Dr Ingate. He criticises the Boys' School for an admissions policy which is supposed to seek to attract academically minded parents and cherry-pick from high performing primary schools. Yet, the attempt to demonstrate this in the cross-examination of Mr Stock by the BSCF backfired spectacularly. It was wholly clear that if there were any truth in the assertion, the Boys' School ought to be making every effort to gain pupils from Hatfield Heath and St Mary's schools (see Doc BSCF/10.7), which they were criticised for not naming in their admissions criteria. In any event, the other aspect of the Boys' School admissions criteria which was criticised was the aptitude tests for 10% of pupils. However, these are also present in the admissions criteria of 2 of the 4 schools Dr Ingate represents. Furthermore, Hockerill Anglo European College has recently expanded boarding places rather than day places.

121. As Dr Ingate finally accepted, his decision to give evidence at the inquiry was based on professional pique at the Boys' School not agreeing to reverse their decision to name 8 further primary schools in their admissions criteria. This was despite the Boys' School Head and Chairman of Governors seeking to explain to him that this was simply a consequence of them setting a 6 mile distance criterion instead of the previously unlimited "east or west of the railway line". Whatever the actual reasons behind the 4 headteachers of the other schools seeking to prevent this final stage in the strategy, the reasons they sought to set out to the inquiry and the alternative solutions they offered have simply not stood up when tested in cross-examination and considered against the clear and detailed evidence of Mr Stock and Mr Harris.

School Places in the EPA.

122. Mr Harris explained that about 700³ children in the EPA leave primary school each year, although cohort numbers alter a little and there will be growth with a new primary school to serve the Areas of Special Restriction ("ASR"s - see Docs APP/4, APP/6, updated at the inquiry by Docs APP/62 & APP/63). However, the number of children seeking to enter secondary schools in the EPA has consistently been close to 1,000. The reason for this is that secondary schools in the area are of a high standard and attract applicants both from primary schools within Hertfordshire but outside the EPA, and also from primary schools in Essex. It is the case, however, that due to the location of the county boundary, many of these Essex pupils will live closer to Bishop's Stortford than those within the EPA itself.
123. This "cross-area flow" cannot be legally prevented since the Greenwich judgement in 1989, which means that pupils cannot be denied a place at a school simply because they live in a different administrative area. Such an approach would, in any case, be undesirable where government policy and a statutory obligation is to educate children in accordance with the wishes of their parents, subject only to the efficient provision of education generally. Mr Harris's evidence sets out the importance of allowing parents to express a meaningful choice of school as well as the damage to a child and its family of having to be given a non-ranked allocation ("NRA"), whereby children are allocated a place in the nearest school where there is space.
124. This currently means that children who do not get one of their 3 preferences are offered a place at Stansted Mountfitchet, The Sele school in Hertford or Sheredes school in Hoddesdon. These are all strong schools but it is simply wrong to require pupils to travel that far and to be separated from their peer group if it can be avoided. But recognising the phenomenon of cross-border flow is not the same as measuring it, predicting it and planning for it. One method of dealing with this issue has been simply to build in a margin above the number of primary school leavers in order to accommodate parental choice, but the County Council now predict cross-border flow by a more sophisticated mechanism.
125. They compare the number of pupils joining secondary schools in the EPA at Year 7 with the number of pupils leaving primary schools in the EPA at the end of Year 6, on a rolling 3-year basis. The amount by which the number of pupils leaving primary schools in July at the end of Year 6 has to be increased to be made up to the number of pupils entering secondary schools in the EPA in the September can then be expressed as a multiplier. This will vary for each year.

³ Doc APP/63 confirms this figure to be a maximum of 695

126. The multipliers for the last 3 years are taken to calculate a weighted average (the multiplier for the immediate past year being given 3 times the weight for that of 3 years ago). The resultant “empirically weighted multiplier” can then be applied to the number of children in Year 6 of primary schools in future years, to predict the number of children who will enter secondary schools in the following September.
127. For the next 8 years the number of children in Year 6 can be reasonably accurately predicted because this cohort is already on roll within their respective primary schools. For years beyond that, children registered with General Practitioners (“GPs”) and birth data can be used, but planning more than 11 years ahead has to rely on demographic projections. The further complicating factor is the new houses to be built in the EPA. This involves calculating the likely “yield” of new pupils from new built homes, which is usually based on empirical evidence with allowances for the number of bedrooms. The number of new homes is taken to be the District Council’s housing trajectory which includes permissions, allocations and windfalls.
128. Although the forward planning of the need for pupil places is part art, part science, Mr Harris has set out a sophisticated yet transparent methodology. In predicting cross-border flow this is very finely tuned to actual pupil numbers in Year 6 at primary school, year on year. The advantage of this method is that it produces a more accurate forecast, however one consequence is that the forecasts will be adjusted annually for each year in the future as fresh data based on pupil numbers is fed into the calculations. These variations have been characterised by the BSCF and Mr Janke as a weakness of the methodology, but in fact they are a strength. To continue using predictions without adjusting them as new actual pupil figures become available each year would risk working with outdated forecasts which may diverge further and further from the true position on the ground as time goes on.
129. In reality, the cross-border flow results from hundreds of individual decisions taken by the parents of a large number of pupils in and around the EPA. Nevertheless, despite the inherent uncertainties of planning the County Council has not yet provided extra places which have turned out not to be needed. As a result of Mr Harris’s detailed evidence it appears that there is no longer any serious challenge to the fact that there is an immediate need to provide an extra 90 places within the EPA. There is also broad consensus that further places may well be necessary in the future, albeit there are question marks when, how many, and the extent to which a peak in requirement may be reached and passed (see pg 11 of Doc APP/4).
130. This information is summarised in a table in Mr Harris’s proof, which shows that the shortfall in places is expected to rise from 7 in 2012/13 to a maximum of 145 in 2018/19, before falling back to 90 by 2024/25 (see pg 11 of Doc APP/4). There can be no certainty that the need will not get beyond 90 new places per year in the foreseeable future, and it must be an advantage in any comparison of solutions that flexibility to provide more capacity is built in. As even Mr Rhodes for the BSCF accepts, it is a positive attribute of the provision of any infrastructure that it has an element of “future proofing”.

The solutions - The Appellants’ solution

131. The expansion and re-location of the Boys’ and Girls’ Schools was envisaged in 2003/2004 as the final element in a strategy for the EPA which had short term solutions and the long term strategic option. In the short term the Boys’ and Girls’ schools were to be left on their current sites with no expansion in numbers. Following the addition of the English block to the Girls’ School in 1997, the premises

at each school were to be maintained but not expanded. Mr Stock indicated that the Boys' school spent £1.5 million on maintenance over the last 5 years but that is not a figure that they wanted to spend. Nor were the funds used specifically allocated for maintenance, but had to be diverted from elsewhere. The school would have much preferred to spend this on educational matters.

132. The County Council has been pursuing and implementing a strategy of improving access to local secondary school places, by supporting the expansion of schools within Bishop's Stortford in 3 phases. The first phase was the expansion of St Mary's Catholic School to create an additional 23 places at entry (Year 7) in 2004. The second phase was the expansion of Birchwood High School from 6FE to 8FE, with the building project being completed in 2009. These expansions were supported by over £13 million investment in provision (Doc APP/4 para 4.3). There was also expansion at Leventhorpe.
133. The possible on-site expansion of the BSHS had been discussed in a 2001 letter from Mr Barry Newman to Mr Stuart Freel at the County Council. This set out a detailed programme for the possible extension and modernisation of the school at an estimated cost (at that time) of some £11.04 million (Doc APP/58). Mr Newman did, however, raise a number of significant concerns about such a project including that no additional hard surfaced area would be created and the school would remain somewhat below the recommended standards. There would also be disruption, disturbance and stress caused to pupils and staff over a period of about 2 years, the project would be likely to give rise to future maintenance problems in the long-term and he considered that the estimated cost should be considered as a risk item. Overall he thought that such an expansion could well be poor value for money, compared to replacement with a new school on a new site (Doc APP/58).
134. Indeed the third phase and long term element of the strategy was always the relocation and expansion of the Boys' and Girls' Schools (see Doc APP/58 and para 11.48.4 of CD 3/11). This proposal had been formulated sufficiently firmly as County Council policy for the County Council to engage with EHDC and have the Whittington Way site promoted through the Local Plan process in 2003/2004.
135. Although the current proposals for relocation and expansion are longstanding this does not mean they have not been constantly re-assessed, as noted above. The County Council has formally reconsidered them prior to the 2008 application, prior to the 2010 application and again prior to the submission of these appeals. Each time, it has tested the proposals against alternatives and against the 4 criteria it has used for school reorganisations since they were introduced in 2004. These criteria have been applied not just in Bishop's Stortford but also to reviews in Stevenage, Potters Bar, Hitchin and Letchworth (see para 4.3 of Doc APP/6).
136. Mr Stock gave evidence that, aware of the uncertainty and other difficulties that these proposals would bring, he has become notorious for asking "show me an alternative". His evidence showed him to be someone who, understandably, has thoughtfully and fairly acted in the interests of the school of which he is Chair of Governors, but also in accordance with his genuine and regularly tested belief that these proposals are the best and certainly the only realistic alternative.
137. The proposals assume that an additional 45 children per year will fill available spaces at Stansted Mountfitchet College. This is not wholly ideal since that school has no sixth form and preferences expressed by parents have not yet caught up with the school's recent improvements. However, it will go some way to

entrenching and building upon recent successes. From 2012/2013 there will also be an additional 12 places per year at Leventhorpe, with these again being funded by the County Council. This will take Leventhorpe to a 6FE school. There is no further room for expansion at Birchwood which, in any event, is already at 8FE.

138. The further 45 places per year will then be provided by the extra places which the schools will have at Whittington Way compared to their existing capacity. However, despite the refusal of opponents of the proposals to recognise it, it is far more than a short-term numbers game. The new schools at Whittington Way would provide state of the art facilities combined with the benefit which can come from being situated on adjacent sites whilst sharing some common facilities in a separate building between the 2 schools. In addition, there are unchallenged benefits for the 2 sixth forms being located together in terms of the range of subjects that can be taught and the rise in standards which will come from having adequate numbers of pupils taking those subjects (see Doc APP/2 para 19 and APP/4 pgs 14-18).
139. In addition, re-locating the HEHS from the north-east quadrant of the town to its southern edge would address (or at least certainly not exacerbate) the current geographical imbalance of 4 of the 5 secondary schools currently within Bishop's Stortford being north of the town centre with 3 (Birchwood, Hockerill and the Girls' School) being clustered along the Dunmow Road). This anomaly has become more pronounced with growth in the 1980s and 1990s being in the south-west quadrant of the town, such as at St Michael's Mead.
140. In addition, the expansion of single-sex schools would maintain the balance between single and co-educational places in the town. Whilst the parents in many other towns may not have the opportunity to express a preference for single-sex education that is no reason to reduce that opportunity in Bishop's Stortford. The statutory obligation is to seek to give effect to parents' expressed preferences and many parents undoubtedly wish to express a preference for the Boys' school and Girls' school albeit, of course, it is impossible to define the extent to which it is simply the single-sex aspect of these schools which is attracting those choices.

Testing these proposals against the alternatives

141. The 4 objective criteria which the County Council uses when evaluating any proposals for school reorganisations or changes are set out in Docs APP/4 para 8.1 and APP/6 para 4.3. To be acceptable proposals should:
 - i. reduce surplus places and provide places where they are needed to meet demand;*
 - ii. enhance capacity to raise educational standards; reduce the risk of under-performance or serious weakness; and offer extended services;*
 - iii. meet the implications for building design, environmental impact, and cost;*
 - iv. include acceptable transitional arrangements for affected pupils.*
142. The County Council's current strategy for Bishop's Stortford is in line with these criteria and each proposed alternative should also be assessed against these criteria on the same basis. One criterion is value for money and ideally proposals should be self-financing. This is a valid consideration in planning decisions involving the provision of community infrastructure (see CD A/35-A/37).
143. In testing their proposals and putting forward their planning application in 2010 the Appellants analysed 7 other sites, as well as all the existing secondary school

premises (CD A/9 Plan 1 and App 1). Overall the options investigated included “do nothing”; adjusting admissions rules; a stand-alone sixth form college; the expansion of existing schools on their current sites; the provision of a brand new secondary school; the relocation and expansion of the BSHS and the HEHS to separate sites; and the relocation and expansion of the BSHS and the HEHS to the ASRs. The reasons for concluding that those options are not preferable to the Whittington Way relocation scheme varied from location, site availability, to lack of site size. Those conclusions are still relied upon by the Appellants.

144. Any suggestion that the Appellants’ consideration of other sites or alternative options has been last minute or superficial is immediately defeated by consideration of the Supporting Planning Statement to the 2010 application (“SPS” - CD A/4) and the Appraisal of Alternative Site Options (“AASO” - CD A/9) supporting the 2010 application. These documents demonstrate an exhaustive search for other possibilities as well as the examination of the relevant options with detailed and up to date information. The SPS was accompanied by a Financial Appraisal which considers the issue of affordability, which is an important element of the deliverability of the proposals.
145. An updated version of this Financial Appraisal has been prepared, following a series of meetings with Council Officers (see App 1 in Doc APP/31, replaced by Doc APP/55). It had been hoped that this would be agreed with the Council prior to the inquiry, but this did not prove possible. The Appraisal looked in detail at the following options, which had been favoured in the AASO:
 - i. Option A – relocate and expand the BSHS and the HEHS to Whittington Way - initially 6FE (Phase 1), then expand to 8FE at a later date (Phase 2). Phase 1 shows a deficit of £1.754 million; Phases 1 & 2 combined show a deficit of £7.044 million⁴;
 - ii. Option B – build a new 6FE school at Hadham Road - initially 2FE (Phase 1), then expand to 6FE at a later date (Phase 2). Phase 1 shows a deficit of £39.60 million; Phases 1 & 2 combined show a deficit of £43.69 million;
 - iii. Option C – relocate the BSHS to Hadham Road and the HEHS to Beldams Lane, with additional playing fields on the southern side of Beldams Lane - initially 6FE (Phase 1), then expand to 8FE at a later date (Phase 2). Phase 1 shows a deficit of £33.156 million; Phases 1 & 2 combined show a deficit of £37.846 million.
146. On the basis of the above figures the appraisal concludes that the most viable option is Option A, to relocate and expand the BSHS and the HEHS to Whittington Way, with Options B and C both having significant shortfalls in funds. Mr Steptoe for EHDC is right to say that deliverability is a material consideration but he is wrong to suggest that it is irrelevant that the current proposals have an advantage over other alternatives in this regard. Releasing the value of the current school sites, together with Beldams Lane and Hadham Road, and diverting those funds into the cost of providing the new schools would clearly avoid the need for public funds to be diverted from other priorities, possibly even other educational priorities.
147. Against the backdrop of the above options and assessment, the focus at the inquiry fell mainly upon 3 possible alternatives, namely a new school at Hadham Road, adjustment of admissions criteria and expansion at Leventhorpe, as detailed below:

⁴ Phase 1 originally showed a profit of some £5.8 million, with Phase 2 going to an overall profit of just over £1.1 million

148. A new school at Hadham Road. This option has not been pressed with strength by any party. There is no serious challenge to the Appellants' evidence that starting a new school from scratch with 2FE, on the basis that at some unspecified point in the future need may rise so as to fill a wholly new 6FE school, is not sensible. This is particularly the case where the County Council predictions do not suggest that need of this scale would arise. The educational justification for building a new school for 45 pupils per year is obviously non-existent and no business case could be made for the capital expenditure where there are no other sources of income.
149. Moreover, in a note submitted to the inquiry Mr Lewis indicated that although the overall Hadham Road site extends to some 8.91ha, this includes an area of woodland of just over 2ha; and that the actual site area required for a 6FE school would, on the basis of his recent experience, be around 10ha to 11ha (Doc APP/69). This larger site area would provide for such things as access, parking and servicing, as well as allowing for physical site factors and the need to ensure a satisfactory relationship with adjoining properties.
150. There was some talk of a possible sixth form centre being located on the Hadham Road site, but such an option would not be affordable as it would involve capital expenditure in building the sixth form centre, and in reorganising/expanding the existing school sites to cater for an altered/larger intake. Although the County Council has recently allocated funds for expanding school places, it has many and competing priorities for the use of those funds and it continues to have a duty to secure best value for money. Therefore a solution which requires net capital expenditure, even if it was acceptable educationally, would not be prioritised if other, potentially self-financing schemes which would provide a more significant improvement in the built environment were available. In this case the opportunity for funding from other sources is restricted, and in contrast to the Appeal A proposal for Whittington Way, no finance would be available from the sale of the existing school sites or from the Hadham Road site.
151. In any case, Mr Harris made it clear that the provision of a separate sixth form centre on the Hadham Road for the 2 schools in question, or indeed all schools in the area, is not supported from an educational point of view. Since 2005, the County Council has supported the retention of school sixth forms, with no schools in Hertfordshire having sixth form centres. Whilst a sixth form centre could, in theory, release some spare capacity in existing schools it would run counter to the ethos of the BSHS and the HEHS.
152. The possibility of a free school was mentioned by those opposed to the proposals, but Mr Harris indicated his view that there was just a 50% likelihood of an application for a free school in the next 5 years. In any case, any such proposal would still need to be assessed, and funding found. There was insufficient certainty regarding any such prospect to alter the Appellants' case at this inquiry.
153. Adjustment of admissions criteria. Both before and during the inquiry the 4 headteachers, the BSCF and others such as Mr Sarles who gave evidence on behalf of the Chantry Community Association consistently asserted that adjustments to the admissions criteria of the Boys' and Girls' Schools would remove any need to provide further places. At best, this was based on misconceptions and Chinese whispers; at worst, it was to deliberately misunderstand the way the admissions criteria worked in order to prevent justified improvements for rival schools. During the inquiry any criticism of the Girls' School admissions criteria was abandoned and indeed turned to praise from Mr Sarles and Dr Ingate.

154. Both the rationale and the practical workings of the admissions criteria for the Boys' School were explained (CD 4/5). Although it is accepted that their wording could be simplified, and that they could perhaps be explained more clearly, they still amount to criteria which manage the now ever-present problem of over-subscription in the fairest way. It is right that an attempt could be made to increase the number of boys whose parents live in the town of Bishop's Stortford coming to the school. Indeed, if the appeal proposals were to go ahead there would be a move to this effect with 10% of places being allocated simply on the basis of proximity of home address to the school. However, what the proponents of alteration to admissions rules wilfully refuse to accept is that increased access to a finite number of places can only be given to one set of potential pupils at the expense of another.
155. There is no reason why the Boys' School should be criticised for continuing to offer places to boys attending primary schools in places such as Much Hadham, the Rodings, or Furneas Pelham since these villages, as communities, look to Bishop's Stortford as their town and contain primary schools which have, for generations, had access to places at the Boys' School. It is not clear for precisely how long this has been the case, but Mr Stock was able to confirm, from school records, that it is at least since the introduction of comprehensive education in the 1970s.
156. The vision for Bishop's Stortford, is set out in the EHDC Local Plan (CD 3/2 para 11.2.2) and continued in the Core Strategy "Issues and Options" Consultation Report (CD 3/13A para 4.6.5). The town is seen functioning as a medium-sized service centre offering a wide range of services and facilities to local residents and those in surrounding villages and towns in eastern Hertfordshire and western Essex. In other words the vision is of a town not just serving the people within it, but also serving those communities and villages outside who look to Bishop's Stortford for services and facilities that their own villages do not provide.
157. The Boys' School is unapologetic about wishing to continue to offer access to boys living in these villages on equal terms to those living within the town of Bishop's Stortford. There is no legitimate reason why the current Boys' School's admissions criteria should be a point against the appeal proposals and that is before the 10% proximity adjustment is taken into account.
158. Further, there has been no modelling of what the actual effect of altering the admissions criteria would be. The fact that Birchwood School has admitted more pupils from Essex under the latest version of its admissions criteria compared to previous years demonstrates that no lazy assumptions can be made about how things would work. Mr Stock's evidence shows that the number of pupils coming to the Boys' School from outlying villages is low. This is a function of the smaller sizes of those schools meaning that in any single year the boys, who would be potential applicants, may be very few in number. In fact, in the last 5 years, the Girls' School, with its uncriticised admissions policy, has admitted more pupils from villages to the north of Bishop's Stortford such as Clavering, than the Boys' School.
159. The current BSHS admissions criteria in relation to statemented pupils, medical need, siblings and aptitude take no account of the applicant's home address. The geographical criteria based on distance from the school and primary school attended are a fair way of seeking to manage the demand for places which for many years has exceeded the Boys' School's Published Admissions Number ("PAN"), and cannot all be met. More places cannot be offered to boys in Bishop's Stortford without disenfranchising those who live in villages. In any event, it appears to simply have become an urban myth that the need for expansion of places in the

EPA can be achieved by alteration of admissions criteria of the Boys' School as opposed to actually providing any new places. Testing this assertion at the inquiry has shown it to be unsubstantiated.

160. Expansion at Leventhorpe. The growing enthusiasm with which the BSCF, and the 4 headteachers, have promoted expansion at Leventhorpe and the extent to which the Council has jumped uncritically on the bandwagon is rather unattractive. There is absolutely no mandate from the District Councillors to promote further inappropriate expansion in the Green Belt in this way. The case presented at the inquiry in support of Leventhorpe goes well beyond anything set out in the officer's report to Committee, where the decision was said to be "finely balanced".
161. The BSCF has consistently complained that parents and residents have not been directly consulted, but to expand at Leventhorpe in order to meet need in the EPA would inevitably require greater numbers of children from Bishop's Stortford to make the journey south to Sawbridgeworth along the main A1184. However, there is no evidence before the inquiry of the views of any such parent as to whether this would be their choice for the education of their child. Nor is there any evidence of any parent wanting their child to go to schools in Hertford or Hoddesdon.
162. The suggestion that this option has not been properly explored and tested by the County Council ignores the evidence. CD A/9 shows that, at the very least, prior to making the planning application in 2010 the County Council considered expansion at Leventhorpe beyond the 12 spaces included in these proposals to be physically feasible. The provision of such places was therefore assumed to be possible, and the desirability of such provision was tested against the 4 educational criteria.
163. In short, places at Leventhorpe would simply be in the wrong place in relation to need in the EPA area which is obviously focussed on its largest town, Bishop's Stortford (see Doc APP/4 paras 9.44-9.49). No evidence at the inquiry sought to overcome the fundamental flaw in providing significant additional educational capacity at Leventhorpe when the objective is to meet current needs in the Bishop's Stortford area as opposed to attract more pupils from schools in the north of Harlow, a clear possibility if Leventhorpe was to be expanded. Secondly, as a lesser point, expansion of Leventhorpe would not maintain the balance between single-sex and co-educational places.
164. These points render any debate about the physical capacity of the Leventhorpe site or financing any proposals entirely academic. However easily they could physically be provided, or whatever funds could be devoted to them, it would remain the wrong expansion in the wrong place. The County Council has always acknowledged that further places could be provided at Leventhorpe (see CD A/5 and CD A/9) and in May 2011 Mr Harris expressly invited the headteachers and governors of the 4 opposing schools to submit any detailed alternative proposals that they had. No proposals were forthcoming and indeed surveyors from the County Council, seeking to establish common ground as to the physical capacity of the sites to expand, were denied access to the schools despite previous agreements (see Doc APP/6).
165. The way that the expansion of Leventhorpe has been promoted in piecemeal fashion through the inquiry, suggests that there is no genuine reasoning or educational objective behind promoting this expansion other than a determination to do down the appeal proposals by any means and at any cost. It is accepted, of course, that the Headteacher and Governors of Leventhorpe are quite entitled to seek funding for more pupils and more facilities at their school if they wish. However, it cannot

be assumed that any such proposals have been carefully thought through, or that further building projects could be accommodated at the school to bolt on additional capacity without undue effects on its operation during that period. Indeed it is perhaps telling that it was not until the pre-penultimate day of the inquiry that even the briefest letter from the Chair of Governors was produced, and that the only plan submitted is not to scale and includes no car park (see Doc IP/11).

166. In any case, it is not as though Leventhorpe has not received investment in the recent past. The new leisure centre has been paid for by the County Council and there will be further investment to accommodate the expansion by 12 places per year. But such matters do not go to the heart of this issue. The objection of substance to further development at Leventhorpe is not that there could be no physical expansion, but rather that further places there simply do not make educational sense when trying to provide a cohesive strategy for the EPA.
167. But what the promotion of Leventhorpe does indicate, very clearly, is that what the BSCF and other opponents of the appeal proposals had initially set out as fundamental objections of immovable principle turn out to be no problem at all if it is Leventhorpe that is being promoted. Impact on the Green Belt is minimised and dismissed. Of course, the effect on openness of expanding an existing site would be less than that of the proposals at Whittington Way but to simply ignore the point is intellectually dishonest, when the EHDC case against Whittington Way has made so much of inappropriate development being harmful to the Green Belt simply by definition, with that harm carrying substantial weight.
168. Development of Hadham Road, despite the objections of Mrs Otter and her residents' association, coming under the BSCF umbrella, suddenly becomes acceptable if it is to finance the Leventhorpe proposals. However, in practice this would not be possible, as the County Council cannot lawfully spend money on a capital project at an academy, such as Leventhorpe. An academy would have to look to the Department for Education ("DfE") for such funding, whereas both the Boys and Girls schools remain as foundation schools.
169. Finally, neither aircraft noise nor traffic are thought to be problems in the context of increasing places at Leventhorpe, even though this school actually lies more directly under the BUZAD route than Whittington Way. It is accepted that this may be counter-balanced by aircraft having climbed to a greater height by the time they reach Sawbridgeworth, although no measurements have been taken.

Conclusion on Alternatives

170. The further expansion of Leventhorpe School to provide an additional 45 places per year is not an option that should lead to the rejection of the Whittington Way proposals. They would be school places clearly in the wrong location. There is no suggestion as to how they would be delivered in terms of funding despite the letter from the Chairman of Governors quite properly making clear that this is a precondition to them being provided (Doc IP/11).
171. Moreover, this solution would do nothing to address the shortcomings of the current school buildings at the Boys' and Girls' Schools. All the alternatives put forward by the objectors seems to suggest that these issues can be simply ignored, but this is unfair. They are longstanding issues acknowledged and identified by the County Council not simply put forward by the schools themselves (see Doc APP/58). Refurbishment and even redevelopment on site have both been carefully considered and rejected. Objectors blithely suggest that the current approach of make do and

mend, with all the economic and other impairments to education this brings, should continue with no planned solution in the foreseeable future.

172. Of course, if these appeals are rejected the governors and teachers of the BSHS and the HEHS will continue to do their utmost to provide the best quality education, but to dismiss the shortcomings of the current accommodation simply on the basis that an outstanding education is currently being provided is double standards. It does not take much imagination to predict what the Governors and Headteachers of any of the other secondary schools would be saying to the County Council if they were being told that their schools should continue to live with such shortcomings for the foreseeable future, with no plan to assuage their difficulties whatsoever.
173. The opportunity cost of not providing 2 new schools in return for 2 outdated schools for the cost on the current figures of £7 million is a very significant factor against any other alternative which the opposing cases simply cannot begin to overcome. But what the promotion of expansion at Leventhorpe does indicate is that in fact a location in the Green Belt or a location close to the BUZAD route should not be a fundamental objection to providing more places at Whittington Way if, as the Appellants maintain it does, the educational case points clearly to that solution.

Two other aspects of the Whittington Way Site

174. Aircraft noise. Site A does not lie directly under the BUZAD flight path of Stansted Airport, but it is sufficiently close for it to be appropriate to take account of noise created by aircraft departures and arrivals. It is agreed that the effect of noise would be greatest when aircraft are using this route for departures, taking off into a south-westerly wind. This is the predominant wind direction, leading to aircraft taking off in this direction approximately 80% of the time (Doc BSCF/1.3 para 10.1.1). The effect of aircraft noise is an area where the inquiry process has narrowed differences.
175. Firstly, through the SoCG signed by Kieran Gayler for the Appellants and Rachel Canham for independent Noise Consultants Walker Beak Mason ("WBM"), engaged by the Council to advise on a number of matters, there is now no reason for refusal relating to aircraft noise as far as the Council is concerned (CD 5/6 App 1 of Doc APP/28). This means that the Council and the Appellants agree that the outdoor teaching environment would not be so badly affected by aircraft noise as to make educational development on the site undesirable. Furthermore, it means that new buildings can be designed to ensure a proper internal teaching environment.
176. There is also common ground, regarding the worst case scenario for aircraft noise, in respect of the objection set out by Mr Peachey on behalf of the BSCF and the TPC. It is that at a busy time of year such as July, with Stansted Airport operating under the full Generation 1 ("G1") capacity, there would be a maximum of 13 departures per hour passing close to Site A on the BUZAD route (see para 10.2.2 and App A to Doc BSCF/1.3). The evidence before the inquiry is that accurate noise readings taken by Mr Gayler at a location where the school buildings would be situated, whilst 7 flights passed overhead during a period of one half hour (i.e. the equivalent of 14 flights per hour) produced recorded noise levels of 52.8dBL_{Aeq30mins} for the Whittington Way buildings and 55.1dBL_{Aeq30mins} for the Whittington Way playing fields (see CD 5/6 Apps D & F).
177. Mr Gayler explained that in assessing the ability to design school buildings he had already added 2 decibels ("dB") to these readings in order to allow for expansion up to G1 limits from current flights, with a further 2.5dB to create a design margin. He

had also assumed that the buildings should be designed to cope with external noise of 60dBL_{Aeq30mins}. His evidence, and that of Mr Hawkins based on Building Bulletin 93 ("BB93"): "Acoustic Design of Schools" is that the new school buildings could be designed so as to accommodate these levels of aircraft noise whilst maintaining appropriate natural ventilation (section 3.7 of Doc APP/8 & APP/10).

178. Mr Gayler has also measured the effects of aircraft noise at the existing school sites and has found that external noise levels at both sites are higher than at Whittington Way. As these sites are slightly further away from the BUZAD route, it may be that the contribution of aircraft noise to these noise levels is lower than at Whittington Way. Nevertheless, it is clear that aircraft noise is contributing to external noise levels, which the current buildings cannot mitigate sufficiently to reduce noise levels to BB93 standards inside many of the classrooms. This is not surprising since neither school was sited, constructed or designed with aircraft noise from Stansted Airport in mind (Stansted was not proposed as a commercial civilian airport until 1957 with the Boys' School opening as a 3 form secondary modern school in 1953).
179. Although the BSCF and TPC maintain that possible further air traffic growth should be taken into account, this ignores the fact that if the schools relocate to Site A, their presence would be a factor which any future expansion of Stansted would have to have regard to. This point was acknowledged and accepted by Mr Peachey in cross-examination. Finally, a further important aspect of the opportunity cost of taking no action in respect of the BSHS and the HEHS is that pupils will continue to be exposed to external noise levels, significantly contributed to by aircraft noise, with no practical design measures available to reduce noise levels in some of the classrooms to appropriate levels.
180. Traffic. The origins of Bishop's Stortford as an historic market town mean that its road layout contains some junctions which do not have the capacity to accommodate the traffic trying to pass through them. This is an existing problem noted, for instance, in the current local plan (see CD 3/2 pg 117, objective 6). The London Road/Hockerill Street junction and the Haymeads Lane/Dunmow Road junction cause particular problems, with this latter junction proving resistant to several attempts to ease congestion, as confirmed by Mr Steptoe.
181. London Road/Thorley Hill junction. It is Mr Silcock's case, for the Council, that this is the junction by which the overall traffic effects of Appeal A should be assessed. The Appellants do not disagree. This junction and the northbound flow of traffic leading up to it form the basis of the evidence now called by the Council in support of the reason for refusal, added against the advice of their Officers, in refusing the planning application in 2010. In this regard it is of note that the County Council's detailed records, in respect of counts on London Road, show that between 2005 and 2010 there was almost a 2% decrease in traffic movements for the morning peak and over a 5% decrease in the evening peak (Doc APP/21 para 4.10).
182. Others, such as TPC and various residents' associations have given evidence about what they regard as poor traffic conditions and have taken the view that the relocation of the 2 schools to Whittington Way would make matters worse. However, no real detail has been provided in this regard and the evidence at the inquiry therefore focussed on the London Road/Thorley Hill junction.
183. The evidence of Mr Silcock was a constantly moving target and was hard to understand. However, his final position and that of Mr Mitchell for the Appellants were only 9 vehicles apart in the northbound flow that they predicted would seek to

use the junction during the morning peak period, with Mr Mitchell assuming 944 (see Doc LPA/4 App I) against Mr Silcock's figure of 953 (Doc LPA/9). The difference between the parties therefore comes down to their different assessments regarding the operation of the junction.

184. Mr Silcock has made a number of assumptions which do not reflect the way the junction currently operates and do not take account of basic measures for improving its performance. These would include preventing a car from parking regularly on the southbound approach to the junction, in effect blocking the southbound straight ahead lane and forcing southbound vehicles further to the middle of the road. This limits the ability of vehicles wishing to turn right into the Twyford Business Centre to position themselves close to the centre of the road and not to block the northbound traffic seeking to continue straight on behind them. Mr Silcock has assumed that this happens on every cycle during the 8-9am peak.
185. This is to be set against the evidence of Mr Mitchell, who told the inquiry he had spent a lot of time driving north on London Road and turning right into the Twyford Business Centre. His evidence was that traffic was obstructed by such a right turn or by a bus on a maximum of 12 or 13 occasions out of 45 cycles during the hour and that the bottom end of the range was 9 occasions. He, therefore, concluded that the predictions of Mr Silcock of regular stationary queues of traffic back to the Whittington Way junction and beyond were exaggerated. In this regard it should be noted that there is a clear difference between traffic that is stationary and that which is just slow-moving.
186. Mr Mitchell and the HA have modelled traffic flows which would arise from 2 new 8FE schools at Whittington Way. As such they have tested numbers above the highest predictions of Mr Silcock. Unsurprisingly, they conclude that there would be some increase in the queues of northbound vehicles waiting to get through the Thorley Hill junction at peak times. In the morning peak this northbound approach is predicted to operate with a degree of saturation of about 111% at the present day, giving rise to a maximum queue of about 78 passenger car units (pcus). If the schools relocate, flows on the London Road northbound approach are only predicted to increase by 10 vehicles, with a slight increase in the degree of saturation to some 113% and an increased queue of about 84 pcus.
187. In reality there are short peaks of queueing traffic from about 0825 to 0840 in several locations around the town and the conditions at Thorley Hill/ London Road are not generally worse now and would not be in future. However, the HA was also clear that with basic improvements to the London Road corridor these effects would be kept to acceptable levels. These improvements would include matters such as consideration of moving the bus stop currently located immediately to the north of the junction and the introduction of the SCOOT⁵ traffic signal control system which could increase capacity by some 6-7%. (see pg 20 of Doc APP/15).
188. The nub of the Council's case for criticising the judgements of Mr Mitchell is that his modelling work assumed all parents currently dropping pupils off at the BSHS do so at the entrance on London Road. In fact counts conducted in 2011 show that drop-offs take place at a greater variety of locations, with parents avoiding London Road

⁵ SCOOT (Split Cycle Offset Optimisation Technique): a tool for managing and controlling traffic signals in urban areas.

if they can⁶. But the fact that they have all been modelled to drop off at the school entrance is of little significance and simply reflects the workings of the traffic model. The important point to note is that there is only a difference of 9 vehicles between Mr Mitchell's evidence and Mr Silcock's.

189. The judgement to be made is how drivers would actually use the Thorley Hill/London Road junction and what its real capacity is. The Appellants' case is that the junction would operate satisfactorily and that any additional queueing should not be a reason for refusing these appeals. An appropriate package of mitigation measures to reduce any impact is proposed as part of a Travel Plan, to be secured through a Planning Obligation (section 4 of Doc APP/15 & Docs APP/51, 52 & 73).
190. In any event, the Appellants' case is robust because Mr Mitchell expects traffic flows at the new school to be lower than predicted in the modelling work, for a number of factors. These include the fact that families who have both a boy at the BSHS and a girl at the HEHS would be likely to make a combined trip. Others will use the improved bus services (Docs APP/15, 21 & 22). Moreover, it is clear that many parents who would drive their children to the schools would either come round the by-pass and hence not contribute to the traffic at Thorley Hill/London Road or they would be driving south from the north-east quadrant of the town and Mr Silcock's evidence was that such flows would not add to congestion (Docs LPA/3, 4 & 5).
191. Although those who live in an area may well conclude that existing traffic congestion will simply be increased by new development, a more rigorous approach is needed. Mr Mitchell's evidence, based on output from the HA's SATURN⁷ traffic model (which models driver behaviour and assesses traffic conditions on a network-wide basis), indicates that queues of northbound traffic on London Road would not increase to an unacceptable degree. Mr Silcock accepted that his evidence did not take account of any driver modifying their behaviour and using a different route if they knew that queues could be forming on the London Road.
192. This traffic model was produced for the HA in 2008 by Steer Davies Gleave, to support the earlier planning applications. It was developed from a SATURN model originally prepared in the 1990s, validated in 2002 and updated with more recent traffic counts in 2005. Further updated information was also obtained from surveys of students and staff at the BSHS and the HEHS in 2007 and was used to update details of trips to and from the 2 schools. A calibration exercise for the base year of 2005 was undertaken, with satisfactory results, and the model was then used to forecast traffic scenarios in future years, using TEMPRO⁸ forecasts. These included "Test A", which modelled the 2011 situation with the existing schools on their existing sites; and "Test C", which modelled 2 8FE schools at Whittington Way, housing development on the existing school sites and at Hadham Road and also some leisure uses on the new school site (CD 6/1).
193. Although the SATURN modelling dates back a few years, the HA is content that the model output is still valid, in view of the recorded decreases in traffic flow on London Road referred to above, and the significant decrease in Department for

⁶ On a typical day in 2011 some 52% of pupils were dropped off in the Bishop's Avenue residential area to the south; some 31% were dropped off in the Park Lane/Thorley Park Road area to the north; and about 16% were dropped off on London Road or within the main entrance (Doc LPA/3)

⁷ SATURN – Simulation and Assignment of Traffic to Urban Road Networks – a suite of traffic network analysis programs

⁸ TEMPRO - Trip End Model Presentation Program - a program that provides projections of growth over time for use in local and regional transport models. From the Department for Transport

Transport ("DfT") traffic growth projections, due to lower forecast growth in GDP and higher oil prices (see CD 6/4 and Doc APP/21 paras 4.11-12). Mr Mitchell acknowledged that the SATURN model includes a link through the Goods Yard, which is not yet constructed, but commented that this would not have a significant impact on the model output in light of the lower background traffic flows and the lower forecast growth, together with the neutral impacts of the development proposals on the centre of Bishop's Stortford (Doc APP/21 paras 4.17-4.19).

194. Another local concern, expressed by the Parish Council relates to traffic speeds and highway safety on Thorley Street. However, although accident records obtained from the County Council for the period from 2002 to 2010 show that there have been 2 fatal and 2 serious accidents during this 8 year period, they do not indicate any specific accident locations or suggest the road is inherently unsafe. The first fatality was in 2004 at the London Road/ Whittington Way junction and was caused by a pedestrian walking out from the central refuge into the path of an approaching car. The second fatality was a single vehicle accident; the driver lost control and mounted the kerb on the B1383 junction with Thorley Hill.
195. The first serious accident, in 2002, was at the St James Way roundabout junction with London Road and involved a motorcycle which lost control and collided with a vehicle making a U-turn from/to St James Way. The second was in 2003 at the London Road junction with Pig Lane and involved a car turning right out of the junction into the path of an oncoming motorcycle. In addition there has been 1 accident on Whittington Way itself, which was classed as a "slight" accident. There is no particular pattern to these accidents and nothing to suggest that highway safety would be worsened by the appeal proposals.
196. In summary, the advice given by Council Officers to Members of the EHDC Development Control Committee was correct. There is no evidence to suggest that Appeal A should be refused on the basis of traffic impact and the attempts of Mr Silcock to provide some basis for the Members' personal judgements have failed.

Conclusions on the Whittington Way site - Appeal A

197. The draft National Planning Policy Framework ("NPPF" - CD 3/14) is at consultation stage and as the recent Cala Homes Decision makes clear, it can only carry limited weight (Doc LPA/14). The statutory development plan for the area consists of the EEP (CD 3/1) and the saved policies of the EHDC Local Plan (CD 3/2 & 3/3). The relevant extant Government guidance is PPG2 (CD 3/18), The Statement for Growth of March 2011 (CD 3/15) and the Policy Statement for Schools of August 2011 (CD 3/30). These latter two policy statements are of immediate effect and they have not been legally challenged.
198. There is no dispute that the test to be applied under PPG2 paragraph 3.6 is whether material considerations in favour of the scheme clearly outweigh both the definitional and other harm to the Green Belt and any other interests of planning importance arising from the appeal proposals. Mr Steptoe, the senior Development Control Planning Officer at the Council advised his committee in September 2010 that this was a finely balanced decision (CD A/25). The only place in the minutes of the debate where there is any mention of this being discussed, it is again noted as finely balanced (CD A/26). The Members of the Council unanimously adopted the recommendation and, because they did not disassociate from it, the reasoning set out in the report leading to that recommendation, albeit the Committee added a reason for refusal relating to traffic (CD A/26). Part of the Council's finely balanced

decision at that stage included not having enough information as to the effect of aircraft noise on the proposals. That consideration has now been removed.

199. The need to provide for the appropriate level of educational infrastructure is a planning consideration of significant weight. Not only is the provision of community facilities supported by planning policy, education for their children is also one of the prime concerns of residents in any area. As the evidence has been produced and tested before the inquiry it has become increasingly clear that expansion and relocation of the Boys' and Girls' Schools is the most appropriate final stage in a strategic provision of secondary school places in the EPA. The lack of any credible alternative means that this need should be balanced against what the Appellants accept is inevitable but limited and mitigated harm to the Green Belt by the provision of new educational buildings in the proposed location.
200. In addition, a further material consideration is that this package of appeal proposals would allow the provision of up to 690 new homes within the settlement boundaries of Bishop's Stortford, with 345 on previously developed land. Whilst the Issues and Options paper for the LDF already consulted upon by EHDC (CD 3/13A) can be given little weight in terms of its final outcome, it is consistent with Mr Martin's evidence that meeting the housing needs of Bishop's Stortford to 2031 will require the release of Green Belt land. Each of the options 2-5 expressly makes clear that a review of Green Belt boundaries would be required. So, also into the balance goes, the fact that allowing inappropriate development amounting to 7.2ha at Whittington Way would allow housing to be provided within the built up area of Bishop's Stortford which, if it were otherwise, would have to be built outside the town on greenbelt land would require a minimum of 17.2ha.
201. Further, as Mr Martin explained, most planning judgements would regard housing development as more harmful to the openness of the Green Belt than school buildings surrounded by playing fields and within a landscape setting. This factor is not expressly considered in the finely balanced judgement of the Council. For these reasons, even in September 2010, the Appellants are clear that the appropriate planning judgement, and one which the Council had reached prior to those in the town opposed to growth and change becoming more vocal, was that the expansion and relocation of the 2 schools should go ahead. The Appellants say that in those circumstances consideration of the education policy statement of August 2011 (CD 3/30) is in fact superfluous, adding unneeded weight to a balance which already shows that the merits of the proposals clearly outweigh the harm arising from development on Green Belt land.
202. Nevertheless, this statement on education is up to date policy from the Secretary of State who will determine these appeals. It is unequivocal in its support for the drive to improve standards in state funded education. It supports building on success and looking forward to provide opportunities to continue to increase standards. It is the antithesis of complacency, resting on laurels or the status quo. It supports not only the provision of extra capacity within Bishop's Stortford but the improvement and upgrading of the current facilities at the Boys' and Girls' schools. Nowhere does it support a lowest common denominator approach or say that aspiration is to be undervalued and that only the most dire of need is to be met.
203. The policy creates a presumption in favour of development to meet the operational needs of state funded schools. It makes clear that the Secretary of State will attach significant weight to such improvements. Furthermore, the policy statement is consistent with paragraph 137 of the draft NPPF which, although draft, indicates

that the Secretary of State will attach “very significant weight” to the provision of new schools (CD 3/14). To suggest that paragraph 137 does not apply to the appeal proposals because they are the relocation of existing schools on a new site is unnecessarily pedantic, although helpfully illustrative of the extent to which the Council’s case can bear scrutiny. In any event, this point does not survive the more recent and extant wording of the August policy statement.

204. Of course the NPPF also continues the broad thrust of Green Belt policy. Although interestingly it does not continue the requirement on the Appellants to demonstrate very special circumstances. Nor does it restate any presumption against inappropriate development in the Green Belt. The extant guidance remains PPG2 and the Appellants are not suggesting that it should not be applied in full. Nevertheless as of August 2011, the other considerations mentioned in paragraph 3.2 of PPG2 must now include the very strong policy support for the educational aspects of the appeal proposals. There is a countervailing presumption in favour of educational development to be set against the presumption against inappropriate development in the Green Belt.
205. In view of the very significant weight which current central Government policy now requires to be given to the benefits of expanding and improving facilities for state funded education, it is hard to see how a planning judgement that was finely balanced against the appeal proposals in 2010, should not now change to one clearly in favour of allowing the appeals. The Appellants submit that there are the necessary material considerations which clearly outweigh harm to the Green Belt and that Appeal A should be allowed. This leads the approach to the other appeals.

Appeal B – Jobbers Wood

206. Lifting the condition on the planning permission for the layout of the pitches at Jobbers Wood, which restricts the use of this high quality sports facility to a single school, would create no planning harm whatsoever. Rather, it would provide for wider access to the facilities, not only to another school in the town but to local community organisations as well. Mr Mitchell’s evidence indicates that if use of the facility was extended to the HEHS, then the overall usage would increase by about 34% (Doc APP/16). The Council does not even assert that there would be any adverse impact on traffic flows or highway safety. It merely argues that lifting the condition would lead to growth in unsustainable forms of transport.
207. The Appellants have to conclude that this was a tactical refusal of planning permission because the Officers knew that their Members would not grant permission for any proposal which the BSCF would oppose and would be seen as furthering the Whittington Way package of applications. In fact the evidence is that the site would be used primarily at week-ends for competitive fixtures as opposed to curricular sport (see CD B/4). Mr Mitchell’s evidence indicates that away teams already arrive in coaches or mini buses and that there is also much car-sharing amongst parents. Mr Mitchell was not challenged as to his evidence that a Travel Plan would further decrease private car trips carrying only one passenger. In any event, these are not trips being carried out at any conventional peak hour.
208. The suggestion by the BSCF that all the investment in these facilities should be now abandoned and the land returned to agricultural use is unrealistic and illogical (Doc BSCF/1.1 para 91). Whatever the original justification for this condition, which frankly rather benefits the Boys’ School, it should now be lifted irrespective of whether any of the other appeals succeed, but undoubtedly if Appeal A is granted.

Appeals C, D, E and F

209. Some points are common to each of these appeals. Each would provide new housing on a site within the settlement boundaries of Bishop's Stortford and guidance in paragraph 71 of PPS3 indicates that planning applications for housing should be considered favourably. None of the sites have any particular features that would mean good design in accordance with paragraphs 49-50 of PPS3 could not be achieved. The new dwellings would be provided in the context of the Council's latest Annual Monitoring Report ("AMR" - CD 3/29), which shows a 5 year land housing supply in accordance with PPS3 of only 4.5 years. Access is not a reserved matter on any of the sites and allowing the appeals would fix the access arrangements to which, with the exception of Site E, there is no objection.
210. The proceeds from each of the sites would be used to fund the Schools' relocation. This makes the Council's extremely late change of mind on "up to 40%" of affordable housing on the sites, even more bizarre. Dealing with each site in more detail:
211. Appeal C – Hadham Road. This site is the subject of adopted Local Plan policy BIS7 which makes clear that it will only be released if sufficient additional secondary school capacity is provided elsewhere in the town. This would occur if Appeal A was allowed and the new schools constructed. Therefore, with a condition linking either the commencement of development or the occupation of the houses to the occupation of the new schools, the reservation of this site for a new secondary school could safely be lifted. This means the proposals for housing on the site are in accordance with a local plan allocation. The site would be served by the existing Patmore Close junction which the HA has confirmed is not heavily used at present and which would operate within capacity without the need for any modifications (see CD 6/1).
212. The residents' association would obviously prefer the field to remain undeveloped but the Appellants' case is that the reserved matters would ensure that the site can accommodate up to the maximum number of dwellings applied for without causing any unacceptable impacts in terms of amenity or privacy to the neighbours. There is no justification for a condition limiting the density of the development to less than that indicated by the maximum number of dwellings applied for. This appeal is supported by a S106 unilateral undertaking which is acceptable to all parties save that the Council is suggesting the County Council should be making a contribution to itself towards the provision of nursery education and childcare, or that the value of the site is reduced by the equivalent amount.
213. Sites D, E and F - Section 106 obligations. The obligation for each of these sites contains the wording "up to 40%" of the housing to be affordable (see Docs APP/75, 76 & 77). Even assuming that current figures show the site could provide this amount of affordable housing with an acceptable developers profit (see Doc LPA/16), this wording is entirely in accordance with policy HSG3 (III) of the Local Plan (CD 3/2). Paragraph 3.10.3 of the plan makes clear that an affordable housing element of up to 40% will be negotiated on all suitable sites.
214. The late change of stance by the Council requiring the removal of the words "up to 40%" is neither in accordance with its policy or the explanatory paragraph. There is no evidence to show how having the words "up to 40%" as opposed to "40%" will, taking into account the other clauses in the agreement, make any aspect of development on any of these three sites unacceptable. The cascade mechanism of

a period of 18 months to secure a registered provider, having to be exhausted before the affordable dwellings can be sold as low cost housing to local people, is perfectly fair and realistic. No evidence has been called to show what the harm would be of the cascade set out in the obligations.

215. The other difference between the Appellants and the Council is that whilst the Appellants are perfectly happy to repair children's play equipment 1 year after they have transferred land to the Council for public open space for the cost of £1, they do not consider it reasonable to extend this to 2 years. It is difficult to see what planning harm would arise from the 1 year requirement so as to justify reducing by any amount the weight the Secretary of State can place these obligations.
216. Appeal D – The Boys' School. There are no points particularly unique to this site. It is considered that the illustrative layout drawing shows a form of development perfectly acceptable when judged against any standards for design and, in particular, those in By Design⁹, PPS1 and PPS3. The Transport Assessment indicates that the proposed site access with London Road would operate within capacity (CD 6/1).
217. Appeal E – The Girls' School. There are 2 site specific points. Firstly, any objection in relation to the heritage aspects of the original buildings is no longer pursued by any party. It is intended that those buildings should be retained and converted into apartments. The statement of Kevin Murphy of KM Heritage, which has been incorporated as additional information for the Environmental Statement, shows that there are no other buildings on the site which need to be retained (CD 8/4).
218. Secondly, the Warwick Road Maintenance Association ("WRMA") contend that they have the ability to prevent access to the new development whether for new residents or by construction traffic. This is very strongly disputed. It is acknowledged that the WRMA sought opinion from Leading Counsel (Mr Hobson QC – Doc BSCF/9.1.1), but what he was asked to advise upon, and what he did advise upon, was whether Warwick Road was a highway and whether the gate at the end should be removed as an obstruction. He gave no advice on whether land fronting Warwick Road had rights over the road, subject to paying their share of maintenance, as he was not asked to advise on this matter. The point at issue is a matter of private law and frontagers' rights over a private road. It is not a planning consideration. The Appellants' evidence demonstrates that access to the site could be gained without making any alterations to the existing kerb line and that there are no issues of road safety or capacity.
219. The HA considers the access proposals for this site to be acceptable. These would see a maximum of 35 parking spaces being served from Dunmow Road, with the main site access on Warwick Road. Even though the County Council is not the responsible Highway Authority for Warwick Road, its views on highway safety are still relevant and it considers the proposed site access junction would be safe and operate within capacity. It is acknowledged that there are some junctions in the surrounding area which currently suffer from significant delays and congestion, such as Haymeads Lane/Dunmow Road and Hockerill Street/London Road. The HA comments that traffic flows through these junctions will increase as growth occurs over future years (see Doc APP/19 and Transport Assessment at CD 6/1).

⁹ By Design: Urban Design in the Planning System - Towards Better Practice. Published by the Department for Environment, Transport and the Regions and the Commission for Architecture and the Built Environment in May 2000

220. However, Scheme E would result in an overall net reduction in the number of vehicle movements to and from the site and its immediate area. As a result the HA has indicated that it has no objection to the proposal, subject to financial contributions towards measures outlined in the Bishop's Stortford Transport Plan, aimed at enhancing the performance of the highway network around the town and encouraging a shift towards more sustainable modes of transport. In this regard it should be noted that the site is in an accessible location for residents to make journeys on foot and by cycle, but notwithstanding this, a comprehensive package of measures is proposed to further encourage sustainable travel from the outset (see APP/19 and Transport Assessment at CD 6/1).
221. Appeal F – Beldams Lane. This is a fairly flat and regularly shaped piece of land within the built up area of the town. The issue pertinent to this site is that some residents claim that the site should be registered as a town or village green. There is no merit in this application which is based on a desire to frustrate development rather than the requisite period of community use in accordance with the relevant conditions of overt use, in opposition that to which the landowner would wish to put the land. Again, however, this is not a planning consideration for these appeals and should not prevent what would otherwise be acceptable housing development of up to 180 dwellings on this site coming forward.
222. The proposal would generate about 115 morning peak hour trips and 125 in the evening peak. These would be new trips on the highway network and are likely to impact primarily on the Beldams Lane/Hallingbury Road junction and the Haymeads Lane/Dunmow Road junction. Although this latter junction currently operates over capacity at times, the HA has again raised no objections to this proposal, subject to financial contributions to assist in implementing the Bishop's Stortford Transport Plan (see Doc APP/20 and Transport Assessment at CD 6/1).

Overall Conclusions

223. The package of Appeal proposals provides the appropriate solution to the strategic educational needs of Bishop's Stortford as well as having the advantage of allowing the development of up to 690 dwellings on sites within the town, 345 of which would be on previously developed land as well as limiting the amount of public money which would have to be diverted from other priorities.
224. It is not always clear what "localism" actually means and the BSCF have not relied on any actual provisions of the Localism Bill. However it cannot mean a veto on needed development to meet local needs simply because this is not popular with the majority of those who have expressed views. Consultation is not a referendum especially where, as here, many responses have been based on the false belief that a simple alteration of admissions criteria would be a panacea.
225. In this case the Appellants undertook a comprehensive consultation exercise, in line with the guidance set out in the Council's Statement of Community Involvement. This consultation process has consisted of the following events and actions: ongoing liaison with Council Officers; meetings with Thorley Hill Primary School; a meeting with the local Member of Parliament ("MP"); presentation to key local politicians and stakeholders; liaison with the local press, to publicise the proposals and exhibition; a 3-day exhibition held at the BSHS, the HEHS and the Rhodes Centre; a community helpline, manned throughout the consultation period; a mail/postal address for queries and comments; and ongoing community liaison (see the Statement of Public Consultation – "SPC" - CD A/11).

226. The package of proposals is a local solution to local needs promoted by local schools. The process of the inquiry has demonstrated that beyond the harm which would arise from inappropriate development on Green Belt land, there are no other weighty factors against the development. The meeting of educational need in this way does provide material considerations which clearly outweigh the harm to the Green Belt and the Inspector is asked to recommend to the Secretary of State that each of the Appeals be allowed.

The Case for the Council

The material points were:

227. East Hertfordshire District Council ("EHDC" or "the Council") submits that these appeals ought to be dismissed as the proposals represent poor and damaging development in this Council's area. Over 16 days of inquiry the proposals have been exposed and demonstrated to be harmful and unacceptable. Moreover, the factors contended by the Appellants to justify the harm arising from the appeals have been tested and found to be seriously wanting.
228. The lead appeal, Appeal A, raises serious issues in respect of the proper planning of the Council's area. The proposal is for significant and harmful development in the Green Belt in the form of 2 replacement schools and associated development. The new school buildings would have an external floor area of some 26,000sqm, and are proposed as part 2 and part 3 storeys in height. Car parking provision for 348 spaces and significant access works are also proposed.
229. The starting point for consideration of this lead appeal is the development plan for the area. Scheme A is in clear conflict with Local Plan policy GBC1 which reflects national Green Belt policy in PPG2. The proposal is therefore not in accordance with the development plan, against which it ought to be determined unless material considerations indicate otherwise. National planning guidance in PPG2 sets out a presumption against inappropriate development in the Green Belt, and there is no dispute that Scheme A represents inappropriate development. Although some aspects of the development which include recreational and play areas are not inappropriate development in themselves, they involve associated features such as floodlighting and terracing which need to be assessed in terms of their impact on the Green Belt and the surrounding area.
230. Green Belt policy in PPG2 is well established and fundamental. All witnesses agreed that there is no weakening of the Government's resolve to protect and maintain the Green Belt and to further its purposes in protecting the countryside from sprawl, encroachment and to maintain openness which is the Green Belt's most important attribute. Indeed, it was accepted in evidence that the tests and provisions set out in the draft NPPF are the same as those in PPG2. Whilst full weight needs to be attributed to PPG2, the NPPF is a draft document, subject to consultation and consequently subject to change. Therefore, little weight can be given to it in the determination of this appeal other than to note the continued resolve and determination of the Government to maintain the integrity of the Green Belt.
231. As the proposal represents inappropriate development in the Green Belt, planning permission should not be granted unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other material considerations so as to represent very special circumstances which would justify the development. PPG2 makes it clear that the Secretary of State will attach substantial weight to the harm to the Green Belt and added to this will be the weight attached to any other harm

arising from the development. On the other side of the scales will be the other considerations relied upon by the Appellants. It will then be necessary to assess whether the other material considerations are of sufficient weight to “clearly outweigh” the harm to the Green Belt and the other harm arising from the scheme.

232. It can be seen, therefore, that a structured and rigorous exercise needs to be undertaken. Each element of the harm needs to be considered. Similarly the factors advanced in support of the proposal need to be scrutinised so that appropriate weight can be attributed to each claimed consideration.
233. In terms of local decision making by democratically elected Members of the Council’s planning committee, the decision to refuse the appeals was unanimous. The Members decided that the harm arising from the inappropriateness of the development in the Green Belt and the other harm was not clearly outweighed by the claimed material considerations in favour of the scheme. The factors relevant to this decision making exercise have again been considered at the inquiry and it is appropriate to draw the evidence together and to place the factors within the context of the Green Belt policy test.
234. Dealing first with the harm to openness, the scheme proposes a significant area of built development in an area which is currently entirely free of development. Given the size and scale of the 2 schools this development would represent serious and irrevocable harm to the Green Belt. In addition to the built development other features, such as the car parking area utilised for its intended purpose, and areas for bicycle storage, would also harm openness. Paragraph 1.4 of PPG2 makes clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness (CD 3/18). In terms of this issue, the openness of the Green Belt would be severely and significantly compromised. Therefore, further substantial weight should be given to this harm.
235. The proposal would extend the present developed edge of Bishop’s Stortford. This would represent sprawl into the countryside and would undermine one of the purposes of including land in the Green Belt to which this land contributes (CD 3/18 para 1.4). Significant weight should be given to this conflict with PPG2. In addition, the development would undermine another purpose of the Green Belt, as it would represent significant encroachment into the countryside. Again significant weight should be attributed to this harm to the Green Belt. The only evidence which dealt with the harm to the integrity of the Green Belt, in the context of openness, sprawl and encroachment is that of Mr Steptoe.
236. Mr Lewis for the Appellants failed to address substantively in his written evidence the harm to the purposes of including land in the Green Belt, as reflected in paragraph 1.5 of PPG2, in respect of sprawl and encroachment, although he did accept this would be the case in cross-examination. He paid lip service to harm to openness in terms of the integrity of the Green Belt.
237. Openness was addressed by 2 other witnesses on behalf of the Appellants. Mr Hawkins, the Appellants’ design witness, confirmed that his understanding of openness, and certainly his approach to openness in his evidence, was that there was no harm to this most important attribute of the Green Belt as long as the inappropriate development could not be seen. This is obviously not right in Green Belt terms. Harm to openness occurs due to the loss of openness as a matter of

fact – that is – the presence of development where currently none exists – whether or not it can be seen.

238. Mr Clark supplied the Appellants' evidence to the inquiry on landscape design issues. He made clear that his evidence in respect of openness was given on the basis that if the development was going to be sited in the Green Belt then he had considered how it would appear. Therefore, none of his comments addressed the actual harm to openness arising from the development as against the existing position. Hence his comments need to be considered in that light.
239. However, harm to openness is serious, wide ranging and permanent, stated in the evidence of Mr Steptoe. Mr Steptoe also explained the conflict with the final bullet point in paragraph 1.5 of PPG2, in that the proposals do not assist in urban regeneration by encouraging the recycling of derelict and urban land. Instead, they propose development in a location which has been included as Green Belt land where such development is inappropriate (see Doc LPA/2). Therefore, in respect of the integrity of the Green Belt it is submitted that the conclusion ought to be that the harm would be significant.
240. Mr Lewis's evidence in respect of harm to the integrity of the Green Belt is difficult to credit. He has asserted that the harm would not be significant. In the light of the facts surrounding the size and scale of the proposal and the terms of Green Belt policy it is hard to see how the proposals would be anything other than significantly harmful to the integrity of the Green Belt. In addition to the foregoing, there are elements of "other harm" arising from the proposals. Each matter is dealt with in turn, below:
241. Landscape and visual impact. The proposed development would create a new southern edge to Bishop's Stortford, with the Appellants' intention being to provide visual presence for the two schools (see Doc APP/8 paras 3.3.12 & 3.3.14). Floodlighting to the MUGA and AWP are central to the site. Appendix 6 to Mr Hawkins' evidence supplies an artist's view of the site viewed from Whittington Way (Doc APP/9). The extent of the proposed development is evident.
242. As noted above, Mr Clark sought to respond to the situation if the schools were to be sited at Whittington Way. He had not undertaken his own landscape and visual impact assessment ("LVIA"), but rather relied on the LVIA forming part of the ES which accompanied the application (App 7 in CD A/14). Despite this, Mr Clark did make some comments on the landscape character of the appeal site (see Doc APP/12, paras 2.25-2.31). The appeal site falls within the Thorley Uplands Area 85 as defined in the Council's LCA (CD 3/8). In refusing planning permission for this application the Council had regard to the opinion of its landscape officer who stated that "...in terms of rarity and distinctiveness, this is described as a most unusual area, elemental and simple and of a scale undreamed of in the cluttered south west of the county" (CD A/25 pg 33).
243. Mr Clark advised that this was true as a "generalisation" and decided instead to consider the National Character Area which covers an area that runs east-west all the way from Ipswich to Stevenage and north-south from Bury St Edmunds to Chelmsford, thereby asserting that the scale was not dissimilar to other locations in Hertfordshire and surrounding counties (see Doc APP/12 para 2.28). He had no explanation why he had used the wider National Character Areas instead of the Council's own specific LCA which is an adopted SPD and which is a material

consideration when determining planning applications in the Council's area, in accordance with Local Plan policy GBC14.

244. As set out in the LCA (CD 3/8 para 2.5), when assessing planning applications in, adjacent to, or having an impact on the character of the landscape, proposals should be reviewed against the relevant landscape character areas statement. In this case, the proposal fails to accord with the Strategy and Guidelines for the Managing Change in the Thorley Uplands Area 85. The Strategy is to resist proposals that would permanently damage the character of the area by altering its scale and landscape pattern. This proposal does permanently damage the character of the area by altering its scale and landscape pattern. It does not "Conserve and Strengthen" the landscape character but instead, weakens it.
245. The harmful impacts of the proposal when assessed against the LCA Area 85 are borne out by the findings of the Appellants' own ES (CD A/13 para 7.37), as follows:

"The assessment finds that the proposed development would strengthen the association of the site with the town of Bishop Stortford and weaken its current general association with the Thorley Uplands landscape character area, particularly in the short term. In the long term, when new planting has become established and begun to mature, the site would provide a transitional area between the more rural landscape of the character area and the urban area of Bishop's Stortford."

246. Therefore, it is plain that when assessed against the LCA as required by the SPD, the proposals conflict with the Strategy for Area 85 and would have an adverse impact upon it. Mr Clark sought to explain his failure to address the LCA by asserting that the appeal site was not typical of the Thorley Uplands Area 85. This assertion cannot be sustained however when (i) the key characteristics of the area are noted and which quite obviously are reflected in the appeal site (CD 3/8 page 181); and (ii) the ES itself confirms at paragraph 7.13 that:

"Field survey work carried out during the preparation of the landscape and visual assessment has confirmed that the site and near locality remain broadly typical of County Character Area 85" (CD A/13 para 7.13).

247. It follows therefore that when assessed against LCA Area 85 the appeal proposals would have an adverse impact on the landscape character. Furthermore, the overall sensitivity of local landscape value to change was assessed as high. The proposals would result in harm to the landscape character and this weighs against them and must be added to the "other harm" category.
248. The visual impacts of the proposal are also harmful and adverse. This is confirmed in the Landscape and Visual Assessment ("LVA") of the main Environmental Statement ("ES" – see App 7.1 of CD A/14). Twenty-three sensitive receptor viewpoints were selected. Four had no view of the site and were discounted. Of the 19 viewpoints remaining all, except 1, had some degree of adverse visual impact. The significance of the effects ranged from substantial to moderate/slight (CD A/13 para 7.40). The visual impacts of the proposals would therefore be harmful and would constitute "other harm" which must also weigh against the scheme.

249. The ES assesses the likely significant impacts of the proposals and the Appellants have provided it to accompany their proposals in order to meet the relevant statutory requirements. They cannot now claim that their own ES is not properly representative of the likely impacts of the proposals. If they did, then a fresh ES would need to be commissioned as it would not be lawful to determine the appeals in the absence of a proper ES. However, the Appellants' witnesses confirmed that they did not resile from their own ES.
250. Hertfordshire Way. The harm to the Hertfordshire Way from the proposals would be immeasurable. All the relevant assessments confirm that the proposals would have a significant effect on the visual amenity value of views from Hertfordshire Way as it passes through the site. The various artists' impressions in the Appellants' evidence indicate the proposed new school buildings forming the boundary to part of the Hertfordshire Way and also its amalgamation with a new "Plaza" area where student events and activities are proposed to take place. A bicycle store would be at one side, with school buildings on the other (see Apps 4 & 8 in Doc APP/9).
251. Again, the ES assesses the impact as "adverse in nature" (CD A/13 para 7.39). This is further harm which must be added to the "other harm" arising from the development. PPG2 makes clear at paragraph 3.15 that the visual amenities of the Green Belt should not be injured. This proposal plainly does injure the visual amenities of the Green Belt. The previous proposals to enhance the Hertfordshire Way have been abandoned due to the surveillance and security needs of the proposed schools (CD A/6 paras 9.23 & 9.25). This has led to the removal of hedges and plant species. There is also the possibility of additional fencing at the boundary not defined by the building line (CD A/6 para 9.18).
252. The Supplementary ES makes clear that the "revised proposals, which give the central section of the Hertfordshire Way a more urban, harder, character, mean that it would be unlikely to function as a green corridor or have the same benefits for wildlife" (CD A/16 para 3.21). The Plaza area which is proposed to be used for a range of activities would add to the serious alteration in the character of the Hertfordshire Way (CD A/6 paras 9.21-9.22). Indeed the Appellants' own witnesses acknowledge the significant change that will be wrought to about 316m of the Hertfordshire Way. It is also pertinent to note that this part of the Hertfordshire Way is regarded by some as particularly valuable having regard to the degradation of other parts of this route as it passes through Bishop's Stortford (see Doc IP/7).
253. Artificial Lighting. The proposal would cause significant harm in respect of the lighting associated with the proposals, with the Appellants' own LVIA considering this to be the case (App 7 in CD A/14). The Supplementary Planning Statement (CD A/5) provided by the Appellants summarises the harm from light sources including floodlighting at paragraph 16.11:
- i. The proposals would result in some loss of screening potentially opening up views of the site from houses to the north to artificial lighting on Whittington Way and the proposed roundabouts;*
 - ii. Lighting associated with the development proposals would extend the lit edge of Bishop's Stortford;*
 - iii. To the south of the proposed buildings, the multi-use games area along with the interior and exterior lighting of the proposed buildings, would be a significant source of artificial light when viewed from the south.*

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254. The harm from the artificial lighting associated with the proposals must be added to the "other harm" and weighed against the proposal. This would also constitute harm to the visual amenities of the Green Belt.
255. Trees. The proposals would result in close to 150 trees being removed. This matter cannot be disregarded merely because the majority are not grade A or B as they nevertheless perform an important function. This loss constitutes "other harm" which weighs against the proposals. Any replanting would not create the present belts of trees and hedges and would, in any event, take decades to evolve. The "impression" in Mr Clark's appendices shows trees where there are currently none (App 5 in Doc APP/13). Not only would these alter the current landscape character, such trees would take decades to gain any presence. Even on his own evidence Mr Clark considered they would take "10-20 years" to get to any height.
256. Activity. The proposals would introduce significant activity where there is currently none and this would have an adverse impact on the tranquillity of the area. This harm must be added to the "other harm" and weighed against the scheme.
257. Highways impact. In addition to the above, the proposals would give rise to an unacceptable highways impact. The Council's evidence, through Mr Silcock, has demonstrated that contrary to the Appellants' assertions, the levels of congestion and queueing would be far greater than assessed by them. The context of the highways evidence needs to be considered. This is an appeal by the County Council. The County Council is also the Highway Authority. It is appropriate that the County Council's agreement that the highway impacts of the proposal are acceptable should be subjected to strict scrutiny. Mr Silcock, on behalf of the Council has undertaken that exercise and his assessment of the traffic impacts demonstrates that the County Council's confidence in the Appellants' highways evidence is misplaced.
258. The inquiry heard detailed evidence from Mr Silcock. He explained cogently why the work done by Mr Mitchell was flawed and resulted in seriously underestimating the impact of the proposed development. The flaws were put to Mr Mitchell who on each occasion was forced to admit that his assumptions did not reflect the reality or even resemble the reality on the ground. Those incorrect assumptions were all fed into his modelling. As a model is only as good as its inputs, it is submitted that Mr Mitchell's outputs are unreliable and flawed. They do not provide a sound basis for assessing the impact on the highway network arising from the scheme.
259. Mr Mitchell's main position is that he had tested a scenario with 1,454 vehicle movements associated with the new schools, using a SATURN model that assigns traffic to minimise congestion (Doc APP/15). He suggested that this was a robust assessment and that any effects due to modelling assumptions had been discounted through sensitivity testing at key junctions. But Mr Mitchell's methodology is fundamentally flawed. He had assumed that all existing BSHS pupils are dropped off by car at the main entrance on London Road but in cross-examination he agreed that whereas his own Test A flows assume 256 cars arriving, this compares to just 94 cars observed. In fact, as Mr Silcock makes clear, Mr Mitchell's Test A flows assume 458 peak hour car movements at the school entrance on London Road, whereas direct observation shows only 125 such movements. This is 333 fewer.
260. Although Mr Mitchell suggests that this assumption is acceptable, and that his conclusions remain valid, this is not correct. Mr Mitchell assumed that 95 cars exit left out of the main entrance of Bishop's Stortford High School when dropping off

pupils in the morning peak. He then removed these trips totally from his models of the “with development” situation. It is a fact, however, that only 12 drivers were observed to do this and therefore only 12 cars should have been removed from future models. As a result, Mr Mitchell’s future models have 83 too few cars on this part of London Road. These need to be added back and, as highlighted in evidence, the result of doing this in Test C would be an increase in the number of vehicles in the queue from 78 to 161 or nearly 1km of queue.

261. The consequences of correcting this one flaw alone would suggest a very different picture to that provided by Mr Mitchell. Mr Mitchell suggested in examination that this “minor number” of 83 vehicles has “been reassigned by SATURN elsewhere”. This simply cannot be correct. Since they are not currently turning left out of the main school entrance on London Road, they cannot be re-assigned by SATURN elsewhere. These cars are, as explained by Mr Silcock, actually currently either south of the school on Whittington Way or they are north of the school in the Thorley Hill area and none of these drivers need to be, at any time in their journey, on the London Road northbound approach to the Thorley Hill signal junction.
262. This flaw gives the proper explanation as to why the difference between Mr Mitchell’s Test A and Test C is only about 10 more cars on London Road northbound at Thorley Hill, compared to over 200 more southbound at the same location. Mr Mitchell contends that he has made valid modelling assumptions which have been properly examined through sensitivity testing. As Mr Silcock explained, this is not the case because the flaws in the SATURN modelling are all at key junctions and will tend to have a cumulative effect and also because the sensitivity tests are themselves fundamentally flawed.
263. An obvious corollary of Mr Mitchell’s incorrect assumption that everyone uses the main entrance is that he has not correctly assessed traffic elsewhere. He has, for example, underestimated existing turning traffic on Whittington Way because he has chosen to ignore existing drop-offs there, and he has underestimated existing turning traffic at the Thorley Hill/London Road junction for a similar reason. He has also not correctly estimated turning traffic at Pig Lane.
264. To correct the SATURN modelling, Mr Mitchell considered a sensitivity analysis for the London Road/Pig lane junction. However, this analysis was flawed because he assumed that as well as this traffic turning right into Pig Lane through gaps in southbound London Road traffic, there would also be a period when such traffic could turn unopposed due to a red light at the new signal controlled school entrance. But he ignored the fact that once the unopposed period ended, there would be a period of discharging queue when no-one could turn right. He also ignored the fact that right turners can only turn if they are in the right place in a queue. Consequently, a correct interpretation of this sensitivity analysis does not show that the situation would improve. In fact it would deteriorate with lengthening northbound queues on London Road in the future.
265. To explore further expected queues at the London Road/Thorley Hill/Twoyford Business Centre junction, Mr Mitchell undertook sensitivity analyses here using Test A, B and C flows. As stated by Mr Silcock in evidence, very little reliance can be placed on these analyses. The flows at the junction are clearly wrong for the existing case. As Mr Silcock pointed out in evidence, the SATURN model assumes that no one currently turns right from London Road southbound into Thorley Hill, whereas the September 2011 observations show 100 vehicles in the peak hour making this movement. This alone is a significant flaw in the modelling.

266. However, one of the key issues raised by Mr Silcock is that Mr Mitchell's saturation flows for this junction are flawed. The measured saturation flows undertaken by Mr Silcock are significantly lower than the RR67¹⁰ estimated value of 1,940 pcu per hour. The overall average saturation flow in the morning peak hour was observed to be 1,483 pcu/hour which is 76% of the RR67 estimate or 25% lower (Doc LPA/3 para 2.25). Mr Silcock undertook measurements of the northbound London Road saturation flow using the method recommended in the Transport for London Traffic Modelling Guidelines Version 3 September 2010.
267. Using video information and direct observations Mr Silcock noted a number of actions and activities at this junction, which all serve to have an impact on traffic flow and, consequently, the saturation flows on the junction approaches (see Doc LPA/3 para 2.26). Taking this information on observed behaviour into account in his LINSIG¹¹ model, Mr Silcock derived saturation flows which are 25% lower than the estimates used by Mr Mitchell. These behaviours covered such things as:
- i. The right turn from London Road into Twyford Business Centre was observed to block northbound through traffic when there is also traffic southbound;*
 - ii. Buses stop on the northbound exit of London Road and this slows traffic down;*
 - iii. Northbound traffic is observed on a number of occasions giving way to turning traffic leaving Burley Road and Mitre Gardens;*
 - iv. For longer queues on London Road north, queueing traffic leaves gaps at Mitre Way to allow cars to turn in;*
 - v. Drivers leave gaps between the car in front in order to avoid being trapped behind turning traffic.*
268. Mr Mitchell's own model did not input any of the above behaviours, which reinforces the Council's view that there are significant flaws in his assessments. That said, Mr Mitchell confirmed that he had observed that between 9 and 13 signal cycles out of 40 within the hour were blocked by the first 2 of these behaviours alone. This would reduce capacity on this approach on average by 25% and would confirm that the saturation flow on the London Road northbound approach to the Thorley Hill junction is about three quarters of the 1,940 pcu per hour assumed by Mr Mitchell.
269. Although the latest figures only show a difference in the northbound London Road flow between those used by Mr Mitchell and those of Mr Silcock, of 9 vehicles the key, as accepted by Mr Mitchell, is down to the interpretation of the way the junction operates. However, Mr Mitchell did not re-run his model to take account of the observed behaviours or to take on board lower saturation flows. In contrast Mr Silcock did re-run his model with the observed September 2011 data (See Doc LPA/9), and with saturation flows which are about 25% of the values used by Mr Mitchell. This showed that without the schools' relocation the London Road northbound approach operates with a degree of saturation of 100%, with average queues of 38 vehicles; and with the relocation, the predicted future degree of saturation is 139% giving average queues of about 159 vehicles.
270. This demonstrates the difference in the average queues when the junction is properly modelled as opposed to Mr Mitchell's model which fails to account for the observed behaviour which reduces saturation flows. Crucially, this demonstrates

¹⁰ TRL Report RR67 - The prediction of saturation flows for road junctions controlled by traffic signals

¹¹ LINSIG - a computer program which allows traffic engineers to model the operation of traffic signal junctions.

that it is wrong to assert that none of Mr Mitchell's wide-ranging flaws matter, as the difference in the data on the northbound London Road is just 9 vehicles. Instead it emphasises the importance of modelling the saturation flows correctly since with similar flows on the London Road northbound, the outcome when the junction is correctly modelled results in significantly longer queues.

271. Apart from all the flaws in Mr Mitchell's junction interpretation, the key test of impact for development is in terms of a comparison between before and after. The reality is that any reasonable assessment of observed and future traffic shows that traffic congestion would increase significantly. Current observed queues typically tail back on occasion to Pig lane and Whittington Way, which is a length of 660m. In future Mr Silcock estimates that queues would extend to at least twice that length and on occasion to between 1.5km and 2km, well past the new school access roundabouts. Interaction between London Road/Thorley Hill, Pig Lane and Whittington Way, none of which have been properly assessed by Mr Mitchell, would all result in much worse congestion than is currently the case on a daily basis.
272. Although Mr Silcock accepted that some traffic would be likely to re-route when faced with this significant congestion, he nevertheless indicated that he would expect significant queues, as assessed in his revised table 6.3, when the new schools first open (Doc LPA/9). Moreover, those drivers who do re-route would still suffer a penalty in increased journey times. In addition, those people who have no choice but to use this area, including parents dropping off at the new schools and also residents of the Bishop's Avenue, Pynchbek, Thorley Street and Thorley Hill areas would still get caught in queues that would extend to include London Road Thorley Hill, Pig Lane and the Whittington Way new school accesses.
273. None of these effects have been modelled in any significant way by Mr Mitchell and none of his sensitivity analyses stand up to scrutiny. Mr Silcock's assessment is the only reasonable one. To provide a reasonable alternative based on SATURN, the model would need to be re-run using more realistic and robust assumptions and all affected off-site junctions would need to be re-modelled. It is disingenuous for Mr Mitchell to assert, in light of Mr Silcock's evidence and the acceptance of the numerous and wide ranging flaws in his modelling that his assessment can be sustained in the absence of re-running the SATURN model.
274. In conclusion, it is plain that the highway impacts of the proposals would be harmful. This harm must be added to the "other harm" arising from the scheme.
275. Having regard to the above, it is submitted that these appeal proposals represent serious and significant harm arising from the harm by inappropriateness in the Green Belt, harm to the integrity of the Green Belt and other harm in respect of the adverse effects of the proposal on landscape character, visual impact, lighting, trees and highways impact. The proposals are in clear conflict with the development plan including in particular GBC1, GBC14 and TR1 and with national policy in PPG2.

Other material considerations

276. It is appropriate to consider the factors put forward in the Appellants' SPS (CD A/5) as justifying the serious and fundamental harm considered above. These are characterised as follows:
 - i. *The immediate need for the provision of additional secondary school capacity in the Bishop's Stortford Education Planning Area to cater for the growth in the number of pupils of secondary school age seeking school places at the 6 mainstream schools in the area;*

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- ii. The significant educational and community benefits that will arise from the proposed relocation and expansion of the BSHS and the HEHS as part of the County Council's long term strategy for secondary school provision in the area;*
 - iii. The flexibility that this option will provide for the provision of further secondary school capacity in the Bishop's Stortford EPA should the need arise;*
 - iv. The absence of any more suitable and/or deliverable options for meeting the immediate and longer term capacity requirement whether on brownfield or Greenfield/Green Belt sites;*
 - v. The absence of any significantly harmful impact by the planning application proposals upon the integrity of the Green Belt.*

277. Each of these claimed material considerations was examined at this inquiry and are considered below:

278. Educational Need. The key point to understand in respect of need, is that the need is not for 2 new schools. The claimed need is for 45 secondary school places from 2014/15 until at least the period 2024, and If Mr Steptoe's figures for delivery of housing are accepted, the need will not arise until 2016/7. In support of this view, Mr Steptoe indicated that housing delivery in the town has been slower than anticipated. The main area for new housing is Bishop's Stortford North ("BSN"), which is allocated for residential development in the Local Plan and which is anticipated to accommodate 2,728 dwellings, although development of this area has not yet commenced (Doc LPA/2 paras 3.40-3.50).

279. The Appellants' SPS assumes that housing delivery on this site will commence in 2012/13 with 128 completions that year, but the Council's 2009/10 Annual Monitoring Report indicates that housing delivery on this site is now anticipated to start in the 2014/15 year, 2 years later than the commencement date assumed by the Appellants. This Annual Monitoring Report also indicates a lower build rate, with 156 dwellings completed in the town in the year 2009/10 (Doc LPA/2 paras 3.40-3.50). Beyond 2024 the County Council's own case is that any further need is speculative. It may or may not arise.

280. Therefore, for the purposes of these proposals, it is only appropriate to consider the need for the period 2014/15-2024. The period beyond that is highly uncertain and gives rise to many variables including whether or not any future need would be better sited to the north of Bishop's Stortford in the ASRs, once housing development comes forward there.

281. It is appropriate to consider the need for 45 school places and their potential provision. The Appellants seek to provide these 45 school places by demolishing 2 existing schools and selling off no less than 4 substantial assets - 2 of which include the existing school sites - for housing development. They intend to then use the proceeds of those sales to build 2 replacement schools and associated core facilities on undeveloped and pristine Green Belt land to the south of Whittington Way (with all the harm caused as set out above). It is also proposed to extend the use of yet another site at Jobbers Wood to accommodate usage by both the schools and the local community in an inherently unsustainable location.

282. Ultimately, it is expected to provide 2 brand new schools on the site at Whittington Way thereby replacing the existing and operational schools currently on their own sites – with an extra 20 places at the Girls' School and an extra 25 places at the

Boys' School. All this will come at a price tag of £61,898,000 (to be funded by the sale of the assets listed above). This is how the Appellants believe the 45 places are best planned for in the EPA. In truth, this is a sledgehammer to crack a small nut. And at unacceptable cost to the Green Belt and the proper land use planning of this Council's area.

283. As noted above, the need is for school places not new schools. As set out in the proof of Mr Harris, there are a number of alternative methods of providing these 45 places (see Doc APP/4). These have all been ruled out by the County Council for a variety of reasons. However, these options do remain, whether or not they are the preferred option of the County Council. The 45 places do not have to be provided through these appeal proposals. It is the Council's view that the County Council, together with the 2 schools and their governors, have become entrenched in their position and have refused to contemplate the range of other more reasonable and significantly less harmful options for commissioning these 45 places.
284. The County Council and the schools have been set on the provision of these new schools since 2001/02 (Doc APP/2). In the following years they persuaded the Council to include a proposed policy in the draft Local Plan, seeking to delete the appeal site from the Green Belt based on a case of exceptional circumstances arising from what was stated to be – even then – an urgent need for places (CD 3/11 para 11.48.1). However, when the matter came before an independent Inspector, appointed by the Secretary of State to consider objections to the 2004 Local Plan, the Inspector recommended that this policy be deleted. Although she accepted the need for additional secondary school capacity in the town, she did not consider that removal of the land from the Green Belt was justified, even under the conditions cited (CD 3/11 para 20).
285. She did not accept that a case of exceptional circumstances had been made out to justify the proposal. In short she indicated that if the development was to be pursued it would be necessary to consider the circumstances of educational need, as well as the impact on the Green Belt, in the context of a planning application. She stated that these matters and traffic implications and other matters of detail needed to be considered fully before the development could be permitted. She also thought that other options may arise for meeting the longer term needs of the town (CD 3/11 para 11.48.1-11.48.9).
286. That Inspector's rejection of the case for the policy plainly represented a material change in circumstances which needed to be properly considered by the Council. However, the evidence demonstrates that far from exercising any circumspection as to the merits of their own case, the Appellants seemed to believe that it was simply a matter of inevitability that once a planning application was made, permission would be forthcoming from the Council.
287. The application was made in 2008 and was accompanied by supporting documents seeking to substantiate the case for the development at the appeal site. The educational case, which was summarised in the Council Officers' report to Committee, indicated that there was an urgent requirement for an additional 2FE of secondary school capacity in the BS&S EPA by 2011. This was stated as equating to an overall need for places for 288 pupils. At this time it was noted that there was a longer-term anticipated requirement of up to 4FE (663 pupils) by 2021 and up to 6FE (1067 pupils) by 2031 (CD 3/12A para 7.2).

288. After consideration of all the issues and the production of a detailed report, the Officer recommendation was to refuse the application. The application was withdrawn by the Appellants and a revised one submitted in 2010 with the key change being that the proposal was revised from seeking 2 8FE schools to seeking 2 6FE schools, albeit with "core" facilities to support 2 8FE schools. Much of the supporting documentation was identical to the earlier application, including the ES, although a supplementary EIA was also supplied.
289. This application was recommended for refusal on the grounds that the serious harm to the Green Belt was not clearly outweighed by the material considerations advanced. In other words, after detailed consideration of the issues, it was considered that the Appellants' case did not withstand scrutiny. As noted above, the application was unanimously refused by Members of the planning committee.
290. The Appellants seem to think that the Council should not have reassessed this proposal, once more detail had been provided, but that is exactly what was necessary. The reality is that once these matters were properly scrutinised, the doubts of the Local Plan Inspector as to the planning wisdom of the development in the Green Belt were realised and justified. The factors advanced in favour of the proposal did not clearly outweigh the harm to the Green Belt and other harm.
291. As discussed above, the main factor relates to the issue of the need for the 45 places. However, as has been seen in the evidence, the need is very much on the margins and as accepted by Mr Harris, forecasting of school places is not an exact science. The reality is that there is not a substantial need for places. Furthermore, there are plainly other far less harmful ways of reasonably meeting that need.
292. For example, Mr Harris accepts that alterations in schools admissions policies do make an impact on the provision of school places. Indeed, his evidence was that through a change in admissions policies in the past year it had been extrapolated to show that 15 extra places would have been created at Birchwood. When asked whether there had in fact been an increase of places over that extrapolated period he confirmed that there had been. Similarly, it is proposed to allow 10% of pupils to be admitted to the BSHS and HEHS on the basis of changed criteria. This would also increase the provision of places to local pupils although Mr Harris claimed this would be less than 10 places he did not give a range between 0-10. However, it is not necessary for the schools to relocate to implement these changes – they could be made now. Both these changes would result in increase capacity for local pupils, thereby meeting need where it arises.
293. It is also known that the Stansted Mountfitchet College is undersubscribed and that numbers have fallen in the past year. Therefore, there is plainly further capacity there, even accounting for the capacity already assigned there. Even a do-nothing solution would allow pupils to be provided places at schools currently where there is spare capacity such as Stansted Mountfitchet or even Hertford or Hoddesdon (CD A/5 para 9.2).
294. Therefore, even doing very little would meet the very modest demand for 45 places. However, the matter does not rest there. At least since 2010 and probably before, the County Council has been fully aware of site capacity to expand at Leventhorpe. Paragraph 10.11 of the SPS confirms that this school has capacity to provide 30 further places (CD A/5 – also para 16.4 of CD A/9). A detailed feasibility exercise was required to determine this, but this was never undertaken. As admitted by Mr Lewis, the work and studies that were undertaken for the appeal proposals were

simply not done for Leventhorpe. This is because, as previously stated, the County Council has refused to contemplate any other alternative to its preferred strategy, established over 10 years ago, of building 2 replacement schools in the Green Belt.

295. This is despite Leventhorpe having excess playing field area in 2010, as can clearly be seen from the table at Appendix 3 to the AASO (CD A/9). Since then, the school has acquired even more land and it is plain that it could probably provide at least 60 more places.
296. Such an option is an obvious alternative. It is not correct for the County Council to claim there are no alternative ways to meet the need. In cross-examination Mr Harris was asked what the County Council's contingency plan was, as it retained a statutory duty to commission places. He was forthright and clear in his response, confirming that there were many options. He referred to a hierarchy of steps which included looking at the indicative admission numbers ("IAN") to check capacity. He stated that available capacity would be considered at Stansted Mountfitchet College and also stated that expansion at Leventhorpe would be considered. In short he made clear that there were all sorts of options; that the County Council would meet its statutory duties; and that there was always a "Plan B".
297. The weight to be given to the need for 45 places in determining this appeal should be considered in the light of this response and the above assessment. In view of the above, only limited weight should be given to the need for 45 school places until 2024 in the determination of this appeal as it is clear that the County Council has many other options to commission these places that do not involve the significant harm to the Green Belt and other harm proposed by the appeal scheme. Other points to note are that development at Leventhorpe, although in the Green Belt, would plainly have a far less significant impact in providing for 30 or 60 places than the appeal development of 26,000sqm and associated development.
298. In terms of funding and financing, again Mr Harris readily accepted that the County Council did have funding but that it chose how to prioritise it. Therefore, in this case, the County Council simply has not prioritised the need to fund the 45 needed places. However, this response indicates that where necessary, funding will be prioritised to provide places.
299. Other factors to consider when assessing the weight to be given to the need for school places is Mr Harris' response that the schools would not be ready for occupation until 2016/17. He also stated, when asked, that there was a 50% chance that a free school may come on stream by 2016. He also agreed that while the County Council may have a policy of no smaller than a 6FE school, this would not apply to free schools. Places at free schools count towards meeting the educational need and there is therefore a reasonable prospect that the places will be provided by a free school within the same timescale as the development.
300. In short it is clear that there are other options to providing these school places. The County Council may have chosen its preferred strategy and the schools may well desire state of the art new buildings. However, the County Council's preferred strategy carries significant and unacceptable harm to the environment (which conflicts with one of its own 4 criteria). Therefore in the light of the range of other less harmful ways to meet the educational need it is submitted that this consideration should be given limited weight.
301. The educational and community benefits. It is acknowledged that both of the current school sites have buildings of variable quality and that there would be some

clear benefits in educational terms from having new, state of the art buildings and facilities. However, all establishments should seek to ensure that investment in their facilities is maintained during their life, so that they remain fit for their intended purpose. Little weight can be given to a case that seeks to justify harmful development in the Green Belt on the basis that building maintenance and investment has been either lacking or insufficient in the past. Indeed, this would run counter to the Green Belt purpose which seeks to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

302. Furthermore, it is important to note that both the schools have an Ofsted rating of "Outstanding". In 2009 Ofsted considered that the HEHS is an "outstanding school with an outstanding sixth form"; and in 2008 that the BSHS was "an outstanding ... school that determinedly seeks to offer its students a 'truly all-round education'" (Doc APP/4 para 8.9). The evidence is that both schools continue to deliver outstanding education on a consistent basis, such that the existing buildings are no impediment whatever to the provision of outstanding education. Neither Ofsted report raises any concerns about facilities or buildings, which are not atypical of schools across the country.
303. The latest interim assessment for the BSHS confirms that Ofsted has no concerns about the school and will not be conducting regular assessments in the future, so confident is it in the school's provision of outstanding education. There is no need for the schools to be relocated for any educational reason, nor is there any evidence that the facilities are not fit for purpose at the present site having received about £1.3 million each over the past 5 years or so for maintenance purposes.
304. It is acknowledged that the co-location of the schools would enable the provision of facilities that would not otherwise be provided. In addition, sharing facilities would be likely to lead to additional possibilities for the educational curriculum and to a degree of streamlined management control. However, whilst such benefits are acknowledged, it is the case that the majority of schools operate perfectly well on their own without this additional benefit.
305. In terms of community benefits, the Council has assessed the district's present and likely future demand for indoor and outdoor leisure and recreational facilities through an Assessment of Sports Facilities, June 2011 (CD 7/2) and a Playing Pitch and Outdoor Sports Audit, July 2010 (CD 7/1). These have indicated that the main need in the district is for outdoor sports facilities. Apart from indoor bowls it was concluded that there was no additional justification for indoor facilities.
306. Scheme A would offer community use of what would be the newly created school halls, swimming pool, 8 court sports hall, squash courts, health and fitness suite and dance/ drama studios. However, there is no identified need for these indoor facilities, with the exception of the provision for indoor bowls. Therefore, whilst the quality of newly provided facilities is acknowledged, their provision can be afforded very little weight in off-setting harm to the Green Belt.
307. For outdoor provision, the appeal proposals include a floodlit all weather pitch and floodlit games courts and grass playing pitches. These would clearly assist in meeting deficiencies identified in the Council's studies referred to above. But such provision would, in any event, be an acceptable form of development in the Green Belt. In this case however, it would not be achieved without the very considerable built development which would come with it.

308. Overall, little weight can be assigned to the claim that additional community facilities would be provided. The harm that would be associated with their provision, in Green Belt terms, would outweigh their benefit. Furthermore, any out of hours use would carry with it the adverse impact of the floodlighting, such that the benefits would not begin to justify the harm which would be caused.
309. Flexibility. This consideration should carry limited or no weight. The appeal is for 6FE. Any expansion, up to 8FE, cannot be guaranteed as it would involve further development in the Green Belt which would be inappropriate.
310. In fact this is a further reason to dismiss the appeal. The strategy is flawed as if permission is not granted for a further 2FE, if it is ever required, this would mean that the County Council would have to fall back on a contingency plan in any event. The entire development and the incurring of significant harm to the Green Belt and other harm would have been for solely 45 places – with any further expansion needing to be found elsewhere in any event. Moreover, there can be no guarantee that the proposed “light weight” buildings to extend the schools to 8FE would meet the noise requirements.
311. The absence of any other sites. In addition to the possible expansion of Leventhorpe, discussed in detail above, the Council maintains that there are other far less harmful ways of meeting the educational need and replacing outdated and inefficient buildings at the current school sites. This is especially the case now that the educational need has been clarified as being just 45 secondary school places from 2016/17 until at least the period 2024. The various options which the Appellants have considered and dismissed are all set out in the Appellants’ SPS and its AASO, and many were also touched on in Mr Harris’s written evidence.
312. These alternative options include the provision of a stand-alone sixth form college; expansion/additional provision of the BSHS and the HEHS on their existing sites; a new or single relocated school; and relocation of the BSHS and the HEHS to an alternative joint site. Mr Steptoe comments on these options in his written evidence, and considers that in many instances the Appellants have been too quick to dismiss them. In particular, he comments that a possible stand-alone sixth form college on the Hadham Road site would be able to meet an element of the identified need, would be in an acceptable location and would be able to provide an element of future flexibility. In addition, it could be provided without undue disruption to the current schools and would be acceptable in principle in planning terms.
313. It would be deliverable as the site is within the control of the County Council. It is acknowledged that funding would have to be identified but this option could have some impact in relation to outdated and inefficient buildings at the existing school sites, as those currently used for sixth form purposes could be reused or removed as appropriate. Clearly this option is not preferred in terms of education choice and diversity, governance and management arrangements, nor does it provide the same co-location benefits as the proposals, but this does not automatically mean that it should be dismissed.
314. In terms of expanding and upgrading the existing schools on their current sites, work was undertaken by the architects Hawkins Brown in 2007 as part of an Expansion Options Study (“EOS”), to accompany the earlier 2008 planning application (see App 2 to CD A/9). For the existing BSHS site, the assessment considered that there was some potential for retention and refurbishment. However, the best option was considered to be to construct new school buildings on

the site of the current school field, to the west of the existing buildings, and then demolish all the existing accommodation.

315. This option has merit in terms of meeting an element of need and it would replace outdated and inefficient buildings. Moreover, the location of the site is acceptable and there would appear to be no in-principle impediment, in planning terms. In addition, this option would be deliverable, insofar as the land is largely within the control of the Appellants. A wider area of land would be required for satisfactory access between the eastern and western parts of the overall site, but that is being sought through a land exchange with Thorley Hill Primary School in any event, as part of the appeal proposals for residential development. It is acknowledged that this option would deliver less than 1FE of additional capacity, but although the assessment indicates that there would be no prospect of future expansion, this appears to give no weight to the possibility of the rooftop additions that are suggested as feasible at the Whittington Way site.
316. This option appears to have been rejected primarily as a result of disruption, but whilst this is acknowledged, due to the temporary loss of the current playing field, it does appear that physical separation between operational areas and construction areas is perfectly possible. However, it would not deliver the co-location benefits of the appeal scheme and the means of finance would have to be identified.
317. The 2007 EOS also considered the potential for expansion on the current HEHS site. A proposal was formulated involving the retention and refurbishment of a number of the buildings on the main Warwick Road site and the construction of a new 3-storey block in place of a number of demolished buildings. This option would require temporary decanting of buildings to enable demolition in advance of the new construction. Although not specifically stated in the assessment, it is understood that the proposal would be sufficient in terms of building requirements, but would be deficient (as the school currently is), in terms of playing field space.
318. Although this option has been rejected by the school, it is based on the expansion to a 6FE school and would clearly meet an element of need. Furthermore, it would support education choice and diversity and would be acceptable in governance, management and leadership terms. The location is acceptable and outdated and inefficient buildings would be replaced. The proposals would be deliverable, in that the necessary land is controlled by the Appellants, and there is no in-principle reason why such a development would be unsupportable in planning terms.
319. This option would cause some clear disruption, but the assessment indicates that with a careful phasing and decanting strategy, this could be managed. There is, however, no clear source of finance and the assessment suggests that flexibility for the future would be limited. Additional reasons for rejecting this proposal are given as the under-provision of playing field space and the continuing detached nature of the playing field at Beldams Lane.
320. Hawkins Brown also considered, as a second option in relation to the HEHS, the possibility of relocation of the school to the current Beldams Lane playing field site. As it stands, that site would not meet the BB98 site area requirements and further land to the south of Beldams Lane would need to be acquired. Although the assessment is not explicit it appears that adequate built space could be provided.
321. This option would meet an element of need, would be acceptable in terms of educational, governance and management requirements and would be acceptable in location terms. Outdated and inefficient buildings would be replaced and, in

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- principal, the proposals would appear acceptable in planning terms. The built element of the school would be located within the town of Bishop's Stortford and open space uses would need to be provided within the Green Belt (in neighbouring Uttlesford District). Future flexibility could be provided for, although this would be at the risk of the further loss of some external space.
322. Disruption to the school would be caused, as access to the existing playing fields would be restricted during the construction phase. However, if the further playing field requirement were secured in advance, this disruption would be minimised. The proposals would be deliverable insofar as part of the site required is within the control of the school. However, further land would have to be acquired. The proposal would not deliver the co-locational benefits of the appeal proposals and the method of finance would have to be identified.
323. An additional consideration in this option would be the acoustic environment. The Beldams Lane site is in a location affected by the aircraft flight path from Stansted as is the appeal site. An appropriate form of construction which addresses this matter would therefore be required. This latter option for the HEHS forms part of the Option C alternative costed by the Appellants (see Doc APP/55).
324. In terms of a site which would be suitable to accommodate a new school, or large enough for a single school to relocate to, the most preferable of those investigated was the reserve housing site at Hadham Road. This site has the ability to accommodate a 6FE school and would clearly, on its own, be able to meet the identified need. It is well located relative to proposed housing areas, would cause no disruption to the operation of the current schools and would be acceptable in planning terms. It has been rejected primarily on the basis of the educational considerations. The report notes that it would not be large enough for an 8FE school without detached playing fields. The SPS indicates that it may be unviable and would not provide the co-location benefits of the appeal proposals.
325. This option would, however, be deliverable in that the necessary land is within the control of the County Council although the means of finance would have to be identified. The existing schools would have to deal with the issue they face with regard to the quality of the buildings at their existing sites if they were not to relocate. Appendix 5 to the AASO shows that a 6FE school could be accommodated on this site and a possible relocation of the BSHS to this site forms part of the Option C alternative costed by the Appellants (see Doc APP/55).
326. The likelihood of infrastructure constraints, including potential access difficulties, has ruled out many sites in the ASRs and Special Countryside Area within the Bishop's Stortford North ("BSN") area. However, the site at the eastern end of the area (identified as the Hazelend Road site in the AASO) has been identified as being large enough to accommodate an 8FE school. This site has the potential for good quality access that is not dependant on the development of the remainder of the area and it is well located. This therefore appears to be a possible site that would clearly meet a significant element of need. It would be satisfactory in terms of the educational and management aspirations, would provide for future flexibility and would not be disruptive in its development to the operation of the current schools.
327. Furthermore, this site could represent a relocation option and would therefore deal with the issue of the quality of the buildings at one of the existing schools. In planning terms, it would be acceptable in principle, given the anticipation that the BSN area will come forward for development. However, it would not provide the

co-location benefits of the appeal proposals and the means of funding would have to be identified. In addition, it is acknowledged that the site is not currently in the control of any of the Appellant parties.

328. A specific issue raised in relation to the potential locations in the BSN area is the loss of land for housing development, but this is not considered to be a significant issue. The Council's housing provision has been formulated without the potential of the existing appeal school sites to deliver housing through their redevelopment. The Council has also known that the Hadham Road site may not come forward for residential development. Whilst any school location in the BSN area would reduce housing potential, this would be equalised by the potential for housing delivery on either of the appeal school sites or the Hadham Road site, if relocation took place.
329. The final option considered in the AASO is a possible relocation of the schools on a joint basis, as with the appeal proposals, but to an alternative site. There are 2 possible locations within the BSN area, both of which would perform well in planning terms as it is anticipated that the land will come forward for development. Either option would be acceptable in terms of the educational aspiration, leadership, governance and management and the identified need would be catered for, as would the potential for future expansion. The locations would be well related to proposed and existing housing areas and would be capable of delivering the same co-location benefits as the appeal proposals. The issue of dealing with the poor quality buildings of the current schools would be also addressed and there would be no disruption to the current schools during construction.
330. There would, however, be significant uncertainties with regard to the timing of infrastructure provision although locations within the BSN area have the potential to benefit from the package of transport measures that are likely to be required for the development. As with the previous option, land currently allocated for housing would be lost, although some of this could be compensated for with redevelopment of the existing school sites.
331. In summary, the investigative work undertaken by the Appellants has clearly shown that there is a range of possible alternative options by which the educational need could be satisfied and the problem of poor and outdated buildings at the BSHS and the HEHS could be addressed. Many of these options are located on land within the control of the Appellants, are well located in relation to the demand in the town and are preferable, in planning terms, to the Whittington Way appeal site.
332. The Council considers that the co-location benefits of the appeal proposals are desirable, but not essential, in meeting the educational needs in the town. The additional built facilities provided as a result, would not meet an identified need and because of this they should not be assigned great weight. It is further acknowledged that the submitted financial statement makes it plain that no additional sources of funding are identified and it is accepted that government funding for proposals of this nature may be limited. Nevertheless the Council does not consider that the question of funding should be given such weight that it matches that given to the significant harm to the Green Belt.
333. The absence of any significantly harmful impact on the integrity of the Green Belt. Although the Appellants advance this factor as a justification for granting permission for Scheme A, this makes no sense as the proposals are plainly significantly harmful to the integrity of the Green Belt, as was accepted by Mr Lewis. At best, this suggestion amounts to a contention that the fact that there is

not even more harm to the Green Belt, ought to count as a justification for permitting development that is inappropriate in the Green Belt. This clearly cannot amount to a material consideration in favour of the proposal.

334. In conclusion, the factors relied upon by the Appellants simply do not begin to approach those necessary to clearly outweigh the very substantial harm to the Green Belt and the other harm arising from Scheme A, as set out above. Accordingly, it is submitted that this appeal should be dismissed.
335. Other matters. The Appellants have submitted a number of appeal decisions in relation to school developments. However they do not assist their case as these decisions were made on their own facts and specific circumstances. The facts and circumstances in respect of the current appeal proposals do not justify the scale and size of development in the Green Belt regardless of what may have happened in other situations.

Appeal B Jobbers Wood

336. At planning application stage the Council's Planning Policy Team commented that the release of Jobbers Wood for wider community use would address a number of deficiencies which the Council has identified in its Playing Pitch Strategy and Outdoor Sports Audit (CD 7/1). It indicated that it would not wish to see any "free-for-all" access to the facility and that the term "other organisations" would therefore need to be clarified (CD B/12). However, concerns about sustainability outweighed these views and Members resolved to refuse planning permission.
337. The Council's position remains that the significant increase in proposed use is not acceptable in view of the poor sustainability of the site. It is not considered feasible that the issuing of leaflets as part of a Travel Plan would overcome this harm. While school groups may, on occasion, car share, the reality is more likely to be that students need to be collected individually in cars to return to their homes and that community groups would also choose independent car travel, perpetuating unsustainable development. This appeal proposal is a consequence of the lead appeal and represents further harm. It should therefore be dismissed.

Appeal C

338. The Council's position on this appeal is clear. As a reserve site for school development, permission for another use should not be granted in the absence of another suitable site being identified. No such site has been identified and this appeal should therefore be dismissed.

Appeals D, E and F

339. Mr Martin confirmed that it was no part of the Appellants' case that permission should be granted for housing if a suitable replacement site had not been identified for the schools. The Council's position is that the Whittington Way site is not appropriate or acceptable for the proposed development and consequently appeals D, E and F should be dismissed.
340. The Council has no "in principle" objection to the development of these sites for housing. Issues were raised about the Council's 5 year housing supply and having regard to the RSS figures the Council has a 4.5 year housing supply. However, if "Option 1" figures are used, as advised by the Secretary of State, the Council has a 5.3 year housing supply (see CD 3/29 paras 8.6-8.8). Either way, the Council

considered all the applications for housing favourably, having regard to paragraph 71 of PPS3, as was agreed by Mr Martin.

341. Cross-examination of Mr Martin demonstrated that if his predictions for the development of the ASRs prove to be correct, and they deliver housing from 2012, then an additional 600 houses would be delivered within the next 5 years. This is more than the maximum dwellings which would be constructed under Schemes D, E and F which is 525. If Scheme C is added there would be a maximum of 690 dwellings which is comparable to the additional number that would be yielded if the ASRs deliver 600 more dwellings by 2016. This would more than meet the 5 year housing supply, even on the RSS figures. By contrast, the Appellants' housing could not be delivered until after 2016/17 and would not contribute to the current 5 year supply (see Doc LPA/14 for example of a similar approach being taken).
342. No additional weight should be given to the potential housing from these sites having regard to the above, especially as the allocation of housing will take place through the Core Strategy, having regard to soundness and the proper planning of the area. In any event, the serious harm to the Green Belt and the other harm from the Appeal A proposal substantially outweighs any benefits of the delivery of housing in this context.
343. Furthermore, the Appellants have refused to commit to providing 40% affordable housing, despite the financial appraisal they relied on throughout this inquiry demonstrating that it would be viable so to do (see Doc LPA/16). The Appellants' position on this financial appraisal is surprising and concerning. The document has not been disputed by the Council but when it is sought to rely on the figures for the level of affordable housing, the Appellants seemed to want to distance themselves from it. This failure to provide 40% affordable housing further indicates that these appeals should be dismissed.

Other matters

344. The Schools policy statement of August 2011 (CD 3/30) does not assist the Appellants. Firstly, no new school is needed in this case. Only 45 school places are required and they can be provided without sacrificing the Green Belt and the disposal of so many other assets. Moreover, there is no certainty whatsoever as to the need for places after 2024. The matter of need beyond this date should be considered once the position becomes clearer and more accurate forecasts can be made. Secondly, the August statement does not in any respect purport to over-ride Green Belt policy to which the Government is committed as reflected in the draft NPPF and other statements. Thirdly, the August statement refers the reader back to the NPPF in any event. The NPPF makes it plain that where there are adverse planning impacts, the proposals should be refused.
345. Reference has been made to the Issues and Options consultation document for the proposed Core Strategy, but this has been agreed in the SoCG to carry little weight at this stage.

Conclusions

346. In all the circumstances, these appeals should be dismissed. The lead Appeal A would give rise to serious harm and that harm would not be clearly outweighed by the other considerations advanced by the Appellants. When properly scrutinised they do not amount to considerations to which much weight should be attached. While the 2 schools would undoubtedly like to be given state of the art new

buildings, this simply is not justified or acceptable in land use terms. The harm to the public interest is overwhelming in this case. Whilst it may be the County Council's preference to realise its own long held aspirations for new schools, only limited weight should be attributed to this in the light of the serious harm arising from these proposals.

347. The way schools and school places can be provided is dynamic and the new policy context allows for the setting up of free schools and academies. The County Council has failed to reassess its position in the light of the serious harm from its proposals first signalled by the Local Plan Inspector and then twice by Officers in their reports and finally unanimously by the Members of the local planning committee. The local community and the other 4 schools in the area strongly oppose the County Council's proposals.
348. The onus is on the Appellants to demonstrate that material considerations exist to clearly outweigh the harm from their proposals. They have failed to discharge that onus on a proper consideration of the facts. The opening statement on behalf of the Appellants acknowledged that their proposals should come under the most intense scrutiny and that the onus was on the Appellants to justify the proposed development in the Green Belt (Doc APP/50 para 4).
349. The Appellants' proposals have been scrutinised and their evidence tested. It has been found wanting. They have not demonstrated that material considerations clearly outweigh the harm to the Green Belt and any other harm. The proposals are in conflict with the development plan and ought therefore to be dismissed. No material considerations indicate otherwise. In all the circumstances it is respectfully requested that these appeals be recommended for refusal to the Secretary of State.

The Case for the Bishop's Stortford Civic Federation and Thorley Parish Council

The material points were:

350. The Bishop's Stortford Civic Federation ("the BSCF") maintains that the appeals before the Secretary of State should all be dismissed. Scheme A would cause substantial and irreversible harm to the Green Belt, and the proposed developments as a whole, would also cause "other harm" within the meaning of PPG2, including harm in terms of increased traffic and congestion, loss of green space, and unforeseen and unplanned demands on local infrastructure. The impacts on the amenities of local residents would be utterly unacceptable. These considerations provide compelling reasons in and of themselves, for dismissing the appeals.
351. Further, there are no considerations outweighing, let alone clearly outweighing, the harm that would result from the proposed developments. Hence there are no "very special circumstances" that could serve to justify a decision to allow the appeals and grant planning permission. In particular, firstly, a number of the matters upon which the Appellants seek to rely, such as, for example, the condition of the buildings and other facilities at the BSHS and the HEHS, could not conceivably be regarded as amounting to "very special circumstances". Secondly, the Appellants have failed to substantiate their case that the issue of "educational need" constitutes a very special circumstance. On their own case, although it may well be their preferred option, the relocation of the 2 schools is not the only way of meeting such educational need as exists in the County. It must inevitably follow, therefore, that the appeals should be dismissed.

THE ISSUES

352. The main issues arising in Appeal A, as identified by the Inspector at the PIM, and based upon the reasons for refusal put forward by the Council are as follows:
- i. Whether the proposal would constitute inappropriate development for the purposes of PPG2 and development plan policy;*
 - ii. The effect of the proposed development on the openness and visual amenities of the Green Belt;*
 - iii. If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;*
 - iv. The effect of aircraft noise on internal teaching spaces; and*
 - v. The effect of the proposed development on the safety and convenience of users of the local highway network.*
353. The submissions set out below deal with these issues first, before then turning to address further issues (not limited to Appeal A), identified by the Rule 6 parties, namely, the BSCF and Thorley Parish Council ("TPC" or "the Parish Council").

Issue (1): inappropriate development

354. This issue may be dealt with shortly. The proposal to relocate the BSHS and the HEHS to the site at Whittington Way plainly would involve inappropriate development in the Green Belt for the purposes of PPG2, insofar as it involves the erection of buildings and a car park and associated paraphernalia. Such inappropriate development would be harmful by definition and the Appellants do not contend otherwise. This has certain implications for the Appellants' case.
355. In his written evidence Mr Hawkins stated that the 2 schools had the potential to enhance the visual impact of the southern edge of the town (Doc APP/8 para 3.3.12), and under cross-examination he also stated that it was his genuine view that the changes which the proposed development would effect to the Hertfordshire Way would serve to enhance it. The Appellants' evidence to this effect is, however, misconceived. As has already been noted, in accordance with PPG2 the built development proposed, including changes to the Hertfordshire Way, would be harmful by definition. It is not within the Appellants' gift, therefore, to claim that the development would in any way enhance its setting.
356. Indeed, Mr Clark, giving landscape evidence for the Appellants, appeared to recognise this. His evidence was that ample opportunities exist for the external layout of the school grounds, including the car park, pedestrian circulation and public rights of way, to make a positive contribution to the educational value of the development, and the site attributes and location (Doc APP/12 para 1.17). In oral evidence to the inquiry, however, he explained that these comments should be limited to an improvement to the educational facilities offered by the schools, and not to their landscape setting. He was plainly correct to qualify his evidence in this way, reflecting an acknowledgement on his part of the intrinsic harmfulness of the development proposals.

Issue (2): the effect on openness and visual amenities of the Green Belt

357. Scheme A would also result in substantial harm to the openness of the Green Belt and the visual amenities of the Whittington Way site, which currently comprises an open arable landscape untouched by any form of built development. The BSCF would highlight the description of the "Thorley Uplands Area 85", contained in the Council's LCA SPD, in which the site is located (CD 3/8). In the Council's Committee report of September 2010, the Landscape Officer commented that "Although views of the area from outside are very limited, views within the area are extensive. In terms of rarity and distinctiveness, this is described as a most unusual area, elemental and simple and of a scale undreamed of in the cluttered south west of the county" (Doc CD A/25 para 3.12).
358. The description of the landscape area and the site as "elemental and simple" is extremely apt, and the BSCF would respectfully invite the Inspector to endorse and adopt it for the purposes of his Report to the Secretary of State. Mr Clark sought to differentiate between the Whittington Way site and Landscape Character Area 85 more generally, in terms of their respective landscape characteristics, but his evidence on this issue was entirely unconvincing. The evidence for the Parish Council presented by Mrs McDonald, who is extremely familiar with both the site and the broader area in which it is located, was that there are no distinguishing features whereby the Whittington Way site might be set apart from the Landscape Character Area in which it is located.
359. In cross-examination Mr Clark agreed that documents such as the LCA do not merely serve to set out an objective description of the relevant landscape, but also reflect the aspects of an area which people who live there value and enjoy. This is an important factor to be borne in mind when assessing the nature and degree of harm to the landscape to which the development proposals would give rise. Any change to this area's nature would be harmful as it would directly and fundamentally undermine its value, in terms of the positive contribution which it makes to the amenities of local residents, as well as visitors to the area (including, notably, those who make use of the Hertfordshire Way).
360. The development proposals involve some 26,000sqm of built development, 2 and 3 storeys high, together with fencing, alterations to the levels of the site, floodlighting and car parking. This would result in a fundamental change to the site and must be regarded as having a substantial and significantly harmful effect on the openness and visual amenities of the Green Belt, for this reason alone.
361. Moreover, it is readily apparent from the Appellants' evidence that the proposed development would comprise a notable feature of the new and transformed landscape. Mr Clark's approach, set out in his written evidence, was that if the planning case is made for the relocation of the 2 schools to the Whittington Way site, then from a landscape design perspective, it was not the intention that the development should be screened, or hidden, from view (Doc APP/12 paras 1.21 & 3.29). Even if the Appellants did propose to mitigate the harmful effects of the development by screening, this would not improve the situation as regards its impact on openness, since screening a development as substantial as this would itself have a severely detrimental impact on openness.
362. The Appellants' building design evidence is particularly telling in this context. Mr Hawkins stated, in cross-examination, that in his opinion schools should celebrate their existence and he agreed that the proposed development was intended to have

an impact on the southern edge of the town. It may therefore be assumed that the detailed design of the proposals would aim to produce just such a result. Mr Clark's evidence in this regard was to the effect that it is the "openness" of character of the site that would be the primary change when considering the effects the proposals would have on the landscape" (Doc APP/12 para 2.50). Thus, on the Appellants' own case, implicit or otherwise, the proposed development would have a harmful impact upon the openness of the Green Belt.

363. In producing his design proposals, Mr Hawkins appears to have paid scant regard to the site's Green Belt setting. His stated intention of making a positive feature of the schools' presence displayed a complete lack of cognisance of the implications which the development would have, in this regard. His attention, instead, seems to have been entirely focussed on making the most of their setting from an educational point of view. Indeed, when questioned by the Inspector regarding the extent to which the Green Belt location had been a factor in the proposals' design, Mr Hawkins responded by saying simply that the development would involve a positive change as it would provide good facilities for the schools.
364. Mr Hawkins sought to explain his reference to the site offering great potential to make good architecture in its own right (see Doc APP/8 para 3.5.1), by extolling the virtues of locating an educational campus in a landscaped envelope, compared to the small spaces in which he considered educational facilities are too often required to be located. His view was that locating buildings within the Green Belt could enhance their setting and that the development proposal provided an opportunity to create an enhancement to the Green Belt.
365. This approach is not only misconceived, but also, with respect, bizarre. The suggestion that building within the Green Belt could enhance it is completely at odds with the proposition contained in PPG2 that inappropriate development within the Green Belt is intrinsically harmful. Such an approach fails properly to pay any heed to the harmful impact which Scheme A would inevitably have on the openness of the Green Belt at Whittington Way. The Inspector is invited to conclude that the fact that the schools are to be located in the Green Belt is one that the Appellants have failed to take into account, or failed to take properly into account, in devising their proposed design. This can only be regarded as a profound flaw in the Appellants' case and, in itself, provides a compelling reason in support of the contention that the appeals should be dismissed.
366. The Appellants acknowledge, not only that Scheme A would have a harmful impact on the openness of the Green Belt, but also that it would serve to extend the southern edge of the town into the Green Belt. Mr Clark, for his part, repeatedly acknowledged, in cross-examination, that the development proposals would have a harmful impact on the openness of the Green Belt and would effect a fundamental change to the character of the landscape, observing, for example, that it was clear that the proposals for Whittington Way could in no way be described as conserving what is there. He also accepted the assessment of the Council's planning witness, Mr Steptoe, regarding the ways in which the development proposals would conflict with the purposes of the Green Belt (see Doc LPA/2 pg 10).
367. In cross-examination Mr Clark also acknowledged that the proposals would effect a significant change to the character of the Hertfordshire Way. In his written evidence he noted that the illustrations of the landscape areas to the front of the school buildings, through which the Hertfordshire Way would run, are an indication of an approach that aims to develop the space as an urban streetscape (see Doc

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- APP/12 para 3.12). According to that evidence the Appellants do not consider the changes to be necessarily detrimental or inconsistent with the existing condition and context of the route as it passes through Hertfordshire (Doc APP/12 para 3.5).
368. The question of whether the changes to the Hertfordshire Way that would arise from the proposed development would involve unacceptable harm is ultimately one for the judgement of the Inspector and Secretary of State. However, it is the very firm view of the local residents who are represented by the BSCF and by TPC that the harm in question would be utterly unacceptable, resulting in the destruction of a greatly valued local amenity. More specifically, the BSCF and TPC reject the Appellants' contention that the harm which would be caused to the Hertfordshire Way may be regarded as acceptable as various stretches of it already pass through urban and urban fringe areas, and also through school grounds at various points (Doc APP/12 paras 3.6-3.7).
369. The evidence of TPC and Mr Richardson on behalf of the Friends of Hertfordshire Way provides a decisive answer to that suggestion. Firstly, it was made clear that parishioners' immediate concerns are not with the whole extent of the Hertfordshire Way, but with the local footpath that would be transformed out of recognition by the appeal proposals. This was reinforced by Mrs McDonald for the TPC, who commented that the stretch of the Hertfordshire Way which crosses Site A is a daily route for local people who walk dogs, jog or simply go there to walk through the oak copse into the fields and along the hedgerow and enjoy peaceful views and relaxing quiet of the countryside (Doc TPC/1 section IV).
370. A survey taken over a period of 9 days in 2008 showed that this is a favourite path for families walking with children at weekends, as well as a popular path linking the Twyford lock tow path to the parish church. It is an important path in the overall rights of way network and the metalled surfaces of the proposed crossing points and its incorporation into the proposed plaza area would destroy its character totally (Doc TPC/1 section IV). In any event, the fact that the Hertfordshire Way may have been deprived of its predominantly rural character elsewhere along the route can hardly serve to justify the destruction of the part of it that would run through the proposed schools.
371. Secondly, Mr Richardson made it clear that Mr Clark's characterisation of the nature of the route is somewhat inaccurate. The route currently passes through, or close to, various urban areas so as to enable walkers to access it by means of public transport. This plainly does not serve to deprive the Hertfordshire Way of its rural character. Moreover, Mr Richardson also explained that the setting of the schools through which it currently passes provide attractive environments through which to walk, while the route of the Hertfordshire Way itself is at some distance from any built development, including buildings, fences and car parks.
372. This provides a stark contrast to the current appeal proposals which would involve the transformation of the relevant part of the Hertfordshire Way route from an entirely rural one, to one which is urban or semi-urban in nature. It would pass alongside a car-park for part of the way and alongside building frontages for another part. The currently open views across farmland would be significantly obstructed by the development associated with the schools.
373. Overall, the harmful impact which Scheme A would have upon the Hertfordshire Way and the loss of this treasured local amenity is a matter which counts against those proposals, and one which should be given very significant weight.

374. The Parish Council also considers it highly likely that the protection of children would be raised before long as an issue of paramount importance, such that there would be calls for the extinguishment of the section of Hertfordshire Way that runs through the schools' premises. Precedent exists for this situation as the Hockerill Anglo European College has been calling for Right of Way extinguishment or locked gates on a well-used town footpath running between school buildings and crossed by students. This dispute is ongoing and unresolved, with the College claiming instances of "assault", and the townspeople "loss of rightful passage".

Issue (3): other considerations/very special circumstances

375. The Appellants seek to rely upon a number of considerations as amounting to very special circumstances justifying a grant of permission of the appeals. These are summarised by Mr Harris as follows (Doc APP/3 para 1.11):
- i. The proposed relocation and expansion of the BSHS and the HEHS would meet the County Council's criteria as a major part of a strategy to meet demand for school places within the EPA. In particular:*
 - a. it would provide places when and where they are needed;*
 - b. it would enhance capacity to sustain and raise educational standards;*
 - c. it would provide 2 exciting new schools, each with buildings fit for the 21st century to meet the needs of its students and facilities for the wider community, with no adverse transitional effects of students; and*
 - d. it would do so in the most cost-effective way.*
376. But it would not be sufficient, or amount to a "very special circumstance", for the schools' relocation merely to comprise the Appellants' preferred option for the provision of extra school capacity within Bishop's Stortford. Rather, given the significant, and irreversible, harm which the relocation would cause to the Green Belt it is incumbent upon the Appellants to satisfy the Inspector and the Secretary of State that the relocation of the 2 schools is the only acceptable and/or practicable way of providing such capacity as may be required. Even in the latter case, there would remain an open question of whether the harm that would be caused to the Green Belt could be justified. The making out of such a case is essential, if the Appellants are to successfully establish that very special circumstances exist, to justify the identified harm.
377. The evidence which the Appellants have put before the inquiry does not meet the above hurdle. It does no more than to confirm that their preferred option is to relocate the BSHS and the HEHS to Whittington Way and fails to establish that relocating the schools is the only acceptable or practicable means of providing extra school capacity in the area.
378. In support of this view it is pointed out that under cross-examination by the Council Mr Harris confirmed that the need in question was for 45 extra places (in addition to the 12 to be provided by Leventhorpe High School and 45 by Stansted Mountfitchet College. He acknowledged that it would be physically possible to expand the capacity of Leventhorpe School by 30 or 60 places, and whilst it might take some 3 or so years to bring such capacity on stream, the process of relocating the BSHS and HEHS could not be completed until 2015/16. He indicated that changes to the admissions arrangements at schools in the area could create extra places, albeit not in significant numbers.

379. He also indicated that the flexibility offered by the relocation proposals, of the potential to expand by a further 2FE, at each school, was a significant part of the strategy. There is, however, no guarantee that planning permission would be forthcoming for additional expansion in the Green Belt, and hence no guarantee that the extra capacity which might be required would be made available.
380. Finally, and crucially, it was put to Mr Harris that there was also no guarantee that planning permission would be granted for the relocation scheme itself, but that the County Council would nonetheless have a statutory responsibility for commissioning places, such that it must have a contingency plan. In response, Mr Harris indicated that in such circumstances the County Council would have to reappraise matters and move immediately to a new scheme or consider alternatives. In terms of the need for places he confirmed that the "pressure points" would arise in a couple of years' time. He also acknowledged that the County Council did have a "Plan B" and that this was not the first time it had had to deal with short-term need.
381. This evidence, therefore, unequivocally and expressly confirms that there are other options for expanding capacity and meeting need available to the County Council, and that it would be entirely well-placed both to explore those alternatives and to implement a suitable alternative or combination of alternatives. The same evidence also clearly demonstrates that the proposed relocation to Whittington Way merely amounts to the County Council's preferred option for addressing the need for spaces. In these circumstances, where other options for expanding capacity clearly are available, this preferred option cannot be said to clearly outweigh the harm to the Green Belt arising from the relocation proposal. Nor can it therefore amount to a very special circumstance, justifying that harm.
382. The above conclusions were also borne out by the oral evidence before the inquiry given on behalf of the schools by Mr Stock. It was plain that Mr Stock personally has high aspirations for the schools, arising from the fact that he and his family have had a long association with them and his desire to ensure that the possibility of receiving a good education is passed on to future generations. He acknowledged that many schools may well provide a high standard of education in substandard facilities, but said that the feature which distinguishes the BSHS and HEHS is their determination to do something about it.
383. Under cross-examination he agreed that there is a difference between his own aspirations for the schools, and considerations arising from the fact that there is a need for additional capacity for school places in the BS&S EPA which requires to be met. Furthermore, he acknowledged that, regardless of the condition of the buildings and other facilities at the schools, they both provide (and have provided for some time) an outstanding education, according to Ofsted. What was in issue therefore, in seeking to improve them further, was "degrees of outstandingness". However, none of these matters amount to very special circumstances.
384. Finally, Mr Stock accepted that if the current proposals receive planning permission, but planning permission is withheld for a further expansion to 8FE, the additional capacity would have to be provided for elsewhere. He took the view that other solutions may be available at that time as the ASRs may be on stream and there may be a whole new need for a secondary school by then. Mr Stock's evidence, therefore, was to the same or a similar effect of that of Mr Harris. It is clear that the expansion of the schools and the upgrading of their facilities is a project which is dear to his heart, but an aspiration is not the same as a need.

385. In a similar way, the County Council's preferred option to relocate the schools does not mean it is the only option. In the event that planning permission was refused, whether for the current proposals or for a further proposal to expand on the Green Belt site at Whittington Way, both Mr Stock and Mr Harris agree that other means could, and would, be found to expand school capacity in Bishop's Stortford.
386. History of the proposals. The strategy developed by the County Council to address the need for additional school places was to first look at the opportunities for expanding existing schools on their current sites and then to look at the relocation of existing schools, or the creation of a wholly new school once on-site expansion options had been exhausted. This strategy, developed in 2001/02 and approved by the County Council around 2003/04 involved the expansion of St Mary's Catholic School to 5FE, and Birchwood School to 8FE. Hockerill College had neither the capacity nor the wish to expand day places.
387. It was concluded that the BSHS and HEHS had only limited expansion capability on site, and that the age and condition of the buildings would not make this cost-effective. The decision was therefore taken to relocate to a shared site, initially with each school at 6FE, but with the potential to grow to 2 8FE schools subsequently. The plan was endorsed by the County Council in 2002 and approved by the Boards of Governors in March 2004 (Doc APP/2 paras 4-5).
388. Unsurprisingly, no suitable, appropriately-sized site could be found within the existing built-up area of Bishop's Stortford and this led, inevitably, to the selection of a site on the periphery of the town. Such a site could only be found on the ASRs or at Whittington Way and Mr Lewis explained that access to the ASRs would be difficult. He further commented that since these ASRs are treated as Phase 2 sites for housing in the Local Plan, and as developers have options on all of them, release for educational purposes could not be guaranteed and would come at a price. By contrast Whittington Way is in the Green Belt, with no expectation of development. This would accordingly be reflected in its availability and the cost of acquisition.
389. Evidence to the Local Plan inquiry demonstrates that the attractiveness of this option to the owners was enhanced by the opportunity they saw to develop the rest of the Whittington Way site down to St James Way (see BSCF/2.1 and 3.1). Indeed, EHDC was encouraged to put forward redesignation of the whole of the site as an amendment to the Local Plan, but in the event only the area needed for educational purposes was selected.
390. Following the refusal of the Local Plan Inspector to remove any part of the site from Green Belt protection the Appellants prepared and submitted an application for 2 8FE schools in 2008. This did not include an explicit educational needs assessment and the assessment of alternative site options was inevitably predicated on the need for 2 8FE schools. EHDC officers recommended refusal, in part because they were not satisfied that the educational case had been made out. The application was therefore withdrawn before the Council could make a decision on it.
391. For the current application, the case rests on the demand for school places and the alleged inability to satisfy that demand in any other way. To support this application the County Council prepared an Educational Needs Assessment (CD A/8), based on a new method of forecasting the demand for secondary places which was introduced in 2009 (Doc APP/62). This application only provides 45 extra places and it is therefore necessary to examine in detail the way in which the forecasts have been created, and the options available to meet that level of demand.

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392. The Forecasts. The methodology on which the forecast is based is set out, for the first time, in a document submitted to the inquiry by Mr Harris (Doc APP/62 pg 5-8), together with an annotated version of the table from Appendix 2 of Document BSCF/1.1 (see Doc APP/63). This table summarises the results of the first forecast based on the new methodology which was prepared in 2009 and provided to BSCF in January 2010 (referred to as F1 – see Doc BSCF/4.5); the forecast which accompanied the 2010 planning application (referred to as F2); and the most recent forecast made by the County Council based on 2011 pupil census data (referred to as F3 – see Doc BSCF/4.6), adjusted to allow for 12 extra places at Leventhorpe.
393. The table at Doc APP/63 summarises the results of all 3 forecasts. It also includes the forecasts of Junior, Middle and Infant (“JMI”) reception year pupils in Bishop's Stortford, Sawbridgeworth and surrounding Hertfordshire villages, and adjusts the 2011 forecast to reflect slower delivery of housing on the ASRs.
394. The forecast has 4 main constituents: children 0-5, based on GP registers; children at school, based on the pupil census; cross-area flows; and the pupil yield from new housing, which ought to be based on EHDC housing projections. The first 2 constituents are based on known facts, while the last 2 are derived on a formula basis. The annotated table shows the point at which children in JMI reception feed through into demand for a Year 7 place at a secondary school. Column 10 of the table has entries which show the pupil yield from new housing, both at JMI reception and at Year 7. It should be noted that as a forecasting tool, this methodology is not especially accurate. For the year 2010/11, the 2 earlier forecasts predicted a pupil demand of 932, and then 964, Year 7 pupils, whereas the actual number for the year was 1,012.
395. It should also be noted that within the EPA, which covers an extensive area of East Hertfordshire villages, there is ample capacity within Bishop's Stortford secondary schools to absorb those leaving JMI schools in the area, even after allowing for the pupil yield from new housing. Consequently, therefore, there is not forecast to be any shortage of capacity for local children and, if anything, JMI numbers show some reduction from their current level.
396. Mr Harris notes that the key variable which underlies the forecasts is the “cross-area flow”, which relates to pupils from outside the EPA, from more distant parts of Hertfordshire or Essex (Doc APP/62 pg 6). The actual number of Year 7 pupils in 2010/11 was 368 out of a total intake of 1,012. The cross-area flow is calculated for past years by deducting the Year 6 pupils in the EPA from the total number of places allocated for Year 7 pupils in the same year. For future years it is estimated by expressing the cross-area flows as a percentage of the Year 6 JMI actual pupils in the EPA for the 3 preceding years, and using the weighted average of those percentages to gross up the following year's predicted Year 6 actual figures. This, together with the Year 6 actual figures and the estimated pupil yield from new housing, becomes the forecast for the year in question.
397. There are, however, a number of reasons for suggesting this is an unreliable method of forecasting. Firstly, it treats the cross-area flow as a function of the Year 6 pupil numbers by grossing up that number by the weighted average of 3 past years' cross-area flows. In reality, the 2 data sets are unconnected, and to make this link leads to some perverse results. If Year 6 numbers increase, the forecast cross-area flow will also go up, because the weighted average percentage will be applied to a larger base figure. In reality, the opposite may well happen. Dr Ingate has explained that with a higher intake of local Bishop's Stortford pupils, less

capacity became available at Birchwood for pupils from outlying parishes and so the cross-area flow went down (Doc IP/1). In the 2011/12 intake at Birchwood there was less local demand and so the cross-area flow went up. But the County Council's forecasting model would have predicted the opposite result.

398. Secondly, it treats future cross-area flows as a function of those in the past, but there is no demonstrable connection between what has happened in the past and what might happen in the future. Future demand is likely to be affected by factors such as new housing outside the EPA, for example in Essex; whether admissions policies remain unchanged; the perceived success of the schools in the area; and experience of ease or difficulty in getting a place at the preferred school. Only the last of these looks backwards.
399. Thirdly, the most recent year for which the actual cross-area flow is known is 2011/12. After that, future predictions will be based not purely on actual data, but in part, or wholly, on what the model predicts the cross-area flow will be. If the forecasting method is flawed in the first place this will simply compound the unreliability of future years' figures and, as already noted, the model has proved a very bad predictor of the actual total demand for 2010/11. It produces forecasts which show a rising trend in secondary school demand, which is not reflected in the pattern of demand in local JMI schools. In addition, it produces variations in forecast numbers as a result of changes in JMI numbers which, at least for some schools in the area, are counter-factual.
400. No weight can be placed on these forecasts of demand, which have emerged very late in the day as justification for a scheme which has been under development for 10 years. Successive forecasts have proved to be an inaccurate predictor of even the near future and the cross-area flow calculations, which are the fundamental driver of growth in demand, appear to have flaws in their underlying logic.
401. It appears that Mr Harris shares the BSCF's doubts about the reliability of his forecasts. He believes that the demand that needs to be satisfied to 2024/25 is 90 places, even though the most recently adjusted forecast peaks in 2018/19, with a shortfall of 126 places (or 145 as detailed in Doc APP/62). So, as the BSCF has maintained all along, the case before the Inspector is an application which will deliver 45 additional places; and the issue that arises is whether this way of meeting those places constitutes very special circumstances, having regard to the alternatives.
402. Alternative ways of increasing capacity. It is important to consider what drives demand (Doc APP/62 pgs 1, 2 & 4). Clearly the success of schools in Bishop's Stortford is a material factor. However, each school is its own admissions authority and, provided their admissions policies are non-discriminatory and comply with the Greenwich judgement and the admissions code, there is little scope for challenge by the County Council. However, for the County Council to follow a "predict and provide" policy, when they have no control over admissions, appears to be inherently unsustainable.
403. Clearly, admissions policies can be changed. Mr Stock stated that the BSHS had changed its admissions policies 4 times since 2005. He also acknowledged that, whatever the underlying motivation, a reasonable observer might think that the decision to add 8 outlying feeder schools to those eligible to apply for places would have the effect of creaming off talent, while leaving other local schools to provide places for less academically gifted children.

404. The offer by both schools to amend their admissions policies to take 10% of local children, on condition that the schools relocated, was made so late in the day – July 2011 – that it is hard to avoid the conclusion that it was offered in the hope of influencing the outcome of the appeals. If the problem really was about insufficient places for local children the 2 schools could make the same adjustment to admissions on their present sites. However, the problem is actually about children from a wider area crowding out local children. The threat of potentially having to bus children out to Hertford and Hoddesdon would not arise if it was not for the fact that so many are already bussed in – something which these proposals would do nothing to stem.
405. Moreover, further changes in admissions policies by the two schools would be inevitable if the relocation goes ahead as once the 2 schools were co-located, the discrepancies between their admissions policies would become very apparent. In particular, the BSHS has a number of outlying feeder schools, some even beyond the 6 mile radius, whereas the boundaries of the HEHS school catchment area are much more tightly drawn. If boys at these outlying schools are able to go to the BSHS on the new site, but their sisters are not eligible to apply to the immediately adjacent HEHS school, the unfairness would be readily apparent. Harmonising admissions criteria could add significantly to cross-area flows.
406. Adjusting admissions policies could also have the effect of reducing cross-area flows and freeing up space for local children. Admissions policies generally take 3 forms (after covering Special Educational Needs (“SEN”) children, siblings and special aptitudes) – named feeder schools, named parishes, a geographical radius or some combination of those policies. It is plainly possible to adjust these to regulate the more distant intake, without depriving those children of reasonable educational opportunities. Indeed such an approach might be positively helpful to an improving school such as Stansted Mountfitchet College, which has recently emerged from special measures.
407. As schools are their own admissions authorities, collaboration between all of them would be needed to achieve this outcome. This has not been forthcoming while the threat posed by these appeals hangs over them. It would require no capital outlay by the County Council to use this means to relieve the pressure on places. Clearly some demand would, in future, have to be met elsewhere, but it is reasonable to expect children to attend local schools, even in an era of parental choice. Mr Harris explains that allocating a place means a credible place – not just allocating a school with space but at an appropriate distance (Doc APP/62 pg 4). Adjusting admissions policies would be entirely consistent with this approach.
408. Secondly, the Hadham Road site is available for educational purposes. Although the Appellants have consistently underestimated its capacity, it is clear that it is entirely suitable and large enough for a 6FE school, which is the County Council’s minimum viable size (Doc CD A/9 pgs 21-24). Indeed Appendix 5 to CD A/9 provides the clearest evidence that the site exceeds the recommended area of 7.7-8.7ha detailed in Building Bulletin 98 (“BB98”): “Briefing Framework For Secondary School Projects” (CD 4/1); that it includes car parking provision; and that there would be sufficient space for sports pitches once the abandoned orchard, now described as woodland, is included. The difficulty is that the Appellants’ evidence makes it unclear whether it will be needed or not. Mr Harris and Mr Lewis both emphasised the importance of retaining the flexibility of being able to expand the relocated schools to 8FE; and Mr Lewis described the likelihood as “when” rather than “if” (though not before 2024/25).

409. The unreliability of the forecasts and their tendency to underestimate demand has already been noted. With these points in mind, the BSCF contend that the proviso in Local Plan policy BIS7, that the site should not be released for residential purposes unless and until the need for additional secondary school places has been met elsewhere, would not be satisfied either by upholding these appeals or by the implementation of the resulting planning permissions.
410. The Appellants are not planning to meet their own forecast of future demand in full before 2024/25; they do not have a clear view of the level of likely future demand after this date; and they cannot rely on the grant of further planning permission at Whittington Way to deliver such demand as may materialise. Moreover, the new approach to school provision – academies and free schools – may make this site an attractive option for a school promoter having a less ambitious view of the minimum size for viability than the County Council. In cross-examination Mr Harris put the odds of such an initiative in this area materialising in the next few years as 50/50. The Hadham Road site should therefore not be released for residential purposes, whatever the outcome of the Whittington Way appeal.
411. If, notwithstanding the BSCF's submissions, the Hadham Road site is released for housing, it would provide a capital receipt of some £23m, which the County Council would be free to deploy for other educational purposes. While their preferred solution is to apply it to the schools' relocation, for a net gain of 45 places, other ways of achieving that result must be examined. However, other alternatives have been examined by the County Council only in the context of a strong prejudice in favour of their preferred option. Because the substance of the Appellants' case changed relatively late in the day from being the need to find a site for 2 new schools to the need to provide 45 extra places, the consideration of alternatives has tended to focus on reasons for rejecting them.
412. During the course of the inquiry, the option which has received the most attention has been the expansion of Leventhorpe School. The BSCF therefore set out the arguments for it as a realistic option. A "back to the drawing board" analysis, which the County Council should have done 10 years ago (rather than simply deciding on the solution first and then pursuing it in the teeth of local opposition), might conclude that some other form of local expansion would be preferable. The BSCF advance the case here simply to demonstrate that if there is a credible alternative, which involves a much lower-risk way of delivering this small addition to capacity, the "very special circumstances" test which the Appellants advance in favour of their case cannot have been satisfied.
413. The responsibility for planning for school places rests with the County Council, not the schools themselves, so criticisms that no feasibility or other studies have been carried out at Leventhorpe are criticisms of the County Council, not the schools. The Board of Governors of Leventhorpe School made clear in their objection to the proposals on 23 August 2010 that they were willing to add up to 42 extra places (of which 12 have now been added to their PAN), and that a detailed feasibility exercise should have been carried out before agreeing to the loss of the Green Belt. They also made various suggestions about adjusting admissions criteria across the EPA which might obviate the need for expansion altogether. However, instead of taking this offer seriously, the County Council decided to pursue these appeals, only offering to send round the surveyors after the appeals had been lodged. A number of reasons were given for this approach.

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414. Firstly, it was stated that the relocation proposals were already in the County Council's governance framework, and a feasibility study would have been a needless expense, given that no details of the alternative were available. However, working up such a feasibility study should have been undertaken by the County Council, not the school. The County Council itself acknowledges that Leventhorpe could expand by a further 2FE, in other words at least as many as the relocation proposals (Doc APP/62 pg 14). The cost would plainly be less than the relocation proposals and the cost to local tax payers of funding both sides in this appeal might have been avoided.
415. Secondly, both Mr Harris and Mr Lewis suggested that expansion at Leventhorpe would require further expansion on to the Green Belt. However, the school is shown on the Local Plan's Sawbridgeworth Inset Map as a Major Developed Site within the Green Belt. Under cross-examination Mr Janke, the former headteacher, expressed the view that expansion could be accommodated within the existing footprint of the buildings, with a correspondingly reduced impact on the Green Belt. A feasibility study could have established the facts, if it had been undertaken.
416. Thirdly, it was argued that school places need to be created in the right place: Sawbridgeworth is not Bishop's Stortford. But as the County Council's own analysis shows, pressure on places in Bishop's Stortford arises from a large influx of children from outside the area. Even on unchanged admissions policies, if Leventhorpe were to take more of the cross-area flow that could release capacity at other schools in Bishop's Stortford for local children. Moreover, the effect of this option would be to add up to 2FE to the south of Bishop's Stortford. The relocation plan removes all the existing Boys and Girls school places from highly suitable locations, and puts 12FE in a less sustainable location on the southern edge of town. As further reassurance, the Governors of Leventhorpe offered also to add named Bishop's Stortford primary schools as feeder schools.
417. Fourthly, it was argued that parental choice would be decreased if there was a failure to increase single-sex places. Admissions arrangements require parents to name 3 preferred schools when moving on to Year 7 and by definition, 2 of the 3 choices must be co-educational, unless the parents concerned opt out of the state system. Moreover, no evidence has been produced to demonstrate that more single-sex places is what parents want, or how far it influences their preferences.
418. The County Council should have embarked on a serious and professional review of the alternatives following refusal of the planning applications, rather than launching these appeals. The existence, in outline, of an alternative scheme delivering as many extra places points clearly to the fact that these appeals should not succeed.
419. Funding. In rushing to judgement about the appropriate solution, the County Council appears to have been unduly influenced by the lure of capital receipts. As Mr Rhodes explained, in unchallenged evidence in chief, value for money should be identified through a rigorous comparison of alternatives, using a standard method of bringing the different income and expenditure flows of different schemes over time to a common present value – discounted cash flow analysis. It has been used in central government for decades and is recommended as good practice in the 2003 edition of the Treasury Green Book (Doc BSCF/10.9). It also provides a means of including non-financial costs and benefits, such as the loss of Green Belt, loss of a sports hall, more modern facilities (but more pressure on their use) into the analysis.

420. Mr Harris acknowledged, under cross-examination, that value for money and funding were different issues and Mr Lewis, in his evidence in chief, confirmed that the County Council had not used a "value for money" approach. He suggested, more in hope than with any understanding of how the analysis would work, that the outcomes would look very similar to those using current cash values. But the key point to note is that a value for money analysis has never been undertaken at any stage in the process. Rather, the preferred solution has consistently been driven by funding considerations.
421. Mr Harris explained that financial analyses have been undertaken on 4 occasions since 2007 (Doc APP/62 pg 2). They have each produced successively worse results, until the present one, which shows a deficit of £1.75m at the end of phase 1, rising to a deficit of over £7m with expansion to 2 8FE schools. The perfunctory nature of the analysis, approved by the County Council, can be inferred from the basic error of double counting Hadham Road Phase 2 receipts, an error that went unnoticed until Mr Janke pointed it out to the parties (see Docs IP/6 & IP/14).
422. In these circumstances, the relocation scheme, which has by far the largest capital requirement, becomes a very high risk scheme in comparison with incremental growth at other schools. If Scheme A would not satisfy the condition precedent which allows the Hadham Road site to be released, as the BSCF contends, then there would be a very big, rather than a medium sized, hole in the County Council's capital budget. If the Hadham Road site is released, then the sale proceeds would clearly cover, probably with a margin to spare, the cost of an incremental addition to capacity of the kind described above at Leventhorpe. This consideration also lends weight to the BSCF's submission that a proper re-examination of options should have been undertaken following the refusal of planning permission.
423. The only issue, which arose towards the end of the inquiry during the re-examination of Mr Lewis, without any evidence being provided in support, was that Leventhorpe, as an academy, would no longer be entitled to capital funding from the County Council. All the schools in the area, apart from St Mary's, have either become academies, or have expressed the intention to do so. It is understood that the BSHS and HEHS have put their applications on hold pending the outcome of the appeals. Accordingly, if access to capital receipts really was an obstacle, both the County Council and the academies themselves would face a problem about how to pay for new capacity requirements, not just in Bishop's Stortford, but across the County as a whole, and it would potentially be a national problem.
424. Given that Mr Harris made no reference to this in his evidence, it seems likely that the position is much less clear-cut than the view expressed by Mr Lewis, who is a planner by profession. Plainly, if it is a temporary obstacle, a solution will be found over time, since otherwise the Government's flagship academy policy will be at risk.
425. New school buildings. It has been pointed out that other more modest options would not deliver the new buildings that the schools desire. The wish to have modern facilities is perfectly understandable, but not a "very special circumstance" either in Bishop's Stortford or across the wider educational estate in Hertfordshire. Both St Mary's and Hockerill have older buildings than the HEHS; and Leventhorpe and Birchwood have buildings of a similar age to the BSHS. The age and condition of buildings has not been an impediment to improvement in standards at the BSHS and continuing high levels of achievement at the HEHS. Indeed, Ofsted have been so impressed with the BSHS that routine inspections are to be discontinued.

426. As an issue, the condition of the physical fabric is all too routine. It cannot be regarded as a “very special circumstance” at these appeals but merely as a bonus which would materialise if the appeals were to be upheld. However, to set against that, there is the destabilising effect which the relocation would have on the local education community, as referred to by Dr Ingate when he gave his evidence in chief. While the Government may want successful schools to grow, it does not follow that they need to grow to remain successful, or that if they should be permitted to do so at the cost of putting the viability of an improving school, such as Stansted Mountfitchet College, at risk.

Issue (4): aircraft noise

427. Issue (4), as defined by the Inspector, was confined to “the effect of aircraft noise on internal teaching spaces”. However, as is clear from the evidence of Mr Peachey on behalf of both the BSCF and TPC, the Rule 6 Parties are concerned about the potential effects of aircraft noise both on internal teaching areas and on external areas at Whittington Way. The Inspector should therefore address both aspects of the noise issue in making his recommendations to the Secretary of State.
428. The BSCF and the Appellants both agree that the noise environment at the site is dominated by aircraft (Docs APP/27 para 3 & BSCF/1.3 para 6.1). As a result, any buildings erected at the site would need to be designed so as to take account of aircraft noise and to comply with the standards set out in BB93. The Appellants contend that this may be achieved in such a way as to minimise and mitigate the effects of aircraft noise on internal teaching spaces. They also assert that the non-mandatory upper guideline values set out in BB93, with respect to external teaching areas and playing fields, would be met (APP/27 para 6.2). In addition, they maintain that internal noise levels at the existing schools are higher than those that could be achieved at Whittington Way, while external noise levels at the schools are similar to or higher than those experienced at Whittington Way (APP/27 para 6.2).
429. The relevant comparison that needs to be made, however, is not merely that between noise levels at Whittington Way and the existing school sites. Equally, if not more relevant, is the comparison between noise levels at Whittington Way and at the other locations at which additional capacity by way of educational places might be provided, notably, Hadham Road, Stansted Mountfitchet and Leventhorpe School. The fact that these sites are unaffected by aircraft noise, in contrast to the Whittington Way site, is clearly a consideration which weighs in favour of providing additional capacity at sites other than Whittington Way. By the same token, this matter weighs against the proposal to relocate the schools to the latter site.
430. It should also be noted that no evidence has been put before the inquiry regarding any additional cost which designing and constructing buildings in accordance with the requirements of BB93 would involve. This is particularly pertinent now that it has been established that, far from being self-financing, the proposals would involve a financial deficit. Furthermore, the Appellants’ claims that the relocation proposals offer “flexibility”, including the possibility to expand each school to 8FE, are weakened by the absence of any clear indication how this would be achieved. No details have been submitted regarding the means by which “light-weight” structures could be erected to increase the heights of buildings permitted pursuant to the present proposals, in such a way as to meet the requirements of BB93. All of these issues could be avoided if alternative means of providing additional school capacity were to be pursued.

431. More specifically, as highlighted by Mr Peachey, it remains the case that the Appellants have failed adequately to grapple with the issues of noise arising in connection with Whittington Way. In the first place, the Appellants have failed properly to take into account the noise impacts of the Generation 1 ("G1") development at Stansted Airport. The +2dB uplift which the Appellants have added to their measured noise levels at the Whittington Way site was taken from the G1 Environmental Statement and represents the increased noise limits resulting in the expansion of the Airport from 25 million to 35 million passengers per annum ("mppa"), or 241,000 to 264,000 aircraft movements (Doc BSCF/1.3 section 10).
432. However, this fails to take account of the fact that the actual number of aircraft movements at the Airport as at 2011 was 140,072. Thus, the actual increase in aircraft movements between the present and the post G1 limit has been left out of account in the Appellants' assessment, and their +2 dB correction involves an understatement of the impact of aircraft noise at the Whittington Way site. Moreover, even on the basis of a +2 dB correction, the BB93 recommendations for external areas are exceeded at some locations.
433. Furthermore, as Mr Peachey's evidence also established, of key relevance to the issue of noise is not merely noise levels assessed by reference to the L_{Aeq} metric, but also numbers of flights. The relevance of the latter consideration was confirmed by the Inspector at the Heathrow T5 Inquiry (Doc BDCF/5.11), and endorsed by the Secretary of State for Transport, in that he stated in the House of Commons on 20th November 2001 that he proposed to impose a limit on numbers of flights at Heathrow "on a precautionary basis, and because of the Inspector's concerns about noise" (see Doc BSCF/1.3b pg 8).
434. Moreover, as the history of Stansted makes clear, Government policy with respect to Stansted Airport has seen reversals from a position in favour of expansion, to a position against, on several occasions. While BAA Stansted has withdrawn its G2 planning application which sought a second runway and an increased capacity to 68 mppa (490,000) aircraft movements, this could re-emerge at any time in the future. There is every possibility that the current lack of policy support in favour of further expansion of the Airport may change again to a position in favour of expansion (Doc BSCF/1.3 App C).
435. Similarly, as regards potential changes to airspace by the National Air Traffic Service ("NATS"), the possibility that this may occur, to the detriment of the noise climate at Stansted Airport, cannot and should not be discounted. NATS proposals may have been put on the back-burner for the time being, but the likelihood that they will be brought forward in the foreseeable future remains a live one.
436. A further relevant factor is the very real possibility that the fleet mix at Stansted Airport will change in the foreseeable future, through the introduction of long haul and freight aircraft. Both of these are heavier and noisier than the short haul flights that currently form the majority of aircraft movements at the Airport, and which informed the Appellants' assessment of the noise climate at Whittington Way.
437. The response of the Appellants' noise expert to the above considerations was to observe that, insofar as they as yet represent unrealised possibilities, it was not possible to take account of them for the purposes of his noise evidence or, for example, to measure their actual or likely consequences with respect to aircraft noise levels at Whittington Way. That, however, is to miss the point, which is that they represent developments which have the potential substantially to worsen the

effects of aircraft noise at Whittington Way. As such, they amount to considerations which underline the case of the BSCF that permission for Appeal A should be refused, and that other alternative means of providing additional school capacity in Bishop's Stortford should be explored instead.

Issue (5): the local highway network

438. The only conclusion which can reasonably be reached on this issue is that allowing the appeals would have a negative impact with regard to traffic and congestion on the Bishop's Stortford highway network, worsening conditions in an area that already suffers from high levels of traffic and congestion.
439. The evidence of the Council's traffic expert, Mr Silcock, is plainly to be preferred to that of the Appellants' expert Mr Mitchell. The qualifications, credentials and experience of the former expert are impressive, and his evidence was self-evidently credible and reliable. Moreover, his conscientiousness was readily apparent from his oft-repeated concern regarding the lack of any real data concerning up to date traffic movements informing the Appellants' SATURN model, and by his efforts to fill that lacuna by undertaking the requisite observations himself. The Inspector is urged to accept Mr Silcock's conclusion, which is consistent with common sense and the experience of local residents who regularly use the network.
440. The BSCF maintains that the traffic modelling undertaken by the Appellants' expert witness is defective for the reasons set out in the evidence of Mr Rhodes and put to the Appellants' witness in cross-examination (see Doc BSCF/1.1 para 80). Quite apart from the flaws in the model and its results, identified by Mr Silcock, it suffers from the fundamental defect that the network of which it is purported to be a model is one which does not exist in the real world. It assumes the full implementation of the Bishop's Stortford transportation strategy, both in the base case and alternative scenarios, including, for example, a fully integrated traffic control system and a new relief road through the Station Goods Yard. However, that transportation strategy remains unimplemented and there was no evidence before the inquiry (and, so far as the BSCF is aware, no evidence is available) to show whether, or according to what timetable, its implementation will be effected.
441. The lack of reality attaching to the modelling undertaken by the Appellants is compounded by the fact that the trip data on which the modelling is based relies upon planning assumptions about prospective development made in 2005, and not subsequently updated. Consequently, the model makes no allowance for developments taking place in Essex which will have an effect on the Bishop's Stortford highway network, such as the 1,500 new homes nearing completion in Stansted Mountfitchet and Takely, and development proposals next to the Causeway (see Doc BSCF/1.1 para 80).
442. As a result, neither the base case nor the alternatives describe current conditions, or the impacts which allowing the appeals would have on the network as it currently operates; as it will operate in the future if the transportation strategy is not implemented; or for the period in which it will remain unimplemented. This very significant information, which is essential to a proper assessment of the harmful impacts which allowing the appeals would have on people using the highway network, is wholly lacking.
443. Furthermore, the Appellants' Transport Assessment simply assumed that modal shares at the relocated schools would remain the same as those pertaining to the BSHS and HEHS as at 2007, without providing any evidence that such a result could

or would be achieved. The assessments therefore include a target that the modal share of car would remain unchanged, but then take it as a given that the target will be achieved for purposes of modelling the traffic impacts. This makes any result completely unreliable (Doc BSCF/1.1 para 80).

444. The current locations of the BSHS, and the HEHS in particular, are highly sustainable whereas the Whittington Way site is not. The clear evidence of residents before the inquiry was that they would not expect parents to permit their children either to walk or to cycle to school at Whittington Way. An obvious way in which the Appellants could have obtained relevant information regarding prospective modal shares would have been to have undertaken a survey of the intentions of current or prospective parents, but information of this kind was entirely absent from the inquiry (Doc BSCF/1.1 para 80).
445. Indeed the Appellants' traffic witness was dismissive of this suggestion, maintaining that the information which such surveys glean tends to be unreliable. Despite this, under cross-examination he indicated that the Appellants would undertake such surveys at a later stage if permission for the appeals was granted. The available evidence concerning the current modal share at the BSHS and the HEHS is inconclusive, regarding the effect that the existing travel plans have upon people's choices of transport mode used to get to and from school. There is no reason to believe, therefore, that the proposed travel plans would have any impact, or any significant impact, on people's future travel choices. Nor is there any good reason to suggest that the travel plans in question would be sufficient, in and of themselves, to surmount the fact that the schools would be relocated to a less sustainable site than their current locations.
446. As for the Appellants' proposals to add new bus routes providing access to the schools, the congestion problems that affect Bishop's Stortford, compounded as they would be by the new developments comprised by the appeals, would make the timetabling of such services an uncertain exercise, and there is a very real risk that pupils at the relocated schools could not rely upon them to arrive at any given bus stop on the network at the pre-announced time, or to get them to school on time.
447. Written and oral evidence was provided by a number of residents, with representatives appearing at the inquiry. The Haymeads Residents' Association gave compelling evidence concerning the impact on the network which would arise out of a decision to allow Appeal F. This evidence described conditions at Haymeads Lane and Beldams Lane which, together, form a "rat-run" used by traffic heading for the M11 and provides the unofficial missing link in the town's ring-road (Doc BSCF/1.5 paras 82-93). They also pointed out that the rat-run is notorious for congestion at the junction of Haymeads Lane with Dunmow Road, known as the "Nags Head Junction" and the junction of Beldams Lane with Hallingbury Road.
448. The evidence of the Old Thorley and Twyford Residents' Association and Thorley Park Residents' Association concerning Sites A and D painted a similar picture of residents' current experience of congestion on the highway network, in particular on Villiers-Sur-Marne and Friedberg Avenues, and at Pynchbek and Bishop's Avenue. They also point to the harmful impacts arising out of use of the network by construction traffic and have presented evidence to the inquiry concerning the safety implications at Thorley of allowing the appeals (Doc BSCF/1.6 paras 7-20). So far as Appeal C is concerned, the Residents of Grove Park and 171 Hadham Road again gave persuasive evidence concerning the experiences of users of Hadham Road and connected roads (Doc BSCF/1.7 paras 18-19).

449. Thorley Parish Council gave comprehensive and detailed evidence concerning the already intolerable traffic conditions in Thorley Street. In the morning peak hour Thorley Street experiences vehicle movements in the order of 1 vehicle every 4 seconds; and the petition attached to Mrs Rolph's proof demonstrates the very real and on-going problem that local residents face with respect to the issue of speeding in Thorley Street and their concerns about safely crossing this road (Doc TPC/5).
450. In light of the evidence of actual users of the town's highway network, the Appellants' contention that the addition of more traffic from some 690 new homes would not have any discernible negative impact is counter-intuitive. Indeed, the Appellants' own evidence indicates that congestion in the key location of Thorley Street would worsen as a result of the proposals, with traffic being held back in Thorley Street in order to even out the traffic further up the network. This is the one aspect of the Appellants' evidence that the BSCF considers to be credible.
451. The expert evidence of the Council's traffic witness, together with the criticisms of the Appellants' modelling methodology and the assumptions underlying it, show that the Appellants' evidence cannot be relied upon. The problems which the town suffers from now would be exacerbated if the appeals are allowed. These considerations must be given significant weight in the overall balance, and provide sufficient reasons in themselves why the appeals should be dismissed.

ADDITIONAL CONSIDERATIONS

452. The evidence presented to the inquiry by the BSCF discloses further reasons, in addition to those arising in connection with the 5 issues identified by the Inspector, why the appeals should be dismissed. The key points arising from the evidence in question is summarised in the following paragraphs:
453. Impacts on Thorley Parish. The proposed relocation of the schools would have particularly harmful impacts on the natural and built environment of Thorley Parish. Mrs McDonald comments that the openness of the countryside, the clear vistas in all directions across rolling farmland to the horizon and the sunsets are not only enjoyed by parishioners, but also widely appreciated by the town residents of Thorley Manor, Twyford Park and St Michael's Mead on the parish border. They are also enjoyed and appreciated by walkers and rambling groups and increasingly by families, the retired and handicapped. The parish has retained its ordinariness in a most pleasing way, as a result of the protection given it by Green Belt legislation, against threats of coalescence and development detrimental to openness (Doc TPC/1 section II). This would be lost if Appeal A was allowed.
454. Further, as the evidence given on behalf of TPC demonstrated, the harm would be so significantly adverse for the countryside and community that the considerations upon which the Appellants rely in support of Appeal A (in particular) cannot be regarded as outweighing that harm, and so cannot be regarded as amounting to "very special circumstances" (Doc TPC/1 paras 6 & 22).
455. It was also clear from this evidence that Thorley residents do not share the Appellants' view that the Appeal A proposals would generate community benefits which could reasonably be regarded as off-setting the harm which would be inflicted upon the Parish, if the appeal were to be allowed (Doc TPC/1 paras 6, 33-35 & 59).
456. From the perspective of the Parish, granting planning permission for the schools' relocation would contravene the purposes of the Green Belt, listed in PPG2 as it would:

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- i. result in a development that encroached across the Parish boundary and into the countryside;*
 - ii. introduce urban sprawl by way of extended built development, floodlighting and car parking to an arbitrary boundary-line within a larger area of contiguous farmland; and*
 - iii. result in a weakening of the current natural association between the valley and farming settlements that comprise, and traditionally have comprised, Thorley Parish community.*

457. Furthermore, the landscaping and tree planting proposed by the Appellants would not achieve the purposes they claim, or mitigate the harmful impacts of the development in any significant or meaningful respect. The fact of the matter is that the impact of the schools would be seen, heard and felt continuously by residents. Lighting and noise disturbance would be constant; and 2m high security fencing around a 20ha (50 acre) site would not be visually attractive or in keeping with the landscape. The schools would dominate tranquil farmland. Planting, when established, would simply block views more effectively, and would not mask the noise and lighting, characteristic of activities in educational establishments and leisure centres, emanating from the schools. The existing setting of this Domesday Parish should, instead, be preserved and protected in its current state.
458. Warwick Road. The Appellants have sought to deal with the fact that Warwick Road is a private road by amending their proposals for access into the Appeal E site to avoid altering kerblines (Doc APP/23 Appeal E App A). However, this does not acknowledge the fact that traffic entering the site would have to cross over the privately owned footpath, or the fact that there are no public vehicular rights of way over Warwick Road which is not maintained at public expense, but by the Warwick Road Maintenance Association (WRMA). This is made up of representatives of each house and flat having either a frontage onto or main access from Warwick Road; the Headteacher and a Governor from the HEHS; a representative from the garage at the eastern end of Warwick Road; and a representative from the Herts and Essex Hospital.
459. The WRMA has obtained an opinion from Leading Counsel, very experienced in dealing with issues concerning rights of way, Mr John Hobson QC (Doc BSCF/9.1.1). He advised that Warwick Road is private land in respect of which the frontagers have private rights of vehicular access; additionally, the public has a right of way on foot along Warwick Road, but there is no public vehicular right. He further advised that it was lawful for the WRMA to retain the gate, which closes off the eastern end of Warwick Road to anyone except a key-holder. In the absence of any response, let alone any adequate response, to the conclusions of Mr Hobson QC, the BSCF's case with respect to Warwick Road is also unanswerable. As matters presently stand the Appellants have no means of providing an access from Warwick Road into the Appeal E site, and the Appeal E scheme is, therefore, undeliverable.
460. An additional matter to be taken into account where Warwick Road, and indeed all of the areas affected by the appeals, is concerned, is the harmful effect of construction traffic. Bishop's Stortford has been the subject of new developments for a considerable period of time and the continuing presence of construction traffic on the road network has a detrimental impact upon the amenities of local residents. Development of the scale proposed by the appeals would exacerbate this problem, and this consideration amounts to yet another material consideration pointing to the conclusion that the appeals should be dismissed (BSCF/1.1 para 96).

461. Appeals D-F. The Appellants accept that if Appeal A is dismissed, then appeals D, E and F (as well as Appeal B) must also be dismissed. There are, however, highly persuasive reasons why those appeals should be dismissed in any event, irrespective of the outcome of Appeal A. In particular, the development proposals relating to these sites should have been considered through the development plan process, consistent with the plan-led development system. In the absence of such consideration, it is not possible for the Inspector or Secretary of State properly to assess the respective advantages and disadvantages of locating residential development on the appeal sites or elsewhere in the district.
462. Allowing these appeals would result in harmful effects for the town, including the loss of open space, increased traffic and congestion and impact on local infrastructure. It is essential that those matters should be properly considered within the broader framework of the development plan. It would be unacceptable for these harmful impacts to be imposed on residents without such a comprehensive consideration. The Appellants' response to this aspect of the BSCF's case was to charge them with adopting an anti-development stance, and an unrealistic attachment to the status quo.
463. This charge is unfair and inappropriate and there is nothing in the BSCF's stance to suggest that it is anti-development "in principle". Whether residential development is required in the District at any given time is a question that needs to be given full and proper consideration, with a weighing up of the benefits and disbenefits on the environment and existing amenities of any given proposal or proposals. Moreover, the question of where, in the District, any such development should be located is one which warrants equally careful and comprehensive consideration. That consideration has been lacking where Appeals D-F are concerned.
464. As Schemes D-F have not been promoted through the development plan, local people have been deprived of their entitlement to participate in the democratic process regarding such matters. The amount of development comprised in Appeals D-F, is equivalent to 1 full year's housing supply. This is not insignificant and development proposals like this should be finalised by way of involvement in a public inquiry of the kind that took place in connection with, for example, the East Herts Local Plan Second Review. It is therefore right and proper that the BSCF should oppose these appeals on the basis, amongst other things, that the opinions of local residents concerning their merits and demerits have not been heard.
465. Finally, local residents consider that Schemes D-F involve densities which would be inappropriate to the surrounding areas. It may be the case that, as stated in PPS3, high density development is not necessarily harmful development. However, the proposals for Schemes D-F clearly reflect the densities that have now been abolished from Government guidance. Local residents are perfectly capable of expressing an informed view as to the density of housing development that is appropriate for the areas in which they live. The Inspector and Secretary of State are therefore respectfully asked to take into account and to place significant weight upon the evidence which local residents have submitted in this regard.
466. Appeal B – Jobbers Wood. This site lies within the Green Belt, but unlike Whittington Way it is located in the middle of open countryside with the sole access to it being along the narrow, winding, but heavily used B1004. Permission for this development was presumably granted originally because the BSHS was able to make a case of very special circumstances, based on the desire for more sports facilities than those available on its current site. The limitation on use was imposed

to ensure that an otherwise unsuitable use of the site created the minimum visual intrusion and generated the minimum amount of additional traffic.

467. The relocation proposals have sought to make a virtue of the quantity and quality of sports facilities to be provided at Whittington Way. If these claims had any substance, the schools should not be seeking to extend the use of Jobbers Wood, which is several miles from both their present and relocation sites. They should, instead, be reducing or abandoning the use of the Jobbers Wood facility which is in an inconvenient location and can only be accessed by car or specially arranged bus services. Indeed, if the schools are permitted to relocate to Whittington Way, the on-site sports facilities should be sufficient for their requirements and Jobbers Wood should revert back to agricultural use, since the original justification for its change of use will have disappeared (Doc BSCF/1.1 para 91).
468. The request that the condition should be further relaxed to permit use by local organisations is an additional cause of concern. Firstly, there is no community in the immediate vicinity and therefore no organisations which are "local" to Jobbers Wood. If what is meant is organisations local to Bishop's Stortford, then they would all have to drive there to use it, causing additional traffic movements on a road where they should be avoided.
469. Moreover, if this condition restricting its use was to be relaxed as requested, it would no doubt be followed up by a further application to extend the changing facilities to make them suitable for use by both sexes at the same time, thus causing further intrusion into the Green Belt. The fact that essential sports facilities are a permitted exception to the normal protection afforded to the Green Belt would make it difficult for the Council to refuse such an application. In summary, and for the above reasons, the Jobbers Wood application should be rejected, whatever decision is reached on the other appeals.
470. Consultation. The issue of consultation arose repeatedly in the course of the evidence presented to the inquiry. Residents feel very strongly that their views with respect to the appeal proposals have not been properly canvassed. They also feel that insofar as they were able to express their views at the single consultation exercise that did take place in 2008 (and in other contexts), those views have not been taken into account. This issue is of importance, given the statements in PPS1 (CD 3/16) to the effect that "The views of local people are an integral part of the planning process and the case for the community's voice to be heard is clear".
471. The Appellants' response in this regard is to point to the opportunity provided by the inquiry process itself, for residents to express their views with respect to the appeal proposals. This ignores the consideration, however, again set out in PPS1, that community involvement should happen at the point at which people recognise that they have the potential to make a difference (CD 3/16 para 43). This means that consultation should happen at the beginning of the development process and not, or not solely, right at the end. In the present case, residents were not consulted at the beginning of the process, nor consulted in any meaningful way thereafter. To date, at least, their voice has not been heard; or, to be more precise, the Appellants have not listened to what residents have to say. The Inspector and Secretary of State are urged to rectify this wrong and properly take into account the views of residents opposing the appeals, and the comprehensive and cogent reasons which they have set out in support of those views.

CONCLUSIONS

472. This proposal to relocate the BSHS and the HEHS to the Green Belt would provide a mere additional 45 secondary school places, to cover the period up to 2025. Beyond that, the future is entirely uncertain. The BSCF's submission is that this proposal to build 2 new schools in the Green Belt, at significant up-front capital cost, and equally if not more significant environmental and social cost, is wildly disproportionate. It is a proposal which has not been justified during the course of this appeal, and which cannot be justified.
473. It is very telling that 4 headteachers of schools in Bishop's Stortford and a former headteacher of Leventhorpe School all strongly oppose the proposals. In addition, the Governors of the Stansted Mountfitchet College have also expressed their severe reservations and concerns about the impact which relocating and expanding the BSHS and the HEHS would have for the viability of their own school.
474. It should also be noted that the Headteacher and Governors of the HEHS have been very quiet - perhaps judiciously so - during the course of the inquiry proceedings. Mr Stock assured the inquiry that he spoke for both schools, but neither the BSCF nor the Council were afforded an opportunity to test this proposition by way of cross-examination of a representative of the HEHS. Consequently, it has not been possible to explore the strength of that school's commitment to the scheme, or to examine whether it may have doubts about the wisdom of the scheme, in light of the evidence presented at the inquiry.
475. The Appellants suggested that Dr Ingate showed a certain temerity in assuming he was correct in believing the proposed relocation to be misconceived. However, Dr Ingate's opinion is shared, by a significant proportion of the secondary educational establishment in Bishop's Stortford, with no member of that establishment, apart from Mr Stock, speaking in favour of the proposals. This is a factor to which the Inspector and the Secretary of State should afford very significant weight.
476. The schools opposing the proposals have expressed their willingness to expand in order to accommodate additional pupils. This is an option which should have been explored in depth back in 2008. Alternatively, it should have been given serious consideration after the Inspector who considered the Local Plan Second Review rejected the Appellants' case to the effect that special circumstances existed justifying the removal of the Whittington Way site from the Green Belt. These opportunities having been missed, the alternative options for expansion should be explored, assessed, and their respective costs and benefits, in financial, environmental and social terms determined now.
477. The BSCF's opposition to the appeals cannot be dismissed as mere "nimby-ism". Their objections are cogent, carefully considered, and well-founded. They do not reflect an opposition to all or any development in Bishop's Stortford, but rather, an opposition to development proposals which are themselves entirely ill-considered, and which would have a profoundly harmful impact upon the Green Belt, the environment and the amenities enjoyed by local residents. Moreover, the BSCF's stance is entirely in line with the Government's localism agenda. The appeals constitute a clear cut case of a decision made at the County level being imposed at the local level, in circumstances where that decision faces nearly universal local opposition and imposes costs at the local level without any attendant benefits.

478. It has been made clear by the Appellants' own evidence that the need for additional school places in Bishop's Stortford has been fuelled, not by demand at the local level, but by demand from further afield, in particular from Essex. In order that that demand might be satisfied, it is the County Council's expectation that the residents of Bishop's Stortford should bear the costs involved in substantial harm to the Green Belt and all of the attendant harms on losing green space, and sustainably located schools, to residential development.
479. The County Council plainly had an interest in promoting the schools' relocation, irrespective of costs at the local level, on the basis that this would come at no cost to the County Council purse. It is now clear that it is doubtful, even on the County Council's own arithmetic, that the Appeal A proposal would be self-financing. In any event, no proper analysis has ever been undertaken to determine whether any County level benefits are outweighed by District level costs.
480. The Government, and the Secretary of State, have made it very clear that planning decisions should be made with the full involvement of the people whose lives would be affected by them on a day-to-day basis. The BSCF and the Parish Council therefore take this opportunity to say, on behalf of the persons whom they represent, "No". The appeals are wholly lacking in planning merit and there are no other considerations which could reasonably be regarded as justifying a decision to allow them. They should therefore be dismissed.

The Case for Interested Persons Opposing the Proposals

The material points were:

481. **Bishop's Stortford Town Council (BSTC).** As a Statutory Consultee the BSTC made a formal response to the applications which are the subjects of Appeals A, C, D, E and F, but did not express a view on Appeal B. Bishop's Stortford and Thorley are the communities most affected by the proposals with the appeals turning, in large part, on whether the benefits of the development would clearly outweigh the harm to the Green Belt and other harm. The community of Bishop's Stortford would both enjoy the benefits and suffer the harm of this development and is therefore uniquely placed to judge the trade-off.
482. The geographical boundaries of the community and those of the Civil Parish represented by the BSTC are almost perfectly aligned and the BSTC members, elected solely by the residents of the town, live and in many cases work in the community. The BSTC engages pro-actively with the town's residents and keeps them informed and, as such, the BSTC is accountable to the electorate of a recognisable, connected, community, and has an unequivocal democratic mandate to represent the residents of that community.
483. BSTC Councillors base their decisions on planning applications on a study of the documentation provided, their knowledge of the town, the specific site and the views of the residents they represent and who have extensive local knowledge. They therefore complement the view of the planning authority with an unequalled democratic legitimacy. For these proposals the Councillors observed that no letters of support had been received, only objections, and that the concept of community, of which a school is at the heart, was totally missing from the proposals.
484. The BSTC resolved to object to Scheme A on the following grounds: i) a sufficient case had not been made to justify encroachment on the Green Belt; ii) the case had not been made sufficiently to demonstrate that this was the only way to meet the

educational needs identified; iii) rebuilding/expansion on the current site has been rejected, whereas Birchwood School has been virtually re-built on its existing site. The case had not been made that a similar approach could not be adopted or an alternative non-Green Belt site utilised; iv) increased traffic congestion would potentially cause gridlock; and v) aircraft noise would be detrimental to the learning and teaching environment.

485. The BSTC recorded the following objections in respect of Scheme C: i) the scale of development would be excessive; ii) increased traffic would be unacceptable and hazardous; iii) the development would appear to give rise to a severe risk of flooding in Marshbarnes; and iv) the proposed density would be out of keeping with the surrounding area.
486. For Scheme D the BSTC objected on the following grounds: i) an unacceptable impact on the town's infrastructure with a negative effect on the quality of life of residents; ii) unacceptable and intrusive proximity of housing to Thorley Hill Primary School and unacceptable disruption during the construction; and iii) unacceptable traffic impact on London Road.
487. For Scheme E the BSTC objected as follows: i) excessive overdevelopment which would "tear the heart" out of a beautiful and historic area of the town; ii) it would result in the removal of historic buildings in the core of the town; iii) it would give rise to unacceptable traffic problems; iv) the proposed density and proposed building heights would be out of keeping with the surrounding area; v) There would be no safe means of ingress and egress to the proposed development onto London Road for the additional traffic; vi) The bulk of the traffic would exit into Dunmow Road, immediately opposite a school and a pelican crossing, resulting in an unacceptable level of risk to pedestrian traffic; and vii) the developers would not be allowed to use Warwick Road (a private road) and instead would be obliged to travel via Dunmow Road, emerging opposite Hockerill College, causing unacceptable traffic problems during construction and risk to pedestrian traffic.
488. Finally, for Scheme F the BSTC recorded the following objections: i) there are no current buildings on this site which is widely used by the local community "24/7" as recreational land and which represented an essential "lung" for the eastern side of Bishop's Stortford; ii) the resulting additional congestion on the already congested Beldams Lane/Haymeads Lane route would cause queues of unacceptable length in an area which was already very heavily congested and recognised as so by the Highway Authority. Moreover, the proposed development would force traffic onto congested and dangerous junctions.
489. In short, the BSTC firmly dismissed all the applications which are now the subject of Appeals A and C-F, with these decisions subsequently being upheld by the planning authority. The BSTC decided that it did not have the resources to mount a full objection to the proposals at this inquiry, but it nevertheless stands fully behind the BSCF and has supported the BSCF case by means of a donation of £10,000. This is the largest donation of funds the BSTC has made in recent times.
490. A prominent feature on the DCLG's website is the mission statement or strap-line "We are helping to create a free, fair and responsible Big Society by putting power in the hands of citizens, neighbourhoods and councils. In addition a radical localist vision is turning Whitehall on its head by decentralising central government and giving power to the people, with localism being clearly supported both by the Prime Minister and the Secretary of State for Communities and Local Government.

491. This case largely rests on whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. It rests also on the traffic impact, and on several other factors. The people of the community have spoken decisively and consider that the harm which would be caused by these proposals would clearly outweigh the benefits. The alternatives have not been adequately considered and the traffic impact would be unacceptable. Furthermore, the proposals takes no account of community.
492. On behalf of the people of Bishop's Stortford and the BSTC which represents them, the Secretary of State for Communities and Local Government is urged to reject these appeals.
493. **Councillor Mrs Norma Symons**, a Town and District Councillor, and a Trustee of the Bishop's Stortford Sports Hall Trust. In 1984 agreement was reached between Hertfordshire County Council, EHDC and the Bishop's Stortford Town Council to provide a sports hall on the BSHS site. The Trust is responsible for managing the public use of this facility, which takes place in the evenings and at weekends. As the facility requires very low maintenance the costs to the public are kept low, meaning that the sports hall is very well used. In addition, it has recently had provision built to enable its use by disabled persons.
494. The sports hall was provided on a 50 year lease, which still has some 23 years to run. The Trust objects to redevelopment of the BSHS site as it does not wish to lose this sports hall facility. Alternatively, if development of this site is to take place, then the Trust would wish to see the area of the sports hall excluded from any such development.
495. **Mr Bert Richardson**, deputy chairman of the Friends of Hertfordshire Way. Dedicated in 1998, the Hertfordshire Way is a 190 mile circular rural trail through the Hertfordshire countryside, waymarked to the National Trails standard. If the Appeal A proposal goes ahead there would be a loss of wildlife. The destruction of open views by large car parks with the odd tree, bits of short-mown grass, low neatly cut hedges, 2m high wire fencing and busy road crossings would not be appropriate for walkers of the Hertfordshire Way. In addition, the references in the documentation to security "devices", implying that walkers would be photographed, are not appropriate on a country walking route such as this.
496. Contrary to the Appellants' evidence, the route of the Hertfordshire Way does not go through St Albans, nor does it pass near to Watford. Although it does pass through some urban areas, for example Royston, this is a tiny settlement, but very historic, with only a couple of minutes of the walk passing through 20th Century housing. Bishop's Stortford is already the worst part of the whole walk, passing through the Twyford Industrial Estate, alongside a 2m high wire mesh fence guarding the railway and through a bus station and car park backed by a multiplex cinema. The addition of the changes arising from the appeal proposals would result in 2 miles of unpleasant walking. As a result Mr Richardson takes the view that in the next printing of the guide book for the Hertfordshire Way Bishop's Stortford should be abandoned, with a new route being planned to avoid it. This would be sad because the town has a beautiful historic heart.
497. Whilst the current route passes within about 180m (200 yards) of Beechwood School, this is an 18th Century country house with a beautiful main façade, set in a country park. The Hertfordshire Way at this point passes through parklands and

woodlands with no car park or 2m high fencing in sight. At Broxbourne School, the walk passes some 46m (50 yards) from the school fence, with open fields on the other side and Parmiters School is in the open land between Watford and St Albans. In contrast to these existing examples, the proposed school buildings could not be called "interesting".

498. The contention from the Appellants is that the proposals only affect a small piece of the Hertfordshire Way, but similar battles are having to be fought all along the route. Every stretch of the route lost is a further concreting over what is left of Hertfordshire. The Friends of the Hertfordshire Way fight for the green bits of the county, for the future generations who will live here. For these reasons Appeal A should be dismissed.
499. **Dr Chris Ingate, Headteacher** at Birchwood High School, speaking on his own behalf and also representing the views of Mr Simon Dennis, Principal, Hockerill Anglo European College; Mr Jon Locke, Headteacher, Leventhorpe School; and Mr Tony Sharpe, Headteacher, St Mary's Catholic High School, together with the senior leadership and governors of all 4 schools.
500. The position of the HEHS and the BSHS is understood, and it is appreciated why new and enlarged schools are wanted. Nevertheless there are deep-rooted concerns about these proposals and the processes that have led to these Appeals. Both schools have been badly misled by the County Council on 2 counts. Firstly, the County Council did not assess the options objectively. It did not rigorously apply its parochial "4 tests" to each of the Secondary Schools prior to submitting the initial planning application in 2008. This is an imperative requirement before requesting permission to build on Green Belt, and the fact that Birchwood and Leventhorpe schools could grow further was not properly assessed before applying for outline planning permission.
501. Leventhorpe School, in particular, has a strong case and has recently purchased 4.5ha of recreational land adjacent to its school site. Moreover, the submitted documentary evidence (Docs IP/1-3) shows how the school tried to engage with the County Council planners but was repeatedly ignored.
502. Secondly, there have been serious demographic flaws supplied by the County Council. Local primary schools are not growing, but will experience a slow and discernable decline in numbers over the next 7 years. This fact is supported by the Primary Headteachers themselves and the County Council planners, who have not directed any of the £90m allocated for primary expansion this financial year to the Bishop's Stortford area. With 1,000 places available in Year 7 compared to 670 places in Year 6, there is sufficient existing capacity. The secondary schools are generally all full because any spare non-local places are taken up by students from elsewhere as all the schools in Bishop's Stortford and Sawbridgeworth are successful. However, the County Council forecasts seem to add approximately 500 students between Reception and Year 7 making a case for an apparent shortfall.
503. Both schools have to share a portion of the blame. They are both at fault for poor consultation and for not listening to the voice of the community. One public consultation exercise in 2008 and a variety of propaganda letters and information leaflets has been inadequate. Up until June 2011 both schools refused to change their admission rules, only changing them at the 11th hour to allow the first 10% to local families, having been persuaded by the County Council planners. This 10% offering is a piecemeal gesture. Their admission rules are complex, involve pseudo-

selective measures and aptitude tests attracting students from well beyond Bishop's Stortford.

504. If both schools were allowed to grow, they would no doubt fill, but they would destabilise an effective educational area, drawing in more students from far afield. Schools like Stansted Mountfitchet College, which is now making real improvements under new leadership, would be at greatest risk. Indeed a Statement from the Headteacher at Stansted Mountfitchet College and others, indicates that there is no doubt that if the 2 Bishop's Stortford schools were to be expanded on a new site it would present a significant threat to the viability and survival of the College (Doc IP/10). There is no evidence of the County Council working with Essex Local Authority on assessing alternative options for future school growth.
505. There is no empirical evidence to support the claims that both schools are in poor condition. They are both highly successful and their current sites do not appear to have made any difference to their exam success of late and recent Ofsted judgements. They occupy a niche market for parents who want state-funded single-sex education and Bishop's Stortford is fortunate to have such a diverse mix of schools. The case that the town requires a better balance between single-sex and co-educational provision has no legal standing.
506. Although there are other non-educational issues to be considered in these appeals the headteachers' primary concerns are from an educational perspective. In conclusion there is no case to relocate 2 highly successful schools onto Green Belt land because there is no demographic case to answer; and if further expansion is required in the long-term there are other simpler and less controversial options which were never properly evaluated. The County Council has been driven by financial gain and has not exercised due diligence in supporting these Appeals. The £900,000 already spent on two failed planning applications and these appeals could have built another form of entry at Leventhorpe or Birchwood. This proposal has failed twice already and the appeals should be dismissed.
507. **Mr Peter Janke**, former Headmaster of The Leventhorpe School for 13 years, now retired. He spent all of his working life in schools as a teacher and then headmaster and, since retiring 3 years ago, has worked for the County Council in a voluntary capacity sitting on School Admission Appeal Panels as a member who is "Experienced in Education".
508. The educational need for the relocation of the 2 schools relies substantially on forecasts of pupil numbers presented by the County Council. The original planning application which was considered by EHDC last year was supported by an Education Needs Assessment document ("ENA" – CD A/8). This contains a table showing forecast pupil numbers and this information has been updated by Mr Harris in his Proof of Evidence. These new forecasts are used as the basis for establishing the number of extra pupil places that are required in the future, but no justification is given for the forecasts and no reason as to why they should be accepted.
509. In fact there are a number of reasons for not accepting the forecasts. Firstly, there is no indication as to how the method by which the forecasts have been produced models the way in which the 6 schools' admissions criteria may allocate pupils when the new housing developments in Bishop's Stortford are taken into consideration. The way in which the schools' admissions criteria operate may mitigate some of the problem. Moreover, not all of the "Gap" which has been identified needs to be met.

The "Places available" and "Forecast" columns include Hockerill boarders. Any of the "Gap" attributable to the inclusion of these boarders should be removed.

510. Furthermore, it is unclear from the table whether or not the forecasts include a projection of the additional pupils from the new housing which would be built on the school sites and Hadham Road site, if the appeal were successful. If they have not been included, then the number of pupils which the relocated schools need to accommodate is more than that shown. If they are included, then if the appeal is unsuccessful the number of pupils who need to be accommodated is less than that shown. The forecast figures given by Mr Harris show year by year variations in pupil numbers, although the reason for these variations is not given. Finally in this regard, the forecast figures given by Mr Harris are significantly different from those included in the County Council's original ENA document, but no explanation has been given for this difference.
511. A further concern is that the proposals would fail to achieve their objectives. They are intended to meet the County Council's 4 criteria (Doc APP/4 paras 8.1 and 8.2), but fail to meet the first criterion regarding provision of places. The suggested change to the schools' over-subscription criteria (Doc APP/4 para 6.10), guarantees only that a maximum of 48 of any additional places will be allocated to Bishop's Stortford pupils. This is not sufficient for the number of places required to bridge the Gap in the years shown and prevents the possibility of meeting further demand in Bishop's Stortford in later years. It does not provide a medium term strategy or the longer term strategic option referred to by Mr Harris (Doc APP/4 para 8.23). The proposals would provide additional places in Bishop's Stortford overall, but they would move existing girls' places from the Warwick Road area to Whittington Way.
512. The proposals would fail to meet the third criterion regarding cost. The proposals are not currently self-financing and would require over £7m of funding from elsewhere. Alternative ways of meeting the need for places may fit this third criterion better. Importantly, there is a viable alternative scheme which the County Council has dismissed. The number of extra medium term places needed which has been identified by the County Council is about 125 or less. If this appeal is not successful and the 2 schools do not relocate then building 690 houses on their sites and the Hadham Road site will not take place. The need for extra places can therefore be reduced by about 15, to 110. However, 60 places are already available at Stansted Mountfitchet College. The need for extra places from some alternative scheme is therefore about 50.
513. Extra pupil places in the BS&S EPA could be achieved through the expansion of the Leventhorpe School by 1 to 2FE and Birchwood School by 1FE. Funding of £4.9m is available for this, comprising S106 money from the development of the ASRs (Doc APP/31 App 1). Therefore, more than sufficient additional places could be provided by the expansion of these 2 schools and this scheme would provide a good match to the County Council's 4 criteria. Although Mr Harris rejects this scheme (Doc APP/4 paras 9.45 - 9.49), on most points he is wrong to do so.
514. It is notable that Essex County Council is not involved in this issue regarding the need for extra places in the Bishop's Stortford area. This is a Hertfordshire and Essex problem to which only Hertfordshire seems to be trying to find a solution. Essex should have a role but there is no evidence that this has been explored. Moreover, Hockerill College has recently increased its intake from 107 to 120, with all of the additional places to be allocated to boarding pupils and none to day pupils. This was an opportunity to create additional places for Bishop's Stortford pupils

which may have been missed, and the County Council has not challenged this through the Schools Adjudicator. This suggests that the County Council is not seizing every opportunity to try to mitigate the problem in Bishop's Stortford.

515. Over the years both HEHS and BSHS have had opportunities to spend considerable sums of money maintaining and updating their buildings. Both chose to spend the money in other ways. Little weight should therefore be given to their claims that their buildings are now in a state of disrepair.
516. The original plan for the relocation of the 2 schools which was presented to Bishop's Stortford residents included a number of leisure facilities which would be available to the community. This was advertised in a newsletter and elsewhere in a bid to gain public support for the scheme. It has emerged at this inquiry that some of these facilities are not now included in the schools' plans and it is therefore questionable whether the plans as they now stand still have the support of Sport England and still match the claims made to the community. In view of this, and all the above reasons, Appeal A should be dismissed.
517. **Mr Brian Pigott**, local resident. Mr Pigott submitted a written submission (Doc IP/13), annotated as an objection, and also appeared at the inquiry to present evidence, although he raised no direct objection to any of the appeals which form the subject of this inquiry. Rather, he wished to argue a case of discrimination against himself as an individual, by both the East Herts Council and the Planning Inspectorate. I indicated to Mr Pigott that this inquiry was not the appropriate forum for such submissions to be considered, but in view of the substance of his concerns and the location of the site in question, and in the interests of natural justice, I agreed to report the gist of his case so that the Secretary of State would be aware of these concerns.
518. Mr Pigott lives within 300-400m of the Appeal A site and states that he is the only person to have had planning permission refused by both the Council and the Planning Inspectorate in this part of the Green Belt. An application which he made in 2004 to build an "Eco" bungalow within his garden was refused planning permission on Green Belt grounds and because of conflict with Local Plan policies. A subsequent appeal was dismissed and a further, revised planning application made in 2006 was also refused planning permission.
519. Mr Pigott indicates, however, that prior to his original application the Council had granted planning permission to a local developer for over 30 residential units about 100m from his property. He also maintains that in 2007 the Planning Inspectorate granted planning permission for a nursery/garden centre on Green Belt land close to his property (although information submitted by TPC indicates that this appeal was dismissed rather than allowed (Doc TPC/4)).
520. Mr Pigott further maintains that in the time since his unsuccessful attempts to gain planning permission, the Council has granted further developer applications within the Green Belt. He argues that an application made by an individual is discriminated against by both the Council and the Planning Inspectorate, compared to applications made by corporate bodies. In view of these points he indicates that if planning permission is granted for the Appeal A proposal and the other related proposals he intends to forward a case against the Council and the Planning Inspectorate to the European Court of Human Rights, for "discrimination" within the European Human Rights Act.

Written Representations

521. The County Council as Highway Authority (HA). While the inquiry was sitting a written statement was submitted by the HA. This can be seen in full at CD 6/4, but because of the particular relevance of the subject matter, I provide a summary here. The HA indicates that it has assessed the cumulative traffic impacts of the proposed relocation of the schools, and the development of the existing sites for residential uses, using a series of junction models. It is satisfied that base traffic levels on the network are considerably lower at the time of day when pupils depart from school and has therefore not required a detailed traffic test for this period. Tests were undertaken for both the morning and evening network peak periods. However, as the Appeal B proposal relating to the site at Jobbers Wood does not have any notable peak period movements, it did not form part of the cumulative traffic impact assessment.
522. Although the Scheme A proposal is for the 2 relocated schools to both have 6FE the HA undertook its assessments on the basis of both schools having 8FE, to reflect the planning application lodged initially in 2008. Subject to the imposition of planning conditions and planning obligations as were being discussed in September 2010, the HA raises no objection to this relocation proposal.
523. For Scheme B, the HA raises no objection subject to the imposition of a planning obligation and planning conditions as stated in its formal response to the planning application in 2010. It notes that the remoteness of the site and consequential reliance on the private car raises sustainability issues, but does not consider that an objection could be justified, given the existing use of the site. Furthermore, the HA considers that the B1004, which is a secondary distributor road, is appropriate to accommodate the likely traffic generation.
524. Schemes C to F all involve new residential development. Sites C and F are both currently undeveloped, so the proposed residential traffic would be an additional load on the highway network. In contrast Sites D and E already generate traffic, as the BSHS and the HEHS respectively. The change to a residential use would therefore result in a change in the current traffic generation characteristics. That said, it should be noted that for all schemes the Highway Authority was satisfied that no unacceptable highway problems would arise from any of the proposals, subject to the imposition of the planning obligations and conditions as set out in its formal response to the Council in September 2010 (see CD C/14, CD D/22, CD E/21 and CD F/21).
525. It is of note that the Highway Authority reached this view in the knowledge that the Transport Assessments (TA) for each of the sites assumed a higher number of dwellings than form part of the current proposals, thereby over-estimating the traffic impact. In the case of Scheme C, the TA tested 250 dwellings whereas the proposal is for 165 dwellings; for Scheme D the TA tested 312 dwellings whereas the proposal is for 220; for Scheme E 150 units were tested rather than the 125 currently applied for; and for Scheme F the TA tested 200 dwellings but the appeal proposal is for 150 dwellings.
526. The likely future operation of London Road has been particularly considered and assessed by the HA, as part of its overall recommendation, with the predicted changes in flows as a result of the development proposals having been tested using

the HA's SATURN model. In addition, detailed junction assessment models (LINSIG and TRANSYT¹²) have been prepared by the Appellants for the junctions along London Road, namely London Road/Whittington Way; London Road/ Pig Lane; London Road/ BSHS Access; and London Road/ Thorley Hill. The HA has audited these models and is satisfied that no unacceptable traffic problems would arise with the development proposals, subject to the mitigation package contained in the HA's recommendation.

527. The submitted planning applications contained details of a School Travel Plan for each of the schools in the Transport Assessment, and the S106 Agreement and unilateral undertakings provide for Travel Plans to be submitted to the HA for its approval. Subsequently, the applicant has submitted detailed Travel Plans for each of the schools and these have been audited by the County Council School Travel Plan Officer. These Travel Plans are considered to be acceptable in principle and would play a major role in facilitating travel by sustainable means. In addition, the HA considers that the appeal proposals are consistent with both National Policy in relation to transport, contained in PPG13 "Transport", and County Council transport policies set out in Hertfordshire's Local Transport Plan 2006/07-2011/12 (LTP).
528. The HA refers to the Bishop's Stortford Transport Strategy in its recommendation. The context is that the implementation of the Bishop's Stortford Transport Strategy will mitigate against the future impacts of traffic growth. Since the HA's initial recommendation of no objection in 2008, traffic flows and traffic growth projections have reduced and the initial pressures highlighted in 2008 are therefore not so prevalent. However, the Bishop's Stortford Transport Strategy remains a live priority of both the County Council and the District Council and further studies are progressing.
529. Other written representations. Almost 140 separate representations were made at appeal stage, including a few which were submitted whilst the inquiry was sitting. These can all be seen at Document IP/14. About 101 of these oppose one or more of the proposals, whilst about 31 are written in support. There are also a handful that appear to neither oppose nor support, but are broadly neutral. These written representations add no materially different points to those raised by the Council, BSCF, TPC and the interested persons who spoke at the inquiry. All other areas of concern are addressed either by the obligations in the S106 Agreements or by the suggested conditions, detailed below.

Conditions

530. Six separate schedules of conditions (one for each appeal), generally agreed between the Council and the Appellants as necessary to be imposed should planning permission be granted for any of these proposals, are to be found at Appendix C (see also Doc JNT/1). Reasons are given as to why each condition is considered necessary. I have made minor amendments to the suggested wording, in some instances, to ensure consistency between the appeals, where appropriate.
531. In addition, I have ensured that a condition requiring the submission of a Green Travel Plan and its approval by the Council is included in each schedule. I acknowledge that such matters are included in each of the planning obligations and that paragraph 13 of Circular 11/95¹³ advises that matters covered by a condition

¹² TRANSYT - Traffic Network Study Tool. Used to assess and optimise the performance of networks of road junctions

¹³ Circular 11/95: The Use of Conditions in Planning Permissions

should not be duplicated by a planning obligation. However, in deciding to recommend such conditions I have been guided by paragraph 12 of this Circular which indicates that the imposition of a condition is preferable to seeking to deal with a matter by a planning obligation as this latter option deprives the developer of the opportunity of seeking to have the restrictions varied or removed by an application or appeal under Part III of the Act if they are or become inappropriate or too onerous.

532. For some of the appeals, alternative wording for certain conditions has been put forward, where agreement could not be reached. I have listed each alternative and, in my Conclusions, I have given my views and reasoning as to which I consider to be preferable. Although the BSCF and the TPC attended and contributed to the inquiry session which dealt with conditions, many of the points they sought to have included did not accord with the 6 tests for conditions set out in Circular 11/95.
533. In summary, a total of 21 conditions are suggested for Appeal A, all of which are agreed between the main parties. For Appeal C a total of 15 conditions are suggested. Of these, 15 are agreed between the main parties, but alternative wording has been suggested for Condition No 3, which would link Scheme C to Scheme A. In addition, it should be noted that suggested Condition No 15, dealing with matters of energy efficiency, is in a different form to similar conditions suggested for Appeals D, E and F, but the suggested wording is as agreed at the inquiry.
534. There is much similarity between the conditions suggested for Appeals D, E and F. In total, 19 conditions are suggested for Appeal D, 18 for Appeal E and 17 for Appeal F. The areas of disagreement on these are confined to the appropriate wording of the condition seeking to secure energy efficiency measures; and the linkage mechanism between each of these appeals and Appeal A. In addition, for Appeal D the Appellants dispute that a condition is necessary in relation to the exchange of land with Thorley Hill Primary School, arguing that this is not a planning matter and has, in any case, been agreed between the parties.
535. Appeal B is somewhat different to the other appeals insofar as it relates to a proposal to vary a condition attached to an existing permission. This existing permission, which can be found at CD B/4, has 21 conditions attached to it, with Appeal B simply seeking to vary Condition No 2. The agreed schedule, at Appendix C, contains a total of 8 conditions. One of these is a straightforward variation to the disputed Condition No 2, with 2 of the others being new conditions considered by the parties to be necessary to accompany and support the varied condition, whilst the remaining 5 conditions are duplicates of some already attached to the existing permission, but which are considered by the parties as still subsisting and capable of taking effect.

Planning Obligations

536. As noted in paragraph 13 above, a total of 5 planning obligations were submitted by the Appellants (Docs APP/73 to APP/77). For Scheme A the planning obligation comprises a S106 Agreement, made between the EHDC, the County Council, the Governors of the BSHS, the Governors of the HEHS, Countryside Properties (UK) Limited and a number of other parties. This Agreement addresses such matters as financial contributions, School Travel Plans, a Car Parking and Management Plan and the provision of new bus services (see Doc APP/73 for full details).

537. For Scheme C, a S106 unilateral undertaking was submitted by the County Council to EHDC. It addresses such matters as financial contributions, the provision of fire hydrants, Open Space, Lifetime Homes, a Residential Travel Plan and the provision of affordable housing (see Doc APP/74 for full details). For Scheme D a S106 unilateral undertaking was submitted by Countryside Properties (UK) Limited, the Governors of the BSHS and the County Council to EHDC and the County Council. It addresses such matters as highway works, financial contributions to both the District Council and the County Council, the provision of fire hydrants, Open Space and Play Areas, a Residential Travel Plan and the provision of affordable housing (see Doc APP/75 for full details).
538. For Schemes E and F, separate S106 unilateral undertakings were submitted, by Countryside Properties (UK) Limited and the Governors of the HEHS to EHDC and the County Council. In a very similar fashion to the case of Scheme D, these address such matters as highway works, financial contributions to both the District Council and the County Council, the provision of fire hydrants, Open Space and Play Areas, a Residential Travel Plan and the provision of affordable housing (see Docs APP/76 & 77 for full details).

My conclusions begin on the next page

Conclusions¹⁴

539. The 6 appeal schemes which were considered together at the inquiry comprise an inter-related and inter-dependent package of proposals, with this inter-dependence being both financial and physical^[2,3]. In financial terms, proposed housing development on the sites at Hadham Road (Site C), the Boys' and Girls' Schools (Sites D & E respectively); and the Beldams Lane sports field (Site F) is intended to fund the relocation of the Boys' and Girls' Schools to a new site within the Green Belt, to the south of the town at Whittington Way (Site A). In physical terms, the current school sites clearly cannot be redeveloped unless and until the 2 schools have vacated them and are operating from a new site. Furthermore, Site C is identified under Local Plan policy BIS7 as a reserve secondary school site, which can only be released for residential development if sufficient additional secondary school capacity is provided elsewhere in the town^[42,51].
540. Although the Appeal B proposal for the variation of a condition restricting use of the sports facilities at Jobbers Wood is treated as part of this overall package, the Appellants' view is that it can stand on its own and be determined without being contingent on the outcome of the other appeals^[206-7]. Whilst this view is not fully endorsed by either the Council or the Rule 6 Parties, there is no clear financial inter-dependence between Scheme B and the other proposals nor, as far as I can see, is there any physical inter-dependence. I therefore consider that this proposal can be considered on its own merits. I do so, later in this Report.
541. It is clear that the necessary first step in assessing these proposals is to reach a decision on the acceptability or otherwise of Scheme A, also referred to as the lead appeal. These conclusions are therefore structured to consider Appeal A first, then the dependent Appeals C to F. Finally I deal with Appeal B.

Appeal A

542. The Council originally refused planning permission for Scheme A for 3 reasons^[3]. However, the differences between the main parties were narrowed as a result of further investigations and discussions and, following the submission of a supplementary noise report from the Appellants, the Council agreed that this satisfactorily addressed the original reason for refusal concerning the likely noise environment^[6]. Accordingly, at the inquiry the Council only maintained 2 reasons for refusal for this scheme^[6]. Objections to the proposals on the grounds of noise were, however, maintained by both the BSCF and the TPC. In addition the TPC (and others) objected to the proposals on the grounds of unacceptable impact on the Hertfordshire Way and also on the grounds that proposed lighting and noise and disturbance from out of hours' activities would have a harmful impact on the living conditions of nearby residents^[250,368,457].
543. In view of all the above points, and the evidence presented at the inquiry, I have concluded that the main considerations in **Appeal A** are best expressed as:
- i. Whether the proposals would constitute inappropriate development for the purposes of PPG2 and development plan policy;
 - ii. The effect of the proposed development on the openness and the visual

¹⁴ References in superscript square brackets are to preceding paragraphs in this Report, upon which my conclusions draw.

amenities of the Green Belt;

- iii. The effect of the proposed development on the Hertfordshire Way;
- iv. Whether the proposed development would result in an acceptable educational environment, particularly having regard to the effects of aircraft noise;
- v. The effect of the proposed development on the living conditions of nearby residents, with particular reference to external lighting and noise and disturbance;
- vi. The effect of the proposed development on the safety and convenience of users of the local highway network;
- vii. If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

544. As part of the examination of the merits of Scheme A there was a significant amount of evidence presented and tested at the inquiry on matters such as educational need; alternative ways of meeting such need; and schools admissions policies. These matters are an integral part of the Appellants' case that very special circumstances exist to justify the proposed development. Accordingly I deal with such matters as part of the assessment of "other considerations", referred to above under item (vii).

i) Whether the proposals would constitute inappropriate development for the purposes of PPG2 and development plan policy

545. This issue can be dealt with fairly briefly as there is general agreement between the parties on a number of matters. Paragraph 3.1 of PPG2 states that the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Furthermore, paragraph 3.4 of PPG2^[96], echoed by Local Plan policy GBC1^[42,229], states that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of a number of specified purposes. These do not include educational uses. PPG2 does, however, indicate that new buildings which comprise essential facilities for outdoor sport and outdoor recreation, and which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it, are not inappropriate.

546. Reference was also made by all main parties to the NPPF^[46,197,203]. It was generally accepted that the tests and provisions it contains are not materially different to those in PPG2, although it should be noted that the NPPF was only in draft form at the time the inquiry was held and when this report was written, and may therefore be subject to change. The consultation period ended a few days before the inquiry closed, but no updated information on any changes has been issued. In these circumstances it is appropriate to accord only limited weight to this emerging NPPF.

547. With these points in mind, there is no dispute between the parties that the proposed new built development comprising the school buildings, the car parking and the construction access route would represent inappropriate development^[96,229]. There is less agreement concerning the other aspects of the overall proposals, such as the outdoor sports pitches and sports areas (including the AWP and the MUGA), outdoor space or landscaping (including terracing) and the associated fencing and floodlighting. Whilst the Appellants' position is that these elements would come

within the category of essential facilities for outdoor sport and outdoor recreation, the Council maintains that they still need to be assessed in terms of their impact on the Green Belt and the surrounding area^[229]. Indeed, in this regard it should be noted that the definition of a “building”, in Section 336 of the Act, includes any structure or erection. This means that any fencing and floodlighting also needs to be assessed against paragraph 3.4 of PPG2.

548. In the “artist’s view of the site”, to be found in Appendix 6 of Mr Hawkins’ evidence, fencing and floodlighting are shown around the perimeter of the AWP and the MUGA^[96,241]. Although this can only be considered as illustrative at this stage, it is nevertheless an indicator of the Appellants’ current thinking in this regard. It is quite understandable why such features are being considered for a school site that would also provide opportunities for community use, as floodlights would extend the periods over which these sports areas could be used, and fencing would undoubtedly aid both security and safety.
549. I accept the Appellants’ point that floodlights can legitimately be associated with outdoor sports uses in the Green Belt, but this does not mean that they are inherently acceptable in such locations. Rather, it indicates that they can be considered acceptable, as part of an overall Green Belt balancing exercise. However, it is clearly the case that outdoor sport can be played without the need for either floodlights or fencing and it would therefore be incorrect to class them as essential facilities for outdoor sport and recreation. Accordingly they have to be considered as inappropriate development in this case.
550. With regards to the proposed terracing of the playing field area, to better accommodate the necessary pitches, this engineering operation falls to be assessed against paragraph 3.12 of PPG2 and also Local Plan policy GBC1^[42]. This explains that the carrying out of such operations would be inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. In this case the proposed works would not result in the placing of any material structures on the land, and I am not persuaded that any changes in levels would unduly affect openness. Moreover, the proposed use of the playing fields for outdoor sport and recreation would not conflict with the purposes of including land within Green Belts, set out in paragraph 1.5 of PPG2^[45,236]. For these reasons the terracing of the sports pitches would not constitute inappropriate development.
551. Notwithstanding my favourable findings on this latter point, for the other reasons given above my conclusion on this first main consideration is that the Appeal A proposal, as a whole, would be inappropriate development in the Green Belt. Accordingly it would also be in conflict with saved Local Plan policy GBC1. Paragraph 3.2 of PPG2 makes it quite clear that inappropriate development is, by definition, harmful to the Green Belt, and that it is for the Appellants to show why permission should be granted. It goes on to say that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The need for very special circumstances to be demonstrated is repeated in Local Plan policy GBC1.
552. I deal with other aspects of harm under the next few headings and then examine the other considerations put forward by the Appellants in support of this proposal, to assess whether they carry sufficient weight to be considered very special circumstances.

ii) Effect of the proposal on the openness and visual amenities of the Green Belt

553. Openness. Paragraph 1.4 of PPG2 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and makes it clear that openness is the most important attribute of Green Belts^[45,234]. In addition to seeking to check the unrestricted sprawl of large built-up areas, 4 further purposes of including land in Green Belts are set out in paragraph 1.5 of PPG2, namely to prevent neighbouring towns from merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land^[45,239].
554. Although openness is not defined in PPG2 it is generally taken to mean the absence of visible development. In this case, the whole of the site is currently free of built form, although it is right to record that a row of wooden electricity pylons does cross the site, in a generally north-south direction. The proposal is to construct buildings with a total floor area of some 26,000sqm towards the centre of the overall appeal site, with landscaped areas of car parking for up to 348 vehicles, sited to the north of the buildings and sports pitches wrapping round the proposed buildings to the west, south and east^[59,63]. There is no doubt that by extending development further south than the current settlement boundary, onto greenfield land, the proposal would conflict with the Green Belt purpose of seeking to safeguard the countryside from encroachment.
555. Indeed, both the written and oral evidence of the Appellants' Design witness, Mr Hawkins, emphasises that the design approach has been to position the proposed buildings so as to take advantage of their location, in order to create a carefully designed visual presence for the 2 schools and form a positive new southern edge to the town^[100,105,241,362]. Although only illustrative at this stage, Mr Hawkins' evidence indicates that the BSHS would be located to the western side of the area of buildings. It would comprise classrooms for a 6FE intake, arranged in 5 separate blocks, predominantly 2-storey but with 3-storey elements to the northern side. These would have a maximum height of 12m, plus an allowance of 2.5m for plant, which would be concealed by a roof and/or screen, giving an overall maximum height of 14.5m^[60].
556. In contrast, the classroom element of the HEHS, again to accommodate a 6FE intake, would be located to the eastern side of the area of buildings, arranged in a rectangular building block of 2-storeys set around a courtyard, to echo the provision of a similar, popular feature of the existing HEHS^[58]. The "core" facilities, to be shared by both schools, would be designed for an 8FE intake and would be positioned more or less centrally on the site, between the 2 areas of classrooms. The illustrative material shows this central block as a single, fairly large 2-storey structure, albeit broken up by glazed elements bordering the proposed swimming pool and breakout areas^[59].
557. The Appellants have pointed out that the floorspace would be arranged in a series of articulated buildings, covering some 14% of the overall site, rather than a single block and that the buildings would be cut into the site a little^[99]. They also maintain that this built part of the proposals would only represent a small part of the overall area of land between Whittington Way, Obrey Way, St James Way and London Road, with the majority of this area remaining open^[99]. However, notwithstanding these points it is quite apparent that what would amount to large buildings, spread

over a fairly extensive area, would have a clear and significant adverse impact upon the openness of this part of the Green Belt.

558. Although Mr Hawkins' position appeared to be that any impact on openness was dependent on whether the development in question could be seen or not, this is not an appropriate interpretation of Green Belt policy^[237]. The very presence of development, in itself, is sufficient to impact upon openness. This was acknowledged by the Appellants' Landscape witness, Mr Clark, and in their closing submissions the Appellants did not dispute that the proposals would reduce the openness of this part of the Green Belt^[99,101].
559. Furthermore, in this case the reduction in openness would be added to, albeit to a lesser extent, by cars parked within the extensive parking areas to the north of the school buildings, and also by fencing and floodlighting around the MUGA and AWP^[106]. As many of the proposed parking spaces would be used by staff and some pupils they would be likely to be occupied for much of the school day, with possible additional use for community activities at the site in the evenings and weekends. With regard to the proposed fencing and floodlighting, as these elements would be sited further south than the main buildings they would result in further encroachment into the open countryside. That said, the slender nature of the proposed floodlighting columns and the fact that they would be relatively few in number means that their overall impact would only be slight^[106].
560. In view of the above points, and having had regard to the overall size and scale of the proposed buildings and the illustrative indications of their massing, I conclude that the proposed development would have a very significant adverse impact on openness. I therefore attach considerable weight to this matter.
561. Visual Amenities. The appeal site lies within the north-eastern part of the Thorley Uplands Area 85, as defined in the Council's LCA, adopted as a SPD in 2007^[87-8]. As well as serving to identify the distinct landscapes within East Hertfordshire, this LCA also provides a landscape strategy and guidelines for conserving and enhancing the character of each character area.
562. The main characteristics of Area 85, as described in this LCA and also highlighted by the Council's Landscape Officer in the report to Committee of September 2010, are that it contains few settlements or buildings with its main feature being arable agricultural production. It is further described as being very rural, almost isolated, with negligible impact from the southern edge of Bishop's Stortford. The point is also made that although the area is remote, it lacks tranquillity due to the aircraft overhead coming and going from Stansted. In terms of rarity and distinctiveness the LCA comments that this is a most unusual area, elemental and simple and of a scale undreamed of in the cluttered south-west of the county^[242].
563. In contrast, the Appellants' Landscape witness, Mr Clark, took the position that the elements of this LCA are not particularly rare and that the scale of the agricultural landscape is not dissimilar to that found in numerous locations in Hertfordshire and the surrounding counties^[243]. He referred to the National Character Area within which the appeal site lies, but submitted no further evidence on this matter to reinforce the point being made. In any case, I am not persuaded that there is anything to be gained by any such reference. The fact remains that the appeal site lies within the Local Character Area 85, and it is in this context that the appeal proposals need to be assessed.

564. From my own observations, I saw that the site, which is currently in arable use, slopes gently downwards, more or less from north-west to the south-east, in a somewhat undulating manner. It is generally open, being crossed in a north-south direction by a field hedge and in the east-west direction by the Hertfordshire Way long-distance footpath (Footpath 4/34), which is bounded by hedging along some of its length. Parts of the site are clearly visible from a number of public viewpoints, in particular from the Hertfordshire Way and a further public right of way which passes to the south of the appeal site (Footpath 3); from Obrey Way in the west; parts of St James Way to the south; and from Thorley Street in the south-east. I acknowledge, however, that some of these views are shielded somewhat, for example by buildings alongside Thorley Street to the south-east; by the St James Way cutting to the south; and by Thorley Wood further to the south^[87].
565. It is into this setting that the relocated schools would be placed. The Appellants accept that as a result the immediate character of the appeal site would change, and further acknowledge that the proposed buildings, in a landscaped setting of playing fields and trees, would be less typical of Area 85 as a whole than arable fields^[102]. They maintain, however, that as the area between St James Way and Whittington Way is physically cut off by the bypass, it is already distinct from the wider Area 85 and that the lighting associated with the roundabouts and the planting along St James Way provide a further degree of visual separation^[102]. However, whilst the presence of the bypass does have some visual impact, much of the bypass cannot clearly be seen from within the appeal site itself, as it is lost within the wider landscape views.
566. The impact of the proposals can be seen in the indicative photomontages of the proposals which are included within the LVA of the main ES^[248]. Although the Appellants indicated at the inquiry that changes to the proposal since 2008 mean that both the positioning of the school buildings and the form of landscaping have undergone some revision, there was no suggestion that the images in the LVA cannot be taken to give a representative impression of the overall impact of the proposal. Of the 19 viewpoints of the site assessed as part of the ES, all except 1 had some degree of adverse visual impact^[248]. I share the Council's view that these points have to be considered as weighing against the proposals.
567. In terms of the most up to date landscape proposals (although still only illustrative at this stage), there is no attempt to hide or screen the new buildings. Indeed, the Appellants' approach is that it is not inappropriate for buildings to be visible^[361]. Mr Clark explained that the landscape proposals seek to create a changed landscape and a changed visual appearance addressing both the open countryside to the south and the function of the buildings^[103,361]. It is argued that with careful consideration of the building levels and the topographical landscape terracing, combined with a sensitive and well considered tree planting strategy, it would be possible to 'settle' the buildings into the landscape. The Appellants maintain that this would make a positive contribution to the views and character of this edge of the town as seen on approaching the town from London Road and St James Way^[356].
568. Mr Clark has approached his task of designing the landscape proposals on the basis that the relocation of the schools to this site has already been justified in planning terms. This is apparent from his written evidence and was also clear in the way he presented his evidence at the inquiry^[361]. In these circumstances the design approach he has adopted, detailed above and presented graphically in 2 "illustrator's impressions", is quite understandable^[102,255]. However, it appears to pay only limited regard to that part of the Council's LCA which deals with the

strategy and guidelines for managing change. For Area 85 these are stated to be "Conserve and Strengthen", and to achieve these objectives the SPD sets out recommended actions under 11 bullet points^[103,244].

569. These are referred to by Mr Clark in his written proof, where he highlights the fact that the landscape proposals accord with 6 of these recommended actions^[103]. However, the main element of the appeal scheme, namely the relocation of the schools themselves, would be in clear conflict with the recommendation to resist development proposals that would permanently damage the character of the area by altering its scale and landscape pattern. There can be no doubt that the scale and landscape pattern of this part of Area 85 would be permanently altered, but although this is accepted by Mr Clark, he sees no reason why the detailed landscape proposals should not reflect and build on, wherever it is practical, the surrounding landscape character of the area^[103].
570. This stance reinforces the fact that the thrust of the Appellants' argument appears to be a clear acceptance that the character of the appeal site would be changed, but that this change would extend no further than the immediate environs of the appeal site itself and should therefore be seen as acceptable^[105]. Further points which the Appellants argue would limit any harm arising from the proposals are that the new buildings would not be seen together with Thorley church in any views from public footpaths, nor would they appear in any important views of listed buildings^[104]. The Appellants also maintain that even though there would be views of the school buildings from some dwellings on the western side of Thorley Street, the topography of the site and the existing and proposed vegetation and planting would mean that the buildings would not be over-dominant^[104].
571. In the Appellants' view, the harm comes down to the difference between the southern edge of the town being defined by the planting alongside Whittington Way, introduced when the road was constructed in the 1970s, and a new southern boundary defined by the proposed schools in their landscaped setting^[103]. However, to my mind this is too simplistic a way of assessing the proposal as it ignores the intrinsic value of the current open, rural and isolated character of the site which is clearly appreciated and valued by those who interact with it on a regular basis^[453,456].
572. Part of the Council's reason for refusing this proposal was that it considered there to be a conflict with Local Plan policies ENV2 and GBC14^[42]. Amongst other matters, the first of these requires new development proposals to retain and enhance existing landscape features, whilst the latter seeks to ensure that development proposals improve and conserve local landscape character. Both of these policies explain that appropriate mitigation measures will be necessary where damage to, or loss of, local landscape character and features is unavoidable, and I acknowledge that the Appellants have sought to comply with this aspect of the policies through their landscape design. However, whilst the measures proposed would undoubtedly serve to reduce the impact of the proposed development on the surrounding landscape, there is no doubt that harm would be caused to this part of Area 85.
573. In addition to the above, it is clear that there would be a significant adverse impact on trees on the site, with almost 150 needing to be removed^[112,255]. Whilst I acknowledge that only 1 of these is of Category A (and might in fact be saved), and 2 are of Category B, the loss of such a large number of trees is bound to have a significant visual impact in the short to medium term at least. I accept that extensive planting plans are proposed, and have noted the Appellants' comments

that overall, and in time, these landscape planting proposals would provide a net increase in the number of trees on the site and surrounding area. However, whilst this may indeed be the case, the Appellants' own Landscape witness commented that any new trees could take "10-20 years" to get to any height^[222]. This has to also have a harmful impact on the visual amenities of the Green Belt.

574. In summary, the impression I obtained from my site visits was that because of the prevailing open, rural topography and landform, the proposed development would be a prominent and somewhat discordant feature in the surrounding landscape. The built elements and hard-surfaced areas would introduce an urban or suburban character to the central part of the site and this would clearly be visually detrimental to this part of the Green Belt.
575. Having regard to all the above points, and notwithstanding the indicative proposals for landscaping, I conclude that the appeal proposals would have a significant adverse impact on the visual amenities of the Green Belt and therefore would be in conflict with Local Plan policies ENV2 and GBC14. As a result of both the clear policy conflict and the physical harm identified above this matter attracts considerable weight against the appeal proposals.

iii) Effect of the proposed development on the Hertfordshire Way;

576. The Hertfordshire Way is a circular route of some 304km (190 miles) along public rights of way. Information submitted to the inquiry explains that the route has been chosen to pass through a variety of Hertfordshire scenery, mostly in open countryside, but also passing through some of the county's more interesting and attractive villages. Hertford and St Albans, as the county town and main historic centre respectively, are listed as the only large towns on the route^[496]. Of particular relevance to these appeals is the fact that the Hertfordshire Way crosses Site A in an east-west direction as Footpath 4/34, with a total of some 615m lying within the appeal site.
577. At present, this stretch of footpath is completely rural. Walkers entering the site from Thorley Street in the east, alongside the grounds of Thorley House, find themselves on an unbounded footpath passing across arable land, with extensive open views to the south and also open views to the Whittington Way hedging to the north. The path continues westwards in this form for some 200m until it meets a field hedge. This hedge runs southwards, extending beyond the appeal site boundary, but it also continues to the west and the Hertfordshire Way runs immediately to its south. This means that open views can still be gained to the south, but views to the north are curtailed by the hedge itself. The footpath continues in this manner to the edge of the appeal site, and then runs for about a further 140m, skirting a copse, before joining Obrey Way^[107].
578. Under the appeal proposals the route of the Hertfordshire Way would be unchanged, but its character would be significantly altered. Again travelling westwards from the point where the footpath enters the appeal site by Thorley House, for the first 120m the path would remain unsurfaced but would be bounded on both sides by trees and hedging, as it passes alongside playing fields to the south and the proposed parking area to the north^[107]. Then, for the next 316m or so, the Hertfordshire Way would effectively be incorporated into the paved "plaza" area which is proposed to lie to the northern side of the school buildings. This stretch of the footpath would be crossed at either end by the vehicular route which

would provide drop-off facilities at the front of the schools. In addition the drop-off area itself would lie more or less alongside the Hertfordshire Way^[110].

579. The plaza area is described in the design proof of evidence of Mr Hawkins as potentially being used for a range of informal leisure activities, both by the schools and community (out of school hours)^[107]. It is suggested that such activities could be linked to sports events or be used for a charity fete or farmers' market. As such it seems that the plaza area could be a popular and quite busy area for periods throughout the school day, and that use of the area could also extend into the evenings and weekends on occasions.
580. The Appellants acknowledge that the character of the section of the Hertfordshire Way that passes through the site would change significantly, but take the view that this change should not necessarily be seen as detrimental. Indeed, they argue that the event of passing through a 21st century educational campus, set within the Green Belt, would provide a dramatic and interesting aspect to the footpath^[108]. Moreover, they claim that this revised treatment of the Hertfordshire Way would serve to improve security and surveillance and provide pedestrian access for pupils walking to school from either London Road or Obrey Way. Overall the Appellants consider that the changes would not constitute any significant recreational harm, when looked at in the context of the variety and scenic value of the whole route of the Hertfordshire Way, or any substantial harm in terms of visual amenity^[108].
581. However, although no particularly detailed information was provided with regard to other sections of the overall route, it is clear from the submitted evidence that this long-distance footpath is predominantly rural in nature. This can be gleaned from the photographs chosen to illustrate the small publicity leaflet for the route, and also from the oral evidence of Mr Richardson which explained that many of the excursions into urban areas are to provide links to public transport for users of the route who do not have access to a car^[371,495,497].
582. Whilst some sections of route do pass through urban and urban fringe areas, including through the station car park at Bishop's Stortford and close to the multiplex cinema, Mr Richardson's evidence indicates that the organisers and promoters of the route would wish to reduce urban stretches rather than increase them^[498]. Furthermore, although the stretch of the Hertfordshire Way which crosses the appeal site is only small in the context of the length of this long-distance route as a whole, the evidence from Thorley Parish Council makes it clear that this section is highly valued as a local footpath for parishioners and other local people^[369,453].
583. Although only 316m would run directly in front of the school buildings and form part of the paved plaza, the nature of the 2 stretches either side would also change as they would be more constrained as a result of the proposed trees and hedging either side^[107]. The central, paved part of the path would take on an urban feel and the overall character of the whole stretch across the appeal site would be dominated by educational activity in one form or another. This would range from pupils, teachers and others coming and going from the school buildings, both across and along the footpath/plaza; vehicular and parking activity along the internal access road/drop-off area and within the parking area; and sporting and recreational activities on the playing fields and MUGA and AWP.
584. I acknowledge that a new permissive path would be created at the north-eastern corner of the site, linking the Hertfordshire Way to Whittington Way, passing

through the landscaped parking area, and accept that this would be a useful addition to the rights of way network^[108]. However, it would only be provided if the appeal proposals themselves go ahead, and in those circumstances it would simply seem to duplicate the proposed footway alongside the eastern arm of the site access road. As such its overall benefit is unclear, but in my assessment it would not serve to compensate for the change of character of the main stretch of the Hertfordshire Way.

585. I have also been mindful of the comments from the TPC that if the proposals were to go ahead, there may be calls for the extinguishment of the section of Hertfordshire Way that runs through the schools' premises, on the grounds of the safety and protection of children^[374]. However, no firm evidence on this matter was placed before me, so even though the Parish Council made reference to a similar, unresolved situation at the Hockerill Anglo European College, it is difficult for me to give this matter any weight in these appeals^[374].
586. Despite my findings on this latter point, having regard to all the other matters set out above there can be no doubt that the Appeal A proposals would have a significant adverse impact on the character, appearance and enjoyment of this section of the Hertfordshire Way, in both recreational and visual terms. Accordingly I find the proposals to be in conflict with Local Plan Policies ENV1, ENV2 and LRC9. Notwithstanding the fact that this section of footpath may only comprise a small length of the overall Hertfordshire Way, it is an important feature of the appeal site and because of this the harm which would arise should still be regarded as significant.

iv) The educational environment and the effects of aircraft noise;

587. The Whittington Way site lies close to, but not directly under, the path of aircraft arriving at or departing from Stansted Airport by the BUZAD flight path, which is the most commonly used departure route^[88]. As a result, aircraft noise is a factor affecting the site, and the question of whether an acceptable educational environment could be provided within the proposed school buildings and grounds was a matter of concern to the Council at the time it refused planning permission^[3]. Indeed its original reasons for refusal stated that it was not satisfied that the impact of aircraft noise nuisance on internal teaching spaces had been properly considered. It raised no particular concern about the external noise environment as there are no mandatory requirements concerning such matters.
588. The Council arrived at this position because prior to determining the planning application it had engaged independent Noise Consultants WBM, to advise on a number of matters^[175]. These included whether or not an acceptable educational environment could be created for both internal class-based and external learning; and whether or not, given the potential for future changes to aircraft routing, there is the possibility of future greater impact on the quality of the environment to be created for learning.
589. However, following the refusal of planning permission, meetings and discussions took place between WBM and consultants for the Appellants, with a "Supplementary Noise Information" Report being issued by Mr Gayler for the Appellants, which (from the Council's viewpoint at least), satisfactorily addressed the various matters of concern^[175]. As a result a SoCG on Noise was signed on behalf of both the Appellants and the Council, and the Council subsequently indicated that it would not defend this noise aspect of the reasons for refusal at the inquiry^[6].

590. The BSCF did, however, maintain its objections on noise grounds at the inquiry, and the evidence presented by its witness, Mr Peachey, also reflected the views and concerns of TPC on this topic. On the basis of the noise figures agreed between the Appellants and the Council, the BSCF appears to accept that the appeal proposals for 2 6FE schools could be designed to accord with the noise standards for internal teaching spaces set out in Building Bulletin 93 ("BB93" - Acoustic Design of Schools). On this same basis it also takes no direct issue with the Appellants' claim that noise levels at external teaching areas and the playing fields would not conflict with the non-mandatory upper guideline values set out in BB93^[427].
591. Nevertheless, it points out that noise levels at Whittington Way would be higher than at other possible, alternative locations for meeting the identified educational need, such as at Hadham Road (Site C), Stansted Mountfitchet College or Leventhorpe School, which are all less affected by aircraft noise than Site A. As a result it maintains that this should weigh against the appeal proposals and in favour of providing additional capacity at sites other than Whittington Way^[429]. However, as the proposed development at the Whittington Way site would accord with the necessary standards and requirements for both the internal and external noise climate, the fact that there may be alternative sites, seen as preferable by some, can carry very little weight in any assessment.
592. I acknowledge the BSCF's point, that no evidence was heard at the inquiry regarding any additional cost which designing and constructing buildings in accordance with the requirements of BB93 would involve^[430], although I do not find this unduly surprising in the context of the outline proposals which are before me. It may well be the case that this would increase construction costs to some extent, but there is no indication in the Appellants' design proof that this is of major concern, and in the absence of any firm evidence on this topic I consider this to be a largely neutral matter in the overall balance.
593. A related matter of concern, raised by the BSCF, is the absence of firm information to demonstrate that the "light-weight" structures referred to by Mr Hawkins, as a possible means of adding further classrooms to the roof areas to provide 8FE capacity, would also meet BB93 requirements^[310,430]. This is not a matter of direct concern in these appeals, as the possible increase to 8FE does not form part of the current proposals. That said, the absence of any firm information to demonstrate that BB93-compliant, light-weight structures, could be added to the currently proposed buildings does serve to lessen the weight which can be given to any "flexibility" credentials of these relocation proposals.
594. More specifically, however, the BSCF maintains that the Appellants have not taken proper and full account of a number of matters which are likely to influence the extent of noise arising from the operation of Stansted Airport. The first of these points is the assertion that noise measurements and forecasts used by the Appellants do not reflect the full potential expansion and operation of Stansted under the approved Generation 1 ("G1") development^[431]. Under this development the airport can expand from some 25 million to 35 million passengers per annum ("mppa"), which is equivalent to an increase from 241,000 to 264,000 aircraft movements^[431].
595. However, the BSCF points out that the actual number of aircraft movements at the Airport in 2011 was just 140,072, well below both the pre-G1 and post-G1 maximum values; and that because of this the Appellants' approach of simply adding a 2dB correction to the measured figures, to allow for the G1 expansion,

understates the impact of aircraft noise at Site A^[431]. On the one hand this is a valid point, but I have noted that actual noise readings taken by Mr Gayler, at a location where the school buildings would be situated, recorded 7 flights on the BUZAD route passing overhead during a period of one half hour - the equivalent of 14 flights per hour^[176]. This volume of air traffic, which is slightly higher than the "worst case" scenario referred to by the BSCF, produced recorded noise levels of 52.8dB_{L_{Aeq30mins}} for the area of the proposed school buildings and 55.1dB_{L_{Aeq30mins}} for the playing fields^[176].

596. Moreover, Mr Gayler indicated that he had added 2dB to the recorded readings to allow for full G1 expansion at the airport, and had then adopted a design level in his Supplementary Noise Report of 60dB_{L_{Aeq30mins}}, effectively allowing a safety margin of some 2.5dB^[177]. This seems to be a rigorous approach, and on this basis I am satisfied that the proposed school buildings and grounds have been designed against a realistic set of noise levels which satisfactorily reflect the likely scenario of a fully developed G1 Stansted Airport. Furthermore, as the approach adopted by Mr Gayler has taken account of the maximum predicted number of flights in an hour, this also addresses the BSCF point that it is not just the noise levels which are of relevance, but the number of flights also^[432].
597. Other factors which the BSCF argue should be taken into account, in terms of potentially increasing noise levels from the activity associated with Stansted Airport, are a possible second runway^[434]; potential changes to airspace by the National Air Traffic Service ("NATS")^[435]; and changes to the fleet mix of aircraft operating from Stansted^[436]. However, BAA Stansted has withdrawn its G2 planning application which sought a second runway and an increased capacity, and although it is argued that times may change and expansion may be viewed more favourably some time in the future, there is no firm evidence before me to persuade me that this is a realistic possibility which should be taken account of at this stage. In any case, as was pointed out by the Appellants, if the schools' relocation went ahead, the presence of the new school buildings would be a matter which would have to be taken into account when assessing any proposed future expansion to Stansted^[179].
598. In terms of possible changes to airspace use, or a changed aircraft fleet operating from Stansted, again there is no certainty that either of these matters will come about, and therefore no reasonable and reliable basis on which to attempt to accommodate any such changes in the assessments which have been undertaken.
599. Taking all the above points into account, including the signed SoCG on Noise between the Appellants and the Council, I conclude that the proposed relocation of the BSHS and the HEHS to the Whittington Way site would not result in an unacceptable noise environment either within the proposed school buildings or at outside teaching spaces. Accordingly I find no conflict with Local Plan Policy ENV25 which, amongst other matters, seeks to ensure that noise sensitive development such as schools is not exposed to noise nuisance from existing noise generating sources or from programmed developments. As a result of the above conclusions, this matter does not weigh against the proposals in the overall Green Belt balance.

v) Living conditions

600. Thorley Parish Council maintained that Scheme A would have severe adverse impacts on the living conditions of nearby residents, with particular reference to external lighting and noise and disturbance^[456-7].

601. Dealing first with lighting and floodlighting, it is clearly the case that if the schools were to relocate to Whittington Way there would be additional lighting both from the buildings themselves and from floodlighting for the sporting facilities^[96]. However, the school buildings would be at least some 120m from residential properties on Thorley Lane and other nearby streets, and would be shielded by the mounding and landscaping along Whittington Way and also by landscaping associated with the proposed car parking area^[57]. This is not to say that lights within the school buildings would not be noticeable to some nearby residents, but no evidence has been submitted to suggest that this would be unacceptably harmful.
602. Turning to the proposed floodlighting, this is shown on the illustrative plans as only being around the AWP and the MUGA. It would comprise a total of 12 lighting columns of 10m or 15m height and these floodlights would be directional, both for reasons of efficiency and to avoid light spill^[96]. In view of the topography of the site, and the fact that there would be intervening buildings, I do not consider that light from these columns would be unduly noticeable from Whittington Way or from the dwellings to the north.
603. They could well be seen from Thorley Street, and the dwellings at Highland Road and Hawthorn Rise, but these do not directly face the appeal site^[104]. Because of this I am not persuaded that light from the floodlights would be unacceptably intrusive to these residents, especially as the hours of operation of the lights could be controlled by condition. It is also the case that lights associated with the London Road/St James Way roundabout and the Obrey Way/St James Way roundabout already exist further south than the floodlights would be, such that lighting of this form is not uncommon in this general area^[106].
604. In terms of noise and disturbance, it is clearly the case that 2 large schools on land that is currently open and undeveloped would constitute a significant change, which would bring with it levels of activity which clearly do not currently exist. However, it seems that the bulk of any activity would be confined to school hours or, at most, the working day, with only limited evening and weekend activity associated with community use or sporting activities. This activity would manifest itself, in the main, on Whittington Way and surrounding roads, and although the level of activity would be significantly greater than at present, it would be limited to discrete times of the day when nearby residents, themselves, are likely to be active. As a result, I see no reason why any noise and disturbance arising from pupils and staff travelling to and from the new schools should be so intrusive as to create unacceptable living conditions for nearby residents.
605. There could, of course, be additional activity, outside the working day in the evenings or at weekends, arising from extended school use or community use of the facilities. However, the nature and extent of such activities, typically associated with schools, leads me to conclude that their frequency, scale and duration would be such that no unacceptable noise or disturbance would be likely to arise.
606. Overall I conclude that although Scheme A would bring about a clear change to the nature and character of this part of Whittington Way, and to some extent the surrounding area, these changes would not result in unacceptable harm to the living conditions of nearby residents through intrusive lighting or noise and disturbance. Accordingly I do not consider that this matter adds weight against the appeal proposals.

vi) Safety and convenience of users of the local highway network;

607. There is agreement between all parties that the proposals would increase traffic volumes in the vicinity of the proposed schools' site and, in particular, along London Road^[181]. The Appellants acknowledge that traffic volumes and queueing would increase but their view, which is supported by the HA, is that any additional traffic would not create unacceptable problems. They maintain that increased flows could satisfactorily be managed on the existing network, especially in light of the proposed mitigation measures which would be secured by condition and through the S106 planning obligation^[189]. Neither the BSCF nor the TPC share these views and I discuss their concerns below, but I deal first with the Council's position.
608. When this application was reported to the Council's Development Control Committee in September 2010 there was no recommended reason for refusal on highway grounds^[3]. However, Council Members took the view that despite the proposed package of mitigation measures, the development would result in unacceptable levels of traffic congestion at the Whittington Way/Thorley Street/London Road junction and at other junctions northwards along London Road between Site A and the town centre.
609. To support this view the Council engaged the services of an independent consultant, Mr Silcock, who provided the only detailed, technical evidence in opposition to the Appellants' case. This focussed on the operation of the London Road/Thorley Hill traffic signal junction which is seen to be critical to the operation of the highway network in the vicinity of the new schools^[181]. Both the Appellants and the Council have examined its operation in detail with the computer program LINSIG. The morning peak period was generally agreed to be the most critical (as traffic associated with the schools would not add materially to the evening peak period traffic). There are, however, some significant differences between these 2 assessments, as detailed below.
610. Mr Silcock undertook a traffic count in September 2011 and ran a LINSIG computer assessment using these flows and also using a value for the saturation flow of the London Road northbound approach which he had directly calculated from a video recording and a direct observation of the junction in operation^[266-7]. Making certain assumptions about the operation of the junction, the Council's LINSIG assessment showed the London Road northbound approach to be operating with a degree of saturation of 100%, giving rise to a maximum queue length of 38 vehicles^[269]. This appeared to be broadly similar to the observations made at my accompanied site visit.
611. To produce a "with development" assessment, Mr Silcock made further assumptions regarding changes to the traffic flows in the London Road corridor, covering such matters as the increased traffic levels arising from the expanded schools; the likely mode share for trips to the schools; and some assumptions regarding the likely routes for reassigned traffic currently going to the HEHS. Reassessing the London Road/Thorley Hill junction on this basis he forecast that the London Road northbound approach would operate at a degree of saturation of 139%. This is predicted to give rise to a queue length of some 159 vehicles (about 1km long). The Council maintained that this would extend back to well south of the Whittington Way junction and would result in unacceptable congestion and delays^[269].
612. In contrast, rather than using recent traffic count data the Appellants have relied on output from the County Council's SATURN traffic model originally produced in 2008

to support the earlier planning applications and used to forecast traffic scenarios in future years^[192]. Although the SATURN model was extensively criticised by the Council it has been satisfactorily validated, a number of key junctions have been subject to sensitivity testing and the local HA is satisfied with its robustness and overall reliability^[193]. There is no contrary technical evidence, concerning the model as a whole, to cause me to take a different view.

613. Furthermore, I share the Appellants' view that despite being run originally in 2008 the SATURN tests still represent realistic and robust assessments for several reasons. Firstly, more recent surveys have shown that there has been only limited traffic growth and even reductions in traffic levels in the town. This has been verified by HA traffic counts (which, on London Road, show a 2% decrease in traffic movements for the morning peak period and a 5% decrease in the evening peak over the period 2005 to 2010^[181]; and also by DfT traffic forecasts which have been revised downwards as a result of lower Gross Domestic Product and higher oil prices^[193].
614. Secondly, the assessments include traffic generation applicable to 2 8FE schools, not the 6FE schools currently proposed^[192]. Thirdly, higher numbers of dwellings have been modelled on the existing school sites and Hadham Road than are currently proposed through these appeals. These latter 2 points both serve to inflate the traffic levels associated with the proposed schools and housing on the existing school sites, thereby modelling a "worst case" scenario.
615. On the basis of these SATURN output flows the Appellants' LINSIG assessments paint a different picture to the Council, in essence predicting that in the "with development" scenario, northbound flows on London Road would increase by just 10 vehicles, with the maximum queues predicted to rise to about 84 pcus^[186]. This would represent an increase in congestion over the present day situation, but in the Appellants' view the queueing and delays would be manageable and not excessive.
616. On balance I favour the Appellants' approach because the SATURN model has assessed the traffic flows and demands on a town-wide basis and has made "intelligent" assumptions on drivers' behaviour, both for those wishing to access the relocated schools and those wishing to avoid congestion^[191]. It is quite reasonable to assume that St James Way and Obrey Way would prove to be a popular route to the new schools, avoiding the London Road corridor, for many people living in the northern and western parts of the town, even though this could well result in some increased travel costs for those drivers so affected^[272].
617. This is a more realistic method of assessing and forecasting traffic flows over a wider network, where drivers have a choice of alternative routes, than simply assuming queues and delays would continue to grow as, in effect, the Council has done. Indeed, Mr Silcock acknowledged that drivers would seek to find alternative, less congested routes over time, and that his predicted lengthy queues would reflect the likely situation immediately after the opening of the relocated schools and not necessarily in the medium to longer term^[272].
618. At the detailed level the Council was critical of the Appellants' assessments for 2 basic reasons, namely what it sees as poor and inadequate modelling of the traffic movements associated with the BSHS^[259]; and an over-estimate of the saturation flow and hence the capacity of the London Road/Thorley Hill junction^[266]. On the first of these points there was much discussion about the detailed modelling of trips

to and from the BSHS and debate as to whether such trips use the main London Road entrance or not.

619. I have noted that the zone representing the BSHS connects to the SATURN network at the school's main entrance on London Road, such that all school-related traffic in the model is assumed to enter and leave the SATURN highway network at this point. This clearly does not accurately reflect what happens in practice. Information provided by Mr Silcock indicates that most parents drop their children off in the Bishop's Avenue residential area to the south of the school or in the Park Lane/Thorley Park Road area to the north, with only about 16% being dropped off on London Road or within the main entrance, as modelled in SATURN^[188]. This was not disputed by the Appellants and, indeed, I observed pupils being dropped off in all of these locations at my accompanied and unaccompanied site visits.
620. A further matter highlighted by the Council is that only 12 vehicles were observed turning left out of the main school entrance during the morning peak period, and heading towards the Thorley Hill traffic lights, whereas the base year SATURN model shows 95 vehicles making that manoeuvre^[260]. But I am not persuaded, on the basis of the evidence before me, that this difference of 83 vehicles should simply be added to the northbound London Road flow in the "future scenario tests", as maintained by the Council^[260]. It could be the case that some of these "missing" vehicles are already on London Road within the model, travelling northbound from the Whittington Way junction. This simply cannot be established for certain from the information before the inquiry.
621. However, whilst the Council typified these discrepancies as flaws in the model I favour the view, expressed by the Appellants, that such matters should not be seen as flaws, but rather as natural (albeit unhelpful) consequences of the traffic modelling process^[188]. It is more important to look at the comparison of the traffic volumes predicted by both parties at key locations, such as the London Road/Thorley Hill junction itself (and consequently used in the respective LINSIG tests) than at, say, the BSHS entrance^[183,188]. It is the case that there is only a 9 vehicle difference in the northbound London Road flows predicted by each party at the London Road/Thorley Hill traffic signals, with the Council saying 953 and the Appellants saying 944^[183]. This reinforces my view that there is no need or logic to add a further 83 vehicles to this flow.
622. The Council's second criticism of the Appellants' approach relates to the detailed modelling of the London Road/Thorley Hill junction itself^[266]. The Council has used a significantly lower saturation flow than the Appellants for the London Road northbound approach at this junction and it is certainly the case that a number of factors reduce the theoretical saturation flow for this approach, as maintained by the Council^[267]. These include the blocking effects of vehicles wishing to turn right into the Twyford Business Centre and also of stationary buses at the stop just north of the junction. However, I share the Appellants' view that measures could be taken to ameliorate such impacts^[184,187].
623. In particular, parking could be prevented at critical locations on the southbound London Road approach to these traffic signals, which would make more road-space available for the southbound traffic and prevent, or at least reduce, the conflict with right-turners into the Business Centre^[184]. Moreover, although the Appellants observed that these right turners were blocked on between 9 and 13 cycles out of 40, no firm evidence has been put before me to demonstrate, as asserted by the Council, that this should equate to a reduction in capacity on this approach of 25%

on average^[268]. In addition, a re-siting of the northbound bus stop could also serve to prevent stationary buses from impeding the junction exit; and the proposed introduction of SCOOT controls at the traffic signals along London Road could also increase capacity by some 6-7%^[187]. All these points serve to persuade me that the Appellants' assessment of the operation of this junction is not unreasonable, and, accordingly, that northbound queues on London Road would not be excessive if the schools relocated to Whittington Way.

624. Turning to points raised by the BSCF, it was critical of the SATURN model for a number of reasons. These include the fact that the 2011 highway network assumed in the model does not reflect the actual, present day network on the ground; that the modelling work assumes full implementation of the Bishop's Stortford Transport Strategy, which has not yet occurred; and that since 2005, developments such as new housing schemes in Essex have not been fully taken into account^[440-1].
625. On the first of these points, it is indeed the case that the network used in the model includes a "Station Goods Yard Link", connecting Station Road and London Road. I understand that this is a development-led proposal which has not yet come to fruition. The Appellants maintain that as this link would be some distance to the north of the BSHS it would have limited impact on the traffic flows in the vicinity of the new schools and the London Road/Thorley Hill traffic signals^[193]. I agree that this is quite likely the case, although it still introduces a degree of uncertainty into the assessments which could have been avoided if the link had not been included in the model.
626. On the second matter, the fact that the SATURN modelling work assumes full implementation of the Bishop's Stortford Transport Strategy which has not yet occurred, is not helpful. But as there was only a difference of some 9 vehicles in the critical London Road northbound flows at the Thorley Hill traffic signals, between the Council's assessments and that of the Appellants, as noted above, I am not persuaded that the concerns of the BSCF would have a fundamental impact on the flows in the general vicinity of the Appeal A site, which are more or less agreed between the Council and the Appellants.
627. For a similar reason I give little weight to the BSCF's claims that traffic from such developments as new housing in Essex has not been taken into account in the SATURN model. The detailed modelling report prepared by Steer Davies Gleave, included in the Core Documents, makes it clear that traffic growth over the period to 2011 (excluding the specific traffic growth associated with the relocated schools and new housing on the existing schools' sites), has been catered for by using TEMPRO¹⁵ forecasts from the DfT^[192]. This is a generally accepted method for forecasting future year trip matrices, based on the latest planning assumptions, and in the absence of any firm evidence to the contrary I see no reason to doubt the robustness of these future year trip forecasts.
628. I have also noted the concerns raised by the Council and the Rule 6 Parties, to the effect that Scheme A would worsen existing queueing on London Road at its junction with Pig Lane, to the south of the BSHS entrance. This junction was poorly modelled in the original SATURN assessments, but additional sensitivity tests have been undertaken by the Appellants to address this^[263-4] matter.

¹⁵ TEMPRO - Trip End Model Presentation Program - a program that provides projections of growth over time for use in local and regional transport models.

629. These tests have indicated that as a result of the predicted changes in traffic flows on London Road, the introduction of traffic signals at the existing school entrance and the reduced likelihood of vehicles parking in Pig Lane to drop off pupils, there would be no overall worsening of capacity of the right turn into Pig Lane from London Road. Although this was disputed by the Council, no alternative junction assessment was submitted and in these circumstances I see no good reason to take a contrary view to that expressed by the Appellants, especially as the HA has raised no objections in this regard^[526].
630. In addition to the above points, other traffic concerns were raised by Thorley Parish Council. In particular these related to the volume of traffic on Thorley Street; the speed of this traffic; and the difficulties this creates for residents of Thorley Street, especially when needing to cross the road. However, although the Parish Council refers to flows on Thorley Street in the order of 1 vehicle every 4 seconds, (which I understand equates to morning peak hour flows ranging from 870 vehicles to 925 vehicles), such traffic flows do not seem out of the ordinary for a main radial route into a town such as Bishop's Stortford^[449]. Indeed there is no evidence before me from the HA to indicate that such traffic volumes are a cause for concern in themselves, or that they are creating capacity problems on this link.
631. Details of the speed of traffic along Thorley Street, again submitted by the Parish Council, indicate that a significant amount of traffic exceeds the 30mph speed limit^[194,449]. This is, however, the existing situation and there is nothing to suggest that traffic speeds would increase further if these development proposals were allowed. In this context I have noted the concerns expressed by local residents regarding the traffic conditions on Thorley Street and difficulties experienced in crossing the road^[449]. But again, on the basis of the submitted evidence, there is nothing to indicate that any of these matters would be materially worsened if the appeal proposals were to succeed.
632. In terms of highway safety I have noted the accident information submitted by the Appellants and agree that there is no specific pattern to the accidents which have been recorded during the 8 year period 2002 to 2010. As such there is nothing to suggest that highway safety on London Road/Thorley Street would be worsened to any significant extent if the appeal proposals were to succeed.
633. In terms of the accessibility of the Whittington Way site, I share the Council's view that moving the schools to a peripheral location would be likely to reduce the attractiveness of walking to school for many pupils. I also note that the relocated schools would be further away from the railway station than are the current schools. However, the Appellants propose further works in the Whittington Way corridor to significantly improve cycle and pedestrian access to the new schools' site and to improve facilities for public transport services in the area of the schools^[64]. I see no reason why such measures should not assist in significantly improving accessibility to the Whittington Way site.
634. Moreover, despite the BSCF's concerns about the reliability of timetabling, no firm evidence has been submitted to indicate with any certainty that the new and improved bus services, to be secured through the submitted planning obligations, would not be an effective and attractive means of conveying pupils to the schools^[190,446]. It is also clear that there would be the potential for some savings to be made in overall journeys to school, from the fact that some parents are likely to have children attending both the Boys' and Girls' Schools^[190].

635. In summary, having had regard to all the above points it is undoubtedly the case that the proposals to relocate the 2 schools to Whittington Way and redevelop the existing school sites and the Hadham Road site with housing would result in some increased queueing and delays on the London Road corridor. However, there are clear indications that drivers would seek and find acceptable routes to avoid excessive queueing and delays, such that I do not believe that any unacceptable congestion or inconvenience to users of the highway would arise.
636. It is inevitable, however, that the increased traffic movements and the need for some drivers to seek alternative routes would result in some increased travel costs such that it is not possible to regard the "with development" scenario as an improvement, or even having a neutral impact, in traffic terms. I therefore conclude that although the proposals would not result in any unacceptable travel impacts, their effect has to be regarded as weighing slightly against the appeal proposals in the overall Green Belt balance.

Other considerations

637. I have concluded that the Appeal A development would constitute inappropriate development in the Green Belt and that additional harm would arise from the loss of openness and the adverse impact on the visual amenities of the Green Belt and on the character, appearance and enjoyment of the Hertfordshire Way. There would also be a slight adverse highway impact as noted above. In accordance with the guidance in PPG2 the onus is therefore on the Appellants to demonstrate why planning permission should be granted. To this end the Appellants have put forward a number of considerations which, together, they maintain amount to the very special circumstances necessary to clearly outweigh the harm described above^[276].
638. These are stated to be a combination of planning and educational factors and have been summarised by the Appellants in their SPS as:
- i. The immediate need for the provision of additional secondary school capacity in the Bishop's Stortford & Sawbridgeworth (BS&S) Education Planning Area (EPA) to cater for the growth in the number of pupils of secondary school age seeking school places at the 6 mainstream schools in the area;*
 - ii. The absence of any more suitable and/or deliverable options for meeting the immediate and longer term capacity requirement whether on brownfield or greenfield/Green Belt sites;*
 - iii. The significant educational and community benefits that will arise from the proposed relocation and expansion of the BSHS and the HEHS as part of the County Council's long term strategy for secondary school provision in the area;*
 - iv. The flexibility that this option will provide for the provision of further secondary school capacity in the BS&S EPA should the need arise;*
 - v. The absence of any significantly harmful impact by the planning application proposals upon the integrity of the Green Belt.*
639. I deal with each of these considerations in turn, below, and I also deal with any additional matters raised by the Rule 6 Parties and other interested persons.
640. i) The need for additional secondary school capacity in the BS&S EPA. Following the refusal of the Local Plan Inspector in 2005/06 to support a policy aimed at

taking land at Whittington Way out of the Green Belt for educational purposes, the Appellants put together a package of planning applications for submission in 2008^[49]. At this time the educational case, summarised in the Council Officers' report to Committee, was that there was an urgent requirement for an additional 2FE of secondary school capacity in the BS&S EPA by 2011. This was stated as equating to a need for places for 288 pupils. At this time it was noted that there was a longer-term anticipated requirement of up to 4FE (663 pupils) by 2021 and up to 6FE (1067 pupils) by 2031^[287].

641. The educational case for the current proposals is set out in the County Council's evaluation which accompanied the planning application and is expanded upon in the written and oral evidence of the Appellants' witnesses, notably Mr Harris and Mr Stock. Mr Harris explained that forecast demand for places at secondary schools in the BS&S EPA is rising, to an expected peak in 2018/19, but not to a level that would require an additional new school. His proof of evidence contains a table providing forecast demand in secondary school places for the years 2011/12 to 2024/25^[130].
642. The total of the Published Admissions Numbers ("PAN"s) for the 6 secondary schools within the EPA is 1,010 spaces (which I understand includes 12 additional spaces at Leventhorpe). Based on this figure, the forecasts indicate that the shortfall in places is expected to rise from a value of 7 in 2012/13 to a maximum of 145 in 2018/19, before falling back to 90 by 2024/25^[130]. These figures were further revised at the inquiry (to accommodate a later start to housing in the ASRs, as currently predicted by the Council). On this basis the latest figures indicate that the shortfall in places is expected to rise from a value of 4 in 2012/13 to a maximum of 126 in 2018/19, before falling back to 110 by 2024/25^[401].
643. As the BS&S EPA borders Essex, many children from the nearby Essex settlements attend secondary schools in this EPA. This helps to explain why the PAN figure of 1,010 spaces exceeds, by some measure, the number of pupils in Year 6 within the EPA primary schools. At the present time these primary schools have a capacity limit of 695 spaces^[122]. The PANs cannot easily be reduced (and there is no suggestion that they should be), so there will always be cross-area flows of pupils moving into Year 7 in the EPA schools from other parts of Hertfordshire or from Essex^[122-3].
644. The County Council updates its forecasts on a regular basis to take account of such matters as up-to-date pupil census figures. Although the BSCF and Mr Janke criticised the fact that forecasts have shown variations in recent years, the Appellants made it clear that this should be seen as a strength of the forecasting process, not a weakness, as it ensures that the forecasts are dynamic and respond quickly to changed circumstances^[128]. I accept this point, although it is right to say that regardless of the reasoning behind changes to the forecasts, it does show that even very short-term forecasts can be subject to quite appreciable changes. It is also right to say that the way in which the forecasts are derived was not set out in detail in any of the evidence submitted prior to the inquiry (and was not therefore available for scrutiny by those who oppose the proposals), with full details only being provided at the inquiry itself.
645. At the inquiry Mr Harris explained that the current methodology used by the County Council enables forecasting based on Year 7 actual figures. The cross-area flow is a key component of these future forecasts, evidenced by the fact that information provided by Mr Harris shows that in 2010/2011, out of the total Year 7 population of

1,012 pupils, some 368 pupils had not attended Year 6 in a primary school within the EPA^[396]. This amounts to a significant 36% of the Year 7 population. The forecasts indicate that cross-area flows will continue to have an impact on the number of secondary school places required, in future years, as will new pupil yields arising from new housing in the town. However, both of these components can, to some extent, be considered variable and uncertain. I deal with them separately, below.

646. The County Council uses a weighted method of predicting the future cross-area flows, based on the differences between the numbers of pupils in Year 6 and the subsequent number in Year 7, using information over the previous 3 year period to obtain a factor to apply to the Year 6 pupil total. However, as this method of calculation has only been introduced relatively recently it is not possible to say, with any certainty, how accurate it will prove to be.
647. Moreover, it is not easy to see why there should be a relationship between Year 6 numbers and this cross-area flow which, as the BSCF says, is likely to be affected by a wide range of factors^[398]. These include such matters as new housing developments outside the EPA, the admissions policies of schools within and outside the EPA; and the perceived success of the schools in the locality, including secondary schools in Essex.
648. The only school which falls into this latter category and was discussed to any great extent at the inquiry is the Stansted Mountfitchet College^[137,293]. This caters for children in school Year 7 to 11 and is located a couple of miles away from Bishop's Stortford, to the north-east. It is stated to be an improving school, having recently emerged from special measures^[406]. As discussed below, capacity at this school is proposed to be used to accommodate some of the predicted demand in the BS&S EPA.
649. In its consultation response on the planning application Essex County Council did not object to the educational justification for the proposals, which it considers would provide additional places in the area in the short-term and flexibility for further places should they be needed in the medium and long-term. An objection has been placed before me, however, from the Headteacher at Stansted Mountfitchet College and others. This expresses no doubt that if the 2 Bishop's Stortford schools were to be expanded on a new site it would present a significant threat to the viability and survival of the College^[426,504].
650. Taken together these points lead me to the view that the extent of the cross-area flow in future years cannot be predicted with any great degree of certainty, and that significant investment decisions which rely, in large part, on such forecasts, should therefore be viewed with caution.
651. The second component of the future year forecasts which also contains an element of uncertainty is the yield of pupils from new housing areas proposed for the town. This relates primarily to an area of land to the north of the town, known as Bishop's Stortford North (BSN), which is allocated for residential development in the Local Plan and which is anticipated to accommodate 2,728 dwellings^[278]. Although the Appellants' SPS assumes that housing delivery on this site will commence in 2012/13, the Council's 2009/10 Annual Monitoring Report indicates that housing delivery on this site is now anticipated to start in the 2014/15 year, 2 years later than the commencement date assumed by the Appellants^[279].

652. This Annual Monitoring Report also indicates a lower build rate than originally expected, with 156 dwellings completed in the town in the year 2009/10. I have noted Mr Steptoe's comment that if a previous 10 year period is taken for an average build rate, rather than 20 years, the average number of dwellings completed each year is also 156^[279].
653. In view of the fact that housing delivery from BSN will be later than assumed by the Appellants, and is also likely to be at a lower completion rate, I share the Council's view that the new pupil yield from this source is also likely to be lower and later than has been assumed in the County Council's evaluation. Indeed these points appear to have been accepted by Mr Harris, in the forecasts which he presented to the inquiry along with Document APP/62^[122], and reinforces his comment that forecasting is not an exact science^[128].
654. Indeed it is clear that the appeal proposals are not intended to fully satisfy the maximum predicted demand of 126 extra spaces in 2018/19 (or indeed 145 spaces in this year as originally stated by Mr Harris in his Document APP/62). Rather, the stated aim appears to be to provide for an additional 90 spaces by making use of 45 spaces at Stansted Mountfitchet College and then to provide a further 45 spaces a year at the relocated schools – 25 at the BSHS and 20 at the HEHS^[92]. These spaces at the Boys' and Girls' Schools would amount, in total, to an additional 315 secondary school places in the town^[92]. However, on the basis of the latest figures the need for 90 spaces would not occur until after 2015/16, and Mr Harris confirmed that if the appeal proposals were allowed, 2015/16 would be the earliest that the new schools would be available. He also indicated that 90 spaces would be the minimum requirement throughout the period up to 2024/25^[129,401].
655. Having regard to all the above points, I conclude that the need for additional secondary school capacity in the BS&S EPA has been clearly demonstrated. But whereas the Appellants refer to an immediate need, it is apparent that in the short-term additional capacity in the form of some 45 spaces would be available at the Stansted Mountfitchet College^[137], with the further provision of an additional 45 spaces not being needed until after 2015/16.
656. In summary, having established the quantum and timing of the educational need, it is clear that the new schools proposed through Scheme A could provide the necessary additional spaces, if planning permission was granted. This therefore has to count in favour of the appeal proposals. However, before it is possible to determine how much weight should be attributed to this method of addressing the educational capacity shortfall, it is necessary to assess whether any other options exist to provide the additional spaces. I do this in the following section.
657. ii) Alternative options - Introduction. In summarising their case, the Appellants highlighted the fact that at the inquiry the suggested alternative ways of meeting the educational need had mainly fallen under 3 headings, namely adjustment of schools' admissions criteria; expansion at Leventhorpe; and a new school at Hadham Road^[147]. It is indeed the case that these options were all discussed at the inquiry – some at greater length than others. But I have also had regard to the claims of both the Council and the BSCF that there are other more reasonable and significantly less harmful ways in which these additional spaces could be provided, but that these have been wrongly dismissed by the County Council and the schools, who have all become entrenched in their position^[283,294-6,311-2,411-2].

658. In order for the Secretary of State to be properly and fully informed on these matters, it is necessary to assess these claims. As well as the 3 matters set out above I therefore also consider the other options discussed in the Appellants' Supporting Planning Statement ("SPS") and the Appraisal of Alternative Site Options ("AASO"), and further discussed in the written and oral evidence of Mr Harris, Mr Stock and Mr Steptoe. These options comprise the provision of a stand-alone sixth form college; the expansion of the existing BSHS and the HEHS on their current sites; the provision of a brand new secondary school; the relocation and expansion of the BSHS and the HEHS to separate sites; and the relocation and expansion of the BSHS and the HEHS to the ASRs^[143]. I discuss each of these matters in the following sections:
659. ii) Alternative options – Admissions Criteria. It should be noted that within the BS&S EPA the LA is no longer the admissions authority for any secondary school^[402]. The schools in the area determine their own admissions arrangements and will continue to do so as and when they acquire academy status. It is also the case that despite criticisms from the BSCF and interested persons that some schools in the area take too many out-of-area children at the expense of more local children, it is unlawful for admissions authorities to exclude children from outside the democratic boundary simply because of that boundary^[123].
660. Each of the secondary schools in the EPA have their own criteria for determining admissions at Year 7, in the event of oversubscription. These criteria vary from school to school, but most follow the same general practice of admitting children in more or less this order: those with statements of Special Educational Needs ("SEN"); those with a specific medical reason for attending a particular school; siblings of children already attending the particular school; and those attending named primary schools or schools in named parishes/areas of town. Any remaining places are then generally allocated on a geographical basis to those applicants living closest to the school in question.
661. An exception to these general criteria exists in the case of St Mary's Catholic School, which has a much more detailed set of criteria which prioritises Catholic pupils and then practicing Christian pupils of other denominations. As a result, this school caters for children from a wider area than the other local secondary schools. Four of the 6 secondary schools, including the BSHS and the HEHS (the other 2 being Leventhorpe and Hockerill), operate an admissions system whereby a maximum of 10% of Year 7 pupils are admitted on the basis of a demonstrated aptitude in a certain subject, primarily music, sport or foreign languages^[84].
662. Opponents of the appeal proposals focussed on 2 aspects of the admissions policies, contending that adjustments to the admissions criteria of the Boys' and Girls' Schools would remove any need to provide further places^[153]; and that the admissions policy of the Boys' School has the effect of "cherry-picking" children from high performing primary schools^[120].
663. On the first of these points I am not persuaded that changes to the admissions arrangements at schools in the area could, in fact, create extra places, as appeared to be argued by both the Council and the BSCF^[292,378]. This view appears to stem from evidence presented by Mr Harris, and contained in the County Council's Educational Needs Assessment ("ENA"). This indicates that recent changes to Birchwood's admissions arrangements would, if they had been in force for the previous academic year, have had the effect of increasing by about 15, the number of local pupils from Bishop's Stortford gaining places at the school.

664. My reading of this information is not that there would have been 15 additional places created, as the Council and the BSCF appear to conclude, but rather that 15 more spaces would have been taken by "local" rather than "cross-area" children. Changes to admissions arrangements cannot in themselves, increase the PANs of the schools. This is reinforced by the Appellants' comment that increased access to a finite number of places can only be given to one set of potential pupils at the expense of another^[154]. I share the Appellants' view that simply altering the admissions criteria of the Boys' School would not obviate the need to create new spaces, if the County Council's forecasts of future pupil numbers are to be accommodated.
665. The information set out above does, however, clearly demonstrate that changes to admissions policies can make a difference to the areas from which potential pupils are attracted. This leads on to the second area of criticism raised by opponents of the proposals, namely that the Boys' School has recently changed its admissions policy to specifically name a further 8 primary schools, including some in Essex, as specific "feeder" schools^[121,403]. But notwithstanding the criticisms of this action, the evidence presented by Mr Stock clearly demonstrated that this was not a "cherry-picking" exercise, aimed at capturing the most academically gifted children^[120]. Rather, it was shown to be a more focussed method of ensuring that the possibility of access to the BSHS was retained for communities which fall outside a general "6 mile radius" but which have had traditional links with the school^[121].
666. To my mind such an approach does not seem unreasonable, in an area such as this where a main market town like Bishop's Stortford is clearly seen by outlying communities as a primary location for such activities as shopping, leisure and education^[155-6]. Nevertheless, some of the more distant feeder schools for the BSHS appear to be located closer to other secondary schools than they are to the Boys' School. Because of this I can understand why those opposing the appeal proposals consider that some local children may well be disadvantaged by the current admissions arrangements. It also seems likely that if the relocation proposals were permitted, further changes to the Boys' and Girls' Schools admissions policies would be needed, so as to avoid anomalies where boys and girls from the same family may be treated differently by, effectively, schools on the same site^[405].
667. To overcome some of these criticisms, both the Boys' and Girls' Schools have agreed, subject to Scheme A being allowed, to introduce a new criterion to ensure that 10% of total admissions be granted to applicants whose permanent home address is nearest to the relevant school and who would not be allocated under any other criterion^[154]. Whilst this would not affect the total number of spaces available, it would undoubtedly increase access for local children. It is, however, clearly a change which could be implemented now, with the schools on their present sites and therefore does not, in itself, add any material weight to the relocation proposals.
668. I have noted the criticisms made by some opponents of the proposals to the aptitude element of the Boys' and Girls' Schools admissions policies. However, as detailed above, it is not just these 2 schools which operate such admissions procedures, as both Leventhorpe and Hockerill also select up to 10% of their Year 7 intake each year on the basis of aptitude in certain subjects^[84,120]. It would therefore be inequitable to require changes to be made to this aspect of just the BSHS and HEHS admissions policies. It is also difficult to see what purpose any

such changes would serve in the context of this appeal. The main thrust of opposition to the proposals relates to the total number of spaces available and fact that some non-local children gain places at the schools. Ceasing to select up to 10% of pupils on the basis of their aptitude in certain subjects would not affect the overall quantum of spaces, nor would it have any obvious impact on the local/non-local split.

669. Furthermore, as Mr Stock made clear, the admission of a small number of children on the basis of aptitude in certain subjects is part of the ethos of each school. He stated that this serves, legitimately, to emphasise the value which each school attaches to the importance of extra-curricular activities in promoting the development of each individual child and I see no reason to take a contrary view. In summary, I conclude on this point that changes to admissions policies would not serve to increase the number of secondary school places available, although they could be used to increase the number of local children who are successful in gaining places.
670. ii) Alternative Options – Expansion of Existing Schools. About 10 years ago the County Council began to implement a strategy of supporting the expansion of schools within Bishop's Stortford in 3 phases. The first phase was the expansion of St Mary's RC School to create an additional 23 places at entry (Year 7) in 2004. The second phase was the expansion of Birchwood High School to create a further 30 places (the maximum its site would allow), the building project for which was finally completed in 2009. These expansions were supported by over £13 million investment in provision^[132].
671. There has also been investment by the County Council at Leventhorpe in recent years, in the form of a new leisure centre and further investment to accommodate the expansion by 12 places per year, secured as part of a local agreement with the school from 2011/12^[137]. The final phase of the strategy is stated in the ENA to be the relocation and expansion of the BSHS and the HEHS as 6FE schools (180 places at entry – 20 extra girls' places and 25 extra boys' places)^[132,134].
672. I deal first with the possible further expansion of Leventhorpe School, as this was the subject of much discussion at the inquiry. This is the only one of the 6 secondary schools within the BS&S EPA to lie outside Bishop's Stortford itself. It is located on the northern side of the settlement of Sawbridgeworth, some 3.2 km to the south of the Whittington Way site. The school is shown on the Local Plan's Sawbridgeworth Inset Map as a Major Developed Site within the Green Belt^[415].
673. The AASO report explains that the Leventhorpe site has benefited from recent planning permissions that involved the disposal of a parcel of land for residential development (to the south of the existing school buildings); the construction of a new school sports hall/leisure centre on the site of existing hard play games courts; and the construction of a new AWP and replacement hard play games courts on the school's playing field area. I saw these features at my accompanied site visit.
674. The AASO report also comments that the Leventhorpe School has "surplus" playing field capacity which could allow an expansion up to 7FE on the existing school site^[295]. However, it indicates that this would be subject to a detailed feasibility exercise, but no such exercise has been undertaken to date. Moreover, there is no further, detailed analysis of a possible expansion at Leventhorpe within this report^[294].

675. Indeed although the Appellants claim that the County Council has always acknowledged that further places could be provided at Leventhorpe, there is little firm evidence before me to suggest that the County Council has ever viewed this as a serious alternative option for addressing at least part of the identified educational need. In these circumstances it is easy to see why the Council, the BSCF and other objectors have formed the view that the County Council has refused to contemplate any alternative to its preferred strategy, established some 10 years ago, of building 2 replacement schools at Whittington Way^[294].
676. I have noted that Mr Harris met with the headteachers of Birchwood, Leventhorpe, St Mary's and Hockerill in May 2011^[164]. At this meeting the headteachers set out their concerns about the appeal proposals and maintained that there was an alternative way of providing the necessary increased secondary school capacity by expanding at some of their own schools, notably Leventhorpe and Birchwood. I understand that Mr Harris invited the headteachers to provide an outline submission of their alternative proposals, endorsed by their relevant Chairs of Governors, but that this invitation was not taken up.
677. Subsequent to this, it is apparent that Birchwood, Leventhorpe and St Mary's schools refused admittance to County Council surveyors in July 2011, when these had been sent along to the schools in an attempt to establish common ground regarding the physical capacity of the sites to expand^[83]. Instead, Leventhorpe and Birchwood engaged their own consultants and draft site capacity plans for both of these schools were completed and forwarded to the County Council in late August 2011. In both cases the consultants advised the schools that they should verify the site capacity assessments with the County Council^[413].
678. Mr Harris indicated, in his rebuttal evidence, that LA surveyors were undertaking the necessary verification of these draft site capacity assessments and that the County Council would update its educational needs assessment as appropriate when the verification is completed. In oral evidence Mr Harris confirmed that on the basis of the latest figure, Birchwood could not expand beyond its current 8FE but that Leventhorpe could expand to 8FE, although to do so it would need to purchase extra land and clearly would also need to obtain planning permission. In this regard I have noted that Leventhorpe has recently purchased 4.5ha of recreational land lying immediately to the north of the existing school grounds^[501].
679. Understandably, the County Council has been critical of the schools concerned for being obstructive to its surveyors and for not submitting their own capacity assessments for verification until shortly before the start of the inquiry. Equally the headteachers of these schools have been critical of what they have seen as a lack of serious consideration by the County Council of alternatives to its preferred option of BSHS/HEHS relocation. They maintain that it is the duty of the County Council to rigorously assess possible alternative solutions and is not the responsibility of the schools themselves. They have also been critical of the fact that these late discussions have had to take place against the backdrop of the impending appeals^[413]. All of these points highlight what has clearly been an unfortunate, strained working relationship between the County Council and these schools in recent months.
680. But notwithstanding this, the latest information available, submitted to the inquiry and acknowledged and accepted by Mr Harris, indicates that additional expansion at Leventhorpe to 8FE could well be possible, utilising recently acquired land adjacent to and more or less contiguous with the existing school site^[295]. This would provide

a total of 60 additional spaces and would clearly address the forecast shortfall in spaces up to 2024.

681. It is plain that much more work would be needed to fully determine the feasibility of expansion at Leventhorpe and it is also the case that any such expansion may well entail development within the Green Belt which may or may not prove to be acceptable. It is not possible to come to a definitive view on these matters on the basis of the currently available information. But as the County Council has already accepted that the immediate short-term need for spaces could be satisfied by taking advantage of the spare capacity at Stansted Mountfitchet College, this lessens the urgency for a decision to be taken at this time and provides the opportunity for the necessary investigations to be undertaken.
682. The County Council has commented that expansion at Leventhorpe would fail to accord with 3 of the objective criteria it uses to assess such proposals^[141]. Firstly, it argues that expanding at Leventhorpe would not provide spaces where they are needed to meet demand as they would be outside Bishop's Stortford in neighbouring Sawbridgeworth^[161]. However, whilst factually correct, I am not persuaded that this argument should carry much weight for 3 reasons. Firstly, Leventhorpe clearly lies within the BS&S EPA and has been treated the same as the other Bishop's Stortford schools in the general analyses undertaken by the County Council. Secondly, the County Council's strategy already allocates pupils to another school which lies actually outside the EPA – the Stansted Mountfitchet College.
683. Thirdly, the ability to send a child to a school within the EPA, even if not in Bishop's Stortford itself, seems to me to be preferable to the current practice of sending children to more distant schools at Hertford and Hoddeston, if they are unsuccessful in obtaining a place at one of their 3 chosen schools^[124]. In taking this view I have noted the Appellants' comment that such an option would inevitably require greater numbers of children from Bishop's Stortford to travel to Sawbridgeworth along the main A1184, but no evidence has been presented to suggest that this would be inherently unacceptable^[161]. I accept that providing additional capacity at Leventhorpe could result in the school attracting more pupils from primary schools in the north of Harlow but again, no firm evidence to this effect has been submitted^[163].
684. The second argument the County Council raises against expansion at Leventhorpe relates to cost, with Mr Harris pointing out that the County Council has many and competing priorities for the use of funds for expanding school places and that it has a duty to secure best value for money^[150]. A further, related matter emerged late in the course of the inquiry, from the Appellants' planning witness, when it was stated that the LA would not be able to lawfully spend money on a capital project at an academy, such as Leventhorpe, as any such funding would need to come from the Department for Education ("DfE")^[168]. However, no such reference had been made by Mr Harris, either in his written evidence or orally at the inquiry. Whilst it is clear that funding matters are vitally important, and would need to be fully investigated and resolved, I see no good reason at this stage, on the basis of the evidence before me, to regard this matter as an insurmountable barrier to development at Leventhorpe.
685. The County Council further argued that even if a solution is acceptable in educational terms it would not be prioritised if it requires net capital expenditure and is compared to a potentially self-financing scheme which provides a more significant improvement in the built environment. That said, information submitted

to the inquiry by Mr Lewis shows that rather than being self-financing the appeal proposals are now estimated to result in a net deficit of some £1.75 million^[145]. Moreover, although the Appellants contend that the appeal proposals would give rise to improvements to the built environment, their location within the Green Belt would result in significant harm as already identified above.

686. The final reason the County Council gives for opposing expansion at Leventhorpe is that it would involve a level of disruption to existing pupils at the school. But disruption during development is not an uncommon occurrence, and as already noted above, it has already been negotiated in recent years by both Birchwood and St Mary's. On other points raised by Mr Harris, it is true that expansion at Leventhorpe would provide more co-educational spaces, but no firm evidence has been placed before me to show that there is a strong demand for additional single-sex education.
687. I have noted these criticisms, but do not regard any of them as clearly serving to make expansion at Leventhorpe unacceptable. The fact remains that there is a clear possibility that Leventhorpe School could be expanded up to 8FE to provide up to an additional 60 spaces, and that option has not, to date, been fully and rigorously assessed^[294-5]. I regard this as an important consideration in deciding the weight to be attributed to the appeal proposals.
688. I now turn to look at the assessments which have been undertaken to consider possible expansion of the BSHS and the HEHS on their existing sites. Possible expansion of the BSHS on its existing site was addressed in a letter from Mr Newman (who I understand to be an educational assessor/surveyor) sent to the County Council in 2001 and tabled at the inquiry by Mr Stock. This letter sets out a detailed programme for the possible extension and modernisation of the school at an estimated cost (at that time) of some £11.04 million^[133].
689. However, Mr Newman indicates that whilst such an expansion would be practicable, it would bring with it a number of problems and could well be poor value for money, compared to replacement with a new school on a new site^[133]. Further work on a possible on-site expansion was undertaken by Mr Hawkins of the architects, Hawkins Brown, in 2007 as part of an Expansion Options Study ("EOS") to accompany the earlier 2008 planning application^[134]. As the existing BSHS has, at its core, a number of 50-year old buildings it was concluded that the vast majority of these would be unsuitable for retention or refurbishment and that redevelopment of the school building complex would not be possible without causing major disruption to the school. The architects therefore put forward a school expansion proposal based on the building of a brand new school complex on the current school playing field area, with the existing school buildings being demolished to provide an all-weather pitch and related community facilities.
690. This was rejected by the school and the County Council for a number of reasons, including the fact that the phasing/decanting strategy would be very disruptive to the continuing operation of the school; as rebuilt, the school would be deficient in terms of the overall amount of playing field space available for curriculum purposes; the scheme would deliver less than 1FE of additional capacity, would provide no prospect of further expansion on the site and, overall, would represent poor value for money^[315-6]. I have noted that this assessment appears to have been generally supported by Council Officers in their September 2010 report to Committee. On the basis of the information before me and my observations at my accompanied site visit, I have no reason to disagree with the Officers' assessment that the poor

condition of the existing buildings and particularly poor site constraints appear to favour the relocation of this school.

691. However, far less information was provided to justify the need for the HEHS to also relocate, and the information which has been provided makes a less persuasive case. No information can be gleaned from the aforementioned letter from Mr Newman and no witness from the HEHS provided evidence to the inquiry. Mr Stock did provide evidence on behalf of both schools, but the primary focus of his evidence related to the BSHS.
692. An assessment of the potential to expand the school on its existing site was, however, undertaken by Hawkins Brown in 2007 as part of the EOS already referred to^[317]. This assessment notes that the main school complex in Warwick Road has, at its core, a number of old buildings with some dating back to the Edwardian era. It is also apparent, however, that the school also has some much more modern buildings, including a new 3-storey block of 8 classrooms and other accommodation designed by Hawkins Brown and constructed during 1997-99^[35].
693. The 2007 study concluded that whilst a number of the buildings on site would be unsuitable for retention/refurbishment, others could possibly be kept. It is reasonable to assume that those constructed in the late 1990s fall into this latter category. A school expansion proposal was put forward based on the replacement of a number of existing buildings by a new 3-storey block, with temporary "decanting" space being provided on the existing Warwick Road playing field area^[317]. However, this proposal was rejected by the school and the County Council for the same reasons as detailed above with respect to the BSHS proposal, with the additional concern that the school buildings would remain divorced from the main school playing field area at Beldams Lane, with consequent management and health and safety issues^[317,319].
694. Such concerns and objections are understandable and I can understand that an on-site expansion might not have been viewed particularly favourably when a move to a brand new school complex at Whittington Way was clearly being seen as a firm possibility at that time. I appreciate the problems which the existing buildings with their limitations for disabled access give rise to, and I also acknowledge that operating with a detached playing field area is clearly not ideal. Both these features would be addressed by a move to a new site, but the fact remains that the school is currently operating very successfully, despite these difficulties^[302]. This is not to say that the school should therefore not be seeking to remedy these shortcomings, but these points do have a bearing on the weight which should be placed on the necessity of the HEHS moving to Whittington Way.
695. Notwithstanding the disadvantages outlined above, Council Officers, in their report to Committee, took the view that an expansion of this school on its existing site would be a practical and realistic option to meet part of the capacity requirements. Again, on the basis of the evidence placed before me, I see no reason to take a contrary view on this matter. Whilst there would clearly be an appreciable level of disruption to the operation of the school during an on-site expansion programme, I see no good reason why an exercise such as this, which is not an uncommon occurrence at many schools, could not be effectively and satisfactorily managed. Indeed, it would appear that the school has already experienced a significant expansion and improvement scheme in the late 1990s and no evidence was presented to me to suggest that this gave rise to major problems.

696. Such an on-site expansion would clearly not be ideal, as it would still leave the school deficient in overall playing field space, as indeed it is currently^[317]. But this matter apart it would appear to be both practicable and feasible to expand and improve the HEHS on its present site, at least up to a full 6FE. The cost of an on-site expansion at the HEHS would need to be found by the County Council, and I have noted the concerns expressed by Mr Harris in this regard^[150]. However, even though no detailed costings of such an expansion have been submitted to the inquiry, the fact that similar expansions have already been undertaken at both St Mary's and Birchwood indicate that such an option, which would provide an additional 20 single-sex girls' places, should not automatically be seen as unrealistic.
697. ii) Alternative Options – A New School or a Stand-alone Sixth Form Centre. As land at Hadham Road (which includes Site C), is safeguarded in the Local Plan as a Reserve Secondary School Site under policy BIS7, consideration was given to the establishment of a totally new secondary school on this site. But as the Appellants say, this option was not pursued with any real strength by any party^[148]. The AASO report does, however, conclude that this would be the most suitable, available and deliverable site for a new 6FE school^[324]. It is already in the ownership of the County Council and is considered sequentially preferable to the other sites which have been assessed, as it is clearly not located in the Green Belt and has already been identified for development in the Local Plan. The report comments that unlike other sites considered, there are no known constraints to the delivery of the site within the required timescale, other than educational preference and finance^[324-5].
698. The key point against developing a totally new school on this site at the present time is that in the context of the forecast need for spaces, which rises no higher than 45 up to the year 2024/25, only a 2FE school can be shown to be needed^[148]. The Appellants' case, to which there was no real dissention, is that it would not be sensible to start a new school from scratch with 2FE, on the basis that at some unspecified point in the future it is possible that need may rise so as to fill a wholly new 6FE school^[148]. As the County Council forecasts do not suggest that a need of this size would arise within the foreseeable future it is apparent that there would be no educational justification for building a secondary school to accommodate just 45 pupils a year.
699. The Appellants also argue that no business case could be made for the capital expenditure, where there are no other sources of income. Whilst this point does not go to the heart of the planning issues surrounding this option, it is nevertheless a further matter which weighs against any County Council-led development of a new school on this site. The costs of this option were discussed as Option B in the revised Financial Appraisal submitted to the inquiry^[148].
700. Similar arguments apply against the provision of a new stand-alone sixth form centre on this site. Any such centre would not necessarily have to be sited at Hadham Road, but as the site is within the control of the County Council and is currently available for educational purposes, it makes sense to at least consider the desirability of such a facility here.
701. I have noted the Council's view that a stand-alone sixth form centre would be able to meet some of the identified need, would be in an acceptable location and would be able to provide an element of future flexibility^[312-3]. Moreover, I consider that it could be provided without undue disruption to the current schools and would be acceptable in principle in planning terms. If sixth form pupils were to transfer to

such a centre from existing schools I can also see how it could potentially free up existing building stock and allow schools to reorganise and/or update their buildings.

702. It is clear, though, that there is no school support for such an option and no support from the LA. The fact that no schools in Hertfordshire have sixth form centres weighs against such a proposal here, and I accept the Appellants' point that a sixth form centre would run counter to the ethos of the BSHS and the HEHS^[150-1]. Funding would have to be found for such a proposal and whilst this need not be an insurmountable problem, it is clear that no finance would be available from the sale of the existing school sites to offset the capital costs of new provision.
703. These points lead me to conclude that there is no justified case to be made for either a new school or a stand-alone sixth form centre on the Hadham Road site at the present time, and that this option should therefore not be considered as forming part of a viable and realistic alternative to the appeal proposals.
704. Notwithstanding the above points, both the Council and the BSCF argued that in view of the new approach to school provision, made possible by the recent Academies Bill, the Hadham Road site could well prove attractive for a school promoter who may want to establish an academy or a free school^[152,299,347]. Mr Harris expressed the view that there could be a 50% likelihood of a free school coming on stream by 2016. He also agreed that while the County Council has a policy of not developing schools smaller than 6FE, this would not necessarily apply to free schools. However, all such matters are simply speculation. There have been no applications to establish a free school and, even if an application was to be made, any such proposal would still need to be assessed and funding found. Again I do not see this matter as weighing against the appeal proposals.
705. ii) Alternative Options – Relocation of the Existing Schools to Separate Sites. The possibility of relocating the existing Boys' and Girls' Schools to other sites within the town was explored in the written evidence of various witnesses and also in the AASO report. On this matter the AASO report concludes that in planning terms the most suitable combination appears to be the relocation and expansion of the BSHS to the Hadham Road site, with the school continuing to use its detached Jobbers Wood playing field facility; and the relocation and expansion of the HEHS to the Beldams Lane site, with the school obtaining land on the opposite side of Beldams Lane for playing field use. This comprised Option C in the revised Financial Appraisal submitted to the inquiry^[145].
706. However, there does not appear to be any imperative, in planning terms, why any such option has to involve both schools. I acknowledge that the County Council's duties extend further than simply ensuring an adequate supply of school places, and that maintenance and improvement of the existing school building stock is also one of its responsibilities^[117]. But I have already noted, above, that there appears to be a viable option for on-site expansion and refurbishment for the HEHS (subject to accepting it would be deficient in playing field space), and no over-riding reason why this school has to move from its current site to be able to expand to 6FE.
707. Dealing first with the BSHS, the land at Hadham Road, covered by Local Plan policy BIS7, comprises 3 main elements: an arable field at the northern part of the site (Appeal Site C); a playing field area in the western part of the site; and an area of woodland/abandoned orchard in the southern part of the site^[27]. The AASO report notes that the overall site is physically large enough to accommodate a 6FE school,

although Mr Lewis maintained that experience has shown that a somewhat larger site would really be needed in order to accommodate all necessary elements and allow a satisfactory relationship to adjoining properties^[149].

708. But notwithstanding this view, the site appears to accord with the minimum area for a 6FE school stated in BB98^[325]. I acknowledge that this would require use of the southern wooded area, although it is of note that the feasibility layout which has been prepared by Hawkins Brown shows this wooded area as being retained. The report also notes that the site is well away from the Stansted Airport flight path and that there are no over-riding constraints to development of this site.
709. In terms of disadvantages, the report comments that the site would not be large enough to accommodate an 8FE school without detached planning fields^[324]. However, the BSHS does have extensive playing field facilities at Jobbers Wood. A further disadvantage is stated to be the fact that use of the site for educational purposes would prevent its development for residential use, meaning that a replacement site for 250 dwellings would need to be found. However, in this regard if the BSHS was to relocate to Hadham Road it would release its existing London Road site for possible housing. Indeed the Appeal D proposal is for 220 dwellings on the existing BSHS London Road site, close to the capacity figure of the Hadham Road site^[70].
710. The Appellants do not deal with the possibility of relocating the BSHS in isolation, but only in conjunction with the possible relocation of the HEHS to Beldams Lane, as detailed in Option C of the Financial Appraisal^[145]. Costings specific to the BSHS are therefore not before me for consideration. In the context of a joint move Mr Harris comments that the option is not affordable as it would involve capital expenditure in terms of constructing the 2 new schools. But if the option is restricted to consideration of just the possible move of the BSHS, the equation becomes somewhat different. The Hadham Road site is already owned by the County Council and would therefore require no capital outlay to acquire it (although there would of course be potential lost income as it could not be sold for housing purposes). Income would, however, be gained from the sale of the existing BSHS site, and capital outlay would be needed in the construction of a new school.
711. On the basis of the evidence before me I see nothing inherently unacceptable or unworkable with this proposal. It would enable the BSHS to expand and modernise and would also provide some additional 25 single-sex boys' spaces in the short to medium-term. I therefore conclude that this option would go some way to addressing the stated concerns of both the County Council and the BSHS itself.
712. The second option to be considered under this heading, discussed in written evidence and in the AASO report, is the possible relocation of the HEHS to its detached playing field site at Beldams Lane^[320]. However I see no merit in discussing this option in detail, as there remain a number of unknowns. The principal unknown relates to the fact that the option as discussed in the AASO report relies on the acquisition of some 10.28ha of arable agricultural land on the southern side of Beldams Lane. Although only some 200m or so distant from Site F, this area of land lies across the county boundary, in Essex, under the jurisdiction of the neighbouring Local Planning Authority, Uttlesford. It also lies within land designated as Green Belt^[321].
713. These matters need not be fatal to this option, as the feasibility design shows that buildings sufficient for an 8FE school could be accommodated on Site E, leaving the

land within Uttlesford to be used as playing fields^[321]. As this type of use is not inappropriate within Green Belts, it is possible that a proposal to use the land in this way could prove acceptable in planning terms, subject to details. The AASO report also comments that the planning field area may be subject to noise disturbance from aircraft departing from Stansted Airport, and that there may also be planning issues to be addressed in respect of the proximity of possible school buildings to adjacent housing.

714. Aside from the unknowns referred to above, this option would involve capital outlay in purchasing the nearby agricultural land and in the building of the new school. There would, however, be no land acquisition costs in terms of Site F and some funding would be available if the school's existing Warwick Road site was redeveloped for housing, as currently proposed under Appeal E. Detailed costings for this option have, however, not been placed before the inquiry and this, coupled with the various uncertainties referred to above, mean that it is not possible to come to any firm view on this matter. In these circumstances it would not be right to assume that this option would be a realistic way of addressing, at least in part, the concerns of the County Council and school itself. Nevertheless, on the basis of the information currently before me this option appears to be worthy of some future consideration.
715. ii) Alternative Options – Further Site Possibilities. A number of other possible sites for a 6FE or 8FE secondary school were investigated in the AASO report, the majority of which relate to greenfield areas located to the north of the town. For a single school, the report concludes that of these sites, land at Hazeland Road would be sequentially preferable and would have the best prospects for delivery within the required time period^[326].
716. For joint relocation of the 2 schools, the report highlights a site within the Special Countryside Area and another within the ASR. These are both stated to be sequentially preferable to land at Whittington Way, as neither of them lie within the Green Belt. However, the report goes on to comment that there are doubts about how quickly such a site could be made available, given the need for major access improvements to support the development of the ASRs. In addition, it is pointed out that a schools' development within this area would reduce its future capacity (and possibly viability) for housing^[326,328].
717. Although these options were referred to in the written evidence they were not discussed to any great extent at the inquiry, largely because once it was established that the educational need was primarily for just an additional 45 spaces, attention was focussed on alternative ways of providing this capacity. As a result, and in view of the matters detailed in the paragraph above, I see no reason to disagree with the Appellants' view that these options do not form realistic alternatives to the appeal proposals, and should not be considered further in the context of this appeal.
718. ii) Alternative Options – Summary and Conclusions. The appeal proposals are put forward by the Appellants as the best way of addressing the short, medium and longer-term educational needs of the BS&S EPA, both in capacity terms and in terms of maintaining and improving the educational infrastructure at these 2 schools. Part of this reasoning is based on the fact that in the SPS of May 2010 the financial appraisal indicated that relocating the BSHS and the HEHS to Whittington Way as 6FE schools would be a self-financing project, with a profit of some £5.8 million. The same appraisal shows that a "Phase 2" expansion of each school to

8FE, at a later date, would still mean that an overall profit of just over £1.1 million would be made^[145].

719. However, the latest Financial Assessment placed before the inquiry indicates that some estimates of cost have changed for Scheme A, such that the appeal proposals would no longer be self-financing but, instead, would be likely to result in a deficit of just over £1.7 million. If a subsequent expansion to 8FE was granted planning permission, the latest figures indicate that this deficit would increase to just over £7 million^[145].
720. It also appears to be the case that there are other possible options for delivering both the required educational objectives, in ways which could avoid or significantly reduce the amount of development in the Green Belt. Cost estimates have been produced for some of these alternative proposals, such as a new school at Hadham Road (Option B in the Financial Appraisal)^[145] and the relocation of both the BSHS and the HEHS to Hadham Road and Beldams Lane respectively (Option C in the Financial Appraisal)^[145]. Both of these are shown to be significantly more expensive than the preferred Option A, but detailed estimates have not been prepared for all of the possible alternative options discussed above.
721. Whilst it is highly likely that all would involve a net cost to the County Council and/or the schools concerned, some may compare favourably with Scheme A. Such information is simply not before the inquiry. Cost and value for money are, of course, both important considerations, but they should not be determining factors in this case, where Green Belt harm and other planning harm lie on the opposite side of the balance.
722. I have noted that the Appellants have criticised some of the alternative options detailed above as conflicting with some of the County Council's objective criteria for assessing school reorganisations or changes. But there is no dispute that the Appellants' preferred option is also in conflict with these criteria, insofar as it would clearly have an adverse environmental impact by developing in an open, Green Belt area.
723. Having said that, I do recognise that Scheme A would achieve all the required educational objectives under discussion at this inquiry and, provided Appeals C to F were also allowed, would do so at modest net cost to the public purse. It is clear, therefore, that a strong case can be made for Scheme A and in these circumstances I consider it right to attribute significant weight to the Appellants' preferred option in this regard. However, it would be wrong to accord more weight than this, in view of my findings that there appear to be other possible ways of achieving the desired objectives, which could well give rise to less harm in planning terms.
724. iii) Educational and Community Benefits. The independent body, Ofsted¹⁶, responsible for inspecting schools has reported on both the BSHS and the HEHS in recent years. Each school has been found to be "outstanding", with this view upheld in an interim assessment in 2011 in the case of the BSHS^[302]. The point made by the Appellants, however, is that this standard of education is being provided despite the schools having substandard and out-dated buildings, which really need to be upgraded or otherwise replaced^[172].

¹⁶ Office for Standards in Education, Children's Services and Skills

725. The Appellants argue that expansion of these schools would be consistent with the former Government's view that successful schools should be allowed to expand, and that new school buildings, such as would result from the proposed relocation, would enhance the learning environment. They maintain that any alternative solution would leave the Boys' and Girls' Schools in their present outdated, outworn and outgrown buildings and facilities, unable to offer their outstanding educational opportunities to any increase in number of pupils^[172].
726. It is clear that there are problems with out-dated and poor-condition buildings at both of these schools, with neither meeting current standards for disabled access or able fully to offer unrestricted access for students with physical disability in mainstream education. That said, it is right to point out that no other school in the area fully accords with such standards, although new facilities at Birchwood have significantly improved access provision at that school. A full rebuild of these schools, to meet current building regulations and standards, would offer improved access to students, staff and members of the community. However, it is also right to point out that many of these improvements could be achieved by improvements on the existing sites or by a move to an alternative site other than Whittington Way. There is nothing special about the Whittington Way site in this regard.
727. It is also relevant to note the Council's point that as any establishment would be expected to invest to maintain its facilities and ensure they remain fit for their intended purpose, the existence of poor condition or out-dated buildings cannot, in itself, justify inappropriate development in the Green Belt. Indeed one of the purposes of the Green Belt is to encourage the recycling of derelict and other urban land, rather than seeking to develop Green Belt land, to assist in the process of urban regeneration^[239].
728. Furthermore, the vast majority of schools throughout the country function as stand-alone entities, such that there is no over-riding reason for the co-location of 2 schools as is proposed here. Nevertheless, it is quite apparent that some significant education benefits would arise from Scheme A in terms of curricula, infrastructure and administrative matters. There would be the opportunity for a greater range of courses for all 14-19 year olds and a wider range of expertise amongst staff, leading to a consequent broader provision for minority subjects. There would also be benefits for the 2 sixth forms being located together in terms of the range of subjects that could be taught and the rise in standards which would come from having adequate numbers of pupils taking those subjects. Co-location on a single overall site would also increase the potential for benefits in terms of green travel provision, such as shared school buses and new commercial services.
729. Some community benefits would also arise from Scheme A. As the core sports and drama facilities would be located in a separate building which would not be part of either school but would sit between them, this would allow their use by local community groups in the evenings or at weekends^[90]. However, the Council has made reference to an up to date Assessment of Sports Facilities report which it had commissioned, which concludes that the main requirement in the district is for outdoor sports facilities, with the only indoor requirement recorded being for indoor bowls^[305].
730. So, although the Appellants offer community use of what would be the newly created school halls, swimming pool, 8 court sports hall, squash courts, health and fitness suite and dance/ drama studios, there is no identified need for all these indoor facilities, unless they make provision for indoor bowls. This is not to say that

such new, indoor facilities would not be welcomed, but I share the Council's view that they cannot be afforded much weight in the planning balance as their provision would not be addressing any pressing need^[308].

731. Furthermore, with regard to the provision of facilities for outdoor sports the recommended strategy, set out in this Assessment of Sports Facilities report, is that the Council should seek to improve the standard and quality of existing school facilities and make them available for community use. Notwithstanding this view, there is no doubt that the new outdoor sporting facilities, including the MUGA and AWP would, if available for community use, address some of the identified need.
732. iii) Educational and Community Benefits - Summary and Conclusions. Having regard to all the above points it is clear that there would be educational benefits arising from Scheme A and that these would lend weight to the Appellants' case. However, whilst these educational benefits may be desirable they cannot be considered essential, as both schools currently operate separately, as "outstanding" schools, without such facilities. This therefore has to reduce the weight that can be attributed to Scheme A. Similarly, although there would be undoubted community benefits, arising from both use of the new indoor and outdoor sports and leisure facilities, the indoor facilities would not meet any identified need, with the exception of indoor bowls.
733. Moreover, depending on matters of detail and any accompanying infrastructure, outdoor sporting facilities as proposed here would not normally be considered inappropriate development in the Green Belt. Accordingly it could well be the case that similar facilities could, in any case, be provided in the Green Belt without the significant amount of accompanying built development which would be a feature of the current proposals. Whilst there would be cost implications of any such provision, separate to the current proposals, the key point in this regard is that there appear to be potential alternative ways of securing the necessary facilities at a lesser environmental cost than with Scheme A.
734. Overall, in view of these matters, I conclude that the educational and community benefits which would arise from Scheme A should only serve to provide moderate weight in the proposals' favour.
735. iv) The flexibility for further expansion. The SPS which accompanied the planning application refers to the fact that a relocated and expanded BSHS and HEHS would provide sufficient capacity to meet secondary school requirements in the BS&S EPA to 2021 (agreed at the inquiry to now be 2024/25) ^[401]. This is not disputed. But in addition, this Statement argues that a major benefit of the current proposals is that they would provide flexibility to accommodate a need for additional capacity, if and when such a need arises^[130]. It seems to me, however, that this presumption pays little regard to the Green Belt location of the appeal site.
736. The appeal proposals have been submitted on the basis of providing classrooms for 2 6FE schools but with core facilities for 2 8FE schools and a car parking layout which could accommodate a further 100 or so spaces if required. If planning permission was to be granted for these proposals there could be no guarantee that any future planning permission would also be granted, to enable full expansion to 8FE.
737. To extend the schools to full 8FE operation the only option discussed in the written evidence and at the inquiry was that additional light-weight structures would need to be constructed on the roofs of both the currently proposed schools^[430]. This

would result in taller buildings which would be likely to have a greater impact on openness. The heightened buildings would also have greater bulk than the current appeal proposals, which could increase their prominence and visual impact.

738. Whilst it is the case that the site would be physically capable of accommodating this additional building mass, the impact and acceptability of these additional elements, in Green Belt terms, cannot be established in advance. As the Council points out, if the appeal proposals were allowed, but planning permission was subsequently refused for an expansion to 8FE, the entire development and the incurring of significant harm to the Green Belt would all have been solely for 45 spaces^[310].
739. In view of the above points it is clear that some uncertainty would have to be attached to any such future expansion, such that the flexibility claimed by the Appellants has to be viewed as questionable. Whilst the presence of an operative schools' complex could well weigh in favour of a further expansion, any future proposals would still need to be assessed on their own planning merits and against the planning policy framework extant at that time. Accordingly, no more than moderate weight can be attributed to this aspect of the current proposals.
740. v) The absence of significant harm to the integrity of the Green Belt. The Appellants' reasoning behind claiming this matter as a consideration in the proposals' favour is difficult to understand. It appears to stem from the SPS which accompanied the planning application which, in summary, argues that whilst there would inevitably be some urban encroachment and consequent loss of openness, any harm would be more than off-set by the wider benefits of the proposals.
741. However, this makes no reference to the fact that the built element of the proposals would be inappropriate development, which is harmful to the Green Belt by definition, and that PPG2 indicates that the Secretary of State will attach substantial weight to such harm. The proposals would also result in other harm, including a loss of openness, an adverse impact on the visual amenities of the Green Belt and an adverse impact on the character, appearance and enjoyment of the Hertfordshire Way. The Appellants accept these points in principle, but take a different view to the Council and other objectors regarding the weight to be attached to such matters, and the off-setting weight of the other considerations.
742. But even if the Appellants are correct in their view, the absence of harm, or the limitation of harm could, at best, only be considered neutral in the overall balance. It is plainly not a matter which can be held to count in the proposals' favour. Accordingly I do not attach weight to this consideration.
743. vi) Further Matters. In addition to the above points, reference was made by the parties to the Policy Statement on "Planning for Schools Development", issued by DCLG in August 2011^[46,201]. This explains that the Government is firmly committed to ensuring there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state-funded education and raising educational standards. The Government wants to enable new schools to open, good schools to expand and all schools to adapt and improve their facilities in order to allow for more provision and greater diversity in the state-funded school sector.
744. The Statement indicates that the creation and development of state-funded schools is strongly in the national interest and that planning decision-makers can and should support that objective. The Government expects all parties to work together

proactively to help to ensure that the answer to proposals for the development of state-funded schools should be, wherever possible, "yes".

745. Amongst other matters the Statement also makes clear that local authorities should make full use of their planning powers to support state-funded schools applications, and that they should give full and thorough consideration to the importance of enabling the development of state-funded schools. It states that the Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals that come before him for decision. With immediate effect it indicates that there should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework^[46].
746. The Appellants highlighted this presumption in favour of the development of state-funded schools but saw the Statement as largely superfluous, arguing that it simply adds unneeded weight to a balance which already shows that the merits of the proposals clearly outweigh the harm arising from development on Green Belt land^[201]. Not unsurprisingly, the Council and other objectors took a contrary view, arguing that there are a number of reasons why this Statement does not assist the Appellants' case, including the facts that no new school is needed in this case and that the 45 school places which are required could be provided by alternative means without sacrificing the Green Belt^[344].
747. In considering these conflicting views I have noted that the Statement does not purport to over-ride Green Belt policy to which the Government is clearly still committed, as reflected in the draft NPPF. Moreover, as the Council points out, the Statement itself refers back to the draft NPPF, which makes it plain that where there are adverse planning impacts, the proposals should be refused^[344].
748. Having regard to all these points it is my view that the Statement does add some weight to the appeal proposals as it specifically highlights the importance of development associated with state-funded schools and the priority which should be given to such development. However, there is no suggestion that the Statement should over-ride other planning considerations, and as it still needs to be read alongside Green Belt policy (which is carried forward into the draft NPPF), I conclude on this matter that the Planning for Schools Statement can only add a moderate amount of weight in the proposals' favour.
749. The Appellants maintain that a further matter weighing in the proposals' favour is that the package as a whole would produce up to 690 new homes within the settlement boundaries of Bishop's Stortford, with 345 on previously developed land^[200]. All options for future growth of the town (except for expanding within the existing built-up area), explored through the Core Strategy "Issues and Options" paper for the LDF, indicate that a review of Green Belt boundaries would be required in order to provide for future housing requirements up to 2031. The Appellants therefore argue that it would be preferable to see some 7.2ha of Green Belt land at Whittington Way built on to provide the proposed schools, rather than having to release a minimum of 17.2ha of Green Belt land to provide this same number of houses^[200].
750. Although this is a valid point, which deserves to be given some weight, it has already been agreed between the parties that in view of the relatively early stage of preparation of the LDF, the "Issues and Options" paper can not carry any significant weight at this stage^[44]. The Council acknowledges that it will need to identify

additional sites for housing, but its 2009/10 Annual Monitoring Report indicates that whilst it has a 4.5 year housing supply if the RSS housing targets are used, this extends to 5.3 years if lower "Option 1" figures are used^[340]. Decisions on the location of future housing need to be taken as part of an overall strategy for the further development of the town, and not in the context of a single package of planning proposals, as here. On balance I can only accord limited weight to this matter at the present time.

751. I have also noted the arguments put forward by the Appellants, and a number of other appeal decisions, which indicated that it is not uncommon for development for educational purposes to be granted planning permission within areas designated as Green Belt. But whilst this may well be correct, none of the cases put before me are directly comparable to the details of Scheme A. Accordingly I can only give limited weight to this matter.

Conclusion on Appeal A

752. Although some elements of the Appeal A proposal would be acceptable within the Green Belt, the proposals include a significant amount of development which would be inappropriate in Green Belt terms. Accordingly I have concluded that Scheme A, as a whole, constitutes inappropriate development in the Green Belt and therefore is at odds with guidance in PPG2, as well as being in conflict with saved Local Plan policy GBC1. PPG2 explains that inappropriate development is, by definition, harmful to the Green Belt and makes it clear that Green Belts can also be harmed by development which prejudices their continued protection, or does not preserve openness, or by development which injures visual amenities. It further explains that in view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.
753. In this case there would be clear harm to the Green Belt through inappropriateness, and in accordance with PPG2 guidance this carries **substantial weight**. In addition, because of the overall size and scale of the proposed school buildings, and the illustrative indications of their massing, I attach **considerable weight** to what would be a significant adverse impact on openness. I also attach **considerable weight** to the harm which would be caused to the visual amenities of the Green Belt and **significant weight** to the harm to the character, appearance and enjoyment of the Hertfordshire Way. I attach a **small amount of weight** to the harm arising from increased highway costs, but my conclusions on matters of aircraft noise and the living conditions of nearby residents are that they should not add any weight against these proposals.
754. Counterbalancing the harm detailed above, there are a number of other considerations which weigh in the proposals' favour. A need for additional secondary school capacity in the BS&S EPA has certainly been identified, but it is not as pressing as was made out in some of the supporting documentation. Furthermore, it is not the need itself which carries weight, but rather the suggested way of addressing this need. Scheme A would achieve all the required educational objectives under discussion at this inquiry and, provided Appeals C to F were also allowed, would do so at modest net cost to the public purse. In these circumstances I consider it right to attribute **significant weight** to the Appellants' preferred option. However, it would be wrong to accord more weight than this, as there appear to be other alternative methods of achieving the desired objectives, which seem very likely to give rise to less harm in planning terms.

755. I acknowledge that some of the educational and community benefits which would arise from Scheme A would only be possible with a co-location of the 2 schools. However, desirable though they may be, the benefits from co-location cannot be considered essential as many schools operate very successfully as stand-alone entities. Indeed, both the BSHS and the HEHS, on their existing, separate sites, are considered to be outstanding schools by Ofsted. I can therefore only give such educational benefits **moderate weight**. Similarly, I can only give **moderate weight** to the community benefits which would arise from Scheme A as they would only satisfy a modest element of identified indoor sporting need (bowls); and there seems to be no reason why the proposed facilities for outdoor sport could not be provided with a lesser impact on the Green Belt.
756. I am not persuaded that the appeal proposals would offer any meaningful, guaranteed flexibility for future expansion and can therefore attribute only **moderate weight** to this purported benefit of Scheme A. Moreover, although put forward as another favourable aspect of the proposals, I cannot give weight to the claimed absence of significant harm to the integrity of the Green Belt, for the reasons detailed above. Only **limited weight** in the proposals' favour arises as a result of the Government's Planning for Schools Policy Statement of August 2011, as the scheme still need to also be assessed against the guidance in PPG2. Finally, I can only attribute **limited weight** to the fact that the proposals would provide 690 dwellings within the existing built-up area, thereby reducing the potential need for Green Belt land to be released at some time in the future to provide an equivalent number of dwellings.
757. On the basis of the balance described above, it is my assessment that the extent of benefits which would arise from Scheme A would not be sufficient to clearly outweigh the Green Belt and other harm I have identified. Accordingly, I conclude that very special circumstances have not been demonstrated in this case, and I will therefore **recommend that Appeal A be dismissed**.
758. In coming to this view I have had regard to the fact, highlighted by the Appellants, that at the time the Council refused planning permission in September 2010 the arguments for and against the proposals were considered to be finely balanced^[160,201,205]. With this in mind the Appellants have argued that the balance should clearly have swung in the proposals' favour, once issues concerning aircraft noise were resolved to the Council's satisfaction and the benefits of providing 690 dwellings within the built-up area was recognised. However, these are not the only aspects of the scheme which have changed. Firstly, cost estimates for Scheme A have changed appreciably from 2010, when a Phase 1 surplus of about £5.8 million was forecast, to a predicted deficit of some £1.7 million at the time of the inquiry^[145].
759. In addition, the educational need case has now been more clearly defined. The Educational Needs Assessment which accompanied the planning application did not make a clear commitment to utilising 45 spaces at Stansted Mountfitchet College, which now forms a firm part of the Appellants' case and clearly absorbs an appreciable part of the forecast shortfall. Moreover, the SPS referred to an immediate need for spaces equivalent to 2FE (ie up to 60 spaces) in the EPA. But at the inquiry the need was narrowed down to 45 spaces to cover the period from 2014/15 (or 2016/17 assuming a later start date for housing delivery from the ASRs). It was also confirmed that this would be the extent of the need until at least 2024^[278].

760. There have also been clear changes with the position regarding Leventhorpe School. The 2010 Educational Needs Assessment acknowledges that there was potential for this school to expand by 1FE to 7FE, providing up to an additional 30 spaces, but in Mr Harris's evidence to the inquiry he accepted that in view of additional land purchased by Leventhorpe, the school had the clear potential to now expand to 8FE, providing a total of 60 additional spaces compared to its current PAN^[295].
761. These matters, together with my appraisal of the written and oral evidence presented to the inquiry, all serve to demonstrate why what appeared to be a finely-balanced matter in 2010 has not now swung in favour of the appeal proposals.
762. However, if the Secretary of State does not agree with my recommendation, and decides that Appeal A should be allowed, the conditions listed in Appendix C should be imposed on any planning permission granted. These conditions all accord with the guidance in Circular 11/95, and deal with such matters as the approval of reserved matters; archaeological investigations; existing and proposed ground levels; sustainable drainage works; a Construction Method Statement; highway matters and access arrangements; School Travel Plans; cycle parking; a Supplementary Site Survey; ecological matters; a Community Use Agreement; the materials to be used for hard-surfaced areas; hours of construction activity; hours of operation of lighting on the site; and matters of energy efficiency.

Appeals C, D, E & F

Introduction

763. As I have concluded that the other considerations put forward in favour of Scheme A would not clearly outweigh the harm to the Green Belt and other harm, my recommendation on Appeal A is that planning permission should not be granted. If the Secretary of State agrees with my recommendation on this matter it follows that Appeals C, D, E and F should also be dismissed. Scheme C could not be allowed to proceed as the Hadham Road site may still be needed for educational purposes and Schemes D, E and F could clearly not proceed as the sites would be needed for the continued presence of the BSHS and the HEHS.
764. However, the Secretary of State may reach a different view on the weight to be attached to the various aspects of the Appeal A proposals and come to the view that Appeal A should be allowed. In those circumstances it would then be necessary to consider the merits of Schemes C to F to determine whether or not they should also be allowed. On a "without prejudice" basis I therefore consider, below, each of these proposed housing schemes and provide a recommendation for each of them.

Appeal C

765. The Council refused planning permission for Scheme C for a single reason, relating to the loss of a site which is reserved for secondary school provision in the Local Plan^[8]. In light of this, and the evidence presented at the inquiry, I have concluded that the main consideration in **Appeal C** is the effect of the proposal on the ability to provide additional education capacity within the town. I have dealt with the further concerns raised by other parties as "other matters". However, such matters would clearly take on a much greater importance if the Secretary of State decides that the site no longer needs to be retained for educational purposes.

The effect on the provision of additional education capacity

766. Site C forms part of a larger site at Hadham Road which is protected under Local Plan policy BIS7 as a reserve secondary school site. This larger site is also earmarked in the Local Plan as a “Phase II” housing site, capable of delivering some 250 dwellings^[42]. However, policy BIS7 makes it clear that the site will only be released for housing development if sufficient additional secondary school capacity is provided elsewhere in the town.
767. The Appellants’ case is that if planning permission is granted for Scheme A, that would provide the necessary additional capacity to address the forecast shortfall in secondary school spaces and thereby allow the overall Hadham Road site to be released for housing development. There is also a financial linkage in this argument, insofar as income from the sale of the Hadham Road site for housing forms part of the overall financial appraisal which, initially, showed the County Council’s preferred option (Scheme A) as generating an appreciable profit^[145].
768. It has to be remembered, however, that Scheme A only seeks provision of teaching capacity for 2 6FE schools, even though the core facilities proposed would be sufficient for 2 schools of 8FE operation. In these circumstances I have already concluded, above, that even if planning permission was to be granted for Scheme A there could be no absolute certainty, at this stage, that a further planning permission would be granted at some future date to expand teaching capacity at Whittington Way to 8FE. Any such decision would have to be taken with appropriate knowledge and detail of the proposed expansion scheme, against the prevailing planning policy framework operative at that time. Such matters cannot be pre-judged.
769. In view of these points it would not be appropriate to allow development of Site C, at the present time (even if Scheme A was considered acceptable), as there could be no certainty that the site would not be needed for educational purposes in the future. It is, of course, possible that a case could be made for providing any additional capacity on a site other than Hadham Road, or by some other method. But this was not an option put plainly to the inquiry. The Appellants’ clear expectation is that additional capacity – if needed – would be provided at the Whittington Way site. As I have already found that such an approach and presumption would be inappropriate, I therefore have to conclude that this Appeal C proposal would have a harmful effect on the ability to provide additional education capacity within the town. Accordingly it would be in conflict with Local Plan policy BIS7.

Other matters

770. Notwithstanding the above points, if the Secretary of State considers that the site no longer needs to be retained for educational purposes, its suitability as a housing site for up to 165 dwellings needs to be assessed. In this regard I have noted the criticisms of the proposal and the objections to it, made at the inquiry by Residents of Grove Park and 171 Hadham Road, along with other interested persons^[448].
771. A common thread running through the objections put forward by the BSCF and the individual residents’ groups it supports was that there had been a lack of effective and meaningful consultation on this overall package of proposals, at a point in time when it could make a difference^[470-1]. In the case of Appeal C, residents complain not only that there was a complete lack of meaningful dialogue with those likely to

be most closely impacted by the current proposals; but that local people living in the vicinity of the Hadham Road site had not been directly informed of the proposal to re-designate it for housing in the second review of the Local Plan in 2007^[448].

772. Dealing briefly with this latter point first, there is no firm evidence before me that there was anything untoward in the community involvement process leading to the adoption of the current Local Plan in 2007. I therefore give little weight to objections in this regard. On the first point I have had regard to the Statement of Public Consultation (SPC) which describes, amongst other matters, the results of a public exhibition of the package of proposals held in April 2008^[225]. Whilst this may have focussed on Site A and the issues relating to the relocation of the BSHS and the HEHS to Whittington Way, it made it clear that the existing school sites and the Hadham Road site would be sold for housing, to fund the schools' development.
773. Although I have noted the complaints and criticisms levelled at this consultation by local residents, my reading of its range and content indicates that it was a comprehensive exercise focussing on a wide range of interest groups, including the general public, and providing an opportunity for all consultees to have an input to the final proposals^[225]. In the case of Site C, the submitted information indicates that the original proposal put forward was looking to provide up to 250 dwellings on a somewhat larger site (which included the western field), whereas the current outline proposals only relate to the northern field and seek to provide up to 165 dwellings. The intention is stated to be to pursue a second phase development of the western field, once an alternative playing field location can be found.
774. Undertaking public consultation does not automatically mean that proposals have to be amended or abandoned to accord with the views of those consulted. In this regard I have been mindful of comments that by pushing ahead with this package of proposals the Appellants are having little regard to the requirements of "localism"^[470,477,490]. However, I share the Appellants' view that localism cannot mean a veto on needed development to meet local needs simply because it is not popular with the majority of those who have expressed views on it^[224]. This is especially the case in circumstances where there is a misunderstanding of the proposals or the impact of alternative solutions. This is the situation here, to some extent at least, as there appears to be a strong feeling that the issue of secondary school capacity could be addressed simply by changes to the admissions policies^[224]. I have already found that this is not the case. My conclusions on this first matter, therefore, are that adequate and meaningful public consultation was undertaken on the proposals.
775. Concerns were also raised regarding traffic implications of the development. These include doubts as to the ability of the existing priority junction between Patmore Close and Hadham Road to adequately serve the proposed development and fears that there would be a general increase in congestion on Hadham Road and the surrounding road network. These are, however, generalised concerns which have not been supported by any technical assessments. The assessments which have been undertaken by the Appellants, and accepted by the local Highway Authority, have included SATURN model runs of the whole town network, as discussed earlier, together with a specific capacity and operational assessment of the proposed site access junction with the computer program PICADY^{17[211]}.

¹⁷ PICADY: (Priority Intersection Capacity and Delay) - a computer program for predicting capacities, queue lengths and delays at non-signalised major/minor priority junctions.

776. These assessments indicate that the network as a whole would satisfactorily cope with the additional traffic which would be generated by a housing development of this size, and that the site access junction would operate well within capacity with only nominal delays for drivers. My own observations, made both at peak and non-peak times, do not suggest that these assessments are in any way unreliable. I therefore see no good reason why, on traffic grounds, this proposal should be refused planning permission.
777. Although matters of housing density are not before me in detail, the proposal clearly seeks a maximum of 165 dwellings which would result in a density of some 36 dwellings per hectare (dph) ^{[66[66]]}. PPS3 no longer contains any requirement for a particular minimum housing density to be achieved, and no specific local density requirements have been put before me. That said, PPS3 does contain a requirement to use land efficiently. It also explains that there are a number of matters which need to be considered when assessing design quality, including the extent to which the proposed development would be well integrated with, and would complement, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access.
778. In view of these points I share the Appellants' view that density, in itself, should not be a determining factor in a proposal such as this. The matter would need to be explored at a reserved matters stage, if planning permission is granted for this proposal at some stage in the future. Similar comments apply to criticisms levelled at the proposed housing design. This aspect is not to be determined at this stage, but the Planning, Design and Access Statement (PDAS) accompanying the proposal indicates the intention for the development to comprise a mix of 2, 3 and 4 bedroom family dwellings and 1 and 2 bedroom flats and apartments. The PDAS also indicates that buildings would be a maximum of 12m to the ridge and would be predominantly 2-storey, with a number extending to 2.5 and 3-storeys.
779. Any assessment at reserved matters stage would also need to consider the detailed layout in terms of the relationship between new and adjoining, existing residential plots and dwellings, with specific reference to matters such as privacy, noise and disturbance, drainage and the provision of open space. In this regard I have noted concerns expressed by the BSTC about drainage problems at Marshbarns, which lies adjacent to the southern end of Site C, but no further detail of this has been submitted^[485]. However, there is nothing before me to suggest that all such matters could not be satisfactorily resolved on an urban site such as this which the Council acknowledges would, in principle, be acceptable for housing development. Indeed, this is clearly borne out by its designation as a Phase II housing site if no longer needed for educational purposes.
780. A S106 unilateral undertaking has been submitted for this proposal by the County Council^[537]. Under this the County Council covenants to make appropriate financial contributions towards a number of essential matters. These include community facilities, libraries, outdoor sports and recreation, parks and public spaces, recycling, secondary education, sustainable transport and youth services. It also covers the provision of fire hydrants, an Open Space Works Specification, Lifetime Homes and a Residential Travel Plan aimed at reducing the number of commuting trips from the development that are made by private car. The unilateral undertaking also makes provision for 40% of the housing units to be constructed as affordable dwellings and contains details of the way in which the Affordable Housing Scheme would operate.

781. The only concern expressed by the Council, with regard to this unilateral undertaking, is the absence of a stated financial contribution towards nursery education and childcare^[212]. The County Council's case is that such contributions are unnecessary as it is the County Council itself that provides these services. It argues that there is no point in making a contribution to the District Council when it would simply be passed back to the County Council. I can understand this line of thinking, although there seems to be a certain amount of inconsistency in the County Council's approach as contributions have been agreed towards secondary education, youth facilities and library facilities, all of which are also provided by the County Council. Notwithstanding this ambiguity I do not consider that a failure to make specific provision for contributions towards them in the unilateral undertaking should be considered fatal, as the County Council still has the responsibility to provide such services.
782. If planning permission is to be granted, it will be necessary to impose a number of conditions^[533]. Those recommended in connection with Scheme C are listed in Appendix C. They all accord with the guidance in Circular 11/95, and deal with such matters as the approval of reserved matters; archaeological investigations; existing and proposed ground levels; sustainable drainage works and other drainage matters; a Construction Method Statement; highway matters and access arrangements; a Green Travel Plan; a Supplementary Site Survey; the materials to be used for hard-surfaced areas; hours of construction activity; and matters of energy efficiency.
783. The only area of dispute in terms of the suggested conditions relates to Condition No 3, dealing with a linking mechanism between development on this site and development on the main Whittington Way site^[533]. Three alternative wordings have been suggested. However, because of the need to ensure that Site C remains potentially available for educational use, until sufficient additional secondary school capacity is provided elsewhere in the town, I recommend that Condition No 3(a) be imposed, as suggested by the Council.
784. Drawing all these matters together, I conclude that if it could be shown that there is no longer an educational need for Site C, then this site would be suitable for housing development along the lines of the illustrative proposals which form the basis of Scheme C. Access details, which are the only detailed matter to be determined at this stage are acceptable and planning permission could be granted, subject to the conditions detailed above and the submitted unilateral undertaking. Other matters would need to be addressed through a subsequent application for approval of reserved matters.

Appeal D

785. The Council refused planning permission for Scheme D for a single reason, relating to the loss of the BSHS and other sports facilities, and also the loss of the Blues Pre-School^{[9][10]}. However, this latter matter was not pursued at the inquiry as arrangements have been made for the relocation of this pre-school. In light of this, and the evidence presented at the inquiry, I have concluded that the main consideration in **Appeal D** is the effect of the proposal on the provision of community, education and associated sporting and recreation facilities within the town. As with Appeal C, I have noted the further concerns raised by other parties and have therefore dealt with them as "other matters".

The effect on community, education, sporting and recreation facilities

786. The Council's reason for refusing the Appeal D proposal made reference to policies LRC1 and LRC11 of the East Herts Local Plan^[42]. The first of these explains that proposals which will result in the loss of public or private, indoor or outdoor, sports, recreation and open space facilities, or school playing fields, will be refused unless suitable alternative facilities are provided. These would need to be on site or in the locality, and would have to be at least equivalent in terms of quantity, quality and accessibility to the ones that would be lost. Failing this, it would have to be demonstrated that the facility is no longer needed and that there is no viable demand for an alternative facility.
787. The second policy indicates that the Council will refuse planning permission for proposals which will result in the loss of community facilities unless suitable alternative facilities are provided on site, in the locality or relevant catchment area; or it can be demonstrated that the facility is no longer needed and that there is insufficient demand to make an alternative community facility viable.
788. Some community use is currently made of the gymnasium and the sports hall, under the management of the Bishop's Stortford Sports Hall Trust^[90,493-4], and the community facility of the Blues Pre-School is also present on the existing site^[10]. However, with regard to this latter facility, it has already been noted that alternative arrangements have been put in place to provide for the pre-school elsewhere in the town and this matter was therefore not pursued at the inquiry^[53]. Consequently I do not see this as a barrier to this Appeal D proposal.
789. I have noted the comments of Councillor Symons, concerning loss of the existing sports hall facility^[493-43]. However, despite the matters she put forward at the inquiry, there is no clear evidence before me to suggest that the Bishop's Stortford Sports Hall Trust is able to veto the move of the schools to Whittington Way and the redevelopment of the existing BSHS site^[91]. In any case, such matters do not appear to go to the heart of the planning issues in this appeal. Moreover, indoor sports hall facilities of at least comparable quality would be available for community use as part of the proposed new schools' complex at Whittington Way^[63].
790. Figures in the Council's Committee Report indicate that the proposed schools' site at Whittington Way would provide a little less grass pitch area than the BSHS and the HEHS currently have in total, but significantly more hard play area and informal recreation area^[61]. Moreover, Council Officers consider that the amount of indoor sports provision would be at least equivalent to the current combined provision of the existing schools. In addition, there is no reason to believe that the overall quality of the proposed outdoor and indoor facilities would not be of at least equivalent quality to the existing provision.
791. In terms of accessibility the replacement playing fields and other facilities would be perfectly accessible to pupils of the 2 schools. It is the case that the Whittington Way site is not as central to Bishop's Stortford as the existing school sites, but would still be quite accessible by means of a range of transport modes.
792. The above points led Council Officers to conclude that if Appeal A was found to be acceptable, the replacement community and sports facilities proposed at Whittington Way would be acceptable replacements in terms of quantity, quality and accessibility. I share this view and further conclude that in such circumstances allowing residential development on Site D would not have an adverse effect on

community, education, sporting or recreation facilities. Accordingly there would be no conflict with Local Plan policies LRC1 and LRC11.

Other matters

793. In its report to Committee, Council Officers commented that there is no objection to the principle of housing development on this site as it is clearly located within the built-up area of Bishop's Stortford. As new residential development the proposed 220 dwellings would, themselves, bring about a requirement for community and sports facilities^[70]. The Officers' report considered that the requirement of provision for indoor sports facilities would be met by community use of the new facilities proposed at Whittington Way, but that outdoor provision would need to be met by an appropriate financial contribution. This is now addressed in the submitted S106 unilateral undertaking offered by the Appellants^[537]. As such the proposal would not conflict with Local Plan policy LRC3 which indicates that the Council will seek to negotiate for the provision of adequate and appropriately located open space, sport and recreation facilities in conjunction with new residential development.
794. The Design and Access Statement (DAS) accompanying the application indicates that up to 220 dwellings are proposed at a density of about 38dph^[70]. A range of housing of different types and tenures is proposed, including 2, 3 and 4/5 bedroom houses, and 1 and 2 bed flats. The DAS indicates that building heights are likely to include, 2, 2.5 and 3-storeys. Areas of open space would also be included, and a land exchange would be necessary alongside the southern edge of the Thorley Hill Primary School, to provide sufficient width for a vehicle and pedestrian route linking the western and eastern parts of the overall site^[70].
795. The Council has raised no in-principle objections to the details shown on the illustrative plans, although it has commented that there are some aspects of the indicative layout where the relationship between new and existing developments would not be acceptable. These are, however, all matters of detail which would need to be determined at a future reserved matters stage, if outline planning permission was to be granted. But there is nothing before me to suggest that such matters could not be satisfactorily resolved on this site.
796. Access is a matter to be determined as part of this application. The main vehicular access would be by means of a signal controlled junction from London Road, in the general location of the existing BSHS access. I have already referred to the fact that SATURN assessments of the "with development" scenarios show that no unacceptable traffic conditions would arise in the London Road area if all appeals were allowed^[71]. In addition I have noted that specific assessments undertaken by the Appellants, and approved by the Highway Authority, indicate that the proposed signalised junction serving Site D would operate well within capacity^[216].
797. The proposed new road link between the western and eastern parts of the site forms an integral part of the access arrangements for the overall proposals and therefore needs to also be assessed at this stage. This road link would pass close to the rear boundaries of dwellings in Twyford Gardens and would potentially introduce a new source of noise, disturbance and pollution where none currently exists. I share the Council's view that vehicle speeds on this link could be kept low through careful highway engineering solutions at the detailed layout stage and that if noise was considered to be an issue some form of acoustic screen along the site boundary could be appropriate. Such measures should be effective in addressing likely problems.

798. A S106 unilateral undertaking has been submitted for this proposal and under this the Appellants covenant to make appropriate financial contributions towards a number of essential matters^[537]. These include community facilities, highway works, libraries, outdoor sports, parks and public spaces, primary education, secondary education, sustainable transport and youth services. The highway works include the construction of the new signalised site access junction to London Road, staggered pedestrian crossings, the construction of a SCOOT Traffic Control System, a new bus stop on London Road and the construction of pedestrian/cycle accesses at Park Lane, Twyford Gardens and Grace Gardens. The unilateral undertaking also covers the provision of fire hydrants, Open Space and Play Areas and a Residential Travel Plan aimed at reducing the number of commuting trips from the development made by private car.
799. Although much of the unilateral undertaking is acceptable to the Council, it has expressed concern on 2 matters. The first is the fact that it does not specify the exact amount of affordable housing to be delivered but simply, in its definition of "Affordable Dwellings", refers to the number being "up to 40%"^[210,213-4,343]. The definition of "Affordable Dwellings" contains a reference to the "Affordable Housing Scheme". In turn, the definition of the Affordable Housing Scheme indicates that it needs to be consistent with the approved reserved matters and will need to have the number of affordable dwellings and free market dwellings for each phase of development (where appropriate), approved in writing by the Council's Director and Housing Development Manager.
800. This seems to be rather a cumbersome arrangement, and all the more so as it is in clear contrast to the arrangements in the S106 Agreement for Site C, where the County Council has simply agreed to a 40% provision of affordable housing. The Council points out that an assumed 40% of affordable housing has been used in the financial assessments which the Appellants have relied on to support their case, and that it therefore appears strange that they are not prepared to formally carry this figure forward into the unilateral undertaking in a firm manner. I share this view. However, Local Plan policy HSG3, which seeks the provision of affordable housing, only refers to an "up to 40%" figure and it is clear that the Council has not objected to the use of this wording in the "Heads of Terms" discussions on the planning obligations which have been ongoing for some time.
801. Because of this the Appellants maintain that the wording in the unilateral undertaking is quite acceptable and that if a reserved matters application was submitted which did not contain sufficient affordable housing the Council would be able to refuse to approve it. Although such a process appears to introduce a further hurdle, which ought to be unnecessary in view of the financial details already relied on by the Appellants, it nevertheless seems that these arrangements would give the Council the necessary control over the amount of affordable housing to be delivered. On balance I consider that this aspect of the unilateral undertaking can be given weight in this appeal, and would ensure delivery of an acceptable and appropriate amount of affordable housing in the event that the Secretary of State decides that planning permission should be granted for this scheme.
802. The Council also expressed some concerns that the operation of the Affordable Housing Scheme would allow housing to be released too easily for Low Cost Housing, such that affordable housing would not be secured. However, the Appellants contended that the proposed cascade mechanism of a period of 18 months to secure a registered provider having to be exhausted before the affordable dwellings could be sold as low cost housing to local people, is perfectly

fair and realistic^[214]. As the Council produced no firm evidence to support its fears, and as the cascade mechanism appears both reasonable and workable, I am not persuaded that it would prevent the delivery of affordable housing to any meaningful extent. I therefore find this aspect of the unilateral undertaking acceptable.

803. The second matter of concern to the Council is that the Appellants have offered to rectify defective or faulty equipment within the Open Space and Play Areas Scheme for a period of 1 year, whereas the Council is seeking a period of 2 years^[215]. The Appellants argue that as the Council would benefit by having land transferred to it for public open space purposes for the cost of just £1, a 1 year period to remedy faults should be seen as acceptable. The Council has produced no firm evidence to justify its request for a longer period and I share the Appellants' view that it is difficult to see what planning harm would arise from having a 1 year requirement. I therefore consider that a 1 year time period would be acceptable and that weight could therefore be placed on this aspect of the unilateral undertaking.
804. If planning permission is to be granted, it will be necessary to impose a number of conditions^[534]. Those recommended in connection with Scheme D are listed in Appendix C. They all accord with the guidance in Circular 11/95, and deal with such matters as the approval of reserved matters; archaeological investigations; existing and proposed ground levels; sustainable drainage works; a Construction Method Statement; highway matters and access arrangements, including ensuring that satisfactory vehicular access can be obtained to the western part of the site; a Green Travel Plan; a Supplementary Site Survey; the materials to be used for hard-surfaced areas; hours of construction activity; and matters of energy efficiency.
805. There are 3 areas of dispute in terms of these suggested conditions^[534]. Firstly, I share the Appellants' view that the suggested Condition No 13 is unnecessary as Condition No 12 requires a relocation of boundaries to be approved by the Council, and this could not take place without the land exchange referred to in Condition No 13. Condition No 12 on its own is therefore able to address this matter. Two alternatives were put forward to deal with energy efficiency. I favour the Appellants' suggested condition, referring to the Code for Sustainable Homes as this is now the national standard for the sustainable design and construction of new homes. Accordingly I recommend that Condition No 18(a) be imposed.
806. Finally, as redevelopment of Site D could not reasonably take place unless and until the Boy's School has vacated all or most of the site, I see no good reason why commencement of the housing development should have to wait until the schools on Site A are ready for occupation. I therefore recommend that the Appellants' suggested wording in Condition No 19(a) be imposed. This seeks to ensure that no occupation of the dwellings on Site D takes place until the development on Site A is available for use and occupation as school buildings and community facilities.
807. Although I have noted that no condition was suggested relating to the move of the Blues Pre-School from the site, or provision made within the unilateral undertaking in this regard, no concern on these points was raised by the Council and I do not consider the absence of any such provision to be a problem in planning terms^[10].
808. Drawing all these matters together, I conclude that if Appeal A is allowed, and the schools are able to relocate to Whittington Way, then the existing BSHS site at London Road would be suitable for housing development along the lines of the illustrative proposals which form the basis of Scheme D. Access details, which are

the only detailed matter to be determined at this stage are acceptable and planning permission could be granted, subject to the conditions detailed above and the submitted unilateral undertaking. Other matters would need to be addressed through a subsequent application for approval of reserved matters.

Appeal E

809. The Council originally refused planning permission for Scheme E for 2 reasons, namely concern regarding the loss of the HEHS and its facilities; and insufficient information in respect of the historic significance of buildings on the HEHS site^[3]. This second matter was, however, subsequently addressed to the Council's satisfaction by the submission of a specific Heritage Statement and was not therefore pursued at the inquiry. I deal with most of the additional concerns raised by other parties under an "other matters" heading, but have also highlighted as a specific matter, concerns regarding the status of Warwick Road, raised by the BSCF^[75,218,458].

810. In light of the above points, and the evidence presented at the inquiry, I have concluded that the main considerations in **Appeal E** are firstly, the effect of the proposal on the provision of community, education and associated sporting and recreation facilities within the town; and secondly, the implications of the status of Warwick Road on rights of access to the appeal site, and maintenance liabilities.

The effect on community, education, sporting and recreation facilities

811. Many of the matters to be considered under this heading echo those for Appeal D relating to the BSHS, and are therefore not repeated in detail here. In summary, Site E is located within the built-up area of Bishop's Stortford and there is no objection in principle for its redevelopment for housing. However, without satisfactory replacement, the loss of indoor and outdoor educational, sports and recreation facilities on the site, some of which are used by the local community, would result in conflict with Local Plan policies LRC1 and LRC11.

812. Having said that, it is generally agreed that all these facilities would be adequately and satisfactorily replaced by the proposed Scheme A development at Whittington Way, coupled with community facilities and outdoor sports contributions which would be secured by the submitted S106 unilateral undertaking. It is also the case that whilst the Whittington Way site is not as central to Bishop's Stortford as the existing HEHS and BSHS sites, it would still be quite accessible by means of a range of transport modes.

813. Therefore if, contrary to my recommendation, Appeal A was found to be acceptable, the replacement educational, community and sports facilities proposed at Whittington Way would be acceptable in terms of quantity, quality and accessibility. As a result they would adequately compensate for the facilities which would be lost if residential development was permitted on Site E and I therefore conclude that there would be no adverse effect on community, education, sporting or recreation facilities. Accordingly there would be no conflict with Local Plan policies LRC1 and LRC11.

Implications arising from the status of Warwick Road

814. Warwick Road is not a highway maintained at public expense but rather, based on the opinion obtained from Leading Counsel, it is private land in respect of which the frontagers have private rights of vehicular access, with the public only having a

right of way on foot and no vehicular rights^[459]. The Warwick Road Maintenance Association (WRMA), which does have responsibilities for its maintenance, is strongly of the view that the Highway Authority has no legal basis for requiring the principal vehicular access to the proposed housing development to be from Warwick Road, as this would have the effect of opening up Warwick Road to public vehicular traffic. The WRMA contends that by proposing access onto a private road, rights of public vehicular access would be created where none previously existed.

815. The Appellants very strongly disagree with this view, arguing that those plots with a frontage to Warwick Road have a right of way over the road, for all purposes. They have, however, prepared an alternative access junction arrangement which, although still requiring use of Warwick Road, would not involve making any alterations to the existing kerb line^[218]. However, in this regard the WRMA's concern does not just relate to kerblines. Rather, it points out that the school currently only has limited access rights across the footpath between the school site and the Warwick Road, which is owned by a third party^[458].
816. As far as I can see, the opinion of Leading Counsel does not fully assist in resolving this matter. The opinion is quite clear on the matters upon which advice was sought but, as the Appellants point out, this opinion did not provide any view regarding the rights of frontagers to Warwick Road; or whether land fronting Warwick Road has rights over it, subject to the paying of a share of maintenance^[218]. Put simply, Leading Counsel was not asked to advise on such matters.
817. It is clear that these points would need to be resolved if planning permission was granted for Scheme E, to ensure that satisfactory access arrangements were available for the proposed housing. However, I share the Appellants' view that these are not planning considerations but rather are matters of private law relating to frontagers' rights over a private road. If I am right in this view, these matters do not go to the heart of the planning issues upon which I have to base my deliberations and recommendations. In those circumstances I conclude that the status of Warwick Road regarding rights of access to the appeal site, and concerns over maintenance liabilities, need not prevent Scheme E from being implemented.

Other matters

818. In a similar way to Appeal D, the proposed on-site facilities at Whittington Way, together with contributions secured through the submitted S106 unilateral undertaking, would be sufficient to address the need for community and sports facilities generated by the new community of up to 125 dwellings proposed for this site.
819. The transport assessment indicates that the proposed development of up to 125 dwellings would result in noticeably fewer morning peak hour trips to the appeal site, but with an increase in the evening peak^[73]. The main access to the site would be at the school's existing access on Warwick Road, with a secondary access on Dunmow Road to the north of the site. This latter access currently serves a parking area and the Highway Authority has indicated that it could be used to serve up to 35 parking spaces associated with the proposed development^[219]. Junction analyses have shown that both of these site access points would operate within capacity.
820. There are however, junctions in the surrounding area which currently suffer from delays and congestion, such as the Haymeads Lane/Dunmow Road junction to the

east of the school site and the London Road/Hockerill Street traffic signals to the north-west^[180]. Various measures have been taken over the years to try and improve the operation of these junctions, but none have been completely successful. The HA comments that traffic flows through these junctions will increase as growth occurs over future years. It therefore considers it essential that measures outlined in the Bishop's Stortford Transport Plan are implemented to enhance the performance of the highway network around the town and encourage a shift towards more sustainable modes of transport^[220].

821. The changes in traffic generation from the appeal site are predicted to ease traffic conditions somewhat in the morning peak, but would increase flows on some junction arms in the evening peak. However, in the light of the SATURN modelling assessments, undertaken for the town as a whole in a "with development" scenario, the HA raises no objections to the proposals, subject to a number of conditions, as discussed below. It also requires appropriate financial contributions towards sustainable transport measures, which it sees as mitigating the overall off-site impact of this proposed development. These would be secured by the submitted S106 unilateral undertaking^[538].
822. I have noted that local residents paint a worse picture of traffic conditions than both the Appellants and the Highway Authority and I saw the operation of the junctions concerned at both accompanied and unaccompanied site visits. Although there were lengthy queues on some occasions within the peak periods, the junctions appeared to operate relatively smoothly on others. On balance, and as no alternative technical assessments have been placed before me in this regard, I see no good reason to doubt the views of the HA that this development could be accommodated without unacceptable harm arising.
823. The indicative layout drawing indicates that a development of up to 125 dwellings could be achieved on the site at a density of 44dph^[73]. In view of the range of densities in the surrounding area, and the sustainable nature of the site (being within easy walking distance of the rail station and the town centre), such a maximum density does not appear to be unreasonable. There would be a mixture of house types ranging from flats, small family starter housing and medium and larger family housing and building heights would be likely to range from 2 to 2.5 and 3-storey^[73]. The indicative layout indicates that the proposal would also provide footpaths and cycleways, public open space and play space accessible to residents living within the proposed development and to existing residents living within the locality. The layout would also provide the potential to incorporate play areas as necessary, and indicates the retention and provision of trees.
824. Some local residents consider the proposals to be at too high a density, and as noted above I have been mindful of the fact that PPS3 no longer contains any requirement for a particular minimum housing density to be achieved. However, as also noted previously, PPS3 still requires land to be used efficiently and makes the point that new development needs to be well-integrated with, and complement, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access. In terms of ensuring efficient use of this site I see no specific problem with the maximum density as currently proposed, but the actual density appropriate to this site can only really be assessed as and when a specific, detailed proposal is put forward.
825. The Council has raised no in-principle objections to the details shown on the illustrative plans, although it has commented that there are some aspects of the

indicative layout where the relationship between new and existing developments would not be acceptable. These are, however, all matters of detail which would need to be determined at a future reserved matters stage, if outline planning permission was to be granted. But there is nothing before me to suggest that such matters could not be satisfactorily resolved on this site.

826. As with Appeal D, a S106 unilateral undertaking has been submitted for this proposal^[538]. This provides for financial contributions towards a number of essential matters, including community facilities, highway works, libraries, outdoor sports, parks and public spaces, secondary education, sustainable transport and youth services. The unilateral undertaking also covers the provision of fire hydrants, Open Space and Play Areas and a Residential Travel Plan aimed at reducing the number of commuting trips from the development that are made by private car.
827. It also provides for affordable housing, in the same way as for the Appeal D site. In other words, the unilateral undertaking includes reference to “up to 40%”, rather than specifying an exact amount of affordable housing. I have already indicated that I do not consider this to be a particularly satisfactory situation, but consider that on balance the Council would still have sufficient control over the amount of affordable housing to be provided. As discussed above in the context of Appeal D, I also find the cascade mechanism within the Affordable Housing Scheme acceptable.
828. If planning permission is to be granted, it will be necessary to impose a number of conditions^[534]. Those recommended in connection with Scheme E are listed in Appendix C. They all accord with the guidance in Circular 11/95, and generally cover the same matters as those recommended for Appeal D. The 2 areas of dispute, as with Appeal D, relate to energy efficiency and linkage of development on this site with progress on development of Site A. For the same reasons as given in connection with Appeal D I recommend that Conditions 17(a) and 18(a) be imposed.
829. In view of all the above points I conclude that if Appeal A is allowed, and the schools are able to relocate to Whittington Way, then the existing HEHS site at Warwick Road would be suitable for housing development along the lines of the illustrative proposals which form the basis of Scheme E. Access details, which are the only detailed matter to be determined at this stage are acceptable, although rights of access would need to be established. As I do not believe this to be a planning matter, my view is that planning permission could be granted, subject to the conditions detailed above and the submitted unilateral undertaking. Other matters would need to be addressed through a subsequent application for approval of reserved matters.

Appeal F

830. The Council refused planning permission for Scheme F for a single reason, relating to the loss of an outdoor sports and recreation facility^[12]. In light of this, and the evidence presented at the inquiry, I have concluded that the main consideration in **Appeal F** is the effect of the proposal on the provision of outdoor sports and recreation facilities within the town. As with the other appeals detailed above, I have dealt with the further concerns raised by other parties as “other matters”.

The effect on outdoor sports and recreation facilities

831. Site F comprises the detached playing field area for the HEHS and is located some 500m away from the school’s main Warwick Road site^[55]. It has no changing

facilities and as getting to and from the site from the main school buildings involves about a 10 minute walk, each way, it is not particularly convenient to use. Nevertheless, it forms part of the school's overall facilities and unless a satisfactory alternative could be found, the loss of this site to housing development would not be acceptable as it would be at odds with Local Plan policy LRC1.

832. However, as with Appeals D and E, if the HEHS was allowed to relocate to Whittington Way, along with the BSHS, the new school site would offer sufficient replacement sports and recreation facilities of at least equal quantity, quality and accessibility. In those circumstances I conclude that this Beldams Lane site could be redeveloped for housing without any adverse effect on outdoor sports and recreation facilities. Accordingly the proposal would not conflict with Local Plan policy LRC1.

Other matters

833. Like Sites D and E, this site lies within the built-up area of Bishop's Stortford and its use for housing purposes would, therefore, be acceptable in principle. Existing residential properties more or less surround the site, with the average density of housing in the area surrounding the appeal site being about 35dph. It is with this in mind that the illustrative layout plan shows that up to 180 dwellings could be satisfactorily accommodated on this site at a density of about 43dph. It is intended that the dwellings range from apartments through starter homes to larger family houses, with none of the buildings higher than 3 storeys^[67-71].
834. As with the other proposed housing sites, some local residents consider the illustrative density to be too high, but as already noted, there is a requirement set out in PPS3 that land should be used efficiently. Moreover, matters of density, on their own, cannot determine the acceptability of a proposal in good design terms. In accordance with these points I see no specific problem with the maximum density as currently proposed. The actual density appropriate to this site can, however, only properly be assessed as and when a specific, detailed proposal is put forward.
835. The line of trees close to the eastern boundary of the site would remain, as would all but one of the protected trees on the southern boundary of the site, alongside Beldams Lane. This single tree would need to be removed to provide a new priority junction. This would be the sole vehicular access to the site, although a potential emergency vehicle access could be considered from Highfield Avenue to the east. Pedestrian/cycle-only accesses are also proposed from Greenway and Highfield Avenue^[77].
836. The Council has raised no in-principle objections to the details shown on the illustrative plans, but has commented that some aspects of the indicative layout show that the relationship between new and existing developments would not be acceptable. However, these are matters of detail which, again, would need to be determined at a future reserved matters stage, if outline planning permission was to be granted. That said, there is nothing before me to suggest that such matters could not be satisfactorily resolved on this site.
837. The development of up to 180 dwellings on this site is predicted to generate 115 morning peak hour trips and 125 in the evening peak^[76,222]. These would be new trips on the highway network as the existing site clearly does not generate any traffic at present. These trips are likely to impact primarily on the Beldams Lane/Hallingbury Road junction and the Haymeads Lane/Dunmow Road junction. I

observed the operation of both of these during peak periods and have already commented on the latter in the context of Appeal E.

838. I saw that the Beldams Lane/Hallingbury Road junction operated fairly smoothly during the morning peak period, with some queueing at times on Beldams Lane, but not to excess. Moreover, traffic was generally able to enter and leave Beldams Lane from Hallingbury Road with no great delay. Clearly this situation would be somewhat altered by the additional traffic from the proposed housing, but the transport assessment comments that this junction would operate with a slight increase in delay during the morning and evening peak periods, but should still be within capacity^[221-2]. No firm, technical evidence to the contrary has been submitted to cause me to take a different view.
839. As with the other housing proposals, a S106 unilateral undertaking has been submitted for this scheme^[538]. This provides for financial contributions towards a number of essential matters, including community facilities, highway works, libraries, outdoor sports, parks and public spaces, secondary education, sustainable transport and youth services. The unilateral undertaking also covers the provision of fire hydrants, Open Space and Play Areas and a Residential Travel Plan aimed at reducing the number of commuting trips from the development that are made by private car.
840. It also provides for affordable housing, in the same way as for Appeals D and E, by referencing "up to 40%", rather than specifying an exact amount of affordable housing. I have already indicated that I do not consider this to be a particularly satisfactory situation but take the view, on balance, that under this approach the Council would still have sufficient control over the amount of affordable housing to be provided. As discussed above in the context of Appeals D and E, I also find the cascade mechanism within the Affordable Housing Scheme acceptable.
841. A final point to note is that a local resident has submitted an application to the County Council to register the appeal site as a town or village green under the Commons Act 2006, claiming that the land has been used by the public for informal sports and pastimes for at least 20 years^[40,55]. This is, however, a separate matter to the planning considerations which I have been appointed to report on. It is the subject of a separate process and therefore does not have a direct bearing on my deliberations or recommendations regarding the planning merits of the appeal proposal.
842. If planning permission is to be granted, it will be necessary to impose a number of conditions^[534]. Those recommended in connection with Scheme F are listed in Appendix C. They all accord with the guidance in Circular 11/95, and generally cover the same matters as those recommended for other appeals above. The 2 areas of dispute relate to energy efficiency and linkage of development on this site with progress on development of Site A. For the same reasons given in connection with Appeals D and E I recommend that Conditions 16(a) and 17(a) be imposed.
843. In view of all the above points I conclude that if Appeal A is allowed, and the schools are able to relocate to Whittington Way, then this HEHS playing field area would be suitable for housing development along the lines of the illustrative proposals which form the basis of Scheme F. Access details, which are the only detailed matter to be determined at this stage are acceptable and planning permission could be granted, subject to the conditions detailed above and the

submitted unilateral undertaking. Other matters would need to be addressed through a subsequent application for approval of reserved matters.

Appeal B

844. The Appeal B application, which sought to vary Condition No 2 of a previous planning permission so as to widen the use of the sports facility at Jobbers Wood to include the HEHS and local organisations, was refused for a single reason, relating to concerns regarding sustainability^[7]. In light of this, and the evidence presented at the inquiry, I have concluded that the main consideration in **Appeal B** is whether varying Condition 2 of planning permission 3/97/0520/FP, to allow use of the site by local organisations and the HEHS, would result in an unsustainable form of development and traffic movements and reliance on the private car.

The effect of varying Condition 2, with particular reference to sustainability

845. The Jobbers Wood sports facility, which received planning permission in 1998, lies in a rural area within the Green Belt between the settlements of Much Hadham and Bishop's Stortford. It is owned and used by the BSHS, primarily for extra-curricular sporting activities, and comprises a number of unlit sports pitches (4 rugby, 3 football and 2 hockey), together with car parking and a changing pavilion. In the summer months, the site is used for 3 cricket pitches^[26].

846. There is no suggestion that the facility does not have the capacity to accommodate increased use. Indeed, I saw at my site visit that the pavilion contains 12 changing rooms for participants and 1 for staff, which clearly indicates that it is already equipped to have several activities taking place at the same time. In this regard the proposal to vary the condition is supported, in principle, by the Council's Planning Policy Team, as it would go some way towards addressing a number of deficiencies which the Council has identified in its Playing Pitch Strategy and Outdoor Sports Audit^[336].

847. The main concerns, however, relate to the fact that increased use of the facility would inevitably result in increased numbers of trips along the B1004. This road has a rather sinuous alignment in the vicinity of the site and is of somewhat limited width, with no footways or specific provision for cyclists, and the site is not served by public transport. Allowing the appeal would therefore undoubtedly result in an increase in the number of private cars accessing the site and the Council argues that this would be in conflict with Local Plan policies SD1 and SD2.

848. The first of these policies seeks to ensure that new development is sustainable, although its supporting text comments that sustainability is a broad concept and accepts that it may not be possible for all developments to address every issue in this regard. It seeks to encourage sustainable patterns of movement, but also aims to achieve the sustainable use of resources, including land. Policy SD2 deals with Settlement Hierarchy and primarily seeks to concentrate development in the main settlements^[42].

849. In this case, the Jobbers Wood development has clearly already taken place and I must assume that the grant of planning permission found that sufficient considerations existed to outweigh any Green Belt and other harm arising from the construction of the pavilion/changing room building and the change of use. The impact of traffic generated by the facility would have been a legitimate consideration in the overall planning balance, and again I can only assume that it was considered acceptable. Moreover, as far as I can see, there is nothing to limit

the use of the facility, and the traffic it generates, save that can only be used by the BSHS at the present time.

850. If this Appeal B proposal was allowed I do not consider that any increased sporting use of the facility would result in harm in Green Belt terms. Such use is clearly not inappropriate in the Green Belt and there is no indication that any additional building work would be necessary to accommodate increased use, despite suggestions to this effect by the BSCF. Any such work would need the grant of a separate planning permission in any case. Additional parking could well take place, but this is likely to only be of limited duration and therefore not unduly harmful. Additional traffic would, however, be likely to be generated and it is this aspect of the proposal that needs to be assessed.
851. Much would depend, of course, on the intensity of use. The submitted evidence indicates that the schools would have first call on the facility, before use by local organisations would be considered. This school use would generally take place outside normal school hours, particularly on Saturday mornings and after school during the summer term^[207]. As detailed elsewhere in this Report, my recommendation regarding Appeal A is that planning permission should not be granted for the relocation of the BSHS and the HEHS to Whittington Way. If the Secretary of State agrees with this, then in those circumstances there is nothing to suggest that use of the Jobbers Wood facility by the BSHS would change.
852. On the other hand, if Appeal A was granted it is possible that use of Jobbers Wood by the BSHS would decrease, as more facilities would be available at the Whittington Way site, although there was no firm indication to this effect from the school. The HEHS does not use Jobbers Wood at present, but information provided by the Appellants indicates that if the BSHS use was to stay more or less the same as at present, and use was extended to the HEHS as well, then the overall usage would increase by about 34%^[206].
853. Turning to consider possible use by local organisations, the first point to note is that there has been no indication, to date, as to how widely this description would be interpreted. The Council's Planning Policy Team comments that use of the term "local organisations", used by the Appellants on the Supporting Statement to the planning application suggests established sporting clubs and not free-for-all access. It indicates that this approach would be welcomed as it would give an element of control on how the site would be managed in the longer term^[336]. I share this view and note that one of the suggested conditions, agreed to be appropriate to impose in the event of planning permission being granted, requires details of the permitted organisations to be submitted to and approved by the Council^[336].
854. The Supporting Statement for this application indicates that use by local organisations is anticipated to generally take place on Sunday mornings, with some limited use on summer evenings^[207]. It seems that with the limited times available for use by local organisations and the Council's ability to approve and therefore control the number and range of such organisations, any additional use in this regard could be managed and would be unlikely to be excessive. In addition, the Appellants have indicated that they would seek to implement a "Green Travel Plan" to control and wherever possible minimise the extent of travel to Jobbers Wood by private car^[207]. Details were submitted to the inquiry of the form this would take, and the preparation, implementation and retention of such a Travel Plan could be secured by one of the agreed planning conditions.

855. I have noted the criticisms levelled at the Travel Plan concept by both the Council and the BSCF, and acknowledge that it would not be possible to have the same control over local organisations as would be the case with the schools themselves^[337]. However, Travel Plans are an accepted and proven method of influencing travel behaviour and are generally acknowledged as helping to improve the sustainability of developments. I have also noted the BSCF's comment that there are no organisations "local" to Jobbers Wood^[468]. But whilst this is undoubtedly correct, it does not seem unreasonable for the facility to be able to serve some organisations local to Bishop's Stortford and the surrounding villages, providing the traffic impact can be satisfactorily addressed, as I believe would be possible.
856. It is against all this background that I note that the local HA raises no objection to this proposal. It comments that the remoteness of the site and consequential reliance on the private car raises sustainability issues, but does not consider that an objection could be justified, in view of the existing use of the site. It further comments that as a secondary distributor road the B1004 is appropriate to accommodate the likely traffic generation; that the access design and visibility provision is acceptable; and that sufficient space exists on site to accommodate a substantial amount of parking^[523]. From observations made at my accompanied site visit I see no reason to disagree with these views.
857. I have noted the view of the BSCF that if the schools are permitted to relocate, under Scheme A, then the on-site sports facilities at Whittington Way should be sufficient for their requirements and Jobbers Wood should revert back to agricultural use^[467]. However, I give little weight to this view. Firstly, there is no firm indication before me to suggest that the BSHS would not wish to continue to use Jobbers Wood for extra-curricular sporting activities; and secondly, there is no firm evidence to demonstrate either that the existing use gives rise to problems, or that increased use, appropriately managed and controlled, would do either.
858. In view of all the above points I conclude that additional traffic generated by the likely increased use of the Jobbers Wood facility could be safely and satisfactorily accommodated on the local highway network. Measures could also be put in place, through a Green Travel Plan, to seek to reduce private car use to and from the site, and this would go some way towards addressing concerns regarding sustainability.
859. Overall I therefore conclude that varying Condition No 2 would not result in an unsustainable form of development and traffic movements and reliance on the private car. In fact making better use of an existing, facility, in a responsible and controlled manner, would accord with the objective of achieving a sustainable use of resources, as required under Local Plan policy SD1. I do not consider that Local Plan policy SD2 is directly relevant to this case, which is clearly dealing with an already approved development and is simply seeking to make more efficient use of it in as sustainable a manner as possible.
860. In view of the above points I see no reason why Appeal B should not be allowed. Appendix C to this Report details the conditions which were agreed to be appropriate to attach to any planning permission. Condition No 1 would replace the extant, disputed Condition No 2 and would extend the use of the Jobbers Wood sports facility to the HEHS and "local organisations". Condition No 2 sets out the requirement for details of these "local organisations" to be approved in writing by the Council. Condition No 8 requires a Travel Plan for the site, aimed at reducing

individual private vehicle journeys to and from the site, to be submitted to and approved in writing by the Council within 3 months of the date of any permission^[535].

861. I agree that each of these new 3 conditions would be necessary to be imposed if planning permission was to be granted. The other 5 listed conditions repeat conditions already attached to the existing permission, dealing with such matters as restrictions on the use of the existing building on the site; the point of access to the site; the provision and siting of gates; the retention of parking areas; and a restriction on external lighting^[535]. These existing conditions all deal with matters which still need to be controlled, so I consider it would be appropriate and necessary to re-impose them on any new planning permission.
862. Taking the above points into account I shall therefore recommend that Appeal B be allowed, subject to the 8 conditions referred to above and detailed in Appendix C.

Miscellaneous matters

863. I allowed Mr Brian Pigott, a local resident, to present his case to the inquiry as it had been accepted as an objection to Scheme A^[517]. However, the points he wished to make relate more to dissatisfaction with the way in which a previous planning application which he had made had been dealt with, firstly by the Council and subsequently by the Planning Inspectorate at appeal. The land in question lies some 300-400m from Site A and is also located within the Green Belt. Mr Pigott's concerns and comments do not have any material bearing on the planning issues of concern in Appeal A and have not influenced my recommendation.
864. It should be noted, however, that Mr Pigott has stated his intention to forward a case against the Council and the Planning Inspectorate to the European Court of Human Rights, for "discrimination" within the European Human Rights Act, if planning permission is granted for the Appeal A and other related proposals^[520].

Summary and Overall Conclusions

865. For all the reasons set out above I conclude that the Appeal A proposal, to relocate the BSHS and the HEHS to a new Green Belt site at Whittington Way is not acceptable. I therefore recommend that Appeal A be dismissed. In these circumstances it follows that the proposals under consideration through Appeals C, D, E and F are similarly unacceptable. I therefore recommend that each of these appeals be dismissed also.
866. However, the proposal for consideration under Appeal B can stand on its own and, for the reasons given above I conclude that it would be acceptable. Accordingly I recommend that Appeal B be allowed, subject to conditions as detailed below.
867. I have had regard to the environmental information contained in the various Environmental Statements, to the comments on them from the statutory consultees and members of the public, to the mitigation measures proposed, and to the environmental information derived from evidence given at the inquiry and contained in representations to the inquiry.
868. I have also given due consideration to the list of suggested and largely agreed conditions for each of the appeals, as well as the obligations secured through the various Section 106 planning obligations. None of these cause me to reach different conclusions to those set out above. I have had regard to all other matters raised, including points detailed in the written representations, but they are not

sufficient to outweigh the considerations which have led me to my conclusions given above.

Conditions

869. For the reasons given I do not consider that any of Appeals A, C, D, E or F should be allowed. However, if the Secretary of State takes a contrary view, and decides to grant planning permission for any of these schemes, then the conditions set out in Appendix C to this Report should be imposed^[530-5], subject to the qualifications regarding those disputed conditions, as set out in the relevant section of my Conclusions dealing with each of these appeals. These conditions and the reasons for their imposition have been agreed between the parties (subject to the proviso just made). They are appropriate to the developments proposed and all meet the relevant tests set out in Circular 11/95.
870. In the case of Appeal B, as noted above, if planning permission is to be granted the conditions set out in Appendix C should be imposed.

Recommendation

871. I recommend that Appeals A, C, D, E and F be dismissed; but that Appeal B be allowed, and planning permission be granted for the change of use to school sports fields with associated changing facilities on land at Jobbers Wood, Great Hadham Road, Bishop's Stortford, Herts, in accordance with the application Ref 3/10/1044/FO, dated 7 June 2010 and subject to the conditions detailed in the schedule at Appendix C to this Report.

David Wildsmith

INSPECTOR

APPENDIX A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Saira Kabir Sheikh	Of Counsel, instructed by Mr George Robertson, Head of Legal Services, East Herts District Council
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She called

Mr Paul Silcock BSc MCIHT	Director, EAS Transport Planning Ltd
Mr Kevin Steptoe BSc DipTP MRTPI	Head of Planning and Building Control, East Herts District Council

FOR THE APPELLANT:

Mr Peter Harrison QC, assisted by Emmaline Lambert of Counsel	Instructed by Vincent & Gorbing, Planning and Urban Design, Sterling Court, Norton Road, Stevenage, SG1 2JY
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He called

Mr Rodney Stock LLB(Hons)	Governor, The Bishop's Stortford High School
Mr John Harris BA(Hons) PGCE DipEd	Director of Children, Schools and Families, Hertfordshire County Council
Mr Roger Hawkins MA DipArch RIBA	Director, Hawkins\Brown
Mr Adam Clark BA (Ind Des) BA (Land Arch) DipLA MA (Land Planning)	Director, Plincke Landscape Ltd
Mr Ian Mitchell BSc(Hons) MSc(Hons) MCIT	Head of the Strategic Project Section, Mayer Brown
Mr Kieran Gayler CEnv BSc(Hons) AIEMA MEnvSc MIOA	Director, Sharps Redmore Partnership
Mr Richard Lewis BA MA(UD) MRTPI	Associate, Vincent and Gorbing
Mr Andrew Martin MAUD DipTP (Distinction) FRICS FRTPI	Managing Director, Andrew Martin Associates

FOR THE BISHOP'S STORTFORD CIVIC FEDERATION (RULE 6 PARTY)

Ms Lisa Busch

Of Counsel, instructed by Mr Simon Loveday,
Partner, Weightmans LLP

She called:

Mr Stefan Sarles

Chairman of the Chantry Community Association,
speaking to a proof prepared by Mr Rob Francis

Mrs Jill Wade

On behalf of the Haymeads Residents'
Association

Mrs Jennifer Otter

On behalf of residents of Grove Park and 171
Hadam Road

Mr John Rhodes

Vice Chairman of the Bishop's Stortford Civic
Federation

FCILT FRSA

Mrs Carol Hayward-Peel

Chairperson of the Old Thorley and Twyford
Residents' Association – also speaking on behalf
of Thorley Park Residents' Association

Mrs Marie Rhodes

Chairman of the Warwick Road Maintenance
Association

Mr Michael Hurford

President of the Bishop's Stortford Civic
Federation

Mrs Deborah Munro

On behalf of PRA and HRA

Mr Martin Peachey MA

Noise adviser to the Bishop's Stortford Civic
Federation (this evidence was also given on
behalf of Thorley Parish Council)

FOR THORLEY PARISH COUNCIL (RULE 6 PARTY)

Ms Lisa Busch

Of Counsel, instructed by Mr Andrew Arnold,
Pellys Solicitors, Bishop's Stortford

She called:

Mrs Janet Rolph

Parish Councillor

Mrs Sylvia McDonald

Vice Chairman of Thorley Parish Council

INTERESTED PERSONS OPPOSING THE PROPOSAL:

Cllr Mrs Norma Symons

Local Ward Councillor, District Councillor and
Trustee, Bishop's Stortford Sports Hall Trust

Mr Peter Janke BSc BA

Former Headmaster of The Leventhorpe School

Mr James Parker

Chief Executive of Bishop's Stortford Town
Council

Mr Brian Pigott

Local Resident

Dr Chris Ingate

Headteacher, Birchwood High School, also
speaking on behalf of Mr Simon Dennis, Principal,
Hockerill Anglo European College; Mr Jon Locke,
Headteacher, Leventhorpe School; and Mr Tony
Sharpe, Headteacher, St Mary's High School

Mr Bert Richardson

Deputy Chairman, Friends of Hertfordshire Way

APPENDIX B**DOCUMENTS****Core Documents**

APPEAL A	Appeal reference: 2149483 Whittington Way
CD A/1	Covering letter dated 7 June 2010 accompanying the original planning application
CD A/2	Original planning application forms (including site ownership and agricultural holdings Certificates) dated 7 June 2010
CD A/3	Plans accompanying the original planning application Dated 7 June 2010 <ul style="list-style-type: none"> • Site Location Plan 4663/001D • Site Identification Plan 4663/002E • Application Plan 4663/123C • Development Parameters Plan 4663/122C • Site Access Plan Revision B • Bishop's Avenue Roundabout Plan Revision A • Pynchbek Roundabout Plan Revision A
CD A/4	Illustrative landscape design plan L26.09.00 revision 1 accompanying the original planning application
CD A/5	Supporting planning statement accompanying the original planning application
CD A/6	Design and access statement accompanying the original planning application
CD A/7	Transport assessment accompanying the original planning application
CD A/8	Education need assessment accompanying the original planning application
CD A/9	Alternative site options assessment accompanying the original planning application
CD A/10	Open space, sport and recreation assessment accompanying the original planning application
CD A/11	Statement of public consultation accompanying the original planning application
CD A/12	Draft Section 106 Agreement accompanying the original planning application
CD A/13	Environmental statement accompanying the original planning application (available on CD)
CD A/14	Volume 1 of appendices to the Environmental Statement accompanying the original planning application (available on CD)
CD A/15	Volume 2 of appendices to the Environmental Statement accompanying the original planning application (available on CD)
CD A/16	Supplementary Environmental Statement accompanying the original planning application
CD A/17	Letter from the Local Planning Authority dated 25 June 2010
CD A/18	Letter to the Local Planning Authority from Vincent & Gorbing dated 1 September 2010

CD A/19	Amended site access plans <ul style="list-style-type: none"> • Site Access Plan Revision C • Bishop's Avenue Roundabout Plan Revision B • Pynchbek Roundabout Plan Revision B
CD A/20	Letter and enclosure to the Local Planning Authority from Vincent & Gorbing dated 10 September 2010
CD A/21	E-mail and enclosure to the Local Planning Authority from Vincent & Gorbing dated 10 September 2010
CD A/22	Letter to the Local Planning Authority from Vincent & Gorbing dated 16 September 2010
CD A/23	Letter and enclosure to the Local Planning Authority from Hertfordshire County Council dated 16 September 2010
CD A/24	Letter to the Local Planning Authority from the Bishop's Stortford High School dated 23 September 2010
CD A/25	Copy of the Local Planning Authority's committee Report dated 30 September 2010
CD A/26	Copy of the Local Planning Authority's committee minutes
CD A/27	Copy of the Local Planning Authority's decision notice dated 30 September 2010
CD A/28	Appeal covering letter
CD A/29	Appeal form
CD A/30	Appeal questionnaire
CD A/31	EHDC local plan executive panel 21 April 2004 – report (extracts)
CD A/32	EHDC local plan executive panel 21 April 2004 – minutes (extracts)
CD A/33	EHDC planning policy memo dated 19 august 2010 re: Planning application
CD A/34	Map of H&EHS and TBSHS Feeder Schools
CD A/35	Appeal decision APP/P3610/A/05/1191920 Rosebery School
CD A/36	Appeal decision APP/C3810/A/04/1170039, APP/C3810/A/04/1167106 appeal by Berkeley Community Villages & CC Trading and application by the Felpham Consortium Ltd – land to the north of Bognor Regis
CD A/37	Appeal decision APP/H4315/A/06/1200038 land to the east of Wargrave Road, formerly Vulcan Works, Newton-le-Willows
CD A/38	Plan showing distances of Hertfordshire Way at the site
APPEAL B	Appeal reference: 2149492 Variation of condition in relation to Land at Jobbers Wood
CD B/1	Covering letter dated 7 June 2010 accompanying the original planning application
CD B/2	Original planning application forms (including site ownership and agricultural holdings certificates) dated 7 June 2010
CD B/3	Plans accompanying the original planning application dated 7 June 2010 <ul style="list-style-type: none"> • Site Location Plan 4663/124 • Application Site Plan 4663/125
CD B/4	Supporting statement accompanying the original planning application
CD B/5	Letter from the Local Planning Authority dated 24 June 2010
CD B/6	Copy of the Local Planning Authority's Committee Report dated 30 September 2010
CD B/7	Copy of the Local Planning Authority's Committee Minutes
CD B/8	Copy of the Local Planning Authority's decision notice dated 30 September 2010

CD B/9	Appeal covering letter
CD B/10	Appeal form
CD B/11	Appeal questionnaire
CD B/12	EHDC planning policy memo dated 15 July 2010 re: planning application
CD B/13	Sport England letter dated 18 August 2010 re: planning application
APPEAL C	Appeal reference: 2149488 Land at Hadham Road
CD C/1	Covering letter dated 7 June 2010 accompanying the original planning application
CD C/2	Original planning application forms (including site ownership and agricultural holdings certificates) dated 7 June 2010
CD C/3	Plans accompanying the original planning application dated 7 June 2010 <ul style="list-style-type: none"> • Site Location Plan 4680/001D • Application Plan 4680/22B • Site Access Plan Drawing
CD C/4	Draft Section 106 Agreement accompanying the original planning application
CD C/5	Indicative Layout Plan 4680/021C
CD C/6	Planning Design and Access Statement accompanying the original planning application
CD C/7	Transport Assessment accompanying the original planning application
CD C/8	Open Space, Sport and Recreation Assessment accompanying the original planning application
CD C/9	Environmental Statement accompanying the original planning application (available on CD)
CD C/10	Volume 1 of Appendices to the Environmental Statement accompanying the original planning application (available on CD)
CD C/11	Volume 2 of Appendices to the Environmental Statement accompanying the original planning application (available on CD)
CD C/12	Non-technical summary of the Environmental Statement accompanying the original planning application
CD C/13	Letter from the Local Planning Authority dated 24 June 2010
CD C/14	Copy of the Local Planning Authority's Committee Report dated 30 September 2010
CD C/15	Copy of the Local Planning Authority's Committee Minutes
CD C/16	Copy of the Local Planning Authority's Decision Notice dated 30 September 2010
CD C/17	Appeal covering letter
CD C/18	Appeal form
CD C/19	Appeal questionnaire
APPEAL D	Appeal reference: 2149408 The Bishop's Stortford Boys School
CD D/1	Covering letter dated 25 May 2010 accompanying the planning application
CD D/2	Original planning application form (including site ownership and agricultural holdings certificates) dated 25 May 2010
CD D/3	Plans accompanying the original planning application dated 25 May 2010 <ul style="list-style-type: none"> • 05.124/98a Building Width and Depth Parameter Plan

	<ul style="list-style-type: none"> • 05.124/92 Indicative Layout Plan • 05.124/91A Building Envelope Parameter Plan • 05.124/95A Building Height Parameter Plan • 05.124/54 Bishop's Stortford High School Site Plan
CD D/4	Design and Access Statement prepared by Andrew Martin Associates
CD D/5	Environmental Statement prepared by Andrew Martin Associates
CD D/5A	Appendices to Environmental Statement (available on CD)
CD D/6	Sustainability Assessment prepared by Andrew Martin Associates
CD D/7	Open Space, Sport and Recreation Assessment prepared by Rae Sport and Leisure Consultants
CD D/8	Transport Assessment prepared by Mayer Brown (see Transport documents CD 6/1)
CD D/9	Ecological Survey and Protected Species Surveys prepared by Green Environmental
CD D/10	Report on utilities and site conditions prepared by Hannah Reed
CD D/11	Draft Section 106 Agreement
CD D/12 - D/21	Correspondence between Countryside Properties and EHDC
CD D/22	Copy of the Local Planning Authority's Committee Report dated 30 September 2010
CD D/23	Copy of the Local Planning Authority's Committee Minutes
CD D/24	Copy of the Local Planning Authority's Decision Notice dated 30 September 2010
CD D/25	Appeal covering letter
CD D/26	Appeal form
CD D/27	Appeal questionnaire
APPEAL E	Appeal reference: 2149401 The Herts & Essex Girls School
CD E/1	Covering letter dated 25 May 2010 accompanying the planning application
CD E/2	Original planning application form (including site ownership and agricultural holdings certificates) dated 25 May 2010
CD E/3	Plans accompanying the original planning application dated 25 May 2010 <ul style="list-style-type: none"> • 05.124/20B Building Envelope Parameter Plan • 05.124/96a Building Width and Depth Parameter Plan • 05.124/93A Building Height Parameter Plan • 05.124/63 Indicative Layout Plan • 05.124/99 Herts and Essex High School Site Plan
CD E/4	Design and Access Statement prepared by Andrew Martin Associates
CD E/5	Sustainability Assessment prepared by Andrew Martin Associates
CD E/6	Open Space, Sport and Recreation Assessment prepared by Rae Sport and Leisure Consultants
CD E/7	Transport Assessment prepared by Mayer Brown – see Transport documents CD 6/1
CD E/8	Ecological Survey and Protected Species Surveys prepared by Green Environmental
CD E/9	Report on utilities and site conditions prepared by Hannah Reed
CD E/10	Draft Section 106 Agreement
CD E/10 A	Environmental Statement prepared by Andrew Martin Associates
CD E/10 B	Appendices to Environmental Statement (available on CD)

CD E/11 - 20	Correspondence between Countryside Properties and EHDC
CD E/21	Copy of the Local Planning Authority's Committee Report Dated 30 September 2010
CD E/22	Copy of The Local Planning Authority's Committee Minutes
CD E/23	Copy of the Local Planning Authority's Decision Notice Dated 30 September 2010
CD E/24	Appeal covering letter
CD E/25	Appeal form
CD E/26	Appeal questionnaire
APPEAL F	Appeal reference: 2149392 Land at Beldams Lane
CD F/1	Covering letter dated 25 May 2010 accompanying the planning application
CD F/2	Original planning application form (including site ownership and agricultural holdings certificates) dated 25 May 2010
CD F/3	Plans accompanying the original planning application dated 25 May 2010 <ul style="list-style-type: none"> • 05.124/64A Indicative Layout Plan • 05.124/97a Building Width and Depth Parameter Plan • 05.124/21B Building Envelope Parameter Plan • 05.124/49 Beldams Lane Site Plan • 05.124/94A Building Height Parameter Plan
CD F/4	Design and Access Statement prepared by Andrew Martin Associates
CD F/5	Sustainability Assessment prepared by Andrew Martin Associates
CD F/6	Open Space, Sport and Recreation Assessment prepared by Rae Sport and Leisure Consultants
CD F/7	Transport Assessment prepared by Mayer Brown — See Transport Documents CD 6/1
CD F/8	Ecological Survey and Protected Species Surveys prepared by Green Environmental
CD F/9	Report on utilities and site conditions prepared by Hannah Reed
CD F/10	Draft Section 106 Agreement
CD F/10 A	Environmental Statement prepared by Andrew Martin Associates
CD F/10 B	Appendices to Environmental Statement
CD F/11-20	Correspondence between Countryside Properties and EHDC
CD F/21	Copy of the Local Planning Authority's Committee Report Dated 30 September 2010
CD F/22	Copy of the Local Planning Authority's Committee Minutes
CD F/23	Copy of the Local Planning Authority's Decision Notice dated 30 September 2010
CD F/24	Appeal covering letter
CD F/25	Appeal form
CD F/26	Appeal questionnaire
CD F/27	Conveyance for Beldams Lane
	Statements of Case
CD 1/1	Statement of Case of Appellants - Appeal A
CD 1/2	Statement of Case of Appellants - Appeal B
CD 1/3	Statement of Case of Appellants - Appeal C
CD 1/4	Statement of Case of Appellants - Appeal D
CD 1/5	Statement of Case of Appellants - Appeal E

CD 1/6	Statement of Case of Appellants - Appeal F
CD 1/7	Statement of Case of EHDC
CD 1/8	Statement of Case of Bishop's Stortford Civic Federation
CD 1/9	Statement of Case of Thorley Parish Council
	Statements of Common Ground
CD 2/1	Statement of Common Ground - Appeal A
CD 2/2	Statement of Common Ground - Appeal B
CD 2/3	Statement of Common Ground - Appeal C
CD 2/4	Statement of Common Ground - Appeal D
CD 2/5	Statement of Common Ground - Appeal E
CD 2/6	Statement of Common Ground - Appeal F
CD 2/7	Statement of Common Ground - Noise - see report at CD 5/6
	Planning Policy Documents
CD 3/1	The East of England Plan 2008
CD 3/2	Adopted East Hertfordshire Local Plan Second Review 2007
CD 3/3	Adopted East Hertfordshire Local Plan Second Review 2007 - saved policies
CD 3/4	Adopted Affordable Housing and Lifetime Homes SPD 2008
CD 3/5	Adopted planning obligations SPD 2008
CD 3/6	Adopted vehicle parking SPD 2008
CD 3/7	Adopted open space, sport and recreation SPD 2009
CD 3/8	Adopted landscape character assessment SPD 2007
CD 3/9	Adopted Sustainability Appraisals: Indicators and Targets SPD 2007
CD 3/10	East Hertfordshire Local Plan Second Review - Redeposit version November 2004 (extract)
CD 3/11	East Hertfordshire Local Plan Second Review - Inspector's Report (Extract)
CD 3/12	Proofs of Evidence of B D Thomsett (On behalf of East Herts District Council) to the public local inquiry October 2005
CD 3/12 A	Previous Planning Application - Committee Report
CD 3/13	Core Strategy Issues and Options Summary Leaflet 2008
CD 3/13 A	Extract from the CS "Issues and Options Consultation" – Chapter 4
CD 3/14	Draft National Planning Policy Framework (NPPF)
CD 3/15	The Written Ministerial Statement (WMS), Planning for Growth
CD 3/16	PPS1: Delivering Sustainable Development
CD 3/17	Supplement to PPS1: Planning and Climate Change
CD 3/18	PPG2: Green Belts
CD 3/19	PPS3: Housing
CD 3/20	PPS5: Planning for the Historic Environment
CD 3/21	PPS7: Sustainable Development in Rural Areas
CD 3/22	PPS9: Biodiversity and Geological Conservation
CD 3/23	PPG13: Transport
CD 3/24	PPG17: Planning for Open Space, Sport and Recreation
CD 3/25	PPS22: Renewable Energy
CD 3/26	PPS23: Planning and Pollution Control
CD 3/27	PPG24: Planning and Noise
CD 3/28	PPS25: Development and Flood Risk
CD 3/29	Annual Monitoring Report 2009/2010
CD 3/30	Policy Statement on Planning for Schools Development

	Education Documents
CD 4/1	Building Bulletin 98: Briefing Framework For Secondary School Projects
CD 4/2	Meeting the rising demand for school places: Hertfordshire County Council and update including pupil forecasts
CD 4/3	The Education and Inspections Act 2006
CD 4/4	The Education (School Premises) Regulations 1999
CD 4/5	Admissions Policies for Schools
	Noise Documents
CD 5/1	Building Bulletin 93: Acoustic Design Of Schools
CD 5/2	Building Bulletin 101: Ventilation Of School Buildings
CD 5/3	Sharps Redmore Partnership Report dated October 2007
CD 5/4	Walker Beak Mason Technical Note dated 24 August 2010
CD 5/5	Martin Peachey Noise Assessment Report dated 24 August 2010
CD 5/6	Sharps Redmore Partnership Report dated August 2011
CD 5/7	NATS Press Release 13 October 2010
CD 5/8	Extract from the report of the inspector at the Heathrow Terminal 5 inquiry December 2000 (published 2001)
	Transport Documents
CD 6/1	Mayer brown transport assessments appeals A, C, D, E, F (full appendices available on CD) including the following Appendices to Transport Assessments: 1) Flow Diagrams for Whittington Way 2) Site Plans For Appeal A 3) Site Plans For Appeal C 4) Site Plans For Appeal D 5) Site Plans For Appeal E 6) Site Plans For Appeal F 7) Bishop's Stortford Highway Model Report prepared by Steer Davies Gleave - March 2008 8) Confirmation of model tests and matrix adjustments
CD 6/2	Highways Authority recommendations for 2008 planning application
CD 6/3	Highways Authority recommendations for 2010 planning application - see Planning Committee Reports at CD A/25, CD C/14, CD D/22, CD E/21 and CD F/21
CD 6/4	Statement from Hertfordshire County Council as Highways Authority
	Playing pitch documents
CD 7/1	Playing Pitch Strategy and Outdoor Sports Audit: Final Assessment Report (Knight Kavanagh & Page, July 2010)
CD 7/2	East Herts draft assessment of sports facilities June 2011
	Regulation 19 documents
CD 8/1	Updated Ecology Report - Appeal A
CD 8/2	Updated Ecology Report with Addendum - Appeal C
CD 8/3	Updated Ecology Report - Appeals D, E, F
CD 8/4	Heritage Report - Appeal E

Inquiry Documents

Documents submitted jointly by the Local Planning Authority, the Appellants and others

- JNT/1 List of conditions for all appeals, generally agreed between the main parties
- JNT/2 Itinerary for the accompanied and unaccompanied visits of the appeal sites and surrounding area (accompanied site visits undertaken on 19 & 20 October 2011)

Documents submitted by the Local Planning Authority

- LPA/1 Kevin Steptoe Proof of evidence: Summary
- LPA/2 Kevin Steptoe Proof of evidence
- LPA/3 Paul Silcock Proof of evidence
- LPA/4 Paul Silcock Proof of evidence: Appendices
- LPA/5 Rebuttal evidence of Paul Silcock
- LPA/6 Letters of notification of the inquiry
- LPA/7 Opening Statement on behalf of the Council
- LPA/8 Note on Observed September Traffic Flows at the London Road/Thorley Hill Junction, dated 16 September 2011
- LPA/9 Annotated Page 2 to the Note on Observed September Traffic Flows at the London Road/Thorley Hill Junction, dated 16 September 2011
- LPA/10 Bundle of plans showing local road network; schools' locations; stills from video recordings of the London Road/Thorley Hill junction; observed maximum queue lengths; and existing and expected queue lengths
- LPA/11 Mayer Brown Technical Note Regarding Traffic Impact for London Road – Pig Lane junction, dated 27 October 2008
- LPA/12 Plan showing dropping-off places for the Bishop's Stortford High School
- LPA/13 Manual Classified Traffic Counts at the London Road/Thorley Hill junction, undertaken on 13 September 2011
- LPA/14 Secretary of State Decision relating to appeal by Cala Homes (South) Ltd, Ref APP/L1765/A/10/2126522, dated 28 September 2011
- LPA/15 DCLG Chief Planning Officer Letter, dated 6 July 2010: Revocation of Regional Strategies ("question and answer" advice)
- LPA/16 Extracts of Bishop's Stortford Schools Financial Appraisals, under covering letter dated 27 June 2011
- LPA/17 Closing Submissions on behalf of the Council

Documents submitted by the Appellants

- APP/1 Rodney Stock Proof of evidence: Summary
- APP/2 Rodney Stock Proof of evidence and Appendices
- APP/3 John Harris Proof of evidence: Summary

APP/4	John Harris Proof of evidence
APP/5	John Harris Proof of evidence: Appendices
APP/6	John Harris: Rebuttal evidence
APP/7	Roger Hawkins Proof of evidence: Summary
APP/8	Roger Hawkins Proof of evidence
APP/9	Roger Hawkins Proof of evidence: Appendices
APP/10	Roger Hawkins: Rebuttal evidence
APP/11	Adam Clark Proof of evidence: Summary
APP/12	Adam Clark Proof of evidence
APP/13	Adam Clark Proof of evidence: Appendices
APP/14	Ian Mitchell Proof of evidence: Summary
APP/15	Ian Mitchell Proof of evidence: Appeal A
APP/16	Ian Mitchell Proof of evidence: Appeal B
APP/17	Ian Mitchell Proof of evidence: Appeal C
APP/18	Ian Mitchell Proof of evidence: Appeal D
APP/19	Ian Mitchell Proof of evidence: Appeal E
APP/20	Ian Mitchell Proof of evidence: Appeal F
APP/21	Ian Mitchell Proof of evidence: SATURN Modelling
APP/22	Ian Mitchell Proof of evidence: Appendices (Part 1)
APP/23	Ian Mitchell Proof of evidence: Appendices (Part 2)
APP/24	Ian Mitchell: Rebuttal evidence
APP/25	Ian Mitchell: Rebuttal evidence in respect of Thorley Parish Council
APP/26	Kieran Gayler Proof of evidence: Summary
APP/27	Kieran Gayler Proof of evidence
APP/28	Kieran Gayler Proof of evidence: Appendices
APP/29	Richard Lewis Proof of evidence: Summary – Appeal A
APP/30	Richard Lewis Proof of evidence: Appeal A
APP/31	Richard Lewis Proof of evidence: Appendices – Appeal A
APP/32	Richard Lewis Proof of evidence: Summary – Appeal B
APP/33	Richard Lewis Proof of evidence: Appeal B
APP/34	Richard Lewis Proof of evidence: Summary – Appeal C
APP/35	Richard Lewis Proof of evidence: Appeal C
APP/36	Richard Lewis: Rebuttal evidence
APP/37	Andrew Martin Proof of evidence: Summary – Appeal D
APP/38	Andrew Martin Proof of evidence: Appeal D
APP/39	Andrew Martin Proof of evidence: Appendices – Appeal D
APP/40	Andrew Martin Rebuttal evidence (covering Appeals D, E & F)
APP/41	Environmental Statement Addendum: Appeal D
APP/42	Andrew Martin Proof of evidence: Summary – Appeal E
APP/43	Andrew Martin Proof of evidence: Appeal E

APP/44	Andrew Martin Proof of evidence: Appendices – Appeal E
APP/45	Environmental Statement Addendum: Appeal E
APP/46	Andrew Martin Proof of evidence: Summary – Appeal F
APP/47	Andrew Martin Proof of evidence: Appeal F
APP/48	Andrew Martin Proof of evidence: Appendices – Appeal F
APP/49	Environmental Statement Addendum: Appeal F
APP/50	Opening Statement on behalf of the Appellants
APP/51	School Travel Plan: The Bishop's Stortford High School: September 2011
APP/52	School Travel Plan: The Herts and Essex High School: September 2011
APP/53	Harlow, Bishop's Stortford etc A-Z Street Atlas
APP/54	Addendum to the Proofs of Richard Lewis
APP/55	Revised Appendix 1 to the Proof of Richard Lewis, Appeal A (Doc APP/31)
APP/56	Appeal Decision APP/B1930/A/10/2142127 – Beaumont Secondary School, St Albans, Hertfordshire (extracts already form App 8 to Doc APP/31)
APP/57	Bundle of correspondence between the Warwick Road Maintenance Association, Countryside Properties Ltd and the Council - August to October 2008
APP/58	Letter dated 10 July 2001 from Barry Newman to Stuart Freel at Hertfordshire County Council, relating to proposals for the Bishop's Stortford High School
APP/59	Letter dated 29 April 2008 from Rodney Stock, Chairman of Governors at the Bishop's Stortford High School to The Editor, The Herts & Essex Observer
APP/60	Details of the Bishop's Stortford High School Admissions – September 2009, 2010 & 2011
APP/61	Joint letter dated July 2011 from the Headteachers and Chairs of Governors at the Bishop's Stortford High School and the Herts & Essex High School to parents of future Secondary-aged children
APP/62	John Harris – Outline of Evidence in Chief
APP/63	Pupil Forecast Data – Reconciliation Analysis – John Harris, 30 September 2011
APP/64	Enlarged version of Appendix 6 from the evidence of Roger Hawkins
APP/65	Viewpoint Plan from the Landscape and Visual Impact Appendix of the Whittington Way ES, annotated to show the 2 viewpoints for the "illustrator's impressions" contained in Adam Clark's Appendix 5
APP/66	Details of the width of Obrey Way at various locations along its length
APP/67	Plan showing bus stop locations in the vicinity of Bishop's Stortford railway station
APP/68	Plan showing bus stop locations and pedestrian and cyclists' facilities in the vicinity of the Appeal A site
APP/69	Notes prepared by Richard Lewis in response to points raised during the inquiry
APP/70	Information from The Friends of Hertfordshire Way web-site

APP/71	Suggested revisions to some conditions, together with copies of the Planning Inspectorate's Model Conditions for Sustainable Drainage and the Code for Sustainable Homes
APP/72	Plan showing the length of the Hertfordshire Way which would be affected by the Appeal A proposals
APP/73	Completed S106 Agreement between the Appellants (and others) and the Council, relating to Appeal A
APP/74	Completed S106 unilateral undertaking relating to Appeal C
APP/75	Completed S106 unilateral undertaking relating to Appeal D
APP/76	Completed S106 unilateral undertaking relating to Appeal E
APP/77	Completed S106 unilateral undertaking relating to Appeal F
APP/78	Closing submissions for the Appellants

Documents submitted by the Bishop's Stortford Civic Federation

BSCF/1.1	John Rhodes Proof of evidence
BSCF/1.1a	John Rhodes Proof of evidence: Summary
BSCF/1.1b	John Rhodes Rebuttal evidence
BSCF/1.2	Michael Hurford Proof of evidence
BSCF/1.3	Martin Peachey Proof of evidence (includes Appendices A-C and Index of Noise Documents)
BSCF/1.3a	Martin Peachey Proof of evidence: Summary
BSCF/1.3b	Martin Peachey Rebuttal evidence
BSCF/1.4	Marie Rhodes Proof of evidence
BSCF/1.4a	Marie Rhodes Proof of evidence: Summary
BSCF/1.4b	Marie Rhodes Rebuttal evidence
BSCF/1.5	Jill Wade Proof of evidence
BSCF/1.5a	Jill Wade Proof of evidence: Summary
BSCF/1.5b	Jill Wade Rebuttal evidence
BSCF/1.6	Carol Hayward-Peel Proof of evidence
BSCF/1.6a	Carol Hayward-Peel Proof of evidence: Summary
BSCF/1.7	Jennifer Otter Proof of evidence
BSCF/1.7a	Jennifer Otter Proof of evidence: Summary
BSCF/1.7b	Jennifer Otter Rebuttal evidence to Richard Lewis's Rebuttal
BSCF/1.7c	Jennifer Otter Rebuttal evidence to Richard Lewis's Main Proof
BSCF/1.8	Rob Francis Proof of evidence
BSCF/1.9	Deborah Munro Proof of evidence

History of the Applications

BSCF/2.1	Evidence from Andrew Martin Associates in connection with Omission site 574 to the EiP into the local plan formal hearing on 23/24 November 2005 (extracts).
BSCF/2.2	Evidence of Lindsay Martin, Head of School Access, the County Council to the EiP formal hearing on 23/24 November 2005.

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- BSCF/2.3 Evidence of Bryan Thomsett on behalf of EHDC in response to objections from the Bishop's Stortford Civic Society to the EiP formal hearing on 24/25 November (extracts)
 - BSCF/2.4 East Herts Local Plan – Second Review – Inspector's Report (extracts) – also listed as CD 3/11
 - BSCF/2.5 Design Review Report by Inspire East – 16 September 2009
 - Planning Issues**
 - BSCF/3.1 Local Development Framework – East Herts Core Strategy Issues and Options Consultation – September 2010 (extracts).
 - BSCF/4.1 Lessons from the Front – Teach First – November 2009 (extracts)
 - BSCF/4.2 Moving On 2011 – the County Council (extracts)
 - BSCF/4.3 Outturn Report on the Initial Analysis of Secondary School Allocation – the County Council – March 2009 (extracts)
 - BSCF/4.4 Outturn Report on the Initial Analysis Of secondary School Allocation- the County Council – March 2011 (extracts)
 - BSCF/4.5 Forecast of demand for secondary school places disclosed by the County Council in response to a FoI Act request in January 2010
 - BSCF/4.6 Forecast of demand for primary and secondary school places disclosed by the County Council in response to a FoI Act request in July 2011
 - BSCF/4.7 Letter of objection from Essex County Council of 1 September 2008 in connection with 2008 applications
 - BSCF/4.8 Letter from the County Council Director of Children, Schools and Families, to EHDC dated 2 October 2008 in connection with 2008 applications
 - BSCF/4.9 BSCF letter of 26 October 2008 in response to 4.10 above
 - Noise**
 - BSCF/5.1 World Health Organisation (WHO) Guidelines for Community Noise
 - BSCF/5.2 Aircraft and road traffic noise and children's cognition and health: a cross national study' Stansfield et al, The Lancet, June 2005
 - BSCF/5.3 A prospective study of some effects of aircraft noise on cognitive performance in schoolchildren' Hygge, Evans and Bullinger, September 2002
 - BSCF/5.4 Civil Aviation Authority ERCD report 1003 Noise exposure Contours for Stansted Airport 2009
 - BSCF/5.5 BAA Stansted 'Patterns of Aircraft Arriving to London Stansted Airport towards the North East'
 - BSCF/5.6 BAA Stansted 'Aircraft Departing from London Stansted Airport on Westerly Noise Preferential Routes'
 - BSCF/5.7 BAA Generation 1, Environmental Statement April 2006, Volume 16, Air Traffic Data, para 9.1.9
 - BSCF/5.8 BAA Generation 1, Environmental Statement April 2006, Volume 16, Air Traffic Data, Tables A1.12 and A1.14
 - BSCF/5.9 BAA Generation 1, Environmental Statement, Air Noise, Chapter 10.1, para 10.1.39
 - BSCF/5.10 Department for Transport Future of Air Transport, December 2003, para 3.24

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- BSCF/5.11 Report of the Inspector at the Heathrow Terminal 5 Inquiry, December 2000 (published 2001), para 21.3.33
- BSCF/5.12 National Trust Proof of Evidence (at Stansted Airport G1 Inquiry) NT/3/a dated 30 March 2007, para 10.23
- BSCF/5.13 Applied Acoustics Design Report reference 06069/001/bp dated 26 October 2006
- BSCF/5.14 Applied Acoustics Design Report reference 10307/001/rp dated 9 December 2010
- BSCF/5.15 BAA Stansted press release dated 24 May 2010
- Transport and Access**
- BSCF/6.1 Letter from the County Council dated 13 May 2011 responding to FoI Act inquiries
- BSCF/6.2 Letter from the County Council dated 20 May 2011 responding to FoI Act inquiries
- BSCF/6.3 Letter from BSCF dated 27 May 2011 to the Bishop's Stortford High and Herts and Essex Schools raising FoI Act inquiries
- BSCF/6.4 Reply to 6.3 above dated 29 June 2011 from the Bishop's Stortford High School
- BSCF/6.5 Reply to 6.3 above dated 5 July 2011 from the Herts and Essex School
- Housing**
- BSCF/7.1 Previously developed land and densities – written statement dated 9 June 2010 by Greg Clark MP Minister for Decentralisation
- BSCF/7.2 Chief Planning Officer letter dated 15 June 2010 from Steve Quartermain, Chief Planner, Department of Communities and Local Government (DCLG)
- BSCF/7.3 Explanatory notes on the Localism Bill as brought from the House of Commons on 19 May 2011 – extracts relating to Regional Spatial Strategies
- Environment**
- BSCF/8.1 UK National Ecosystem Assessment – Synthesis of Key Findings – published 2 June 2011
- Community Impacts**
- WRMA**
- BSCF/9.1.1 Opinion of Mr John Hobson QC dated 14 April 2010 about the status of Warwick Road and rights of way over it
- Haymeads**
- BSCF/9.2.1 Ian Thompson (Strategy Development Manager) report to East Herts Highways Joint Member Panel, April 2008
- BSCF/9.2.2 East Herts District Council PPG17 Audit, 2004
- BSCF/9.2.3 Application to Register a Town/Village Green under the Commons Act 2006
- BSCF/9.2.4 Bundle of photographic evidence

OTTRA/TMRA

- BSCF/9.3.1 Map of area covered by OTTRA and TMRA
- BSCF/9.3.2 IWP ITP 06163 March 2007
- BSCF/9.3.3 Thorley Photographs
- BSCF/9.3.4 Thorley residents' statements
- BSCF/9.3.5 Transport Assessment accompanying the 2008 planning applications (extract)
- BSCF/9.3.6 London Road Accident report
- BSCF/9.3.7 2008 Report on Thorley Street
- BSCF/9.3.8 Thorley Street Traffic Audit

Grove Park & 171 Hadham Road

- BSCF/9.4.1 Population Profile of Silverleys Ward
- BSCF/9.4.2 Planning Application Refusal 3/07/1345/FP
- BSCF/9.4.3 Planning Application Refusal 3/06/0552/FP
- BSCF/9.4.4 EHDC Response - Extension of Residential Curtilage
- BSCF/9.4.5 Environmental Noise Assessment January 2008 by N Priddle

Documents handed in at the inquiry

- BSCF/10.1 Opening Submissions on behalf of BSCF
- BSCF/10.2 Bundle of letters objecting to the 2008 planning application, submitted by residents of Grove Park and 171 Hadham Road
- BSCF/10.3 Map showing all Residents' Associations in Bishop's Stortford
- BSCF/10.4 Extracts from Bishop's Stortford High School web-site
- BSCF/10.5 Extracts from Appendix 1 (Basic concepts and units) to Building Bulletin 93 "Acoustic Design of Schools"
- BSCF/10.6 The Bishop's Stortford High School Admissions arrangements for September 2011, as consulted December 2010
- BSCF/10.7 Feeder primary schools for the Bishop's Stortford High School
- BSCF/10.8 Map showing the location of feeder primary schools for the Bishop's Stortford High School pre-2010 and post-2010, together with other primary schools
- BSCF/10.9 Extracts from The Green Book "Appraisal and Evaluation in Central Government" – 2003 edition
- BSCF/10.10 Graph showing A, B, C and D Noise weighting curves
- BSCF/10.11 Details of Hourly Aircraft Movements on a Busy Day, Stansted Airport
- BSCF/10.12 Suggested conditions
- BSCF/10.13 Letter of objection to the 2010 planning applications from the Governing Body of The Leventhorpe School
- BSCF/10.14 Closing Submissions on behalf of BSCF (also on behalf of Thorley Parish Council)

Documents submitted by Thorley Parish Council

TPC/1	Sylvia McDonald Proof of evidence
TPC/2	Sylvia McDonald Proof of evidence: Summary
TPC/3	Sylvia McDonald Proof of evidence: Revised Summary, handed in at the inquiry
TPC/4	Sylvia McDonald Proof of evidence: Appendix A, handed in at the inquiry (Appendix B is bound with Main Proof)
TPC/5	Janet Rolph Proof of evidence
TPC/6	Janet Rolph Rebuttal evidence
TPC/7	Details of a Temporary Closing and Temporary Waiting Restrictions in B1383 Thorley Street/B1383 London Road for up to 10 days during the period 10 October 2011 to 30 November 2011
TPC/8	Plan showing suggested site visit routes for Appeal A
TPC/9	Thorley Parish questionnaire of field footpath 4 (Hertfordshire Way)
TPC/10	Suggested planning conditions

Documents submitted by interested persons opposing the appeal proposals

IP/1	Chris Ingate Proof of evidence
IP/2	Chris Ingate Proof of evidence: Summary
IP/3	Chris Ingate Rebuttal evidence
IP/4	Statement from Cllr Mrs Norma Symons (statement written by the Chair of the Bishop's Stortford Sports Hall Trust)
IP/5	Statement from Mr James Parker, Bishop's Stortford Town Council
IP/6	Peter Janke Proof of evidence
IP/7	Statement of Bert Richardson
IP/8	Details of the lease relating to the Bishop's Stortford Sports Hall, submitted by Cllr Symons
IP/9	Extract from email chain, August 2011, submitted by Mr Janke
IP/10	Statement from the Headteacher, Mountfitchet Mathematics & Computing College; the Executive Headteacher, Saffron Walden County High School and Mountfitchet Mathematics & Computing College Federation; and the Chair of Governors, Mountfitchet Mathematics & Computing College – submitted by Dr Ingate
IP/11	Statement to the inquiry from the Chairman of Governors, The Leventhorpe School, together with a plan of the site
IP/12	Written submission from Alyson Bailey, Chairperson of the Thorley Manor Residents' Association
IP/13	Written submission made prior to the inquiry by Brian Pigott, a local resident, and used as the basis for a statement made to the inquiry
IP/14	Bundle of letters of representation submitted at appeal stage, both supporting and opposing the appeal proposal
IP/15	Hertfordshire Way leaflet

APPENDIX C

CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED

Appeal A – Whittington Way

1. (a) Application for approval in respect of the matters reserved in this permission, namely the details of layout, scale and external appearance of the buildings and the landscaping of the site, shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates: (i) the expiration of a period of 5 years commencing on the date of this notice (ii) the expiration of a period of 2 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

REASON: To comply with the requirements of section 92 of the Town and Country Planning Act 1990

2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (herein called 'the reserved matters') for the development shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: To comply with the provisions of Article 3(10) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

3. No development shall take place (including site clearance) until there has been submitted to, and agreed in writing by the Local Planning Authority, a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that appropriate archaeological investigation work is undertaken and the results recorded in accordance with the requirements of policies BH2 and BH3 of the East Herts Local Plan (Second Review) April 2007.

4. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: To ensure that it is clear how the details of the development relate to the level of adjacent land and to seek to minimise the impact of the proposed development on the openness of the green belt.

5. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from

the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- b. include a timetable for its implementation; and
- c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: In order to ensure that adequate infrastructure provision is available in accordance with policy ENV21 of the East Herts Local Plan (Second Review) April 2007.

6. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a. Drawings of any temporary highway works and the phasing of any highway works;
 - b. Methods for accessing the site, including the routes of construction traffic to and from the site;
 - c. The parking of vehicles of site operatives and visitors;
 - d. Loading and unloading of plant and materials;
 - e. Storage of plant and materials used in constructing the development;
 - f. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - g. Wheel washing facilities;
 - h. Measures to control the emission of dust and dirt during construction;
 - i. A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - j. The management of any crossings of the public highway and/or other public rights of way.

REASON: In order to ensure that appropriate provisions are in place to minimise the impact of construction on residential amenity.

7. Prior to the first occupation of the development hereby permitted, any vehicular access not incorporated in the approved plans shall be permanently closed.

REASON: In order to ensure that any unnecessary vehicular access is removed in the interests of highway safety.

8. Prior to the commencement of the development details of the following access and highway arrangements shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, they shall be implemented prior to the occupation of any part of the development and shall thereafter be retained:
- a. All access/egress works;
 - b. New footways and cycle ways;
 - c. New pedestrian and cycle crossings on Whittington Way;

- d. Improvements to bus stops along Whittington Way and the northbound/southbound bus stops in the vicinity of the junction along London Road;
- e. The provision of a SCOOT traffic control system along London Road.

REASON: In order to ensure that necessary and appropriate highway works are undertaken in association with the development in the interests of highway safety and the free and efficient flow of traffic.

- 9. Prior to first occupation of the development hereby permitted, a School Travel Plan for each school shall be submitted to and approved in writing by the Local Planning Authority, and shall include proposals for all travel by modes other than the private car for journeys to and from the site. Once approved, the Travel Plans shall be retained and implemented as such.

REASON: In order to ensure that measures are in place to manage all modes of transport to the schools.

- 10. No development shall take place until details of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. Once agreed, the cycling parking facilities shall be implemented in accordance with the approved details and thereafter retained.

REASON: In order to ensure that adequate provision is made for the parking of cycles at the site.

- 11. No development shall take place until a supplementary Site Survey has been carried out, as recommended in Geo-environmental Interpretative Report (Faber Maunsell/ Aecom) dated March 2008 and submitted as Appendix 10.2 of the Environmental Statement. The survey shall identify the presence of any soil, gas or groundwater contamination present within the site. The report shall also consider areas which were previously inaccessible. Any necessary remediation to address contamination of the site shall include measures to decontaminate the site (specifying actions and target levels relating to any contaminants found) and prevent pollution of groundwater and surface water. All details of any survey, assessment and proposed remediation works (complete with a timescale) pursuant to this condition shall be submitted to and agreed in writing by the Local Planning Authority and development shall only take place in accordance with the agreed details.

REASON: In order to ensure that additional work is undertaken to identify any contamination on the site and that necessary remedial measures are implemented.

- 12. No development, including site clearance or any archaeological investigation, shall take place within the bird breeding season (1 March – 31 August), unless an appropriately experienced ecologist declares that the part of the site where the works are to take place is free from nesting birds and this is agreed in writing by the Local Planning Authority. If breeding birds are found during site clearance, work must stop immediately and a statutory authority or suitably qualified ecologist informed. An appropriate mitigation strategy to address this issue, should these circumstances arise, shall be devised and agreed in writing by the Local Planning Authority. Once agreed, any measures shall be implemented as such and subsequently retained, where appropriate.

REASON: In order to ensure that no harm is caused to any ecological interest by virtue of the development or any prior site clearance.

13. Prior to the first occupation of the development hereby approved there shall be submitted to the Local Planning Authority an initial draft Community Use Agreement. That draft agreement shall set out the details of the facilities at the site that will be available to the public, the timing of that availability and the method by which that availability will be managed. Subsequent to and within 3 months of the first occupation of the development, the draft Community Use Agreement referred to shall be finalised, and further submitted to and agreed in writing by the Local Planning Authority. Once agreed, the Community Use Agreement shall be implemented as such within 6 months of the first occupation of the development hereby permitted. The Agreement shall thereafter be retained and implemented as agreed.

REASON: In order to ensure that appropriate measures are put in place to ensure that facilities provided as part of the new development are made available to and continue to be available for use by the community.

14. The development hereby approved shall be carried out in accordance with the following approved plans 4663 001D, 4663 002E, 4663 123 C, 4663/122c, Site Access/RA Rev C, Whittington Way – Bishop's Roundabout B, Whittington Way – Pynchbek Roundabout B.

REASON: For clarity and the avoidance of doubt.

15. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be approved in writing by the Local Planning Authority.

REASON: In order to ensure that acceptable materials are used in the interest of visual amenity.

16. Prior to the commencement of the development hereby permitted there shall be submitted to and agreed in writing by the Local Planning Authority details of the lighting scheme proposed for the site including hours of operation. Those details shall include any floodlighting proposed for external sports pitch and court areas. Once agreed, the details shall be implemented as such .

REASON: In order to enable the visual impact of the floodlighting to be fully and properly considered and thereafter controlled.

17. No construction plant or machinery, which is operated externally to any enclosed structure or building, shall be in use on the site before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

REASON: In the interest of the amenity of residential occupiers in the vicinity of the site.

18. Prior to the commencement of the development hereby approved, a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, that scheme shall be implemented and retained as such.

REASON: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

19. Prior to the commencement of development, detailed drawings of all permanent and temporary highway works, including a scheme for signage to the schools, shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the highway is constructed to the Highway Authority's specification in accordance with policy TR2 of the East Herts Local Plan (Second Review) April 2007.

20. Prior to commencement of the development, the temporary construction access, including 2.4m x 90m visibility splays, as outlined in principle on drawing number 'hcc.bishopsstortford.1/Whittington Way – Construction Access, rev B' shall be constructed and completed. Following completion of the development the temporary construction access shall be permanently closed and reinstated to its former use.

REASON: In the interests of highway safety and to avoid inconvenience to highway users.

21. Before the first occupation or use of the development the access roads and parking areas as shown on the approved plans(s) shall be provided. They shall be retained thereafter.

REASON: To ensure that the development makes adequate provision for the off street parking and manoeuvring of vehicles likely to be associated with its use.

Appeal B – Jobbers Wood

1. The use of the land shall only be for the beneficial use of The Bishop's Stortford High School, The Hertfordshire & Essex High School and for local organisations, as defined in condition 2 below.

Reason: For the avoidance of any doubt.

2. Prior to the commencement of the use there shall be submitted to and approved in writing by the Local Planning Authority, details of the organisations (as set out in condition 1) other than the Bishop's Stortford High School and the Herts and Essex High School, which will have access to and use of the site. Once the details of those organisations has been agreed, use of the site shall be restricted to those organisations.

Reason: For the avoidance of any doubt.

3. The existing building on the site shall be used for changing rooms and for the storage of equipment ancillary to the use of the site only and for no other purposes including any other purpose within class D1 of the schedule to the Town and Country Planning (Use Classes) Order 1987.

Reason: To ensure that no future alternative use is made of the premises which may be inappropriate within the Metropolitan Green Belt.

4. There shall be only one point of access onto the classified road (B1004)

Reason: So that the number of places on the highway where turning movements can occur are kept to a minimum in the interests of highway safety.

5. Any gates provided shall be set back a minimum of 5.0 metres from the edge of the carriageway and shall open inwards into the site.

Reason: So that a vehicle may wait clear of the highway while the gates are opened or closed.

6. Notwithstanding any of the provisions of the Town and Country Planning (General Permitted Development Order), 1995 the areas shown for parking shall be retained for such use.

Reason: To ensure that adequate parking provision is retained at all times.

7. No external lighting of any form shall be installed within the application site.

Reason: In the interests of visual amenity and the appearance of the development within the Metropolitan Green Belt.

8. Within 3 months of the date of this permission, a Travel Plan for the use of the site shall be submitted to and approved in writing by the Local Planning Authority and shall include proposals for all travel by modes other than individual private vehicle journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.

Reason: In order to ensure that measures are in place to manage all modes of transport to the site.

Appeal C – Hadham Road/Patmore Close

1. (a) Application for approval in respect of the matters reserved in this permission, namely the details of layout, scale and external appearance of the buildings and the landscaping of the site, shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates: (i) the expiration of a period of 5 years commencing on the date of this notice (ii) the expiration of a period of 2 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

REASON: To comply with the requirements of section 92 of the Town and Country Planning Act 1990

2. Approval of the details of the layout, scale and external appearance of the buildings and the landscaping of the site (herein called 'the reserved matters') for the development shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: To comply with the provisions of Article 3(10) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

CONSENSUS WAS NOT REACHED ON THE FOLLOWING CONDITION: All possible alternatives of condition 3 are set out below:

EHDC Suggestion:

3. (a) No development shall commence until the development permitted under appeal reference APP/J1915/A/11/2149483 has been completed and made available for occupation as school buildings and community facilities.

REASON: To ensure that, unless sufficient additional secondary school capacity is provided elsewhere in the town, the site remains available for that potential purpose in accordance with policy BIS7 of the East Herts Local Plan (Second Review) April 2007.

APPELLANTS Suggestion(s)

(b) None of the dwellings hereby permitted shall be occupied until the permission granted under appeal ref APP/J1915/A/11/2149483 has been commenced.

OR

(c) None of the dwellings hereby permitted shall be occupied until the school buildings granted permission under appeal ref APP/J1915/A/11/2149483 are completed and available for occupation and use.

REASON (applicable to above options): To ensure that the development is linked with and consequent upon the commencement/completion (delete as appropriate) of the related secondary school development allowed under appeal ref APP/J1915/A/11/2149483.

4. No development shall take place (including site clearance) until there has been submitted to, and agreed in writing by the Local Planning Authority, a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that appropriate archaeological investigation work is undertaken and the results recorded in accordance with the requirements of policies BH2 and BH3 of the East Herts Local Plan (Second Review) April 2007.

5. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: To ensure that it is clear how the details of the development relate to the level of adjacent land.

6. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from

the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- b. include a timetable for its implementation; and
- c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: In order to ensure that adequate infrastructure provision is available in accordance with policy ENV21 of the East Herts Local Plan (Second Review) April 2007.

- 7. Prior to the commencement of the development a scheme for the treatment and management of the drainage ditch referred to in paragraph 11.27 of the Environmental Statement shall be submitted to and agreed in writing by the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved scheme.

REASON: In order to ensure that the impact of the treatment proposed to the watercourse, as set out in the Environmental Statement, is fully assessed before a final course of action is determined.

- 8. Prior to the commencement of the development, detailed drawings of all highway works shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that the impact of necessary and appropriate highway works can be adequately considered.

- 9. Prior to the first occupation of the development hereby permitted a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include proposals for all travel by modes other than the private car for journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.

REASON: In order to ensure that measures are in place to manage all modes of transport to and from the proposed development.

- 10. No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a. Drawings of any temporary highway works and the phasing of any highway works;
- b. Methods for accessing the site, including the routes of construction traffic to and from the site;
- c. The parking of vehicles of site operatives and visitors;
- d. Loading and unloading of plant and materials;
- e. Storage of plant and materials used in constructing the development;
- f. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- g. Wheel washing facilities;
- h. Measures to control the emission of dust and dirt during construction;
- i. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- j. The management of any crossings of the public highway and/or other public rights of way.

REASON: In order to ensure that appropriate provisions are in place to minimise the impact of construction on residential amenity.

11. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be approved in writing by the Local Planning Authority.

REASON: In order to ensure that acceptable materials are used in the interest of visual amenity.

12. Prior to the first occupation of the development the following access and highways arrangement shall be implemented and thereafter retained:

- a. All access/egress works;
- b. New footways and cycle ways.

REASON: In order to ensure that necessary and appropriate highway works are undertaken in association with the development in the interests of highway safety and the free and efficient flow of traffic.

13. No construction plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

REASON: In the interest of the amenity of residential occupiers in the vicinity of the site.

14. No development shall take place until a supplementary Site Survey has been carried out as recommended in the Geo-environmental Desk Study Report (Faber Maunsell/Aecom) dated March 2008 and submitted as appendix 10.1 of the Environmental Statement submitted with the application. The survey shall identify the presence of any soil, gas or groundwater contamination present within the site. The report shall also consider areas which were previously inaccessible. Any necessary remediation to address contamination of the site shall include measures to decontaminate the site (specifying actions and target levels relating to any contaminants found) and prevent pollution of groundwater and surface water. All details of any survey, assessment and proposed remediation works (complete with a timescale) pursuant to this condition shall be submitted to and agreed in writing by the Local Planning Authority and development shall only take place in accordance with the agreed details.

REASON: In order to ensure that additional work is undertaken to identify any contamination on the site and that necessary remedial measures are implemented.

15. The development hereby approved shall be carried out in accordance with the following approved plans 4680/001 D, 4680/022 B and hcc.hadhamrd.1/Hadham Road - Site Access

REASON: For clarity and the avoidance of doubt.

16. Prior to the commencement of the development hereby approved, a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, that scheme shall be implemented as such.

REASON: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

Appeal D – The Bishop’s Stortford High School, London Road

1. (a) Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates: (i) the expiration of a period of 6 years commencing on the date of this notice (ii) the expiration of a period of 3 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

REASON: To comply with the requirements of section 92 of the Town and Country Planning Act 1990

2. Approval of the details of the layout, scale, and external appearance of the buildings, and the landscaping (herein called “the reserved matters”) for the development, shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: To comply with the provisions of Article 3(10) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

3. No development shall take place (including site clearance), until there has been submitted to and approved in writing by the Local Planning Authority a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work, which has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that appropriate archaeological investigation work is undertaken and the results recorded in accordance with the requirements of policies BH2 and BH3 of the East Herts Local Plan (Second Review) April 2007.

4. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: To ensure that it is clear how the details of the development relate to the level of adjacent land.

5. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. include a timetable for its implementation; and
 - c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: In order to ensure that adequate infrastructure provision is available in accordance with policy ENV21 of the East Herts Local Plan (Second Review) April 2007.

6. Prior to the commencement of the development, detailed drawings of all highway works shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that the impact of necessary and appropriate highway works can be adequately considered.

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a. Drawings of any temporary highway works and the phasing of any highway works;
 - b. Methods for accessing the site including predicted construction vehicles numbers and routes;
 - c. Wheel washing facilities;
 - d. Storage of plant and materials used in constructing the development;
 - e. The management of any crossings of the public highway and/or other public rights of way;
 - f. The parking of vehicles of site operatives and visitors;
 - g. Loading and unloading of plant and materials;
 - h. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - i. Measures to control the emission of dust and dirt during construction;
 - j. A scheme for recycling/disposing of waste resulting from demolition and construction works;

REASON: In order to ensure that appropriate provisions are in place to minimise the impact of construction on residential amenity.

8. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be approved in writing by the Local Planning Authority.

REASON: In order to ensure that acceptable materials are used in the interest of visual amenity.

9. Prior to the first occupation of the development details of the following access and highways arrangement shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, they shall be implemented prior to occupation and thereafter retained.

- a. All access/egress works;
- b. New footways and cycle ways;
- c. The provision of a SCOOT traffic control system along London Road.

REASON: In order to ensure that necessary and appropriate highway works are undertaken in association with the development in the interests of highway safety and the free and efficient flow of traffic.

10. Prior to the first occupation of the development hereby permitted a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include proposals for all travel by modes other than the private car for journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.

REASON: In order to ensure that measures are in place to manage all modes of transport to and from the proposed development.

11. Prior to any site works being commenced sight lines of 2.4 x 43 metres shall be provided each side of the means of access within which there shall be no obstruction to visibility between 0.6 metres & 2.0 metres in height above adjoining carriageway level. The visibility splay so created shall thereafter be retained.

REASON: In order to ensure that adequate and satisfactory visibility is available at the junction, in the interests of highway safety and the free and efficient flow of traffic.

12. No development shall take place on that part of the application site to the west of Thorley Hill Primary School until the latter school playing field boundaries are relocated as shown on indicative layout plan 05.124/92 to provide vehicular and pedestrian access to serve the western part of the development, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that a vehicular route of an adequate and appropriate standard is available between the western and eastern parts of the overall site.

NOTE: *The Appellants' position is that the following condition is not necessary as the matter of replacing the "lost" playing field area has been agreed with the County Council and the Thorley Hill Primary School, and is not a planning matter.*

13. Prior to the commencement of development, details of the steps to be taken to provide school playing field provision to replace any lost as a result of the development at the adjacent Thorley Hill Primary School shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, those steps shall be implemented as such.

REASON: In order to ensure that appropriate replacement playing field provision is made.

14. No construction plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

REASON: In the interest of the amenity of residential occupiers in the vicinity of the site.

15. No development shall take place until a supplementary Site Survey has been carried out. The survey shall identify the presence of any soil, gas or groundwater contamination present within the site. The report shall also consider areas which were previously inaccessible. Any necessary remediation to address contamination of the site shall include measures to decontaminate the site (specifying actions and target levels relating to any contaminants found) and prevent pollution of groundwater and surface water. All details of any survey, assessment and proposed remediation works (complete with a timescale) pursuant to this condition shall be submitted to and agreed in writing by the Local Planning Authority and development shall only take place in accordance with the agreed details.

REASON: In order to ensure that additional work is undertaken to identify any contamination on the site and that necessary remedial measures are implemented.

16. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the:

- a. Indicative Layout Plan 05.124/92
- b. Parameter Plan – Building Heights 05.124/95A
- c. Parameter Plan – Building Envelope 05.124/91A
- d. Parameter Plan – Indicative Maximum Building Widths and Depths 05.124/98a

REASON: For clarity and the avoidance of doubt.

17. Access to the development hereby approved shall be provided in accordance with that shown on application plan 05.124/92.

REASON: For clarity and the avoidance of doubt.

NOTE: Consensus was not reached on the following suggested condition. EHDC position is that the condition relating to renewable energy should be applied as detailed in italics below:

18. (a) The dwelling(s) shall achieve a Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling

shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

EHDC alternative:

(b) Prior to the commencement of the development hereby approved, a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, that scheme shall be implemented and retained as such.

REASON: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

NOTE: EHDC's position is that the following condition should read: "No dwellings.....shall be commenced.....". I refer to this as Condition 19(b)

19. (a) No dwellings hereby permitted shall be occupied before the development permitted under Appeal Ref APP/J1915/A/11/2149483 has been made available for use and occupation as school buildings and community facilities.

REASON: In the interests of the proper planning of the area and to ensure the continuity of education provision.

Appeal E: Herts and Essex High School, Warwick Road

1. (a) Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates: (i) the expiration of a period of 6 years commencing on the date of this notice (ii) the expiration of a period of 3 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

REASON: To comply with the requirements of section 92 of the Town and Country Planning Act 1990

2. Approval of the details of the layout, scale, and external appearance of the buildings, and the landscaping (herein called "the reserved matters") for the development, shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: To comply with the provisions of Article 3(10) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

3. No development shall take place (including site clearance), until there has been submitted to and approved in writing by the Local Planning Authority a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work, which has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that appropriate archaeological investigation work is undertaken and the results recorded in accordance with the requirements of policies BH2 and BH3 of the East Herts Local Plan (Second Review) April 2007.

4. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: To ensure that it is clear how the details of the development relate to the level of adjacent land.

5. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. include a timetable for its implementation; and
 - c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: In order to ensure that adequate infrastructure provision is available in accordance with policy ENV21 of the East Herts Local Plan (Second Review) April 2007.

6. Prior to the commencement of the development, detailed drawings of all highway works shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that the impact of necessary and appropriate highway works can be adequately considered.

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a. Drawings of any temporary highway works and the phasing of any highway works;
 - b. Methods for accessing the site including predicted construction vehicles numbers and routes;
 - c. Wheel washing facilities;
 - d. Storage of plant and materials used in constructing the development;

- e. The management of any crossings of the public highway and/or other public rights of way;
- f. The parking of vehicles of site operatives and visitors;
- g. Loading and unloading of plant and materials;
- h. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- i. Measures to control the emission of dust and dirt during construction;
- j. A scheme for recycling/disposing of waste resulting from demolition and construction works;

REASON: In order to ensure that appropriate provisions are in place to minimise the impact of construction on residential amenity.

8. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be approved in writing by the Local Planning Authority.

REASON: In order to ensure that acceptable materials are used in the interest of visual amenity.

9. Prior to the first occupation of the development hereby permitted, any vehicular access not incorporated in the approved plans shall be permanently closed.

REASON: In the interests of highway safety.

10. Prior to the first occupation of the development details of the following access and highways arrangement shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, they shall be implemented prior to occupation and thereafter retained:

- a. All access/egress works;
- b. New footways and cycle ways;
- c. Improvements at the Crescent Road/London Road junction

REASON: In order to ensure that necessary and appropriate highway works are undertaken in association with the development in the interests of highway safety and the free and efficient flow of traffic.

11. Prior to the first occupation of the development hereby permitted a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include proposals for all travel by modes other than the private car for journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.

REASON: In order to ensure that measures are in place to manage all modes of transport to and from the proposed development.

12. Prior to any site works being commenced sight lines of 2.4 x 43 metres shall be provided each side of the means of access within which there shall be no obstruction to visibility between 0.6 metres & 2.0 metres in height above adjoining carriageway level. The visibility splay so created shall thereafter be retained.

REASON: In order to ensure that adequate and satisfactory visibility is available at the junction, in the interests of highway safety and the free and efficient flow of traffic.

13. No construction plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

REASON: In the interest of the amenity of residential occupiers in the vicinity of the site.

14. No development shall take place until a supplementary Site Survey has been carried out. The survey shall identify the presence of any soil, gas or groundwater contamination present within the site. The report shall also consider areas which were previously inaccessible. Any necessary remediation to address contamination of the site shall include measures to decontaminate the site (specifying actions and target levels relating to any contaminants found) and prevent pollution of groundwater and surface water. All details of any survey, assessment and proposed remediation works (complete with a timescale) pursuant to this condition shall be submitted to and agreed in writing by the Local Planning Authority and development shall only take place in accordance with the agreed details.

REASON: In order to ensure that additional work is undertaken to identify any contamination on the site and that necessary remedial measures are implemented.

15. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the:
- a. Indicative Layout Plan 05.124/63
 - b. Parameter Plan – Building Heights 05.124/93A
 - c. Parameter Plan – Building Envelope 05.124/20B
 - d. Parameter Plan – Indicative Maximum Building Widths and Depths 05.124/96a

REASON: For clarity and the avoidance of doubt.

16. Access to the development hereby approved shall be provided in accordance with that shown on application plan 05.124/63.

REASON: For clarity and the avoidance of doubt.

NOTE: Consensus was not reached on the following suggested condition. EHDC position is that the condition relating to renewable energy should be applied as detailed in italics below:

17. (a) The dwelling(s) shall achieve a Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

EHDC alternative:

(b) Prior to the commencement of the development hereby approved, a scheme for the implementation of energy efficiency measures within the development to secure

at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, that scheme shall be implemented and retained as such.

REASON: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

NOTE: EHDC's position is that the following condition should read: "No dwellings.....shall be commenced.....". I refer to this as Condition 18(b)

18. (a) No dwellings hereby permitted shall be occupied before the development permitted under Appeal Ref APP/J1915/A/11/2149483 has been made available for use and the occupation as school buildings and community facilities.

REASON: In the interests of the proper planning of the area and to ensure the continuity of education provision.

Appeal F: Herts and Essex High School, detached playing field, Beldams Lane

1. (a) Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates: (i) the expiration of a period of 6 years commencing on the date of this notice (ii) the expiration of a period of 3 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

REASON: To comply with the requirements of section 92 of the Town and Country Planning Act 1990

2. Approval of the details of the layout, scale, and external appearance of the buildings, and the landscaping (herein called "the reserved matters") for the development, shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: To comply with the provisions of Article 3(10) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

3. No development shall take place (including site clearance), until there has been submitted to and approved in writing by the Local Planning Authority a written brief and specification for a scheme of investigation and mitigation including a programme of archaeological work, which has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In order to ensure that appropriate archaeological investigation work is undertaken and the results recorded in accordance with the requirements of policies BH2 and BH3 of the East Herts Local Plan (Second Review) April 2007.

4. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall

be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

REASON: To ensure that it is clear how the details of the development relate to the level of adjacent land.

5. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. include a timetable for its implementation; and
 - c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: In order to ensure that adequate infrastructure provision is available in accordance with policy ENV21 of the East Herts Local Plan (Second Review) April 2007.

6. Prior to the commencement of the development, detailed drawings of all highway works shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to ensure that the impact of necessary and appropriate highway works can be adequately considered.

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a. Drawings of any temporary highway works and the phasing of any highway works;
 - b. Methods for accessing the site including predicted construction vehicles numbers and routes;
 - c. Wheel washing facilities;
 - d. Storage of plant and materials used in constructing the development;
 - e. The management of any crossings of the public highway and/or other public rights of way;
 - f. The parking of vehicles of site operatives and visitors;
 - g. Loading and unloading of plant and materials;

- h. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- i. Measures to control the emission of dust and dirt during construction;
- j. A scheme for recycling/disposing of waste resulting from demolition and construction works;

REASON: In order to ensure that appropriate provisions are in place to minimise the impact of construction on residential amenity.

8. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be approved in writing by the Local Planning Authority.

REASON: In order to ensure that acceptable materials are used in the interest of visual amenity.

9. Prior to the first occupation of the development details of the following access and highways arrangement shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, they shall be implemented prior to occupation and thereafter retained:

- a. All access/egress works;
- b. New footways and cycle ways;
- c. Traffic calming and reconstruction.

REASON: In order to ensure that necessary and appropriate highway works are undertaken in association with the development in the interests of highway safety and the free and efficient flow of traffic.

10. Prior to the first occupation of the development hereby permitted a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include proposals for all travel by modes other than the private car for journeys to and from the site. Once approved, the Travel Plan shall be retained and implemented as such.

REASON: In order to ensure that measures are in place to manage all modes of transport to and from the proposed development.

11. Prior to any site works being commenced sight lines of 2.4 x 43 metres shall be provided each side of the means of access within which there shall be no obstruction to visibility between 0.6 metres & 2.0 metres in height above adjoining carriageway level. The visibility splay so created shall thereafter be retained.

REASON: In order to ensure that adequate and satisfactory visibility is available at the junction, in the interests of highway safety and the free and efficient flow of traffic.

12. No construction plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

REASON: In the interest of the amenity of residential occupiers in the vicinity of the site.

13. No development shall take place until a supplementary Site Survey has been carried out. The survey shall identify the presence of any soil, gas or groundwater contamination present within the site. The report shall also consider areas which were previously inaccessible. Any necessary remediation to address contamination of the site shall include measures to decontaminate the site (specifying actions and target levels relating to any contaminants found) and prevent pollution of groundwater and surface water. All details of any survey, assessment and proposed remediation works (complete with a timescale) pursuant to this condition shall be submitted to and agreed in writing by the Local Planning Authority and development shall only take place in accordance with the agreed details.

REASON: In order to ensure that additional work is undertaken to identify any contamination on the site and that necessary remedial measures are implemented.

14. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the:
- a. Indicative Layout Plan 05.124/64A
 - b. Parameter Plan – Building Heights 05.124/94A
 - c. Parameter Plan – Building Envelope 05.124/21B
 - d. Parameter Plan – Indicative Maximum Building Widths and Depths 05.124/97a

REASON: For clarity and the avoidance of doubt.

15. Access to the development hereby approved shall be provided in accordance with that shown on application plan 05.124/64A.

REASON: For clarity and the avoidance of doubt.

NOTE: Consensus was not reached on the following suggested condition. EHDC position is that the condition relating to renewable energy should be applied as detailed in italics below:

16. (a) The dwelling(s) shall achieve a Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

EHDC alternative:

(b) Prior to the commencement of the development hereby approved, a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, that scheme shall be implemented and retained as such.

REASON: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

NOTE: EHDC's position is that the following condition should read: "No dwellings.....shall be commenced.....". I refer to this as Condition 17(b)

17. (a) No dwellings hereby permitted shall be occupied before the development permitted under Appeal Ref APP/J1915/A/11/2149483 has been made available for use and the occupation as school buildings and community facilities.

REASON: In the interests of the proper planning of the area and to ensure the continuity of education and community facility provision.

APPENDIX D

SCHEME PLANS

APPEAL A		
No.	Drawing No.	Title
1	4663/001D	Site Location Plan
2	4663/002E	Site Identification Plan
3	4663/123C	Application plan
4	4663/122C	Development Parameters Plan
5	hcc.bishopsstortford.1/ Whittington Way – Site Access/RA Rev C	Site Access Plan Revision C
6	hcc.bishopsstortford.1/ Whittington Way – Bishop's Roundabout	Bishop's Avenue Roundabout Plan Revision B
7	hcc.bishopsstortford.1/ Whittington Way – Pynchbek Roundabout	Pynchbek Roundabout Plan Revision B
APPEAL B		
No.	Drawing No.	Title
1	4663/124	Site Location Plan
2	4663/125	Application Site Plan
APPEAL C		
No.	Drawing No.	Title
1	4680/001D	Site Location Plan
2	4680/22B	Application Plan
3	hcc.hadhamrd.1/Hadham Road – Site Access	Site Access Drawing

APPEAL D		
No.	Drawing No.	Title
1	05.124/98a	Building Width and Depth Parameter Plan
2	05.124/92	Indicative Layout Plan
3	05.124/91A	Building Envelope Parameter Plan
4	05.124/95A	Building Height Parameter Plan
5	05.124/54	Bishop's Stortford High School Site Plan
APPEAL E		
No.	Drawing No.	Title
1	05.124/20B	Building Envelope Parameter Plan
2	05.124/96a	Building Width and Depth Parameter Plan
3	05.124/93A	Building Height Parameter Plan
4	05.124/63	Indicative Layout Plan
5	05.124/99	Herts and Essex High School Site Plan
APPEAL F		
No.	Drawing No.	Title
1	05.124/64A	Indicative Layout Plan
2	05.124/97a	Building Width and Depth Parameter Plan
3	05.124/21B	Building Envelope Parameter Plan
4	05.124/49	Beldams Lane Site Plan
5	05.124/94A	Building Height Parameter Plan

APPENDIX E**LIST OF ABBREVIATIONS**

AASO	Appraisal of Alternative Site Options
App	Appendix
ASR	Areas of Special Restraint
AWP	all-weather pitch
BB93	Building Bulletin 93 - Acoustic Design of Schools
BSCF	Bishop's Stortford Civic Federation
BSHS	Bishop's Stortford High School for Boys
BSN	Bishop's Stortford North
BSTC	Bishop's Stortford Town Council
BS&S	Bishop's Stortford & Sawbridgeworth
CD	Core Document
CS	Core Strategy
DAS	Design and Access Statement
dB	decibels
DfE	Department for Education
DfT	Department for Transport

Doc	Document
DPD	Development Plan Document
dph	dwellings per hectare
ENA	Educational Needs Assessment
EHDC	East Herts District Council
EIA	Environmental Impact Assessment
EOS	Expansion Options Study
EPA	Education Planning Area
ES	Environmental Statement
hrs	hours
FOI Act	Freedom of Information Act
G1	Generation 1 development at Stansted Airport
HA	Highways Authority
ha	hectare
HEHS	Herts & Essex High School for Girls
km	kilometre
LA	Hertfordshire County Council as the Local Authority with responsibility for education within the maintained sector
LCA	Landscape Character Assessment (Supplementary Planning Document)
LVA	Landscape and Visual Assessment (Appendix 7.1 to the Site A Environmental Statement)
LDF	Local Development Framework
m	metre
MP	Member of Parliament
mppa	million passengers per annum
MUGA	Multi Use Games Area
NATS	National Air Traffic Service
NPPF	National Planning Policy Framework
NEC	Noise Exposure Category
PAN	Published Admissions Number
para	paragraph
pcus	passenger car units
PIM	Pre-Inquiry Meeting
PDAS	Planning, Design and Access Statement
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RSS	Regional Spatial Strategy
SEN	Special Educational Needs
SoCG	Statement of Common Ground
SPC	Statement of Public Consultation
sqm	Square metres
SPD	Supplementary Planning Document
SPS	Supporting Planning Statement
the Act	the Town and Country Planning Act 1990
the Council	East Herts District Council
TPC	Thorley Parish Council
TRICS	Trip Rate Information Computer System
WBM	Walker Beak Mason (the Council's independent Noise Consultants)

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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