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## Appeal Decision

Hearing held on 19 May, 16 September and 10 November 2015 and 15 March 2016

Site visits made on 9 November 2015 and 15 March 2016

**by Karen L Baker DipTP MA DipMP MRTPI**

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

**Decision date: 09 June 2016**

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**Appeal Ref: APP/W3520/W/15/3004749**

**Land west of Anderson Close, Hill House Lane, Needham Market, Ipswich IP6 8EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Peter Haylock against the decision of Mid Suffolk District Council.
  - The application Ref. 3679/13, dated 24 December 2013, was refused by notice dated 22 August 2014.
  - The development proposed is residential development.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development on land west of Anderson Close, Hill House Lane, Needham Market, Ipswich IP6 8EA in accordance with the terms of the application, Ref. 3679/13, dated 24 December 2013, subject to the conditions in Annex 1.

### Procedural Matters

2. The planning application was made in outline, with all matters reserved for subsequent approval, with the exception of access.
3. On the first day of the Hearing I heard evidence from the Council, appellant and interested parties in relation to the nature of the planning application and the subsequent appeal. Having carefully considered this, along with the evidence put to me in writing before the start of the Hearing, I concluded that the amendments proposed by the appellant do not include significant changes to the red line boundary, given that the application site was amended prior to the Decision on the planning application being made, in order to include the expansion of a filtration basin, the plan for which was included in the Flood Risk Assessment<sup>1</sup> (Site Plan, Drawing No. HHF-SP2, which was a revision to Site Plan, Drawing No. HHF-SP1), accepted by the Council on 18 June 2014 and referred to in its Decision Notice.
4. Furthermore, I noted that, in response to concerns raised by the Highway Authority, Suffolk County Council and Mid Suffolk District Council in the reasons for refusal, as part of this appeal the appellant has submitted an Outline

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<sup>1</sup> Appendix A: Site Location Plan in Level 1 Flood Risk Assessment, dated 18 June 2014, prepared by JP Chick and Partners Limited

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Landscape Appraisal<sup>2</sup> and an Ecology Survey<sup>3</sup>, along with an amended plan which reduces the proposed access points from 2 to one, increases the proposed landscaping strip from 7m to 20m and indicates a possible layout of the dwellings, for illustrative purposes only.

5. Having regard to the long established principles arising from the Wheatcroft case and others, I concluded that those revisions, while not materially altering the nature of the planning application, should be consulted upon to ensure that statutory consultees and interested parties have the opportunity to make their comments known, particularly given the confusion surrounding what did and did not form part of the original planning application. As such, I confirmed that I intend to consider the proposed development on the basis of the amended scheme as agreed between the main parties, following a period of public consultation. I therefore adjourned the Hearing until 16 September 2015 to allow for this period of public consultation, during which 25 representations were made.
6. The Council prepared a list<sup>4</sup> of the agreed plans and other documents which were to be consulted upon. The agreed application plans, which were the subject of this public consultation, are: Site Location Plan<sup>5</sup> (Drawing No. NHPE-OP1), dated May 2015; Access and Landscape Options<sup>6</sup> (Drawing No. HHF-AL1a); Access and Landscape Options<sup>7</sup> (Drawing No. HHF-AL2a); Existing Surface and Foul Drainage Laid Ready to Serve Proposed Site<sup>8</sup> (Drawing No. HHF-SW1); and, Site Appraisal Scheme<sup>9</sup> (Drawing No. 14.7575), dated May 2015.
7. At the end of the public consultation period, the Council and the appellant were given 14 days in which to consider any responses and prepare a revised Statement of Common Ground<sup>10</sup> and Supplementary Statements<sup>11</sup> if necessary. This period was extended following agreement between the main parties.
8. When the Hearing resumed on 16 September 2015, the Council confirmed that it would not be defending its reasons for refusal in respect of ecology, means of access, surface water flood risk and protected species, given that these matters are no longer in dispute between the main parties, having been satisfactorily addressed through the appeal process.
9. The Hearing was again adjourned on 16 September 2015, as more time was required to discuss the remaining issues in the appeal. I sought further information from the appellant and the Council relating to the identification of their differences in relation to the variables used in the Viability Appraisals and a range of scenarios indicating the outcome of changes to these variables within the Homes and Communities Agency (HCA) Development Appraisal Tool (DAT)<sup>12</sup>.

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<sup>2</sup> Outline Landscape Appraisal, dated March 2015, prepared by AREA landscape architects limited

<sup>3</sup> Report of Pete Harris MCIEEM in relation to an appeal for planning at Land west of Anderson Close, Hill House Lane, Needham Market, February 2015

<sup>4</sup> Document 8

<sup>5</sup> Plan A1/1, Document 11

<sup>6</sup> Plan A1/2, Document 52

<sup>7</sup> Plan A1/3

<sup>8</sup> Plan A1/4

<sup>9</sup> Plan A1/5

<sup>10</sup> Documents 16 and 22

<sup>11</sup> Documents 14, 15, 17 and 18

<sup>12</sup> Documents 34, 35 and 37

10. When the Hearing resumed on 10 November 2015, it became apparent that the issue of viability was one that needed to be tested by way of an Inquiry. In agreement with the main parties, the Hearing was adjourned in order that arrangements could be made for an Inquiry to be held. However, in a letter<sup>13</sup>, dated 18 November 2015, the appellant withdrew unequivocally all evidence in respect of viability associated with this appeal. Furthermore, a revised and signed Unilateral Undertaking<sup>14</sup>, which would provide 24% affordable housing and full Section 106 contributions in respect of the proposed development, was also submitted. Having carefully considered the implications of this, I concluded that an Inquiry would not be necessary, as the issue of viability was no longer in dispute. Arrangements were made, however, to resume the Hearing on 15 March 2016 for a final day, in order to hear any remaining representations of the interested parties, to consider the suggested conditions and the Unilateral Undertaking and to carry out the accompanied site visit.
11. On the final day of the Hearing the Council confirmed that its Community Infrastructure Levy (CIL) Charging Schedule would come into force on 11 April 2016.
12. Following the close of the Hearing a judgement<sup>15</sup> was given in the Court of Appeal on 17 March 2016, which is relevant to this appeal. The views of the parties were subsequently sought<sup>16</sup> in respect of the implications of this judgement on the appeal before me. In addition, given the timescale for the submission of these comments and that the Council's CIL Charging Schedule would come into force during this period of consultation, the appellant was also given the opportunity to consider the implications of this on the submitted Unilateral Undertaking<sup>17</sup> and whether or not it should be considered in its current form and whether or not he would seek to review the scale and nature of the contributions proposed, with the Council and third parties given an opportunity to comment on any revised Unilateral Undertaking. I will have regard to the views<sup>18</sup> expressed on the recent judgement during my consideration of this appeal.
13. With regards to the Unilateral Undertaking, the appellant stated<sup>19</sup> that he wished to submit a revised Unilateral Undertaking. The appellant submitted 2 revised Unilateral Undertakings<sup>20</sup>, one in respect of obligations made to the Council and the other in respect of obligations made to Suffolk County Council. Following comments made by the District<sup>21</sup> and County<sup>22</sup> Councils, the appellant accepted<sup>23</sup> the suggested amendments and submitted final signed Unilateral Undertakings<sup>24</sup> on 20 April 2016.

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<sup>13</sup> Document 49

<sup>14</sup> Document 49

<sup>15</sup> Suffolk Coastal District Council v Hopkins Homes Limited and the Secretary of State for Communities and Local Government; and Richborough Estates Partnership LLP v Cheshire East Borough Council and the Secretary of State for Communities and Local Government (Case Nos: C1/2015/0583 and C1/2015/0894) Neutral Citation No: [2016] EWCA Civ 168

<sup>16</sup> Document 58

<sup>17</sup> Document 49

<sup>18</sup> Documents 60, 61, 62, 64, 65, 67 and 71

<sup>19</sup> Document 59

<sup>20</sup> Document 63

<sup>21</sup> Documents 72 and 73

<sup>22</sup> Documents 76, 77 and 78

<sup>23</sup> Documents 74 and 75

<sup>24</sup> Documents 79 and 80

14. The appellant calculates<sup>25</sup> that, based on the mix of 37 dwellings included on the Site Appraisal Scheme, the CIL payment together with the financial contribution towards a bus stop required by the County Council, which is not covered by CIL, would be £199,580, which is less than the previous contributions required by the District and County Councils which amounted to £472,403. As such, the appellant has increased the level of affordable housing from 24% to 35%. The submitted Unilateral Undertaking in respect of obligations made to the District Council therefore includes the provision of 35% affordable housing on the site and provision for an off-site landscape enhancement area around 20m deep adjacent to the south western boundary and around 5m deep on the other side of Hill House Lane, close to the western corner of the site. The Unilateral Undertaking in respect of the obligation made to the County Council includes a financial contribution towards a bus stop (£15,000). I shall have regard to these Unilateral Undertakings during my consideration of this appeal.
15. The main parties confirmed at the Hearing that they agree that the Council cannot currently demonstrate a 5 year supply of deliverable housing land and, as such, relevant policies for the supply of housing in the development plan for the District should not be considered up-to-date. The Council and the appellants agreed that the current housing supply in the District is 3.3 years.

### **Application for Costs**

16. At the Hearing an application for costs was made by Mid Suffolk District Council against Mr Peter Haylock. This application is the subject of a separate Decision.

### **Main Issue**

17. The main issue in this appeal is the effect of the proposed development on the character, appearance and openness of the Special Landscape Area (SLA).

### **Planning Policy**

18. The development plan for the area is the Mid Suffolk Local Development Framework (LDF) Core Strategy Development Plan Document (DPD), adopted in September 2008, the Mid Suffolk LDF Core Strategy Focused Review, adopted in December 2012, the Mid Suffolk Local Plan, adopted in September 1998, and the Mid Suffolk Local Plan First Alteration, Affordable Housing, adopted in July 2006.
19. Policy CS 1 of the Core Strategy sets out the settlement hierarchy and identifies Needham Market as a Town. It goes on to say that the majority of new development (including retail, employment and housing allocations) will be directed to Towns and Key Service Centres. Policy CS 2 says that development in the countryside will be restricted to defined categories in accordance with other Core Strategy policies. Policy CS 5 says that all development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area, to protect, manage and enhance Mid Suffolk's biodiversity and geodiversity based on a network of Designated Sites, amongst other things. It goes on to say that landscape qualities will be protected and conserved, taking into account the natural environment and the historical dimension of the landscape as a whole rather than concentrating solely on selected areas, protecting the District's most important components

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<sup>25</sup> Document 68

- and encouraging development that is consistent with conserving its overall character.
20. Policy FC 1 of the Core Strategy Focussed Review says that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development. Policy FC 1.1 says that development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan. It goes on to say that proposals must conserve and enhance the local character of the different parts of the District and should demonstrate how the proposal addresses the context and key issues of the District and contributes to meeting the objectives and policies of the Mid Suffolk Core Strategy and other relevant documents.
  21. Policy CL2 of the Local Plan says that within SLAs, particular care should be taken to safeguard landscape quality, and where development does occur it should be sensitively designed, with high standards of layout, materials and landscaping. Policy H7 says that in the interests of protecting the existing character and appearance of the countryside, outside settlement boundaries there will be strict control over proposals for new housing, with the provision of new housing normally forming part of existing settlements.
  22. The Council cannot currently demonstrate a 5 year supply of deliverable housing land. It is therefore necessary, having regard to paragraph 49 of the National Planning Policy Framework (The Framework), to consider whether or not any of these policies are relevant policies for the supply of housing and how much weight should be afforded to them. The settlement boundaries within the Local Plan were defined in order to allow for sufficient growth to meet future land use needs for the plan period, which was up to 2006. As such, post 2006, these settlement boundaries would have the effect of constraining development, including housing, within these settlements. The restriction imposed upon development within the countryside, outside the settlement boundaries, within Policy H7 of the Local Plan, is therefore clearly time expired and should be considered out of date. The Core Strategy does not amend the settlement boundaries around the Towns, Key Service Centres, Primary and Secondary Villages. Any changes would be made as part of the Site Specific Allocation DPD. It does state, however, that villages other than those listed as Key Service Centres, Primary and Secondary Villages will lose their settlement boundaries, which would prevent infill development. Given the restrictions which continue to be imposed upon development within the countryside, outside the settlement boundaries, within Policy CS 2 of the Core Strategy, I consider that this policy is time expired and should be considered out of date.
  23. It is apparent, however, that Local Plan Policy H7 and Core Strategy Policy CS 2 have a dual purpose. As well as containing built development within existing settlements, they also seek to protect the open countryside from development in order to safeguard its character and amenity. One of the 12 core planning principles, set out in paragraph 17 of The Framework, includes recognising the intrinsic character and beauty of the countryside. In my opinion, the aspect of these policies which seeks to safeguard the character and amenity of the open countryside is generally consistent with The Framework and should therefore be afforded some weight.

24. Local Plan Policy CL2 relates to SLAs. However, this policy does not restrict development in these areas, it seeks to ensure that any development which does occur is sensitively designed in order to safeguard landscape quality. I do not consider, therefore, that Policy C2 is a relevant policy for the supply of housing.

### **Reasons**

25. The appeal site is located outside the settlement boundary of Needham Market, within the open countryside and SLA. The appeal site includes part of Hill House Lane, up to its junction with the B1113 Stowmarket Road, and a spur of land to the north of Hill House Lane, which would include an existing surface and foul drainage pipe and ditch, leading to an existing surface water infiltration basin. The proposed residential development would be constructed on that part of the appeal site which is sited to the south east of Hill House Lane and to the south, south west and north west of residential properties along Hill House Lane, Meadow View and Anderson Close, respectively. The dwellings along this part of Hill House Lane and Meadow View are predominantly large modern detached 2 storey properties set within generous plots. The more mature dwellings along Anderson Close are predominantly modest 2 storey detached and semidetached properties on smaller plots. A large, modern agricultural barn is located to the north west of this part of the appeal site, on the other side of Hill House Lane. This part of the appeal site is an arable field, which slopes gently down from north west to south east. Immediately to the south and beyond the residential properties and agricultural barn to the west, is further open countryside used for agriculture.
26. The proposal would include the residential development of the appeal site. The submitted Site Appraisal Scheme<sup>26</sup> indicates how a development of 37 dwellings could be accommodated on the appeal site. The Council, Suffolk County Council, Needham Market Town Council and local residents are concerned that the loss of this area of open countryside would be detrimental to the character, appearance and openness of the SLA. In addition, they are further concerned that the proposal would lead to the loss of part of an Important Hedgerow along the north western boundary of the field with Hill House Lane, part of which would need to be removed to provide a vehicular and pedestrian access into the field.
27. As part of the planning appeal the appellant submitted an Outline Landscape Appraisal<sup>27</sup>, which was updated<sup>28</sup> following the first day of the Hearing, and formed part of the consultation exercise prior to the resumption of the Hearing on 16 September 2015. This Appraisal confirms that the appeal site lies within the Ancient Plateau Claylands, identified in the Suffolk Landscape Character Assessment, undertaken in 2008 and updated in 2011. Key characteristics of this landscape typology include flat or gently rolling arable landscape of clay soils dissected by small river valleys; field pattern of ancient enclosure; small patches of straight-edged fields associated with the late enclosure of woods and greens; scattered ancient woodland parcels containing a mix of Oak, Lime, Cherry, Hazel, Hornbeam, Ash and Holly; and, hedges of Hawthorn and Elm with Oak, Ash and Field maple as hedgerow trees.

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<sup>26</sup> Plan A1/5

<sup>27</sup> Outline Landscape Appraisal, dated March 2015

<sup>28</sup> Document 12

28. The Outline Landscape Appraisal identified 3 viewpoints from key locations from which the proposed development may be substantially visible, including public footpaths in the vicinity of the appeal site. Furthermore, it says that although the landscape qualities of the area do not meet the criteria for it to receive a statutory designation, the County Council recognised in its Structure Plan (2001) that the area has special landscape qualities which nonetheless deserve some extra protection. As such, the Local Plan defines this area as an SLA, where particular care should be taken to safeguard landscape quality.
29. The Outline Landscape Appraisal assesses the impact of the proposed development from the identified viewpoints, including the provision of the proposed planting/woodland strip. It concludes that, whilst the appeal site is part of the wider SLA, it is a parcel of land on the edge of the residential area which, in its current state, whilst having some intrinsic value for openness, has relatively low aesthetic, habitat or amenity value, due to its current use for mono-cultural arable cropping, poor state of hedgerows and other planting to boundaries. It also says that, although the appeal site is visible from some points in the open countryside beyond, these views are terminated by views of existing housing and rear garden fences on 2 sides. Furthermore, it recognises that there is an opportunity to enhance the appeal site and improve the visual, ecological and access to the site and the wider area through sympathetic site layout and design. Significantly, it concludes that, the introduction of a wide woodland belt to the south western boundary edge would effectively screen not only the proposed development, but also the adjacent existing housing and agricultural building when viewed from some distant viewpoints. Furthermore, the Appraisal says that with thoughtful design and management, the proposed woodland belt also has the potential to strengthen existing habitats and create a mosaic of new ones, such as a south facing woodland edge ecotone and/or coppice/glade structure within, which would improve biodiversity and offer amenity for local people.
30. The County Council's Landscape Planning Officer has submitted an updated assessment<sup>29</sup> of the impact of the proposed development, as shown on the Site Appraisal Scheme, on the boundaries of the field, neighbouring residents, users of local public footpaths and on the wider countryside. In terms of the likely impacts of the proposed development shown on the indicative layout, she is concerned about the Important Hedgerow on the north western boundary of the proposed housing development with Hill House Lane, a large part of which would have to be removed to accommodate the vehicular entrance to the housing from Hill House Lane and to ensure visibility from this access road and the proposed driveways along the Hill House Lane frontage.
31. Furthermore, the Landscape Planning Officer is concerned that the valuable tree screen and buffer to the Anderson Close properties from the existing trees along the south eastern boundary of the appeal site would be compromised. In addition, although a footpath link from the proposed development onto public footpath FP3, which runs along the north eastern boundary of the appeal site between Hill House Lane and Anderson Close, is a positive element of the scheme, she considers that the relationship of the proposed dwellings and their boundaries along the north eastern boundary of the appeal site would lead to a cramped experience for footpath users. Finally, with regards to the south western boundary of the appeal site, the Landscape Planning Officer concludes

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<sup>29</sup> Document 14

that the proposed 20m wide planting/woodland strip would have the potential to create a landscape and habitat corridor which would extend to Hill House Lane and link with the north western boundary hedge, albeit that this hedge may be removed. It is acknowledged, however, that the planting, when mature, could offer some benefits in respect of mitigating the visual impacts of the development in views from the south west and Public Footpath FP12, which runs from Hill House Lane to the south west.

32. Overall, however, the Landscape Planning Officer considers that it has not been demonstrated that a suitable layout for 37 dwellings would be possible in terms of protecting the existing landscape features.
33. In terms of the impact of the proposal on the wider countryside, the Landscape Planning Officer concludes that any development of the appeal site would have a degree of detrimental visual impact on local residents, footpath users and in views from the surrounding countryside. She also concludes that the openness of the landscape would be eroded, with properties on the extended settlement edge appearing in the wider landscape, where views of the town are currently very limited. The Landscape Planning Officer also states that the proposed housing would impinge and be intrusive on local residents if it is constructed as shown on the illustrative plan, and walkers on the public rights of way alongside the site boundaries would find that their experience would be altered as the route becomes urbanised and views across the field would be cut short by development of a high density nature. Finally, she concludes that the provision of a 20m landscape buffer would resolve some of the wider landscape concerns, however, as the site lies in an open landscape designated as an SLA, new residential properties with an estate layout character and in the form indicated would be prominent in both local and wider views. Furthermore, the existing hedge and the character of Hill House Lane would be compromised by the proximity of the plots as indicated.
34. It was apparent from my site visits that the part of the appeal site which would include the proposed dwellings is currently used for arable farming and, as such, is predominantly open. The north western boundary of this field is delineated by a mature hedgerow, beyond which is Hill House Lane, a restricted byway (RB5), with a public footpath (FP12) continuing from the end of the lane. A public footpath (FP3) is sited adjacent to the north eastern boundary, of the part of the appeal site to be developed for housing. To the south west of FP3, at its junction with Hill House Lane, are 2 existing detached 2 storey residential properties (The Acorns and Tulip Tree House). Beyond FP3 are properties along Meadow View. The rear gardens of Nos. 7 – 12 Meadow View abut this public footpath, with their boundaries along this footpath mostly delineated by close boarded fencing. A hedge exists along much of the south eastern boundary of the appeal site, adjacent to the residential properties along Anderson Close. It was apparent from my site visit that these properties are set lower than the appeal site and many have an additional boundary treatment including a post and wire fence.
35. The Council is of the opinion that the hedgerow along the south eastern side of Hill House Lane is an Important Hedgerow under The Hedgerow Regulations 1997<sup>30</sup>. However, this is disputed by the appellant. It was apparent from my site visit that this is a substantial hedgerow, which, although it includes newer

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<sup>30</sup> Document 33

elements towards its north eastern end, is nevertheless an attractive feature along Hill House Lane, which currently allows glimpsed views of the appeal site to users of Hill House Lane. The Site Appraisal Scheme indicates how some of the existing hedgerow could be retained, albeit fragmented, given that some is shown to be removed to provide the access road into this part of the appeal site and to open up driveways from the dwellings on Plots 1, 2, 30 and 31 directly onto Hill House Lane.

36. I acknowledge that this planning application is made in outline and that the layout of the proposed development may change at the reserved matters stage. Indeed, the appellant has submitted an alternative Site Appraisal Scheme<sup>31</sup> (Drawing No. 14.7575, dated July 2015) which shows how the layout of the proposed development could be amended to reduce the number of openings onto Hill House Lane, which would lead to the retention of a more substantial section of hedgerow along much of this frontage. In my opinion, such an amendment would provide for the retention of a much greater length of hedgerow, which would provide links to the proposed planting/woodland strip adjacent to the south western boundary of the appeal site and that proposed close to the western corner, on the other side of Hill House Lane. In my view, this would have both ecological and aesthetic benefits.
37. In any event, the reduction in the extent of the hedgerow along Hill House Lane would ensure that the proposed development would be clearly visible to users of this public footpath. However, it would not be dissimilar to views currently experienced of the residential development immediately to the north along Hill House Lane. Nevertheless, it is clear that, given the proximity of the proposed development to Hill House Lane, along with the loss of some of the hedgerow, there would be some harm to the open views currently enjoyed by users of this footpath.
38. It was apparent from my site visits that more open views of the appeal site are currently afforded to users of FP12, in longer distance views from the south west, given the lack of any boundary planting along the south western boundary of the appeal site. The Site Appraisal Scheme<sup>32</sup> indicates that a planting/woodland strip around 20m in depth adjacent to the south western boundary of the appeal site would be provided, along with one around 5m in depth along the north western side of Hill House Lane, close to the western corner of the appeal site. The provision and maintenance of these planting/woodland strips is included within one of the Unilateral Undertakings<sup>33</sup>.
39. The proposed planting/woodland strips would provide a link between the Short Plantation, which is sited immediately to the south west of Anderson Close, and the existing hedgerow along Hill House Lane. In my opinion, this would have both ecological and aesthetic benefits. Indeed, once mature, it would provide some screening of the proposed dwellings and the existing residential properties beyond, and would soften the edge of the settlement of Needham Market in views from the south west. I am satisfied therefore that the proposal would not appear visually obtrusive in views from the south west.
40. The proposed development would introduce houses onto a currently open field, immediately adjacent to public footpath FP3. This would lead to the enclosure

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<sup>31</sup> Section 4.0 of Document 17

<sup>32</sup> Plan A1/5

<sup>33</sup> Document 79

of this public footpath on both sides along its entire length. Currently it is enclosed on both sides between Nos. 46 and 48 Anderson Close and between Tulip Tree House and Nos. 10 – 12 Meadow View, with part of its south western side currently open along the boundary of the appeal site. In my opinion, this enclosure would be detrimental to users of this public footpath as it would significantly alter their experience from one of substantial open views across agricultural fields to one of built development, beyond domestic boundaries. Nevertheless, these views would not be dissimilar to those experienced along other parts of this public footpath. However, it would result in some harm to these users.

41. The Council, County Council and local residents have expressed concerns about the impact of the proposed development on the SLA and the wider countryside setting of Needham Market. Although local residents value this area of farmland, I note that it is not identified as a Visually Important Open Space on the Needham Market Inset 55a in the Local Plan. I also acknowledge the comments made in the Inspector's Report, prior to the adoption of the Local Plan, in which the Inspector highlighted the importance of the SLA and, when considering the appeal site as part of a larger site for housing, said that the development of the open part of the site would be a harmful intrusion into the open countryside. A smaller site for housing was allocated in the Local Plan as a result and has since been built out as Meadow View.
42. The appeal site has built form, in respect of existing residential development on 2 sides, to the north east and south east and is strongly influenced by the adjoining settlement. In addition, a modern agricultural barn is sited to the north west, on the other side of Hill House Lane. The appeal site slopes down from Hill House Lane towards Anderson Close. Given this, along with existing and proposed planting to the north west and south west of the appeal site and the adjacent built up form of the settlement, I am satisfied that the change in character of the appeal site from agricultural to residential would be limited in visual terms in longer distance views from the north west, including views from Badley Hill, and the south west along FP12, given intervening planting, the topography of the area and the existing settlement backdrop.
43. Neighbouring residents along Hill House Lane, Meadow View and Anderson Close highly value this agricultural field for its openness and are concerned that the proposed development would have an impact on their outlook. Furthermore, residents of Anderson Close are concerned about the loss of existing planting along the south eastern boundary of the appeal site. I visited a number of these neighbouring residential properties on my site visit. It is apparent that the development of 37 dwellings on a site that is currently open in character would change the outlook of many of the residents whose properties abut, or are adjacent to, the appeal site. I note the appellant's intention to retain the existing hedge along the south eastern boundary of the appeal site and that this could be supported by additional planting at the reserved matters stage. However, in my opinion, the proposed development would result in some harm to the outlook of these neighbouring occupiers.
44. The proposed development would include the loss of some open countryside. I have also found that the proposal would cause some harm to the open views currently enjoyed by users of the adjacent public footpaths and the outlook of some neighbouring residents. However, given the contained nature of the appeal site and its location immediately adjacent to the built up area of

Needham Market, along with the retention of many of the existing landscape features, including boundary hedgerows and trees, and the addition of further planting within a substantial adjacent woodland strip, I do not consider that the proposal would represent a significant visual intrusion as it would not introduce features that would be completely uncharacteristic of the immediate area. Furthermore, I consider that, given the outline nature of the proposal, further opportunities exist for the development of a masterplan to secure an appropriate design and landscape management regime at the reserved matters stage.

45. I conclude, therefore, that the proposed development would cause some harm to the character, appearance and openness of the SLA. However, given the nature of these impacts, I consider that only limited weight should be afforded to the landscape changes that would result from the proposed development.

### **Other Matters**

46. Local residents have raised a number of concerns including highway and pedestrian safety, including the unadopted nature of Hill House Lane and the accessibility of the proposed development; the impact of the proposal on the living conditions of neighbouring residents; flooding and drainage; loss of agricultural land; the preference for the development of brownfield sites in the settlement; the impact on the ecology of the area; and, conflict with the emerging Neighbourhood Plan.
47. Hill House Lane is not an adopted highway, and I note the concerns of local residents relating to the delays regarding the adoption of this highway and its steep nature and single narrow footway. Following the amendments to the scheme during the course of the appeal, only a single access is now proposed from Hill House Lane. As such, with the removal of the proposed Anderson Close access from the scheme, there are no extant objections to the proposed development from the Highway Authority and the Council confirmed that it would not be defending its reason for refusal in respect of highway safety.
48. Paragraph 32 of The Framework says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Hill House Lane slopes steeply down towards Stowmarket Road. I note the concerns of local residents that during the winter months it can become very icy and slippery, with a risk that vehicles exiting Hill House Lane onto Stowmarket Road may be unable to stop. This is not dissimilar to the situation on many other minor roads up and down the country. There is no evidence before me, in terms of accident records, that this junction represents a severe risk to highway safety. Indeed, given its gradient, it is likely that regular users of this road would be aware of the difficulties of negotiating it during the winter months and would approach it with caution. Furthermore, there is no evidence before me that the increase in vehicular movements generated by the proposed development would be detrimental to highway safety. As such, I consider that the proposal would not unduly harm highway safety.
49. Paragraph 50 of The Framework says that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, including people with

- disabilities. During the course of the Hearing local residents raised concerns about the accessibility of the proposed dwellings for wheelchair users from Hill House Lane, given the gradient of this road. During the site visit a wheelchair was used to demonstrate the accessibility of this route.
50. It was apparent from my site visit that the footway along Hill House Lane is relatively narrow, being around 1m in width at its narrowest point. The occupant of the wheelchair was, however, able to navigate along it, despite its width and gradient. Although this route may not be ideal for wheelchair users, there is another pedestrian route available from the appeal site along public footpath FP3, from which access to both the centre of Needham Market and Stowmarket Road can be gained. I am satisfied, therefore, that the proposed development would be accessible to all future residents.
51. Many local residents have raised concerns about the impact of the proposal on their living conditions, with particular reference to privacy, sunlight/daylight and noise/disturbance. This planning application was made in outline, with layout, as well as scale, landscaping and appearance, to be considered at the reserved matters stage. I am satisfied, however, that, given the density of development proposed, an appropriate layout could be submitted at the reserved matters stage that would not harm the living conditions of neighbouring occupiers.
52. The Town Council and local residents have raised concerns about flooding and drainage. In particular, given the topography of the area, they are concerned that the construction of houses would lead to run off from the site towards Anderson Close and Meadow View. The appellant submitted a Flood Risk Assessment<sup>34</sup>, with supplementary information provided in a letter, dated 18 July 2014, along with a plan showing the Infiltration Basin Details (Drawing No. IE14/019/01 Rev. P1), as part of the planning application. This concluded that whilst the change of use to residential would increase the vulnerability of the appeal site, the land has a negligible risk of flooding from tidal, fluvial surface water or ground water. Furthermore, it says that Anglian Water has confirmed that there is sufficient capacity within the foul system to accommodate the proposed development. In addition, the proposed development would divert existing field drainage to the opposite side of the hill into an established sustainable drainage solution, which would reduce the run-off entering the storm water system. In order to provide the additional capacity required by the proposed development, the existing infiltration basin would require some remodelling/extension, as proposed on the submitted plan.
53. The Environment Agency withdrew its objection on 19 August 2014 and, following further consideration of this matter during the appeal process, the Council confirmed that it would not be defending its reason for refusal in respect of surface water flood risk. The submission of a Surface Water Drainage Scheme, informed by the Flood Risk Assessment and the letter of addendum, could be required by an appropriate planning condition on any approval. In my opinion, such a condition would be sufficient to safeguard the area from flooding.
54. The proposed development would lead to the loss of around 1.5ha of agricultural land and the development of a greenfield site on the edge of the settlement of Needham Market. Paragraph 112 of The Framework says that

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<sup>34</sup> Level 1 Flood Risk Assessment, dated 18 June 2014, prepared by JP Chick and Partners Limited

account should be taken of the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Furthermore, paragraph 111 says that planning policies and decisions should encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. Although the proposal would lead to the loss of this agricultural field and the development of a greenfield site for housing, it is apparent from the significant shortfall in housing land supply that, in order to boost significantly the supply of housing in Mid Suffolk, some development will have to take place on such land. Nevertheless, I have afforded the loss of the agricultural land some weight in my consideration of this appeal.

55. I note the concerns of local residents in respect of the impact of the proposed development on the ecology of the area. The appellant has submitted an Ecology Survey<sup>35</sup>, along with an updated Survey<sup>36</sup>, which conclude that the proposal would not have an adverse impact upon protected species. Furthermore, it is concluded that due diligence relating to the timing of works would be an appropriate course of action to manage impacts upon nesting birds during the construction phase. Finally, it is concluded that the retention of the existing hedgerow, along with infill planting and the provision of a 20m wide woodland strip, would result in an increase of hedgerow and potential habitat in and around the appeal site, with enhanced connectivity through the provision of a new wildlife corridor.
56. Following further consideration of this matter during the appeal process, the Council confirmed that it would not be defending its reason for refusal in respect of protected species. I am also satisfied that, on the evidence before me, the proposed development would not harm the ecology of the area. Indeed, it would be likely to provide some benefits in terms of the additional planting/woodland strip and the connectivity to other habitats in the wider area.
57. At the Hearing the Town Council submitted copies of the Needham Market Neighbourhood Plan: Draft Copy<sup>37</sup> and the Needham Market Neighbourhood Plan: Final Draft<sup>38</sup>. The Town Council considers that the proposed development would be in conflict with the emerging Neighbourhood Plan. The emerging Neighbourhood Plan has been the subject of a number of public consultation events. However, it has not, as yet, been submitted to the District Council in order that a public consultation exercise can be undertaken, prior to the holding of an Independent Examination. As such, and having regard to paragraph 216 in The Framework, I have afforded the emerging Neighbourhood Plan limited weight.
58. The emerging Neighbourhood Plan includes policies in respect of housing, community services, employment, conservation and education. With regards to housing, Policy NM1 says that the emerging Neighbourhood Plan supports the delivery of a minimum of 470 homes during the plan period (2015 – 2030). It goes on to say that of these, 94 have already been completed on 'The

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<sup>35</sup> Report of Pete Harris MCIEEM, dated February 2015

<sup>36</sup> Document 9

<sup>37</sup> Document 5

<sup>38</sup> Document 24

Maltings' site. In addition, planning permission has been granted for a further 266 to be developed on Needham Market Chalk Quarry site and from the year 2022 the possibility of a greenfield extension to the town is anticipated to accommodate the remaining 110 homes.

59. It is clear from the emerging Neighbourhood Plan that the Town Council anticipates the need to develop housing on greenfield sites in the future. Furthermore, in addition to those dwellings already completed or with planning permission, there is a need to develop a further 110 dwellings in order to meet the minimum housing requirement in the plan period. The development of 37 dwellings on the appeal site would go some way towards meeting this requirement.

### **Planning Balance**

60. Paragraph 49 of The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. The Council and the appellants agree that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. As such paragraph 49 is engaged in this case.
61. Paragraph 14 of The Framework states that at its heart there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For the latter this means where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework as a whole.
62. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
63. The lack of a 5 year supply of deliverable housing land, along with the need to boost significantly the supply of housing in the District, is a material consideration of substantial weight in this appeal. The provision of 37 houses, 35% of which would be affordable housing, would go some way to reducing the shortfall. In addition, the proposed development would provide some ecological benefits in terms of the additional planting/woodland strip and the connectivity this would provide to other habitats in the wider area.
64. Although the proposed development would lead to the loss of some open countryside and some harm to the character, appearance and openness of the SLA has been identified, I have afforded limited weight to the landscape changes that would result from the proposed development. I have also found that the proposed development would cause some harm to the visual character of the landscape, however, given the nature of these impacts, I have afforded limited weight to the changes to the visual character of the landscape that

would result from the proposed development. Finally, I have afforded some weight to the loss of agricultural land.

65. I have considered all the other matters raised by the Council and third parties including the impact on local services and facilities; and, increase in traffic. However, I do not consider that these matters and the harm identified to the character and appearance of the open countryside and the SLA and the visual character of the landscape and the loss of agricultural land would significantly and demonstrably outweigh the benefits of the proposed development, which would provide much needed housing in Mid Suffolk. As such, I conclude that the appeal should be allowed.

### **Conditions**

66. A list<sup>39</sup> of agreed conditions was submitted by the appellant. In addition to the standard time limit and reserved matters conditions, this list includes 21 conditions. I have had regard to the advice in the Planning Practice Guidance (The Guidance)<sup>40</sup> when considering these conditions. Although the suggested condition referring to the approval of details of the reserved matters includes tree/hedgerow retention, this matter is covered by a separate condition and therefore its inclusion would not be necessary. A condition requiring that the development be carried out in accordance with the approved plans would not be necessary, given the outline nature of the proposed development and that reference is made specifically to relevant drawings/documents in other conditions.
67. The submission and approval of a plan showing all trees and hedgerows to be retained on site, along with an Arboricultural Method Statement which indicates how these retained trees and hedgerows would be protected during the development, would be necessary to safeguard the character and appearance of the area and the retained trees and hedgerows. However, this could be incorporated into a condition which requires the submission of a scheme of hard and soft landscaping works for the site, along with its implementation. This, and a requirement that the changes in ground levels, hard landscaping, planting, seeding or turfing be carried out in full during the first planting and seeding season following the commencement of the development, would be necessary to safeguard the character and appearance of the area.
68. Conditions requiring the submission and approval of a scheme of soft landscaping works for the off-site planting/woodland strip shown on the Site Appraisal Scheme (Drawing No. 14.7575), dated May 2015, its implementation and management would be necessary to safeguard the character and appearance of the area. Although these works would take place off site, the land is also under the control of the appellant and it was confirmed at the Hearing that these works would be able to take place. A separate condition requiring the erection of temporary protective fences around existing trees and hedgerows to be retained on the site would not be necessary as this matter is already covered by another condition. Details of boundary screen walls and fences would be necessary to safeguard the living conditions of neighbouring occupiers and the character and appearance of the area.

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<sup>39</sup> Documents 46, 47 and 48

<sup>40</sup> Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)

69. A condition requiring the submission of the details of the external facing and roofing materials would not be necessary at this stage, given that appearance is a reserved matter. Details of the proposed finished ground floor level for each of the proposed dwellings would be necessary to safeguard the living conditions of neighbouring residents and the character and appearance of the area. A requirement that no dwelling be occupied until the carriageways and footways serving that dwelling have been constructed to at least basecourse level or better would be necessary to ensure that satisfactory access is provided for the safety of future residents. The submission and approval of details of the areas to be provided for the manoeuvring and parking of vehicles, including secure cycle storage, would be reasonable in the interests of highway safety.
70. Details of the estate roads and footpaths would be necessary in the interests of highway and pedestrian safety. Conditions requiring the submission and approval of a Surface Water Management Strategy and a Surface Water Drainage Scheme would be necessary to safeguard the area from flooding. The submission and approval of a scheme for the provision of water, energy and resource efficiency measures, during the construction and occupational phases of the development would be necessary to enhance the sustainability of the development.
71. Conditions requiring the implementation of a programme of archaeological work would be reasonable to safeguard archaeological assets. The submission and approval of a lighting design strategy would be reasonable to safeguard the character and appearance of the area and in the interests of biodiversity. A requirement that details of the construction methodology be submitted and approved would be necessary to safeguard the living conditions of neighbouring occupiers during the construction period.
72. At the Hearing, the appellant submitted a suggested condition<sup>41</sup> which would require that the development hereby permitted should be carried out at a density of 24 dwellings per hectare (dph), which would equate to around 37 dwellings on the appeal site. The planning application indicated that around 38 dwellings could be accommodated on the appeal site. However, the Site Appraisal Scheme showed how a development of 37 dwellings could be laid out. Nevertheless, this plan was submitted for illustrative purposes only and, given my findings above, it is likely that an alternative layout would be proposed as part of any reserved matters application in order to limit the impact on the hedgerow on the north western boundary of the field, along the lines of the indicative layout submitted as part of the appellant's Supplemental Statement of Case<sup>42</sup> (Site Appraisal Scheme, (Drawing No. 14.7575), dated July 2015), which also indicated how 37 dwellings could be accommodated on the appeal site.
73. Guidance in The Framework encourages local planning authorities to set their own approach to housing density to reflect local circumstances. Core Strategy Policy CS 9 requires that housing developments should make best use of land by achieving average densities of at least 30dph, unless there are special local circumstances that require a different treatment. It goes on to say that lower densities may be justified in villages to take account of the character and appearance of the existing built environment, but that higher densities of at

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<sup>41</sup> Document 53

<sup>42</sup> Document 17

least 40dph may be achieved in more sustainable locations in towns, close to a good range of services and facilities. Given that the appeal site is located at the edge of the town, within the SLA, along with the density of neighbouring developments at Anderson Close and Meadow View, I am satisfied that a density of less than 30dph would be appropriate in this location due to local circumstances. However, although I acknowledge the Council's and local residents' concerns about the proposed density, from the evidence before me, and given the need to boost significantly the supply of housing in Mid Suffolk, I am satisfied that a density of 24dph could be acceptably accommodated on the appeal site. As such, I consider that a condition to this effect would be reasonable in the interests of sustainability.

74. At the Hearing, third parties expressed concerns about the lack of open space within the proposed development and a desire for a planting buffer/green boundary between the properties on Anderson Close/Hill House Lane and the proposed dwellings. Furthermore, concerns were also raised about the fragility of the proposed landscaping and its continued management. Although there would be no on-site open space, it is proposed that the majority of the boundary hedgerows would be retained and further significant planting would be provided adjacent to the appeal site in the form of a planting/woodland strip. I note the concerns of third parties relating to the living conditions of existing residents on Hill House Lane, Meadow View and Anderson Close, however, I am satisfied that the conditions imposed relating to boundary treatment and landscaping, including proposed floor levels, would be sufficient, to safeguard the privacy and outlook of these neighbouring residents. Furthermore, the landscape management conditions would provide protection of the on-site and off-site landscaped areas for a period of 20 years from the commencement of the development. I am satisfied, therefore, that no further conditions would be necessary in this case.

### **Unilateral Undertaking**

75. Following the close of the Hearing, the Council's CIL Charging Schedule came into force on 11 April 2016. As such, many of the obligations originally sought by the District and County Councils are now covered by CIL. As such, the appellant submitted 2 revised Unilateral Undertakings<sup>43</sup> under Section 106 of the Town and Country Planning Act 1990, which include a number of obligations to come into effect if planning permission is granted. These Unilateral Undertakings take account of the CIL payment and supersede any previous Unilateral Undertakings. I have considered the obligations within them in the light of the statutory tests contained in Regulation 122 of The CIL Regulations 2010. I have also had regard to the comments made by the County and District Councils in respect of the evidence and justification for developer contributions required in order to mitigate the impact of the development on local infrastructure. Furthermore, the County Council confirmed in its statement that, with regards to Regulation 123(3), it has not entered into 5 or more obligations in respect of the obligation it is seeking.
76. Policy CS 6 says that new development will be expected to provide or support the delivery of appropriate and accessible infrastructure to meet the justifiable needs of the development. The obligations within the Unilateral Undertakings relate to the following matters.

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<sup>43</sup> Documents 79 and 80

77. *Affordable Housing*: Altered Policy H4<sup>44</sup> of the Local Plan First Alteration says that the Council will seek to negotiate an element of affordable housing of up to 35% of the total provision of housing on appropriate sites. It goes on to say that negotiations with developers will take account of the identified local needs, the economics and viability of development and the availability of local services. The Council's *Affordable Housing: Guidance for Developers*<sup>45</sup>, published in 2008, provides procedural information in addition to that contained in the Local Plan First Alteration in respect of the provision of affordable housing. The Unilateral Undertaking made in respect of the District Council includes the provision of 35% affordable housing as part of the proposed development. Given the need for affordable housing in the District, along with the lack of a 5 year supply of deliverable housing land, I am satisfied that this obligation would pass the statutory tests.
78. *Landscape Enhancement Area*: Policy CL2 of the Local Plan says that within SLAs, particular care will be taken to safeguard landscape quality, and where development does occur it should be sensitively designed, with high standards of layout, materials and landscaping. The County Council's Landscape Planning Officer indicated that if the appeal site was considered to be suitable for development, an off-site woodland belt of around 20m in width should be provided in order to provide adequate mitigation and a landscape buffer to the countryside. The Unilateral Undertaking made in respect of the District Council includes the provision and maintenance of a woodland strip of around 20m in width, adjacent to the whole of the south western boundary of the appeal site, along with a narrower strip of around 5m in width, on the other side of Hill House Lane, to the south west of the existing modern agricultural building, and close to the western corner of the appeal site. In my opinion, this proposed planting/woodland strip would have the potential to create a landscape and habitat corridor between the existing wooded area to the south west of Anderson Close and the hedgerow along Hill House Lane. Furthermore, once mature, the proposed planting would help to ameliorate the visual impacts of the proposed development in views from the south west along Public Footpath FP12. I consider, therefore, that this obligation would pass the statutory tests.
79. *Bus Stop*: Government guidance in The Framework says that transport policies have an important role to play in facilitating sustainable development, but also in contributing to wider sustainability and health objectives. It goes on to say that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. Furthermore it states that encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion and that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people, with developments located and designed where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities. The proposed development would be served by First's 88 Ipswich to Stowmarket service, which currently runs on an hourly basis in each direction Monday to Saturday. At present there are only marked stops on Hurstlea Road. The County Council is seeking a financial contribution of £15,000 towards the upgrade of the nearest bus stops on Hurstlea Road, adjacent to Burton Drive, to include raised kerbing and bus shelters in order to improve access to buses

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<sup>44</sup> Document 3

<sup>45</sup> Document 4

for disabled and elderly people and to encourage bus use. The Unilateral Undertaking made in respect of the County Council includes a financial contribution of £15,000 towards the improvement of bus stops on Hurstlea Road, to include raised kerbing and bus shelters. Given the scale and nature of the proposed development, it is likely that there would be an increased demand for the use of public transport. I consider, therefore, that this obligation would pass the statutory tests.

*Karen L Baker*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Ms C Patry *of Counsel*

Mr N Fairman BSc MRICS FCIH Director, New Hall Properties (Eastern) Limited

Mr D Fairman BSc Director, New Hall Properties (Eastern) Limited

Mr S Hopkins MRICS Director, Gill Associates

### FOR THE LOCAL PLANNING AUTHORITY:

Mr R Green *of Counsel* (Day 2 onwards)

Mr J Pateman-Gee BA(Hons) Senior Development Management Planning  
DipTP MRTPI Officer - Key Growth Projects, Mid Suffolk  
District Council

Miss A Westover BA DipLA CMLI Landscape Planning Officer, Suffolk County  
Council

Mr R Larbi MSc Development and Viability Consultant, Mid  
Suffolk District Council

Mr N McManus BSc(Hons) Development Contributions Manager, Suffolk  
MRICS County Council

Mr S Cook BSc(Hons) MRICS Associate, Peter Brett Associates LLP

Mr T Williams BSc MRICS Head of Viability (Technical), Valuations Office

### INTERESTED PERSONS:

Mr A Spilman Friends of Needham Market Countryside and  
Local Resident

Councillor X Stansfield Deputy Chair and Planning Section Chair,  
Needham Market Town Council

Mr A Breen Local Resident

Mr R Campbell Local Resident

Councillor M Norris Joint Ward Member for Needham Market and  
Badley

Councillor W Marchant Joint Ward Member for Needham Market and  
Badley

Mr M Simpson Local Resident

Councillor T Carter Town Councillor and Member of the Mid Suffolk  
Disability Forum

Mr G Crosby Local Resident

Mrs S Montgomery Local Resident

Mrs T Simpson Local Resident

Mr B Willis Local Resident

Mrs C Willis Local Resident

Mr N Simmons Local Resident

## **DOCUMENTS SUBMITTED AT THE HEARING ON 19 MAY 2015**

- 1 Council's letter informing interested parties of the date, time and venue for the Hearing and a list of those people notified, submitted by the Council
- 2 Representations to the planning application from the Highway Authority dated 31 January 2014, 11 March 2014, 25 June 2014 and 17 July 2014,

- submitted by the Council
- 3 Altered Policy H4 of the Mid Suffolk Local Plan First Alteration, adopted in July 2006, submitted by the Council
- 4 Affordable Housing: Guidance for Developers, published in 2008, submitted by the Council
- 5 Needham Market Neighbourhood Plan, Draft Copy, submitted by Councillor Stansfield
- 6 Hill House Lane Viability Assessment, submitted by the appellant
- 7 HCA Development Appraisal Tool, submitted by the appellant

**DOCUMENTS SUBMITTED BY THE MAIN PARTIES DURING THE ADJOURNMENT BETWEEN THE FIRST AND SECOND SITTING DAYS**

- 8 List of plans and documents to be consulted upon, submitted by the Council
- 9 Ecology Report by t4 Ecology Limited for Newhall Properties Limited, dated 27 May 2015
- 10 Site Appraisal Scheme (Drawing No. 14.7575, dated December 2014)
- 11 Site Location Plan (Drawing No. NHPE-OP1, dated May 2015)
- 12 Outline Landscape Appraisal for Newhall Properties (Eastern) Limited, dated May 2015
- 13 Council's notification letter informing interested parties of the public consultation exercise, and a list of people notified
- 14 Landscape Statement by Ms A Westover, Landscape Planning Officer, Suffolk County Council, dated 2 July 2015
- 15 Council's Rebuttal of the appellant's case for providing only 11% affordable housing at the site, based on differing methodology for establishing an accurate land value, dated July 2015
- 16 Council's Draft Statement of Common Ground, dated 15 July 2015
- 17 Appellant's Supplemental Statement of Case, dated 16 July 2015
- 18 Appellant's Viability Report, dated 17 July 2015
- 19 Council's Suggested Conditions, dated 17 July 2015
- 20 Unilateral Undertaking, dated 30 July 2015
- 21 Council's notification letter informing interested parties of the time, date and venue for the Hearing to resume, and a list of people notified

**DOCUMENTS SUBMITTED AT THE HEARING ON 16 SEPTEMBER 2015**

- 22 Appellant's Draft Statement of Common Ground, dated 17 July 2015
- 23 Council's Review of the appellant's Viability Assessment, prepared by the District Valuer Service (DVS), dated 21 July 2015
- 24 Final Draft of the Needham Market Neighbourhood Plan 2015 to 2030, submitted by Councillor Norris
- 25 Email, dated 9 September 2015, from Stuart Cook, Associate at Peter Brett Associates LLP, submitted by the Council
- 26 Appeal Decision (Ref. APP/F4410/W/15/3005479), submitted by the Council
- 27 Email, dated 10 September 2015 (1407hrs) from Chris Edwards, Corporate Manager – Asset Utilisation, Babergh and Mid Suffolk Councils, submitted by the Council
- 28 Email, dated 10 September 2015 (1337hrs) from Andrew Wilson, Land Director, Taylor Wimpey East Anglia, submitted by the Council
- 29 Extract from the Joint Annual Monitoring Report (1 April 2014 to 31 March 2015), submitted by the Council
- 30 Table indicating housing need within each parish in the District, submitted by

- the Council
- 31 Extract from the Babergh and Mid Suffolk Community Infrastructure Levy Viability Study, prepared by Peter Brett Associates LLP, on behalf of Babergh District Council and Mid Suffolk District Council, submitted by the Council
- 32 Council's expert witness list, submitted by the Council
- 33 The Hedgerow Regulations 1997, submitted by the appellant

**DOCUMENTS SUBMITTED BY THE MAIN PARTIES DURING THE ADJOURNMENT BETWEEN THE SECOND AND THIRD SITTING DAYS**

- 34 Email from the Council, dated 26 October 2015 (1001hrs), including the District Valuer's appraisals based on the Homes and Communities Agency Development Appraisal Tool (DAT), including 11% and 24% affordable housing, together with 2 schedules setting out the differences between them
- 35 Email from the appellant, dated 26 October 2015 (1716hrs), including the DAT viability appraisals undertaken by New Hall Properties (Eastern) Limited, together with a schedule setting out the differences between them
- 36 Email from the Council, dated 27 October 2015 (1517hrs)
- 37 Email from the Council, dated 28 October 2015 (1430hrs), including the amended District Valuer's appraisals based on the Homes and Communities Agency Development Appraisal Tool (DAT), including 11% and 24% affordable housing, together with 2 schedules setting out the differences between them
- 38 Email from the Council, dated 30 October 2015 (1223hrs), including a track changed amended draft Unilateral Undertaking
- 39 Email from the Council, dated 5 November 2015 (0909hrs), setting out the agreed details for the proposed site visit

**DOCUMENTS SUBMITTED AT THE HEARING ON 10 NOVEMBER 2015**

- 40 Letter from Hopkins Homes, dated 7 April 2008, relating to Section 104 Adoption Agreement for Sewers, submitted by Mr Spilman
- 41 A table providing an Analysis by New Hall Properties (01/09/2015) of Mr Larbi's Comparable Benchmark Land Values for Needham Market, submitted by the appellant
- 42 Updated Without Prejudice Schedule of Suggested Conditions, submitted by the Council
- 43 Amended signed and dated Unilateral Undertaking, submitted by the appellant

**DOCUMENTS SUBMITTED BY THE MAIN PARTIES DURING THE ADJOURNMENT BETWEEN THE THIRD AND FOURTH SITTING DAYS**

- 44 Email from the Council, dated 10 November 2015 (1548hrs), relating to the circulation of the DATs and CIL considerations
- 45 Letter from the appellant, dated 16 November 2015, accepting the provision of 24% affordable housing on the site, together with full policy compliant Section 106 contributions
- 46 Email from the appellant, dated 16 November 2015 (1535hrs), including a list of suggested conditions, which, with the exception of Condition \*A004, are agreed by the appellant
- 47 Email from the Council, dated 16 November 2015 (1600hrs), responding to the comments made by the appellant in respect of Condition \*A004

- 48 Email from the appellant, dated 16 November 2015 (1622hrs), confirming that, if Condition \*A004 does not preclude the attachment of a condition relating to the number of units, then the list of conditions is agreed between the parties
- 49 Letter from the appellant, dated 18 November 2015, withdrawing unequivocally all evidence in respect of viability associated with this appeal and including a revised and signed Unilateral Undertaking providing 24% affordable housing and full Section 106 contributions

#### **DOCUMENTS SUBMITTED AT THE HEARING ON 15 MARCH 2016**

- 50 Letter from the appellant to The Planning Inspectorate, dated 16 November 2015, submitted by the appellant
- 51 Email correspondence between Mr Campbell and Mr T Crane, Roads and Sewers Manager for Hopkins Homes Limited, regarding Hill House Lane, submitted by Mr Campbell
- 52 Access and Landscape Options (Drawing No. HHF-AL1a), submitted by the Council
- 53 Suggested condition relating to the density of the proposed development, submitted by the appellant
- 54 Closing submissions on behalf of Mid Suffolk District Council
- 55 Closing remarks on behalf of the appellant
- 56 Costs submissions on behalf of Mid Suffolk District Council

#### **DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE HEARING**

- 57 Letter, dated 21 March 2016, from the appellant, referring to a recent judgement in the Court of Appeal
- 58 Letters from The Planning Inspectorate, dated 1 April 2016, to the Council, appellant and interested parties seeking responses to the recent judgement in the Court of Appeal and setting out the timetable for the submission and comments on any revised Unilateral Undertaking
- 59 Email, dated 5 April 2016 (1705hrs), from the appellant confirming that he intends to submit a revised Unilateral Undertaking
- 60 Email, dated 4 April 2016 (1027hrs), with attached letter, dated 3 April 2016, from Mr Anthony Breen
- 61 Email, dated 6 April 2016 (1646hrs), from the Council
- 62 Email, dated 15 April 2016 (0024hrs), with attached letter, dated 28 February 2016, from Mr Richard Campbell
- 63 Letter, dated 13 April 2016, from the appellant with 2 revised and signed Unilateral Undertakings attached, one in favour of the District Council and one in favour of the County Council
- 64 Email, dated 15 April 2016 (1221hrs), with attached written submissions, dated 15 April 2016, from the Council
- 65 Email, dated 15 April 2016 (1410hrs), with attached written response, from Needham Market Town Council
- 66 Email, dated 15 April 2016 (1526hrs), from the appellant
- 67 Letter, dated 15 April 2016, from the appellant in response to the recent Court of Appeal judgement
- 68 Letter, dated 15 April 2016, from the appellant which sets out the details of the revised Unilateral Undertakings and withdraws any previous Unilateral Undertakings
- 69 Draft Unilateral Undertaking in respect of obligations made to the County

- Council, submitted by the appellant
- 70 Draft Unilateral Undertaking in respect of obligations made to the District Council, submitted by the appellant
- 71 Email, dated 15 April 2016 (2142hrs), with letter attached, dated 15 April 2016, from Mr Antony Spilman, on behalf of Friends of Needham Market Countryside
- 72 Email, dated 19 April 2016 (1510hrs), from the Council
- 73 Revised Draft Unilateral Undertaking in respect of obligations made to the District Council, submitted by the Council
- 74 Email, dated 19 April 2016 (1622hrs), from the appellant, accepting the Council's amendments to the Unilateral Undertaking
- 75 Email, dated 20 April 2016 (1645hrs), from the appellant, accepting the County Council's amendments to the Unilateral Undertaking
- 76 Email, dated 20 April 2016 (1704hrs), from the County Council
- 77 Revised Draft Unilateral Undertaking in respect of obligations made to the County Council (clean version), submitted by the County Council
- 78 Revised Draft Unilateral Undertaking in respect of obligations made to the County Council (tracked version), submitted by the County Council
- 79 Letter, dated 20 April 2016, from the appellant with the revised and signed Unilateral Undertaking in favour of the District Council providing 35% affordable housing and other Section 106 contributions and confirming that it supersedes any Unilateral Undertakings previously submitted
- 80 Letter, dated 20 April 2016, from the appellant with the revised and signed Unilateral Undertaking in favour of the County Council providing Section 106 contributions and confirming that it supersedes any Unilateral Undertakings previously submitted

### **AGREED APPLICATION PLANS**

- A1/1 Site Location Plan (Drawing No. NHPE-OP1), dated May 2015
- A1/2 Access and Landscape Options (Drawing No. HHF-AL1a)
- A1/3 Access and Landscape Options (Drawing No. HHF-AL2a)
- A1/4 Existing Surface and Foul Drainage Laid Ready to Serve Proposed Site (Drawing No. HHF-SW1)
- A1/5 Site Appraisal Scheme (Drawing No. 14.7575), dated May 2015

## Annex 1 – Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) As part of the landscaping details required by the reserved matters application, a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify the spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained on a plan, together with measures for their protection and monitoring in an Arboricultural Method Statement, which shall comply with the recommendations set out in the British Standards Institute publication BS 5837:2012 Trees in relation to design, demolition and construction (or any updated version of this document), shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme, plan and Arboricultural Method Statement.
- 5) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping scheme in Condition 5, shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be approved in writing by the local planning authority.

Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 5 years of being planted or in the case of existing planting within a period of 20 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority approves in writing to a variation of the previously approved details.
- 6) As part of the landscaping details required by the reserved matters application, a scheme of soft landscaping works for the off-site planting/woodland strip shown on the Site Appraisal Scheme (Drawing No. 14.7575), dated May 2015, shall be submitted to and approved in writing by the local planning authority.
- 7) All planting, shown on the approved landscaping scheme in Condition 7 shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be approved in writing by the local planning authority.

Any trees, hedges or shrubs identified within the approved landscaping scheme which die, are removed, seriously damaged or seriously diseased, within a period of 20 years of being planted shall be replaced in the next planting season with others of similar size and species, unless the local planning authority approves in writing to a variation of the previously approved details.

- 8) As part of the landscaping details required by the reserved matters application, a Landscape Management Plan (LMP), for a minimum period of 20 years, for the off-site planting/woodland strip shown on the Site Appraisal Scheme (Drawing No. 14.7575), dated May 2015, shall be submitted to and approved in writing by the local planning authority. The LMP shall include details of the arrangements for its implementation. Management work shall be carried out in accordance with the approved LMP.
- 9) As part of the landscaping details required by the reserved matters application, precise details of the provision, siting, design and materials of boundary screen walls and fences shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter retained.
- 10) As part of the siting and design details required by the reserved matters application details of the proposed finished ground floor level for each of the dwellings, measured from a fixed off site datum point, shall be submitted to and approved in writing by the local planning authority, and each dwelling shall thereafter be constructed in accordance with the approved levels.
- 11) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least basecourse level or better in accordance with the approved details except with the written agreement of the local planning authority to an alternative timetable.
- 12) As part of the layout details required by the reserved matters application, details of the areas to be provided for the manoeuvring and parking of vehicles, including secure cycle storage, shall be submitted to and approved, in writing, by the local planning authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the manoeuvring and parking areas and secure cycle storage serving that dwelling have been provided. The approved manoeuvring and parking areas shall be retained thereafter and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles and used for no other purpose.
- 13) As part of the layout details required by the reserved matters application, details of the estate roads and footpaths, including layout, levels, gradients, surfacing and means of surface water drainage, and a timetable for said works, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and timetable.
- 14) No drainage works shall commence until a Surface Water Management Strategy has been submitted to and approved in writing by the local planning authority. No hard-standing areas shall be constructed until the drainage works have been carried out in accordance with the approved

Surface Water Management Strategy, unless otherwise agreed in writing by the local planning authority.

- 15) Prior to the commencement of development a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and occupational phases of the development shall be submitted to and agreed, in writing, with the local planning authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The development shall be carried out in accordance with the approved scheme and the approved measures provided and made available for use in accordance with the agreed timetable.
- 16) Prior to the commencement of the development a Surface Water Drainage Scheme for the site, informed by the Level 1 Flood Risk Assessment (FRA), dated 18 June 2014, prepared by FP Chick and Partners Limited (Ref. IE14/019/HJ), and subsequent FRA addendum, Infiltration Basin Details (Drawing No. IE14/019/01 Rev. P1) and calculations, shall be submitted to and approved in writing by the local planning authority. The scheme shall also:
  - a) demonstrate the surface water run-off leaving the attenuation feature in all events up to and including the 1 in 100 years (plus climate change) critical duration rainfall event will not exceed the existing run-off rate when compared to the existing situation;
  - b) include plans and drawings showing all aspects of the surface water drainage system;
  - c) include modelling of the surface water system to demonstrate that it will contain the 1 in 100 year rainfall event including climate change allowances, maximizing the emphasis on natural infiltration rather than attenuation;
  - d) include modelling of the pipe network to demonstrate no flooding in the 1 in 30 year rainfall event and to provide details of any flooding volumes in the 1 in 100 year climate change event, along with plans and details of where the floodwater would flow and be stored on the development site to prevent properties flooding or offsite flows;
  - e) include details and mapping of the exceedance flow paths to demonstrate that no buildings would flood; and,
  - f) include details of who would maintain the surface water drainage scheme for the lifetime of the development, along with the maintenance schedule.

The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within it or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- 17) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority. The scheme of

investigation shall include an assessment of significance and research questions; and:

- a) the programme and methodology of site investigation and recording;
- b) the programme for post investigation assessment;
- c) provision to be made for analysis of the site investigation and recording;
- d) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e) provision to be made for archive deposition of the analysis and records of the site investigation; and,
- f) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the local planning authority.

- 18) No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 18 and the provision made for analysis, publication and dissemination of results and archive deposition.
- 19) No external lighting shall be provided on the site unless details thereof have first been submitted to and approved in writing by the local planning authority. Prior to occupation a 'Lighting Design Strategy for Biodiversity' for areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) identify those areas/features on site that are particularly sensitive for bats, and those areas where lights are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and,
  - b) show how and where external lighting will be installed (through technical specifications and the provision of appropriate lighting contour plans which shall include lux levels of the lighting to be provided) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy, and shall be maintained thereafter in accordance with the strategy.

- 20) Prior to the commencement of development details of the construction methodology shall be submitted to and approved in writing by the local planning authority and shall incorporate the following information:

- a) details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site;
- b) details of the storage of construction materials on site, including details of their siting and maximum storage height;
- c) details of how construction and worker traffic and parking shall be managed;
- d) details of any protection measures for footpaths surrounding the site;
- e) details of any means of access to the site during construction;
- f) details of the scheduled timing/phasing of development for the overall construction period;
- g) details of any wheel washing to be undertaken, management and location it is intended to take place;
- h) details of the siting of any on site compounds and portaloos; and,
- i) details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.

The construction shall at all times be undertaken in accordance with the agreed methodology unless otherwise approved in writing by the local planning authority.

- 21) The development hereby permitted shall be carried out at a density of 24 dwellings per hectare. As part of the layout and scale details required by the reserved matters application, the details shall demonstrate that this density has been met.