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## Appeal Decision

Inquiry Held on 19, 20 and 24 to 26 May 2022

Site visits made on 18, 23 and 26 May 2022

**by Grahame Gould BA MPhil MRTPI**

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

**Decision date: 23 June 2022**

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**Appeal Ref: APP/J1535/W/21/3289760**

**Land north of Dowding Way, Waltham Abbey EN9 3YX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Next PLC against the decision of Epping Forest District Council.
  - The application Ref EPF/2503/19, dated 3 October 2019, was refused by notice dated 24 June 2021.
  - The development proposed is The erection of 1 no. building for use as a warehouse (Use Class B8) with ancillary accommodation and photo studio (sui generis) with gatehouse, sprinkler tanks and pumphouse, substation, fuel island, vehicle wash, attenuation ponds and associated works, 1 no. multi-storey car park with associated bridge link, along with access and servicing arrangements, landscaping and external amenity areas, roof-mounted photovoltaic array, creation of signalised junction to A121 and shared foot and cycle links including a connection to the Public Right of Way network.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The planning application as originally submitted was a hybrid one, seeking full planning permission for, amongst other things, a warehouse and photographic studio, a multi storey car park (MSCP) and a traffic signal controlled junction with the A121 (Dowding Way) (phase 1) and outline planning permission for 22,733 square metres (sq.m) of employment floorspace within use classes B1(c), B2 and B8 (phase 2). The hybrid application referred to a total of 80,000 sq.m of floorspace being included in phases 1 and 2 and the application was accompanied by an Environmental Statement (ES)<sup>1</sup>.
3. However, on 11 November 2020 the planning application was formally amended by the appellant, with the phase 2 elements being removed from it. It is now proposed that the development would comprise a distribution warehouse, described by the appellant as a regional service centre (RSC) and a photographic studio (studio) with a combined gross internal floor area (GIA) of 57,242 sq.m, exclusive of the MSCP's floor area. The description of development used in the banner heading above reflects the description of the development for phase 1, agreed between the appellant and the Council, as stated in the 'Main' Statement of Common Ground (SoCG) (Core Document

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<sup>1</sup> Prepared and submitted to accord with the provisions of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

[CD] 4.86). An addendum to the ES was submitted to reflect the changes made to the original planning application.

4. The planning application was also accompanied by a Habitats Regulation Assessment (HRA). The HRA has been amended on various occasions following its initial submission, with the most recent version being dated December 2021 (CD4.79 to CD4.84) and that is the version of the HRA that I have had regard to.
5. Personal planning permission has not been sought by the appellant. However, the combined RSC and studio have been designed to meet specific functional requirements for the appellant, as the development's intended end occupier<sup>2</sup>. For example, there are many storage and distribution operators who would not require a co-located photographic studio with a distribution warehouse. The implications of designing the development to meet the appellant's requirements are germane to the Green Belt very special circumstances case that has been made and that is a matter that I have had regard to.
6. The inquiry concluded sitting on 26 May and I formally closed it on 16 June. That followed the submission on 10 June of a copy an agreement between the appellant, the landowners, Epping Forest District Council (the Council) and Essex County Council (ECC)<sup>3</sup> entered into under section 106 of the Town and Country Planning Act 1990 (the S106 agreement [Inquiry Document (ID) 30]). The S106 agreement would be binding on its signatories and their successors in title and, in summary, it contains planning obligations that would secure:
  - Funding of £4.0 million to support the operation of a demand responsive transport bus service (DRT) for ten years. The DRT would operate on 365 days a year between the hours of 05:00 and 23:00.
  - The making of an air quality monitoring contribution of £206,017 towards the maintenance, improvement, management and monitoring of air quality within the Epping Forest Special Area of Conservation (the SAC).
  - The appellant's operation of an air quality mitigation strategy (AQMS) to minimise the development's emission of atmospheric pollutants within the SAC. The AQMS being based on the operation of a travel plan (TP) and associated travel policy and traffic monitoring and management strategy. The AQMS would involve restrictions on the routing of traffic generated during the construction and operational phases of the development through the SAC plus a 200 metre buffer area. The AQMS would be enforced by, amongst other things, the operation of automated number plate recognition (ANPR) technology and a route management plan (RMP) for delivery vehicles.
  - The appellant's operation of an employment and skills strategy, the operation of an apprenticeships scheme and the making of a contribution of £300,000 towards the creation of a Waltham Abbey cultural and community hub.

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<sup>2</sup> Paragraph 2.19 of Mr Bashforth's proof of evidence (PoE)

<sup>3</sup> In its capacity as the local highway authority

- A car parking management plan controlling the phased use of the on-site MSCP.
  - A contribution of £100,000 for the provision of a pedestrian and bicycle link to Sewardstone Road.
7. I have had regard to the planning obligations included in the S106 agreement and have referred to them below, as necessary.
8. The adopted development plan comprises the Epping Forest District Local Plan of 1998, as amended by the Epping Forest District Local Plan Alterations of 2006, hereafter referred to as the Local Plan. The Council is in the process of replacing the Local Plan. A draft replacement Local Plan, dated December 2017, was submitted for examination on 21 September 2018<sup>4</sup> and that emerging Local Plan (eLP) has been subject to modification during the course of its examination (ID7). The eLP examination was due to have been completed during the first quarter of 2022, with the publication of the examining Inspector's report.
9. There has, however, been a fairly recent change of examining Inspector and the eLP's examination continues to be on going. The recently appointed eLP examining Inspector wrote to the Council on 23 May 2022 advising that he is intending to '*... bring the plan to a sound and adoptable state as soon as possible*' (ID.12). The examining Inspector further advised in his letter:
- '... From my consideration of all of the examination material, including the responses to the main modifications' consultation, I think it unlikely that I will be recommending further large scale substantive changes to key aspects of the plan, including the general amount of development, the spatial strategy; or choice of allocated sites ...*
- However, for clarity and soundness a number of wording changes will be required both to the original text of the submitted plan and to some of the main modifications that have already been consulted upon.'*
10. The eLP examining Inspector issued an advisory note with an accompanying schedule of recommended changes to the Council on 16 June 2022. A copy of the examining Inspector's note was submitted by the appellant on 20 June and although that post-dated the inquiry's closure on 16 June, I accepted that note for information only as ID.31.
11. In ID.31 the examining Inspector has advised that following some alterations being made, he sees '*... no reason why the plan should not reach the stage where it can be adopted by this autumn*', ie autumn 2022. I also note that the changes being recommended in ID.31 do affect the prospective allocation (WAL.E8) that the appeal site forms a part of. Given that, when regard is paid to: the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act); and paragraph 48 of the National Planning Policy Framework 2021 (the Framework), while the relevant policies of the eLP do not have the statutory force of the extant Local Plan's policies, I consider the eLP should be treated as being a material consideration of great weight for the purposes of the determination of this appeal.

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<sup>4</sup> Paragraph 5.43 of the appellant's Planning Statement (CD2.28)

12. 'Save Our Epping Forest SAC', a local residents group, was granted Rule 6 party status<sup>5</sup> and hereafter is referred to as such. The Rule 6 party was an active participant throughout the inquiry.

### **Main Issues**

13. I agree with the parties that the proposed development would be inappropriate development within the Green Belt. That is because the development would not come with any of the development types stated in either Policy GB2A<sup>6</sup> of the Local Plan or paragraphs 149 and 150 of the Framework that may be considered as exceptions to inappropriate development within the Green Belt. Paragraph 147 of the Framework explains '*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*', while in paragraph 148 it is stated that '... substantial weight ...' should be given '... to any harm to the Green Belt'.
14. Bearing the foregoing in mind I consider the main issues are:
- The effects of the development on the openness and purposes of the Green Belt;
  - The effects of the development on the character and appearance of the area;
  - Whether the development would make appropriate provision for a DRT bus service; and
  - Whether the harm by reason of the inappropriateness of the development within the Green Belt, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

### **Reasons**

#### *Green Belt Openness*

15. Paragraph 137 of the Framework states that "*The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness...*".
16. The development would occupy a site of 9.7 hectares (ha), most of which up until recently was in use as arable farmland. The bulk of the site<sup>7</sup> together with the land immediately to its east (towards junction 26 of the M25) and west to Sewardstone Road comprises a wedge between the M25 and Dowding Way that is essentially free from built development, apart from the two storey housing in Beechfield Walk and Lodge Lane. Much of the site is essentially level, although part of it forms part of the hillock that lies to the east of Beechfield Walk.
17. The combined RSC and studio building (the main building) would have a rectangular floorplan, measuring 232 metres in width and 119.5 metres in

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<sup>5</sup> Under the provisions of The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

<sup>6</sup> 'Development in the Green Belt'

<sup>7</sup> Ie the application site excluding Dowding Way's carriageway

depth, and it would be 23.15 metres high<sup>8</sup>. The height of the main building being influenced by the appellant seeking flexibility to incorporate up to three mezzanine levels within the RSC<sup>9</sup>. The MSCP would in essence be a standalone building, with a bridge link to the main building. The MSCP would be capable of providing parking on three levels for a total of 367 cars. Parking for 37 heavy goods vehicles (HGVs), 80 vans and 120 bicycles would also be provided.

18. The development would introduce a substantial amount of permanent new built development within the Green Belt, generating significant vehicular comings and goings around the clock throughout the year. This development, to varying degrees, would be visible from public vantage points such as Dowding Way, the M25 and public right of way 211\_97 (the PRow). I therefore consider that the development, through its visibility, would reduce the area's openness, which would be harmful to the Green Belt. Spatially there would also be a localised loss of openness. In relative terms that loss of openness would be quite modest, given that 92.4%<sup>10</sup> of the Council's area is within Green Belt (paragraph 2.6 of CD3.24). As the site is undeveloped land within the countryside there would be some conflict with the Green Belt's third purpose '*to assist in safeguarding the countryside from encroachment*' (paragraph 138(c) of the Framework).
19. The development would increase the extent of built development to the south of Waltham Abbey within a tract of land which to a limited extent contributes to preventing urban sprawl. I, however, agree with the appellant<sup>11</sup> that Dowding Way acts as a clear and defensible boundary and that any urban sprawl attributable to the development would result in limited harm to the first Green Belt purpose (checking unrestricted sprawl).
20. With respect to the other Green Belt purposes referred to in paragraph 138 of the Framework, namely:
  - b) preventing the merging of neighbouring towns;
  - d) preserving the setting and special character of historic towns; and
  - e) assisting in urban regeneration through the recycling and use of other urban land

I consider that there would be no conflict.

21. My views on the site's contribution to the Green Belt's purposes being consistent with the Green Belt review undertaken in connection with the eLP's preparation<sup>12</sup>. That eLP evidence informing the Council's intention to remove the appeal site from the Green Belt and allocate it, as part of a larger tranche of land, for employment purposes within use classes B1(c)<sup>13</sup>, B2 and B8, under prospective allocation 'WAL.E8'<sup>14</sup>. Under the provisions of prospective allocation WAL.E8 the Council envisages that 10ha of the allocation would be

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<sup>8</sup> Paragraph 2.5 of the 'Main Statement of Common Ground' (CD4.86)

<sup>9</sup> Paragraph 5.3 of the ES addendum (CD2.30)

<sup>10</sup> Amounting to 313 square kilometres (paragraph 3.20 of Mr Bashforth's PoE)

<sup>11</sup> Ibid paragraph 3.25

<sup>12</sup> CD3.24, CD3.44 and CD3.46

<sup>13</sup> A category of use now within Class E(g), as per the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended)

<sup>14</sup> As explained in paragraph 5.54, Policy P3, Appendices 5 and 6 and Map 5.6 of the eLP (ID.15)

developed to provide an 'approximate net capacity' of 40,000 sq.m of employment floorspace in the period to 2033. The remainder of this prospective allocation being '... reserved to meet longer term needs, if required' (Appendix 6 of the eLP).

22. I conclude that the appeal development would give rise to a harmful permanent loss of openness within the Green Belt and that it would also be in conflict with the Green Belt's third purpose. I therefore consider that the development would be contrary to Policy GB7A of the Local Plan because it would be conspicuous within and beyond the Green Belt. There would also be conflict with the Framework, because of the harm to the Green Belt arising from the loss of openness and the encroachment into the countryside.
23. The harm by reason of the loss to openness adds to the substantial weight this development attracts by reason of its inappropriateness within the Green Belt. However, under a scenario of the eLP being found to be sound and the Council going on to adopt the eLP as a replacement local plan, inclusive of the prospective redrawing of the Green Belt boundary, then there would be no loss of Green Belt openness. This is a matter I return to when considering the overall planning balance below.

#### *Character and Appearance*

24. Given the site's former agricultural use, its character is rural in nature, albeit there are nearby urban influences, namely the heavily trafficked M25 and Dowding Way, Waltham Abbey's built up area to the north of the M25 and the built development to the west, including the large Sainsbury's distribution centre. The land to the south and east of the site is more open in character, with the western fringes of Epping Forest lying to the east. The site's northern and southern boundaries are enclosed by deciduous hedgerows, with some gaps in those hedgerows. There is no public access to the site, although the PRow runs north/south to the west of the site before passing through the countryside to the south of the Dowding Way via the overbridge.
25. The site is situated within the Rammey Marsh landscape character area (LCA4A), which encompasses the southern part of the Lee Valley. LCA4A is situated '*... within the flat river valley bottom, the landscape pattern within this area encompasses several small water bodies and a patchwork of grassland and marshland vegetation ...*'<sup>15</sup>. Amongst the sensitivities to change within LCA4A, views north and south along the corridor of the river Lee are identified as being '*... sensitive to any potential new development, potentially tall vertical elements or large industrial buildings*', with this character area being assessed as having a moderate sensitivity to change (paragraph 3.2.25 of CD3.42). Section 4 of the Council's Settlement Edge Landscape Sensitivity Study (SELSS) CD3.43 identifies the appeal site as being within a landscaping setting area<sup>16</sup> that has a 'low' visual sensitivity overall. The SELSS identifies the area within which the site lies as being one where development in landscape terms '*... may be suitable ...*' and is '*... considered to have a less significant role in contributing to the structure, character and setting of the settlement ...*' (paragraph 4.6.1).

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<sup>15</sup> Paragraph 3.2.23 of the Epping Forest District Council Landscape Character Assessment 2010 (CD3.42)

<sup>16</sup> Area 4 (south of Waltham Abbey's built up area)

26. The site is not subject to any landscape designations. Given that, I agree with the appellant that the site, of itself, it possess a low landscape value and does not make a significant contribution to the environs of Waltham Abbey or to the setting of Epping Forest<sup>17</sup>. That being indicative of why the Council has included this site within the eLP's prospective allocation WAL.E8.
27. The appellant's landscape visual impact assessment (LVIA)<sup>18</sup> has identified residents of Beechfield Walk with eastward facing windows and gardens and users of: the PRoW; the M25's overbridge to the west of the site; Dowding Way; Sewardstone Road; and the M25 as being visually affected by the development. I agree with the appellant that the site is not generally discernible from within Epping Forest, with the views that are available from the forest being distant ones that would be read alongside the views of the Sainsbury's distribution centre, where they arise.
28. The main building would be a large structure and its northern/rear elevation would run parallel to the M25, at around 29 metres from lane one of the westbound (anti-clockwise) carriageway of the motorway<sup>19</sup>. That siting relationship with the M25 would be in contrast to the Sainsbury's distribution warehouse to the west off Sewardstone Road. The Sainsbury's warehouse while being notably wider than the proposed main building is sited between 64 and 154 metres (approximately) from the M25, as shown on ID18. The Sainsbury's warehouse is around 20 metres high<sup>20</sup> and the main building would therefore be around 3.5 metres taller.
29. I consider the main building would be very evident to users of the M25, given its length, height and proximity to the motorway, when regard is paid to the height of the M25's boundary planting. The M25's hedgerow boundary planting comprises mixed deciduous tree species, with the individual trees within this hedgerow being up to 8.0 metres in height<sup>21</sup>. I also consider regard needs to be paid to the fact that the M25's carriageway level would be between 3.25 and 4.55 metres lower than the main building's ground floor level of 28.25 metres above Ordnance datum<sup>22</sup>. That difference of levels I consider would accentuate the northern elevation's height relative to the motorway.
30. Currently looking south M25's users see a roadside hedgerow with an open field beyond. However, with the proposed development that appearance would be changed to one of a hedgerow with a wide and tall building behind it, with the latter being nearly three times the height of the former. I consider that the main building would be likely to dominate the southward views from the M25 and that a significantly more urban motorway setting would result at this point.
31. At the inquiry it was established that annually around 51 million vehicles use the stretch of the M25 immediately adjoining the appeal site<sup>23</sup>. I recognise that under free flow conditions the views of the main building from the M25

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<sup>17</sup> Paragraphs 3.8 and 3.29 of Ms Bryant's PoE

<sup>18</sup> CD1.12, CD1.30 and CD2.30

<sup>19</sup> As quoted by the appellant in ID18

<sup>20</sup> Paragraph 4.8 of Mr Bashforth's PoE

<sup>21</sup> Group G1 referred to in Appendix 2 of the Arboricultural Impact Assessment accompanying the planning application (CD2.34)

<sup>22</sup> Based on the above Ordnance datum heights quoted on drawing 4356 A400 P5 (CD1.88)

<sup>23</sup> During the roundtable discussion concerning effects on Green Belt openness and the character and appearance of the area, based on an annual average daily traffic flow of around 140,000 vehicles

- would be brief. Nevertheless, a very large building would be likely to be readily apparent, based on what is shown on the accurate visualisation for photograph viewpoint 2<sup>24</sup>. I recognise that the primary purpose of viewpoint 2 is to provide an accurate visual representation for users of the M25's pedestrian overbridge, but I consider it nevertheless also provides some appreciation of how the main building would appear to users of the M25.
32. The LVIA included in the appellant's ES has been prepared to accord with the Guidelines for Landscape and Visual Impact Assessment (third edition 2013 - GLVIA3). The visual effects for users of the M25 have been assessed as being minor adverse<sup>25</sup>. That is because the magnitude of the effect on the views of the site from the M25 has been assessed as being a medium effect, with road users being considered within GLVIA3 as being low sensitivity visual receptors (Table 13.5 in the ES), irrespective of the number motorway users who would be affected<sup>26</sup>. However, in circumstances such as this I consider that the application of the guidance in GLVIA3 has the potential to underplay the effect upon users of the M25, given the very large numbers involved.
33. I agree with the Council's independent Quality Review Panel (QRP) and the appellant that the external design of the RSC would be of a much higher quality than has been the norm for large scale warehouses. A higher quality external design having been highlighted by the QRP as a way of addressing the main building's scale and the impossibility of effectively screening it through the use of soft landscaping.
34. However, notwithstanding the quality of the main building's external design, I am of the view that such a tall and wide building so close to the M25 would look out of place. In that regard I am not persuaded that the use of perforated cladding, intended to give '*... the appearance of movement along the elevation, as dappled light projects on to the elevation behind giving the effect of leaves moving in the wind*'<sup>27</sup> would provide adequate visual relief in response to the main building's sheer scale which would be conspicuous to the numerous users of the M25, particularly when the motorway's boundary planting was not in leaf. I am also mindful of the QRP having some reservations about the how the main building would appear from the M25, with it promoting the inclusion of a 'partial green wall' within the main building's northern elevation<sup>28</sup>. That suggestion has not been taken forward by the appellant. While such a treatment would go some way to softening the main building's appearance and could potentially be required through the imposition of a planning condition, I do not consider it would address the enormity of the main building's appearance.
35. I am of the view that in reducing the main building's visual impact to an acceptable level for users of Dowding Way, by setting it back into the site, has compromised the building's siting relationship with the M25. That in turn being indicative of the appeal site's area being insufficient to readily accommodate such a wide and tall building. The indicative floorspace capacity for the 10ha portion of prospective allocation WAL.E8 to be brought forward by 2033 is around 40,000 sq.m. There is therefore clearly potential for the

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<sup>24</sup> Appendix 13.7 of the ES addendum (CD2.30)

<sup>25</sup> Paragraph 13.4.36 of the originally submitted ES, as amended section 12 of the ES addendum

<sup>26</sup> Ms Bryant's response to a question put to her during inquiry's character and appearance roundtable discussion

<sup>27</sup> Paragraph 2.1.18 of Mr Landeman's PoE

<sup>28</sup> Comments made to the Council in January 2021 (CD2.42)

appeal site to be occupied by a significant amount of built development. However, that does not mean that the appeal site and the land immediately adjoining it would necessarily need to be occupied by a building either as tall as the main building and/or with a siting so close to the boundary shared with the M25.

36. While the development's design has been 'landscape-led'<sup>29</sup>, I consider the primary beneficiaries of that would be the staff and visitors of the RSC and the studio. That is because the staff and visitors would be the users of the development's high quality external spaces, for example the green corridor and the wetland areas. I consider the landscape-led approach would do little to address the visual harm that I have identified.
37. I am mindful that within the vicinity of the Holmesdale Tunnel (west of the site), there are other warehouses and industrial buildings (the western buildings) to the north and south of the M25, some of which are quite close to the M25, being between 10 and 14 metres (approximately) from the motorway, as notated on ID.18. Although the western buildings are closer to the M25, I consider their relationship with the motorway is not for various reasons directly comparable with the appeal development. Firstly, the western buildings are variously smaller in scale and/or are orientated at right angles to the motorway, reducing their mass when seen from the M25, which in the case of the Yodel and Tesco buildings helps to create a sense of space about them. Secondly, the M25 is elevated above the ground level of the western buildings, reducing their vertical emphasis relative to the motorway. Thirdly, the area through which the M25 passes on the approach to the Holmesdale Tunnel's western portal has an established industrialised character, while the area within the vicinity of the appeal site is less built up.
38. With the exception of the western buildings, no witness giving evidence at the inquiry was able to cite any examples of buildings adjoining the M25, similar in scale to the main building, with a comparable siting relationship with this motorway.
39. Some views of the main building would be possible from the PRoW, most particularly: to the east of Beechfield Way; the Dowding Way overbridge; and the parts of this route to the south of Dowding Way (photomontage viewpoints 3, 4 and 6<sup>30</sup>). However, the main building would be at a considerable distance from the PRoW and given that I am of the view that the users of the PRoW would be unlikely as a matter of course to be deterred from using this footpath route because of the main building's presence. I also consider that users of the M25's pedestrian overbridge would not experience an unacceptable visual impact, given the distance there would be between this bridge and the main building and the heavily trafficked and far from tranquil character of this crossing of the motorway.
40. Residents of Beechfield Walk with eastward facing windows and gardens would have some sight of the main building. However, I consider because of the distance involved that the main building's presence would not be so apparent so as to give rise to an unacceptable visual impact for the residents of Beechfield Walk.

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<sup>29</sup> The evidence of both Ms Bryant and Mr Landeman

<sup>30</sup> Appendix 13.7 of the ES Addendum (CD2.30)

41. On this issue I therefore conclude that the development would appear out of place when seen from the M25 and that in that respect there would be significant harm to the character and appearance of the area. I therefore consider that the development would not accord with Policy DBE1 of the Local Plan because the scale, siting and height of the main building would not be respectful of its setting. I am also of the view that there would be conflict with paragraphs 126 and 130 of the Framework and the guidance on well designed places included in the National Design Guide<sup>31</sup> because the development would not result in the creation of a high quality place or add to the overall quality of the area, with its layout not being a good because of the proximity to the M25. I consider that for so long as the site remains within the Green Belt there would also be some conflict with Policies GB7A and DBE4 of the Local Plan because the development would through its siting relationship with the M25 be conspicuous, while not being respectful of the character of the area. I also consider there would be conflict with Policy DM9 of the eLP because the development would not relate positively to its context or make a positive contribution to its place, given the height of the main building.
42. I consider the harm to the character and appearance of the area that would arise from the height and siting of the main building weighs very substantially against the development.

*Demand Responsive Transport bus service (DRT)*

43. The DRT would form part of a package of sustainable travel (modal shift) measures intended to reduce dependence on the use of vehicles that are not ultra-low emission vehicles (ULEVs) amongst staff and visitors getting to and from the RSC and the studio. The DRT would also provide an on demand bus service that members of the general public could use and who might otherwise be making private vehicle journeys on roads within the SAC. Patronage of the DRT would have the potential to reduce the overall number of vehicle movements within the SAC and thus decrease the volume of vehicle emissions contributing to the SAC being in an unfavourable condition.
44. By the time of the planning application's determination by the Council the appellant was proposing to make a contribution of £1.2 million to fund the operation of a DRT for a minimum of three years. The originally proposed financial contribution having been £800,000. The provision of a service for a minimum period of three years was considered to be too short a guaranteed operational period by the Council, giving rise to its seventh reason for refusal. In connection with the appeal the appellant, as part of the executed S106 agreement, has entered into a planning obligation that would secure the payment of a £4.0 million to fund the operation of a DRT for ten years. The appellant considering that after ten years of operation the DRT would either be self-sustaining or would have proved itself to be unviable<sup>32</sup>.
45. The Council in its closing submissions (paragraph 35 of ID.22) confirmed in the event of a planning obligation being entered into securing the operation of the DRT for ten years, with a funding contribution of £4.0 million, then its concern with the proposed bus service would be addressed.

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<sup>31</sup> Published by Ministry of Housing, Communities & Local Government in 2019

<sup>32</sup> Mr Thomas' evidence at the inquiry

46. The area within the vicinity of the site is not particularly well served by bus services and the provision of the DRT would to some extent improve that situation and would therefore assist in reducing any dependency on the use of non ULEVs by staff and visitors travelling to and from the RSC and the studio. That would assist in making the development more accessible by more sustainable transport modes.
47. Having regard to the planning obligation securing the provision of the DRT, I conclude that the development would make appropriate provision for a DRT bus service. I therefore consider that the development would accord with the provisions of Policies ST1, ST2 and ST3 of the Local Plan because it would be located in a place that would encourage the use of public transport, with a public transport service being secured via a planning obligation and the availability of the DRT would assist in ensuring that the development did not have a significant transport implication. The availability of the DRT would also accord with section 9 (Promoting sustainable transport) of the Framework through providing a public transport service that would be available to staff and visitors travelling to and from the RSC and the studio. The development would also be consistent with Policy T1 of the eLP because it would promote transport choice by making an improvement to public transport services in the area.
48. With respect to sustainable transport considerations, I am of the view that provision of an appropriate DRT bus service is matter weighing moderately in favour of the proposed development. That is because for any development of a scale comparable to the RSC and the studio to be policy compliant it could be expected to incorporate measures intended to reduce its staff and visitors' dependence on private motor vehicle usage.
49. The role the DRT might play in mitigating the development's effects on the condition of the SAC is a matter I consider below.

### **Other matters**

#### *Effects on the SAC*

50. The site is around one kilometre to the west of the SAC and it has an area of nearly 1,630ha. The interest features of the SAC are various heathland types, the beech forest and stag beetles<sup>33</sup>.
51. The presence of oxides of nitrogen (NO<sub>x</sub>) and ammonia (NH<sub>3</sub>) emanating from vehicle emissions can have a harmful effect for vegetation. Elevated levels of NO<sub>x</sub> in the atmosphere can also result in greater rates of nitrogen deposition to soils, causing increased soil fertility with adverse effects for some terrestrial habitats. The heathland and beech woodland in the SCA is currently in an unfavourable condition because of elevated levels of atmospheric pollutants. It is generally accepted that vehicle emissions can have a deleterious effect on habitats up to 200 metres from where they are generated. Beyond 200 metres the emissions become dispersed (drop off) so that they become comparable with the background levels, as shown on Figure C.1 in Appendix C of Mr Mann's PoE.
52. Vehicles travelling to and from the RSC and the studio that passed through the SAC would have the potential to generate emissions that would be

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<sup>33</sup> Sections 3 and 4 of the Habitat Regulations Assessment (CD3.49)

harmful to the SAC's qualifying features. Accordingly, the appellant as part of its transport policy for the development has identified various measures that are designed to avoid there being an adverse effect on the SAC's integrity.

53. With respect to the potential for staff to use cars and drive on roads within the SAC, without mitigation (any modal shift), as a worst case it is predicted that per day there would be 51 movements<sup>34</sup>. That level of increased vehicular activity in the SAC would be below a 1% threshold of change (level of significance)<sup>35</sup>, commonly applied when effects on habitats are being assessed<sup>36</sup>. The statutory ecological air quality objective for NO<sub>x</sub> is 30 micrograms per cubic metre (µg/m<sup>3</sup>). Compliance with that objective is measured on an annual mean basis<sup>37</sup>. Based on worst case modelling for the whole of the SAC the appeal development's NO<sub>x</sub> contribution would be of the order of 0.001% of the critical load level, while at individual locations the contribution would be below the 1% threshold of change. That worst case assessment in the appellant's opinion being pessimistic because it relies on baseline concentrations from 2017, as there has been a 30% reduction in the background concentrations between 2017 and 2021<sup>38</sup>.
54. For the appellant Mr Mann in his evidence in chief submitted that on a worst case basis, ie without any mitigation, nitrogen deposition within the SAC associated with the appeal development could not be measured because it would be at a '*minuscule*' level. Given that I agree with the appellant that any avoidance mitigation measures provided as part of the development of itself would not address an adverse effect arising from this scheme, because such an effect would be so small. Instead, mitigation provided by the development would address possible in-combination effects with other new developments that might come forward.
55. With respect to the operation of heavy good vehicles (HGVs) and light goods vehicles (LGVs) the appellant intends to operate a route management plan (RMP). The RMP would preclude HGVs and LGVs from entering the SAC plus a 200 metre buffer zone, with the exception of using a section of the M25 within the vicinity of the Bell Common Tunnel between junctions 26 and 27, to enable the M11 to be used. The parts of the M25 in the SAC's 200 metre buffer zone are either tunnelled or occupied by woodland not forming part of the SAC<sup>39</sup>. The operation of the RMP would be enforced through the use of ANPR cameras. As the appellant operates its own fleet of delivery vehicles, I am content that the implementation of the RMP could be managed by the appellant, with the Council having enforcement powers available to it should their breaches of the RMP. I am also content that third party delivery contractors could be bound by the provisions of the RMP, when entering into contracts with the appellant. The use of RMPs not being novel in the sphere of development management.
56. The appellant's TP would in effect make the SAC a car free zone (CFZ) for its staff and contractors and other visitors to the RSC and the studio. The operation of that CFZ would be secured through the installation of the ANPR

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<sup>34</sup> Evidence in Chief of Mr Thomas and Table 7.3 in his PoE

<sup>35</sup> Applying guidance contained in the Design Manual for Roads and Bridges published by National Highways

<sup>36</sup> Paragraph 3.7 of Mr Mann's PoE

<sup>37</sup> Section 2.2 of the Ecological Air Quality Assessment of November 2020 and appended to the Habitats Regulations Assessment of December 2021 (CD3.49)

<sup>38</sup> The evidence of Mr Mann

<sup>39</sup> Paragraph 3.1 of Mr Crossland's PoE

camera system. It is intended that compliance with the TP would be imbedded into the terms and conditions of employment for staff working at the RSC and the studio and in contractors' contracts, with breaches of the TP potentially leading to dismissal from employment or the termination of contracts. The appellant's legal and compliance director has advised that directly employed staff and contractors could lawfully be bound by the provisions of the TP under employment and contract legislation (ID.19). I am therefore content that the TP could be used as a means of reasonably precluding travel through the SAC by staff, contractors and visitors when travelling to and from the RSC and the studio.

57. The appellant has quite properly acknowledged that there could be some breaches of the TP's CFZ provisions. However, I share the appellant's view that for there to be an adverse ecological air quality effect within the SAC there would need to be a major break down in the observance of multiple parts of the TP, including neither the appellant nor the Council taking any remedial action. The appellant has further advised that for there to be a measurable effect on air quality within the SAC, the RSC and the studio would need to generate in the region of 300 vehicle movements per day within the SAC<sup>40</sup>. That level of vehicular activity would significantly exceed the worst case prediction of 51 staff and visitor vehicle movements in the SAC.
58. There would also be potential for members of the public to make use of the DRT as an alternative to using their own motorised vehicles to travel on roads within the SAC. Predictions by the appellant for use of the DRT by members of the public has been prepared on a cautious basis, with 0.25% of existing trips within the SAC switching from private motorised vehicles to the bus service. That would be of the order of 120 trips. Such modal shifting by members of the public could potentially act as a trade-off for any breaches of the TP's provisions associated with staff and visitors travelling to and from the RSC and the studio.
59. In association with increasing the capacity of the southern roundabout at junction 26 of the M25 the appellant is proposing to facilitate the introduction of a right turn ban for traffic turning from Honey Lane/A121 into Forest Side (the RTB). The works to junction 26 and the introduction of the RTB being the subject of suggested planning conditions and in combination would create capacity at and in the vicinity of junction 26 to accommodate the traffic generated by the RSC and the studio, with junction 26 currently operating beyond its capacity.
60. The introduction of the RTB would reduce the potential for traffic on Honey Lane to queue back to junction 26 and affect the latter's capacity particularly at peak times. The RTB is also expected to have a beneficial effect on air quality within the SAC, through reduced emissions being emitted by queuing or slowly moving eastbound vehicles on Honey Lane. The steady flow of eastbound traffic being interrupted by standing vehicles waiting to turn into Forest Side, with the latter often needing to wait due to the volume of westbound traffic using Honey Lane.
61. The need for the RTB having been recognised by the Council as a mitigation measure to safeguard the integrity of the SAC when the new development envisaged by the eLP is brought forward. In advance of a replacement local

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<sup>40</sup> Mr Mann's response to an Inspector's question raised at the inquiry

plan being adopted the Council has prepared an Interim Air Pollution Mitigation Strategy (IAPMS). The IAPMS was adopted by the Council in February 2021 (CD3.30) and it identifies the need for the RTB to be introduced in association with the bringing forward of prospective allocation WAL.E8.

62. The air quality mitigation obligations included in the S106 agreement include the payment of a contribution of £206,017 towards the maintenance, improvement, management and monitoring of air quality within the SAC. That contribution being the sum attributed to the WAL.E8 allocation in the IAPMS's implementation section.
63. The appellant and the Council are agreed that the proposed development would provide the mitigation measures identified within the IAPMS. There is further agreement between the appellant and the Council that with the mitigation measures in place it has been demonstrated that '*... with reasonable scientific certainty ... there will be no significant effects arising from the proposed development on the SAC with regard to increases of either NO<sub>x</sub> or NH<sub>3</sub>*' (the SAC SoCG [CD4.87]).
64. With respect to effects on the SAC Natural England has commented that:
- '... air quality should not be considered an impediment to the determination of this application provided that:*
- a) the proposed development is coming forward in accordance with the strategy and the modelled scenario relied upon in the August 2020 HRA<sup>41</sup>; and*
  - b) the mitigation relied upon in the modelled scenario presented in the August 2020 HRA [sic] is considered secure and certain to proceed*
- ... We advise that, with regard to this application, Epping Forest District Council will be better placed to provide the necessary reassurances to satisfy the Inspector that required mitigation measures are achievable in practice, certain to proceed and can therefore be relied upon to avoid adverse effects to site integrity'* (letter of 8 May 2022 appended to CD4.87).
65. The planning obligations in the S106 agreement concerned with addressing air quality within the SAC have been subject to extensive negotiations between the appellant and the Council as part of finalising the agreement. No concerns have been identified by the Council about the enforceability of the planning obligations and given the legal scrutiny those obligations have been subject to during their drafting I see no reason to take a contrary view.
66. There is potential for the proposed development in-combination with other new development, rather than by itself, to generate vehicle emissions that could be detrimental to the SAC's integrity. However, a package of mitigation measures would be secured by various planning obligations, and with the implementation of that mitigation I consider it has been demonstrated, beyond reasonable doubt, that the appeal development could proceed without adversely affecting the integrity of the SAC. Accordingly, I consider that there would be no conflict with the requirements of the Habitats Regulations and

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<sup>41</sup> The Habitats Regulation Assessment prepared by the Council for the eLP

that there would be compliance with Policy NC1 of the Local Plan and section 15 (Conserving and enhancing the natural environment) of the Framework. I also consider that there would be no conflict with Policies DM2 (Epping Forest SAC and Lee Valley SPA) and DM22 (air quality) of the eLP.

67. I attach substantial weight to there being no adverse effect on the SAC's integrity.

*Economic and social considerations*

68. The evidence base for the eLP indicates that there is a need in the Council's area to allocate new employment sites to provide a supply that is commensurate with the demand. In that regard the eLP through its Policy E1 (employment sites) signals an intention to allocate new sites totalling 23ha of land. As I have indicated above, the appeal site forms part of prospective allocation WAL.E8, which would be subject to the provisions of Policy P3 (Waltham Abbey) of the eLP. It is intended that allocation WAL.E8 would accommodate uses coming within use classes E(g), B2 and B8.
69. Although allocation WAL.E8 concerns land currently within the Green Belt, the Council in preparing the eLP has recognised that some land will unavoidably need to be released from Green Belt to accommodate new employment growth, bearing in mind just how much of the Council's area is currently within the Green Belt<sup>42</sup>. The eLP's Green Belt evidence base indicates that amongst all of the Green Belt in the Council's area allocation WAL.E8 does not perform highly against the Green Belt purposes listed in paragraph 138 of the Framework. It is also significant that in connection with the examination of the eLP there are no unresolved objections concerning allocation WAL.E8<sup>43</sup>.
70. On the basis of all of the evidence before me relating to the eLP, most particularly: the various documents from its evidence base; the version of the eLP submitted for examination (ID.15); the main modifications to the eLP promoted by the Council during the examination (ID.7); the written and oral evidence of the appellant, the Council and the Rule 6 Party; and the recent written observations of the eLP's examining Inspector (ID.9 and ID.31), I consider it likely that the appeal site will be removed from the Green Belt and allocated for employment purposes.
71. In terms of land uses the proposed RSC, as a storage and distribution facility, would come within class B8 and would concern a use that would accord with prospective allocation WAL.E8. The appellant predicts that the RSC would provide between 175 and 325 full time equivalent (fte) jobs<sup>44</sup>.
72. Although the proposed studio would be a sui generis (without class) use, I consider its operation would be compatible with the range of employment uses envisaged for allocation WAL.E8. The operation of the studio would clearly provide an employment opportunity, with the appellant predicting it would deliver 111 fte jobs. Of those jobs it is expected that 67 would be new positions, with the other 44 jobs being transferred from the appellant's studios in Wembley and Hemel Hempstead<sup>45</sup>.

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<sup>42</sup> Paragraph 39 of the Council's closing submissions (ID.22)

<sup>43</sup> Paragraph 13.52 of the officer report to the Development Management Committee held on 21 December 2020, appended to the Full Council report of 24 June 2021 (CD4.5)

<sup>44</sup> Paragraph 2.7 of Ms Phelan's PoE

<sup>45</sup> Ibid paragraph 2.9

73. The development would be a significant source of employment and it is estimated it would generate local economic activity worth in the region of £15 million per year (measured as gross added value) and wage income of £9.8 million<sup>46</sup>. There would also be some opportunities for the development to reduce deprivation in the Council's area, most particularly through providing skills training opportunities for 26 apprentices across a range of entry level, skilled technical, management and creative positions. There would also be positive economic benefits during the construction phase, with it being predicted that on average 70 construction workers would be on site during the 19 month construction period<sup>47</sup>.
74. Taking account of the employment opportunities and the wider economic benefits that would be associated with the development, I consider section 6 (Building a strong competitive economy) of the Framework and Policies E1 and P3 of the eLP provide in principle support for this development. That is a matter that I attach significant weight to.
75. However, I consider on the basis of the appellant's written and oral evidence it is now far from clear whether the appellant has an operational need for a RSC with a GIA of up to 52,621 sq.m<sup>48</sup>, including a capability to accommodate 22,868 sq.m of mezzanine space spread over up to three levels, all housed in a 23.15 metre tall building. I say that because while the appellant originally intended that the new RSC would replace its leased Hemel Hempstead and Ockenden RSCs (the existing RSCs), as well as providing additional warehouse space, that may now not necessarily be the case. In that regard it is explained in Ms Phelan's PoE, Mr Bashforth's rebuttal PoE and the appellant's letter of 29 April 2022<sup>49</sup> that even though the leases for the existing RSCs are nearing their expiry the future of them is '*... now under review ...*'<sup>50</sup> and they may be retained to provide operational flexibility.
76. The existing RSCs have a combined floorspace of around 40,000 sq.m and if retained the south-east region, including London, would be divided by the appellant into three operational areas<sup>51</sup>. Under that arrangement the Hemel Hempstead RSC would serve the area to the west of London, the Ockendon RSC would cover the east of the region, while the new RSC would serve Essex and London. Amongst other things the appellant expects that the new RSC would become the operating base for a fleet of electric vehicles to be used in the London low emission zone.
77. The lack of clarity about the future of the existing RSCs, I consider undermines the operational justification the appellant has made for a RSC of the proposed size, including the flexibility to accommodate three mezzanine levels. In its closing submissions the appellant submitted '*... investing in the new facility will enable Next to build a state of the art regional service centre that can meet current needs, which has flexibility to increase storage capacity within the mezzanine ...*' (paragraph 98 in ID.25). However, as no decision has been made by the appellant about the future of the existing RSCs, it is unclear what the appellant's current needs are, given that the design work for the new RSC was originally predicated on the closure of the existing RSCs and

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<sup>46</sup> Ibid paragraphs 4.9 and 4.10

<sup>47</sup> Ibid paragraph 4.5

<sup>48</sup> Ibid Table 2

<sup>49</sup> Letter appended to Mr Bashforth's rebuttal PoE

<sup>50</sup> Ibid

<sup>51</sup> Mr Bashforth's evidence in chief

their replacement with a new larger RSC. The appellant has now stated there is a '*... need to accommodate growth (which Waltham Abbey could not do on its own) ...*'<sup>52</sup>. I consider there is no doubt that the appellant has a requirement to create additional warehouse capacity in the south-east, in response to its growing on-line sales and to support the operation of its physical stores. However, from the case made by the appellant I am of the view that it is very unclear how much additional RSC capacity it now considers is needed to accommodate the growth referred to in the letter of 29 April 2022.

78. If the existing RSCs were to be vacated and the appellant was to consolidate its RSC activities at one location, then at a minimum around 40,000 sq.m of warehouse space would be required in a new RSC just to compensate for the warehouse capacity that would no longer be available at Hemel Hempstead and Ockenden. Under that circumstance I consider there would be a much stronger justification for constructing a building of the proposed size at the appeal site, in comparison with a scenario that included the retention of the existing RSCs.
79. Based on the evidence before me, I consider there would be potential for a building to be constructed of a size capable of accommodating a significant amount of mezzanine space that would not necessarily be utilised.
80. In the absence of clarity about the future of the existing RSCs, I consider the appellant has not demonstrated there would be an operational need for a new RSC of the proposed size. This is a matter which I consider weighs against the development, given it is the overall size of the main building that has implications for its siting relative to the M25, with that being a matter that I have found would cause significant harm to the character and appearance of the area.

#### *Highway effects*

81. The development would be a significant traffic generator. Most of the delivery vehicle movements would be routed via Dowding Way and the M25. Junction 26 of the M25 already operates above its capacity during peak hours. Works to increase the capacity of the westbound off-slip at junction 26 have therefore been proposed. With the undertaking of those works National Highways considers there would be no unacceptable congestion or safety impacts arising from the development<sup>53</sup>. Similarly, ECC as the local highway authority, has raised no highway capacity or safety concerns about the proposed development<sup>54</sup>.
82. On the basis of the evidence submitted with the planning application and as part of the appeal, I consider that with the implementation of the capacity improvements at junction 26 of the M25, it has been demonstrated that the strategic and local highway road networks would have the capacity to accommodate the traffic generated by the development. I consider this would be neutral effect of the development, because any scheme with significant operational implications for junction 26 would be unlikely to be permitted unless it facilitated an increase in this junction's capacity.

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<sup>52</sup> The appellant's letter of 29 April 2022

<sup>53</sup> Paragraph 5.5 of the SoCG between National Highways and the appellant (CD4.88a)

<sup>54</sup> Paragraph 5.4 of the SoCG between ECC and the appellant (CD4.88b)

**The planning balance: whether the harm by reason of the inappropriateness of the development within the Green Belt, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development**

83. When regard is paid to the provisions of Section 38(6) of the 2004 Act, this appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
84. The site is currently within the Green Belt and the development would be contrary to Policy GB2A of the Local Plan because it would not be amongst the permissible forms of development listed in this policy. The wording of Policy GB2A is inconsistent with the Green Belt policy stated in the Framework, insofar as the latter makes provision for new development to be permitted where very special circumstances are shown to clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm arising from a proposal. Paragraph 148 of the Framework makes clear that substantial weight should be given to any harm to the Green Belt.
85. The development would be inappropriate development, which by definition is harmful to the Green Belt and should therefore not be permitted except in very special circumstances. There would also be some conflict with two out of the five purposes that the Green Belt serves because of the effects on checking unrestricted sprawl and as a consequence of encroachment into the countryside. The development would therefore undermine the essential characteristic of openness. Accordingly, as a starting point the definitional harm and loss of openness weigh substantially against permission being granted for this development.
86. However, as part of the planning for the future employment needs within the eLP, the Council is proposing to remove the appeal site and the immediately adjoining land from the Green Belt and include it in prospective employment allocation (WAL.E8). There are no unresolved eLP examination objections relating to prospective allocation WAL.E8. Taking account of the examining Inspector's most recent advice to the Council I (ID.12 and ID.31), I consider it likely that the appeal site will be removed from the Green Belt enabling it to be allocated as employment land. Given those highly case specific circumstances, I am of the view that the weight against the development arising from the Green Belt definitional harm and the permanent loss of openness should be reduced from substantial to moderate.
87. With respect to other harm, I have found that the main building, because of its height and proximity to the M25, would appear out of place for the numerous users of the M25. I recognise that the exterior of the main building would be of a high quality for this type of development and that the proposed hard and soft landscaping would provide a good external environment for its users. However, I consider those aspects of the development's design would be an inadequate counterweight to the visual harm that would arise from the height, size and proximity of the main building to the M25. In that context I consider there are two reasons why it has not been demonstrated that this building would need to be of the size proposed.
88. Firstly, the main building has been designed with the capability to accommodate three mezzanine floors with a GIA of 22,868 sq.m which might

not be fully utilised. Secondly, it is the appellant's case that there would be potential for the existing south-east region RSCs at Hemel Hempstead and Ockendon to be retained and operated alongside the new RSC, as opposed to the new RSC wholly replacing those existing RSCs and providing some additional floorspace within the region.

89. I am of the view that this proposal in its totality would not amount to a high quality development, with there being significant harm to the character and appearance of the area. I further consider the harm that I have identified could not be addressed through the imposition of reasonable planning conditions. As explained in my reasoning above, this harm gives rise to conflict with the Local Plan and the Framework, as well as conflict with the eLP. I consider very substantial weight should be attached to this harmful aspect of the development.
90. Against the harms there would be beneficial aspects of the development, with it being capable of providing employment space that the eLP's evidence base has demonstrated there is demand for, while the supply of space is constrained by site availability, not least because of the preponderance of the Green Belt in the area. There would therefore be social and economic benefits arising from the creation of employment and the generation of GVA and wage expenditure in the local area. I also consider that the development could be brought forward in a manner that would not adversely affect the integrity of the SAC. Those are matters that I consider weigh significantly for the development.
91. The provision of the DRT and other aspects of the appellant's TP, as sustainable transport initiatives, would assist in reducing staff and visitor dependency on private motor vehicle usage when travelling to and from the RSC and the studio. However, I consider it reasonable to expect that going forward all large scale employment developments will provide or contribute to sustainable transport initiatives. I therefore consider that the provision of the DRT and other sustainable transport initiatives weigh moderately in favour of the development. The development would provide capacity improvements at junction 26 of the M25. However, those works, while also being of some wider community benefit, would be needed to mitigate the development's effects on the operation of junction 26 and I therefore consider them to be neutral in the planning balance.
92. I have considered whether the harm to the Green Belt by reason of inappropriateness, and the other harm I have identified, would clearly be outweighed by other considerations. Overall, I consider that the benefits of the development collectively would not clearly outweigh the harm to the Green Belt and any other harm, namely the harm to the character and appearance of the area. I therefore consider that there are not the very special circumstances to justify planning permission being granted. Accordingly, I consider the development would be contrary to the development plan and the Framework, when they are read as a whole, indicating that planning permission should not be given. Given the unacceptable harm I have identified, I am of the view that this proposal in its totality would not be a sustainable form of development.
93. Even if the site was not in the Green Belt, I am of view that the harm to the area's character and appearance would not be outweighed by the

development's benefits and that there would be unacceptable conflict with the parts of the extant Local Plan and the Framework that require new development to be of a good quality, which would warrant the refusal of planning permission.

94. I therefore conclude that the appeal should be dismissed.

*Grahame Gould*  
INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

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#### **He called**

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Jonathan Landeman  
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### **FOR EPPING FOREST DISTRICT COUNCIL**

Matthew Dale-Harris of Counsel

Instructed by the Council's legal department

#### **He called**

Laurence Moore  
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Planner with Woolf Bond Planning LLP

Rob Walker\*

Solicitor with Trowers and Hamlins LLP

Nigel Richardson\*\*

The Council's Service Director for Planning

### **FOR SAVE OUR EPPING FOREST (Rule 6 Party)**

Liam Lakes  
(acting as advocate and witness)

Local resident

## INTERESTED PERSONS

Carina Powney	Local resident
Peter Lewis	Chief executive of the Epping Forest Heritage Trust
Melissa Murphy	Local resident and trustee of the Epping Forest Heritage Trust
Chris Sumner	Local resident
David Sparks	Local resident
Jeane Lea	Councillor with Epping Forest District Council
Dave Plumber	Councillor with Epping Forest District Council and Local Resident

\* Participated in the roundtable discussion concerning planning obligations and conditions

\*\* Provided an update relating to the examination of the Council's emerging Local Plan

## INQUIRY DOCUMENTS (IDs) SUBMITTED AT OR AFTER THE INQUIRY

ID.1	List of Appearances for the Appellant
ID.2	Opening Statement of the Appellant
ID.3	Opening Statement of Epping Forest District Council
ID.4	Opening Statement of Save Our Epping Forest Special Area of Conservation
ID.5	Speaking note of Chris Sumner
ID.6	Appendix 6 of the Epping Forest emerging Local Plan
ID.7	Schedule of Main Modifications to the Epping Forest emerging Local Plan of July 2021
ID.8	A3 copies of Plans for the Inspector's site visits
ID.9	Appendix to Special Area of Conservation/Special Protection Area specific Statement of Common Ground – citations, maps and status of designated sites
ID.10	Missing pages to the Inspector's hard copy of the Habitats Regulations Assessment of December 2021
ID.11	Complete hard copy of the Proof of Evidence of Matt Thomas relating to Transport

ID.12	Letter of 23 May 2022 from the emerging Local Plan examining Inspector to Epping Forest District Council
ID.13	Hard copy of the Waltham Forest Local Plan adopted of 1998
ID.14	Hard copy of the adopted 2006 Alterations to the Waltham Forest Local Plan of 1998
ID.15	Hard copy of the emerging Local Plan Submission Version 2017
ID.16	Draft Section 106 Agreement as at 23 May 2022
ID.17	'Waltham Transport Movements' diagram
ID.18	Plan of surrounding area with building distances from M25
ID.19	Letter from Next regarding enforceability of travel policies
ID.20	Epping Forest District Council's (Laurence Moore) speaking note for the Green Belt openness and character and appearance roundtable inquiry session
ID.21	Viewpoint locations plan, including Claypit Hill, for the Inspector's site visits
ID.22	Closing submissions of Epping Forest District Council
ID.23	Judgement for R. (Sefton Metropolitan Borough Council) v Secretary of State for Housing, Communities & Local Government [2021] EWHC 1082 (Admin)
ID.24	Closing submissions of Save Our Epping Forest SAC
ID.25	Closing submissions of the Appellant
ID.26	Judgement for Wychavon District Council v Secretary of State for Communities & Local Government [2009] EWCA Civ 692
ID.27	R. (on the Application of Basildon District Council) v First Secretary of State [2004] EWHC 2759 (Admin)
ID.28	Draft suggested planning conditions as at 25 May 2022
ID.29	Letter from the Epping Forest Heritage Trust of 6 June 2022 concerning planning obligations
ID.30	Certified copy of the executed section 106 agreement dated 10 June 2022
ID.31	Note from the eLP examining Inspector to Epping District Council dated 16 June 2022