

**TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING & COMPULSORY PURCHASE ACT 2004**

**LAND NORTH OF CAMBRIDGE NORTH STATION, CAMBRIDGE  
APPEAL BY BROOKGATE LAND LIMITED**

APP/W0530/W/23/3315611

Inquiry sat 6, 7, 9, 13-16, 20-23 June 2023

**APPELLANT'S CLOSING SUBMISSIONS**

**Introduction and overview**

1. The appeal site lies barely thirty seconds walk from Cambridge North station, which opened in 2017 as the result of a £50m investment of public funds. It lies immediately to the north of the Novotel hotel and One Cambridge Square, both major commercial investments by Brookgate, the Appellant company, in the future of the new urban quarter established in the adopted Local Plan. The site is allocated brownfield land regarded by the Council as the most sustainable place in Cambridge to host a mixed use development. That is what the Appellant company has brought forward after several years of careful work:

*An outline application (all matters reserved apart from access and landscaping) for the construction of: three new residential blocks providing for up to 425 residential units and providing flexible Class E and Class F uses on the ground floor (excluding Class E (g)(iii)); and two commercial buildings for Use Classes E(g)(i) (offices), (ii) (research and development) together with the construction of basements for parking and building services, car and cycle parking and infrastructure works.*

*A full application for the construction of three commercial buildings for Use Classes E(g)(i) (offices), (ii) (research and development), providing flexible uses on the Ground floor (excluding Class E(g)(iii)) with associated car and cycle parking and associated landscaping, infrastructure works and demolition of existing structures*

2. Ms Bradley closed her evidence in chief by saying that the appeal proposals are “the right uses in the right place” but that the remaining issue was their “quantum”. She might have added “at the right time”, given the urgency of the need for the commercial and lab space in Cambridge.
3. The Council’s case however has been that whilst the scheme’s mixed uses are agreed to be in line with policy, the visual impact of the scheme is considered to be too great on landscape/visual and heritage receptors and there were connected design issues with the scheme on site. The Appellant’s work on the masterplanning, design, landscape and visual and heritage strongly indicates the opposite conclusion, and hence an appeal was lodged with the intention of enabling the proposals to come to fruition as soon as reasonably possible.
4. The evidence examined at this inquiry, including the site visit, have shown that the appeal proposals would indeed be the right uses in the right place; they have also shown that the scheme’s negative effects would be relatively modest, contrary to the evidence of Ms de Boom and Messrs Wakefield and Brady, all of whom overstated the impacts.
5. I come back to these points in more detail later, but there is largely agreed evidence that the proposals:
  - (1) Represent commercial labs and offices for which there is an acute unmet demand at present, and a significant demand throughout the relevant period (ie to 2028/29). Meeting it is imperative in order to achieve local, regional and national economic goals; and the scheme is therefore in accordance with the economic aspects of the Local Plan, the NPPF (paragraphs 81 and 83) and with numerous Government pronouncements. The labs and offices proposed would be taken up by the market when they are delivered between 2026 and 2028.
  - (2) The site is allocated for those uses, and is the most sustainable site in Cambridge for such uses, thanks to the railway station and other connectivity. The clustering of such uses in North East Cambridge and the job creation that the scheme will bring are agreed to make major beneficial contributions.
  - (3) The scheme proposed for the site is a mix of uses which would deliver a major phase of the new urban quarter that the Council’s adopted plan wishes to see in this location; it will provide the multiple benefits of a real place for the benefit of the commercial community, thereby increasing its ability to meet the needs of the market and underpin further investment into Cambridge.

- (4) It will provide housing and affordable housing in line with policy (the residential uses were introduced at the behest of the Council during the pre-application process), which will meet needs and help in place-making.
- (5) All of this will take place on a brownfield site, which is rare in Cambridge at this scale. The scheme itself – part fully detailed in the application – has been created by a group of specialists of a very high calibre: Acme, Make and Robert Myers have all produced high quality work, only some of which is properly acknowledged by the Council.
6. The scheme has been produced on the basis that the use of the appeal site should be optimised for the agreed uses. That is an agreed principle. That means that to some extent the scheme will be visible from outside – principally from locations to the east of the Cam and in some residential locations to the east and west of the site. However, the Council acknowledges that its objectives for the site as an urban quarter will not be met unless the scheme is an example of urbanism and appears as such both within and from without; indeed, it is accepted that there is nothing wrong with the scheme being prominent when seen from the outside.
7. Against that background, the impacts on landscape, visual receptors and the significance of two Conservation Areas would be small. The baseline – indeed character – of the Cam Valley and the two CAs includes the noticeable presence of Cambridge’s urban area already. The first steps on the journey towards the urban area – the Novotel and One Cambridge Square – are visible in some limited views already. The additional degree of urbanisation would cause limited harm. CPPF very fairly note in their evidence that the scheme would be good for the character of Cambridge as a global leader in life sciences, distinctive and underlining what is part of Cambridge’s essence in the Twenty First Century. That important point is less detectable in the position of the Council.
8. Given the large area of agreement between the main parties on policy compliance and benefits, the heritage and planning balances are markedly in favour of the grant of permission.
9. There are no procedural issues outstanding in relation to the appeal<sup>1</sup>. These submissions focus on the issues as set out by the Inspector at the inquiry, in the following order:
- (1) The status of plans, emerging plans and associated evidence

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<sup>1</sup> There was a substitution of some drawings agreed at the outset of the inquiry relating to a minor change to the water body in the Wild Park: see ID 1.00 paragraph 9 page 2. There are no issues outstanding in relation to the Environmental Statement: see CD6.11 paragraph 8.77.

- (2) High quality design
- (3) Landscape and visual effects
- (4) Heritage effects
- (5) Comprehensiveness
- (6) Technical points now resolved
- (7) Water
- (8) Weight to be given to benefits
- (9) Balancing and conclusions

### **Plans for the area**

- 10. The relevant part of the development plan is the 2018 Local Plan<sup>2</sup>. This reaches its fifth birthday later in 2023<sup>3</sup> but it is agreed to be up-to-date and (with one minor exception<sup>4</sup>) fully compliant with the NPPF.
- 11. By contrast, the emerging Area Action Plan, the NECAAP<sup>5</sup>, is agreed to be given little weight. It is not relied on by the Council as a benchmark against which to test the proposals<sup>6</sup> and the putative reasons for refusal do not refer to it. That is principally because it has not been consulted upon and is currently stalled awaiting the DCO process for the sewage treatment works to take place.

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<sup>2</sup> CD5.00. Adopted September 2018.

<sup>3</sup> There will be little change in the housing need as a result of the 5 year anniversary and use of the Standard Method, as Ms Bradley confirmed in answer to the Inspector's question. Given that there is agreement on the weight to be given to housing and affordable housing, the point is not examined further.

<sup>4</sup> See below in relation to Policy NH/14; the point is of relatively little significance.

<sup>5</sup> Regulation 19 version at CD 5.32, but the process has stalled since then due to the difficulties with the DCO for the waste water treatment works.

<sup>6</sup> A point I cover in more detail below, but agreed expressly by Ms de Boom and Ms Bradley.

12. Similarly, very little weight, it is agreed, can be given to the emerging Greater Cambridge Plan. It has not progressed past reg 18 stage and is not projected to be adopted for some time. Ms Bradley confirmed<sup>7</sup> that there was no suggestion of any prematurity objection to the appeal scheme.
13. Reference is made by the Council to the documents produced as evidence leading to the draft AAP. Ms Bradley confirmed that these documents formed the basis for planning balances struck in the draft AAP itself (ie, they were not imported wholesale – even if one could reconcile them – but were informed judgements in the draft document), so the position has moved on materially since those documents were written.
14. To be clear on the appropriate approach to those documents:
- (1) The detail of the discrepancies can be seen in numerous ways by comparing the evidence documents. This makes them very difficult to use as any form of touchstone.
  - (2) Ms Bradley said in chief that they had been produced by “experts” but declined to give them any particular weight, acknowledging<sup>8</sup> that they had not been tested in any forum, or indeed put out for public consultation. Similarly, Mr Wakefield described the LCVIA as no more than “a starting point”<sup>9</sup>.
  - (3) In cross examination of Mr Derbyshire, Mr Du Feu in a similar way characterised the suite of documents as judgements to which one might have regard “to see if one agreed with them”. If the height of the Council’s point here is that there is a difference between the scheme in some respects and what one finds in the evidence base, then the evidence shows that one should not agree with them. Little reliance can be placed on the evidence base documents. Rightly, they have also not been said to be tests or benchmarks against which the appeal scheme should be assessed<sup>10</sup>. The Council’s closing submissions perhaps surprisingly seem to forget all that and effectively treat the LCVIA as a key touchstone, contrary to the evidence of its own witnesses<sup>11</sup> and this should be treated with some circumspection as a result. That document is not adopted or tested design guidance for the site.

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<sup>7</sup> In cross examination (abbreviated as XX in these submissions).

<sup>8</sup> In XX.

<sup>9</sup> In XX.

<sup>10</sup> See Miss de Boom in XX and Ms Bradley XX.

<sup>11</sup> See for instance paragraph 68 of the Council’s closing: “Fundamentally, the Council considers that the development heights do not accord with those modelled in the TEP report...”

15. Touching on the main judgemental issue between the parties – the treatment of the eastern flank of the site - some of that material has been ‘tested’ in public, by means of this inquiry. That testing has only served to diminish, rather than enhance, its weight. For instance, the discrepancies and ambiguities of the LCVIA heights assessments have been exposed, and (even if this were the correct interpretation, which is questionable), ‘guidance’ in that document that development along the eastern edge of the site should be restricted to a maximum of 12 m in height is plainly wrong, as the scheme demonstrates. No weight therefore can be given to same-or-different exercises which compare the appeal scheme, which is a fully worked out master-planned proposal, with guidance in the evidence base to which only limited weight can be given.

## **Design**

### *Master-planning*

16. In order to understand why the scheme meets the policy requirement for high-quality development, one must look first at the ordering principles for the master plan. Mr Ludewig’s evidence covered these.

### *Hierarchy*

17. The site is divided up between the principal routes leading to and from the area close to the station<sup>12</sup>. Ms de Boom’s view was that the design of building S08 (the so-called ‘flatiron’ building) and the layout at Cowley Circus were not conducive to a clear hierarchy of routes within the masterplan, but she accepted that one had to take into account the nature of the streets themselves as well: the fact that Milton Avenue (up to 26 m wide) is a much more spacious street than Station Row (only 16-18m wide)<sup>13</sup>, that the traffic would be very different on them (motorised vehicles on the former, pedestrians and cyclists only on the latter), and the landscaping quite different, with Milton Avenue characterised by large-scale boulevard type planting, and Station Row having a quite distinct feel due to the swale feature. These all clearly distinguish the two routes and make Milton Avenue clearly the major thoroughfare.

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<sup>12</sup> See ID 1.13 for a simplified image of the masterplan layout.

<sup>13</sup> See Mr Ludewig’s paragraph 6.10.6 page 89.

18. Cowley Circus would be legible and well-proportioned. Ms de Boom acknowledged that it would be clear that Milton Avenue was the main route from here, and that Cowley Road North (with its view eastwards towards the railway fence) would be easily recognised as a secondary route; the narrowness of Bramblefields Way and the way it is planted (and the fact it would be one-way) makes it clear that it is also a minor route. There would be a greater sense of openness at Cowley Circus pending the rest of the NECAAP development coming forward, but the final design of building S09 and the modest increase in height in residential building S20<sup>14</sup> would enclose it well. The way it would work in the future with the rest of the NEC AAP is not in doubt.
19. The hierarchy would therefore be very clear, meet legibility objectives and would contribute to the sense of place in the scheme.

*Where the uses are proposed to be*

20. Ms de Boom criticised what she described as the “segregation” of residential from commercial areas in the scheme. It would be better to see this as sensible master planning: as Mr Ludewig said, the two can be difficult to combine in close proximity due to amenity issues, and it would be sub-optimal to split the residential into segments because of the detrimental effect on the provision of high quality open space, play and other matters (such as combined rainwater harvesting and grey water recycling, for instance). The point taken by Ms de Boom was in truth bound up with the central issue – the effect on the eastern edge – as Ms de Boom originally suggested that residential might be put where S07 is proposed to be because she thought that would be better in terms of being seen in distant views. However, she recognised that in addition to residential near the railway being less than desirable, the presence of the aggregates area also argues strongly for the residential to be to the western part of the site.
21. Some suggestion was also made that residential uses might be put where buildings S08 or S09 are proposed to be, but again (in addition to weakening the benefits of having the full benefits of the Chesterton Gardens area) that would potentially constrain the open space uses in the heart of the masterplan (particularly in Chesterton Square).

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<sup>14</sup> Ms de Boom recognised this. Her only residual point was that one didn't need additional height in S20 to enclose that part of Cowley Circus but the proposed Parameter maximum height would achieve that townscape benefit.

22. Ground Floor uses also need to be considered here, and there was perhaps too little focus on the flexibility that the Parameter Plan for Ground Floor uses (and the detailed design of S04-S07) would afford. Throughout the commercial buildings, there is provision for active frontages with other uses, enlivening the public realm and preventing any sense that the central and eastern parts of the site would read in the same way as a campus park such as the Genome Campus<sup>15</sup>.
23. The disposition of the uses through the scheme would be entirely appropriate and contribute to the creation of a sense of place.

*Spaces in the scheme, gaps and grain*

24. Ms de Boom felt that some spaces in the new urban quarter might be too quiet, especially at the weekends and in the evenings – she referred specifically to Station Row and Chesterton Square. However, these spaces are part of an urban quarter, not a business park. There will be (even before the rest of the NECAAP) active evening uses at ground floor, and as Mr Derbyshire recalled, it is clear that they would be popular not just with the residents of Chesterton Gardens but with existing residents of the wider area who expressed keen interest in on-site facilities during the consultation process.
25. For much of the time the place would be busy. Over 750 residents are predicted to occupy Chesterton Gardens, and more than 4,000 workers throughout the scheme, as well as those from the wider area, those staying at the hotel, those working in One Chesterton Square, and those going to and from the station. There is nothing to this criticism.
26. Ms de Boom next made the point that larger floorplate lab buildings and office buildings tend to have a single core and are therefore more difficult to articulate, especially at ground level, leading to what she described as a ‘coarse’ grain. As Mr Ludewig observed, large single-built-form blocks are characteristic of all types of urban area, including historic central Cambridge; but the real point in relation to the appeal scheme is that Mr Ludewig and Mr Willis have worked hard to ensure that ground floors are activated - for instance there are numerous ground floor doors on buildings S06 and S07<sup>16</sup> enabling a flexible array of retail and other uses to play

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<sup>15</sup> See Parameter Plan 07, CD2.27, and Mr Willis’ evidence at pages 10 and 30.

<sup>16</sup> See Figure 35, Mr Willis’ page 30.

a part in the streetscape. The facades of the buildings are heavily articulated<sup>17</sup> and therefore would not appear to be overly scaled or massive.

27. As to gaps between buildings, Ms de Boom makes no criticism of the spatial relationships within Chesterton Gardens, or between S04 and the residential area, or between S08 and S09. Her point was directed towards the gaps for streets on the eastern side, ie between the mobility hub, S06 and S07; this in reality was not a design criticism of the scheme internally, but part of the Council's main case that the appeal proposal would have too great an impact on the eastern side and would be a "wall" of development.
28. However, the streets and spaces between the three buildings are properly sized for their function (ie movement, servicing and informal amenity spaces). To widen them would have undesirable consequences for the internal spatial quality and functionality of the quarter – too wide a gap between the mobility hub and S06 would divorce the station parking and other uses from the station, and create too great a break in the townscape with nothing but the railway palisade fence to contain it. Only if one is actually engaged in trying to masterplan a site thoroughly do points like these play their proper role.
29. The gap between S06 and S07 has been very carefully considered indeed, as all three of the Appellant's design team stressed. It provides some articulation inside the scheme, but also ensures appropriate enclosure to Chesterton Square on its eastern side where Station Road intersects with it<sup>18</sup>. A wider gap would, to use one of Ms de Boom's phrases, cause the space to "leak away".
30. I come back to the question of articulation on the eastern side below, but it does seem to be the case that Ms de Boom had not thoroughly considered the design balance within the scheme, in pursuit of points about the effect of the eastern edge buildings from without.

#### *Height and mass*

31. The nub of the Council's objection is that the "quantum" (as Ms Bradley put it) would in places be too great. As the evidence was tested at the inquiry, this was refined to focus on (1) the heights of S06 and S07, (2) the height of S04, and (3) the height of the taller residential blocks, as well as (4) cumulative effects from these heights. The Inspector will recall that the design

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<sup>17</sup> As a reminder, see the Station Row street scene at Mr Ludewig's Figure 194, page 148.

<sup>18</sup> See in particular Mr Ludewig's Figure 116, page 91. The composition and considered urbanism of this proposed place would be shattered by introducing a much greater gap between S06 and S07. The railway would come right into the heart of the scheme and the space would indeed then fail the test set by Ms de Boom of good enclosure.

reason for refusal does not actually encompass the effects of the detailed buildings S06 and S07, and so whilst these submissions deal with Ms de Boom's points, her critique should be treated with considerable caution given that it lay outside the Council's putative reason for refusal and appeared really to be an attempt to bolster the Council's case on views from east of the site.

32. S06 and S07 are only four (commercial lab) storeys in height, designed in detail to step down from 22.1m maximum to just over 20m, 17.4m and 13.4 m. In other words, they are mid-rise buildings. Their heights are not out of step with more modern buildings in such use in the wider NE Cambridge area<sup>19</sup>. They would be seen as entirely characteristic examples of the Cambridge of today – to quote the Council's opening statement<sup>20</sup>, "it is now an international centre for life sciences and related technology, research and development businesses". That can be grasped from the scale and form of buildings on the southern edge of Cambridge, for instance in views from the Gog Magog hills (or M11 or the train) towards Cambridge Biomedical. The character which the appeal proposals would create on this carefully considered edge would reinforce the local distinctiveness of one of the UK's most important places – and do it with buildings which are well designed at a maximum of around 21-22m in height.
33. It is when seen in three dimensions and detail that the quality of the two buildings can really be appreciated. Both are designed to read well from the east (ie not to appear as 'backs') and both are articulated in plan and section, and manifest an A-B-A-B rhythm, which Ms de Boom accepted was effective at breaking up the mass of the buildings when seen within and near the appeal site<sup>21</sup>; she made the rather odd point that passing two well-articulated buildings undermined the effect of their articulation<sup>22</sup>, but, imagined as a kinetic set of views, that doesn't really work as a criticism, particularly when Ms de Boom also accepted that there would be no doubt in the mind of the viewer passing the buildings on Cowley Road East that they were indeed two separate buildings<sup>23</sup>.
34. The final point on height and massing of S06 and S07 is that they are not just about their eastern elevations – the design needs to be seen in the round. Their building lines are not identical and that means that the degree of articulation and detail on Station Row is even greater, allowing a

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<sup>19</sup> See for instance the 2020 MathsWorks and Roku UK buildings to the west of Milton Road, both at 21m in height.

<sup>20</sup> ID 1.02, paragraph 1.

<sup>21</sup> See also her paragraph 5.54, where the idea of a 'rhythm' in the built form appears to be regarded as a positive.

<sup>22</sup> She said that the scheme was "over-reliant" (see her paragraph 5.29-30) on modulation of the built form which she considered to be successful. It appeared to be a case of 'having too much of a good thing'.

<sup>23</sup> In XX.

real sense of variety and interest in the view along the western facades of the two buildings. The balconies, overhangs and materiality make a considerable difference to the appearance of the buildings (for instance the vertical strip of ventilation outlets incorporated into the pattern, the metallic lining of the side elevations, the differences between the more bronze panelling on S06 compared with the more silver shade used in its neighbour.

35. Overall, Mr Willis' evidence about the careful composition of S06 and S07 is persuasive. They would be very high-quality buildings - a new generation of laboratory buildings, embedded in an urban place, with all the qualities and benefits that integration brings.

36. As to the height and massing of S04, the degree of articulation is quite clear. It is organised to mediate between One Cambridge Square and Chesterton Gardens, which it would accomplish in two ways:

(1) It is organised to step down towards the residential area, stepping from 30.835m in height next to One Cambridge Square to 27.91m, then down to 19.95m<sup>24</sup>. That stepping is emphasized by changes to materiality – the top level being darker, then changes to the facing colour of the top two occupied floors, which is a little lighter; then a strong parapet line at the top of the grid in much lighter stone, with the parapet line wrapping round three sides, leaving only the chief corner on Milton Avenue with a fully expressed seven storeys<sup>25</sup>. These highly visible aspects of the design will make a satisfying transition from the similar height of One Cambridge Square on one side down to the transition across Milton Walk to the north<sup>26</sup>. Seen from ground level the designed archway ('cut through') on the corner of Milton Avenue and Milton Walk is another notable feature which aids that transition.

(2) Mr Willis also spoke of the way the architecture of S04 mediates between the finer grain of the residential buildings (in outline, but inevitably finer grain due to dwellings, fenestration and so on) on the one hand, and the more monumental treatment given to One Cambridge Square.

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<sup>24</sup> See Figure 06 in Mr Willis' evidence, page 6. This should be preferred to Ms de Boom's figure 12 on page 28, which does not register the height of One Cambridge Square adequately, uses an image which 'greys out' the plant level and misleadingly suggests that S04 steps up by 3-4m from One Cambridge Square (and see the quite misleading blue stepped line at the top of the drawing).

<sup>25</sup> See Mr Willis' Figure 11, page 9, and Figure 14 on page 13.

<sup>26</sup> The tiny step up from the plant on One Cambridge Square (30.20m) to the plant on S04 (30.835) will not be perceptible. As Mr Willis said, it partly stems from the slightly more developed plant to be used on S04. It is certainly not the case, as Ms de Boom says, that the top roof level of One Cambridge Square is shy and retiring and one only reads the brick parapet – see as a reminder of how imposing it is Mr Wakefield's Node viewpoints 11, 14, and 15.

37. As Mr Derbyshire expressed it, Mr Willis is a highly accomplished architect<sup>27</sup> and S04 would sit well in the townscape. It would be far from “bulky and squat”<sup>28</sup>– it has a well-ordered sequence of base-middle-top, and the stepping of the façade in and out on three sides<sup>29</sup> is coordinated to create elegant sub-divisions of the facades: for instance the formal five by five square over the main entrance on Milton Avenue, or the three by three over the cut-out corner at the junction with Milton Walk. As Mr Willis said, it is not fair to accuse the building of being “unbalanced”, as Ms de Boom did<sup>30</sup> by rather misrepresenting the actual pattern of fenestration that the building has – in fact the contrast between the groupings of windows on the main elevation on Milton Avenue and those over the cut-out are harmonious (five by five v three by three, or if one excludes the double height top floors, five by three v three by three<sup>31</sup>).
38. S04 would create a fine architectural welcome to the new quarter on entering Milton Avenue from the station. It is also entirely appropriate when seen from the west. It would be seen from Discovery Way across a distance of around 100m<sup>32</sup>, in views which already contain One Cambridge Square as well as a significant planted buffer on the western side of Chesterton Avenue. Although S04 is significantly taller and bigger than the bungalows at the southern end of Discovery Way, there is such a distance between them that internal or external living conditions will not be detrimentally affected; nor would those of the three storey houses in that street.
39. As Mr Smith said, Discovery Way is within the urban residential area and the kind of juxtaposition which would be created is not unexpected or harmful, given the baseline position, given the layering of cities, and given the high quality of what would be seen of S04. There is no sunlight/daylight impact on those properties, and equally no overlooking or loss of privacy issue. It is unsurprising that no one living in Discovery Way objected to the application, and one letter of objection only was sent on the appeal.
40. For those reasons, the design of S04 would be a strongly positive asset to the new townscape.

*The way the eastern edge has been master-planned*

41. Returning to the issues that inform the judgement on the Council’s main point, the question is: were the right choices made in relation to the master planning of the eastern edge? Ms de

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<sup>27</sup> See not just this scheme but other Make schemes he has been involved in, his page 23.

<sup>28</sup> Ms de Boom, paragraph 5.34.

<sup>29</sup> See as a reminder Mr Willis’ Figure 11 and Figures 14-15.

<sup>30</sup> See her Figure 17 page 31.

<sup>31</sup> Best seen in 3D on Mr Willis’ Figure 14 page 13.

<sup>32</sup> See Mr Ludewig’s Figure 105, page 85.

Boom's critique began with an attack on the layout created between Station Row and the edge of the railway. She suggested that once that had been decided, the built form of S06 and S07 were in effect a foregone conclusion, bringing harms to the views from the east.

42. That suggestion is inconsistent with the evidence about the evolution of the scheme. As Mr Ludwig describes, the idea of the route of Station Row was strongly supported by the Council during the design process. It is a contextual response to the need to sub-divide the area between Milton Avenue, which is effectively already in place, and the railway. It enables the functional objectives of well-designed office and laboratory buildings to be achieved whilst also creating well-proportioned and enclosed spaces between them, opening up the way through to the north and the wider NECAAP area in the future.
43. Ms de Boom's evidence on this point in cross examination contained the concession that she didn't in fact on reflection support the idea (drawn from the LCVIA) that the eastern side should be a fragmented 'parkland edge'. But she also floated (which given the absence of any rigorous assessment of how one would set out an alternative masterplan, is the appropriate word) the idea one could create wider gaps by re-orientating the buildings on the sites of S06 and S07 east-west. That would of course, as she then acknowledged<sup>33</sup>, create a townscape in which there was no permeability north-south on this side of the scheme, but instead two east-west streets both ending in the palisade fence to the railway; the result would be very poor in connectivity and layout terms and would destroy the pivotal experience of Chesterton Square.
44. Indeed the entire idea of creating larger gaps on the eastern side was shown to be questionable. It would be an inefficient and artificial layout if it was intended to create wide gaps through the scheme without buildings visible behind. That would be almost impossible in any event, and would lose all purpose as soon as one were about 30 degrees off the axis of the grid or gaps – the effect would be a poorly articulated mass of oblique views, rather than a properly designed set of facades addressing the east. As the inquiry has heard repeatedly, there would in fact only be a limited set of clear views of the appeal scheme from the east. If one adds to that the ineffectiveness of gaps as a way of articulating an urban area, the weakness of the whole idea becomes clear, something to some extent illustrated by the view cones in Ms de Boom's Figure 3. Even if there were wider gaps between S06 and S07, the image shows how few of the views one would be able to capture anyway. This was a further example of the Council's case not grappling with the challenges of masterplanning with anything like the necessary rigour.

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<sup>33</sup> In answer to the Inspector's question.

45. By contrast, the masterplan and Mr Willis' detailed design of the proposed S06 and S07 (and indeed the mobility hub, about which no complaint is made by the Council) is a much better design solution:

- (1) It is designed as a principal elevation rather than a side or back;
- (2) The buildings were the subject of detailed iteration and assessment<sup>34</sup> involving the testing of differing heights and articulation, as well as materiality options;
- (3) The buildings are not set hard against the railway edge but are set back 16-18m from it<sup>35</sup>;
- (4) There is a well-considered planting scheme proposed which would filter the buildings with groups of trees of differing heights, rising to London Planes which would soften the views of the built form in longer distance views. Mr Myers gave evidence that the tree planting had sufficient room to grow and mature; this may include careful crown reduction when the trees begin to reach maturity – a sight common in many urban areas including Cambridge;
- (5) The buildings are articulated in section – the fact that one will be able to see this from the limited distant views is shown in the images<sup>36</sup>. So whilst distance will inevitably mean that not all of the details of the eastern elevation would be seen, from the towpath/PROW by the Cam, the images show that a significant proportion would be effective at articulating the building even from there – mention was particularly made of the materiality and the greening sections of the upper storeys. Views will also show the shadowing of the inset areas and the roads through into the scheme, and there is a chance that the bronze tone of the flank elevations will also be perceptible in the handful of relevant views.

46. It is therefore inaccurate to say that the perception, from the limited viewpoints to the east, would be of a “wall” (ie a large imperforate structure), or to allege that the transition to the distant countryside would be “abrupt”. The site is too far away from those views, with too much existing and proposed intervening vegetation (and built form in some cases) to be abrupt. It does not need – indeed it would be inimical to good masterplanning and simply hadn't been thought through to insert - a 30m strategic landscape tree buffer along that edge or try to mimic utilitarian railway cutting landscape, as Mr Wakefield ventured to suggest.

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<sup>34</sup> See Appendix 4 to the Design Rebuttal.

<sup>35</sup> See Mr Ludewig's proof Figure 99, page 81.

<sup>36</sup> For instance, the rendered final scheme in Appendix 4 of the Rebuttal on Design.

47. In some views the eastern elevations of S06 and S07 will be visible, and in very few indeed perhaps could it properly be described as ‘prominent’ – probably only Node viewpoint 21 (Node viewpoints 1, 2, 3 and Bidwells’ view 8 are all too far away and/or oblique). But prominence is not the same as harm, as Ms Bradley said. Mr Ludewig’s evidence<sup>37</sup> puts the point well:

*“... a significant new urban quarter of Cambridge should not ‘blend into’ the neighbouring caravan park, allotments or NR maintenance yard. It should stand as the beginning of a proud new city quarter. An extension for Cambridge through a whole new city quarter as envisaged in the AAP should be done with careful consideration but also with confidence, in the spirit of the traditional Cambridge townscape, which never sought to disappear, but created a varied set of facades defining a clear edge to the city.”*

48. In some views, parts of buildings S04 and S09 will be visible over the top of S06-S07. The eye is able to discern that the layered effect is comprised of separate buildings. This is (as Ms de Boom acknowledged) normal in an urban setting. More distant elements are different (S04) or can be different (the outline buildings) in materiality from S06-S07, which would help the articulation of the overall urban form, and the effect would vary the skyline seen in some limited views from the east. This would be positive.

49. In summary, the scheme as seen from the east would strike the contextual balance appropriately, bearing all of the key objectives in mind.

#### *Wild Park and the north*

50. The final key point going to design is that the northern part of the scheme contains a rare resource – a large space around a (permanent) water body which will offer recreation and play opportunities as well as another, less formal, breathing space in the new urban quarter.

51. No criticism is made of the quality of the Wild Park. Mr Myers described the concept, which enables the space, and the open mosaic habitat (which is a valuable transitory habitat which is created and sustained by disturbance) to be incorporated into the scheme to aid the creation a unique sense of place<sup>38</sup>.

52. Some critique was given by Ms de Boom about the relationship between the Wild Park and (outline) building S09, but it was misplaced. She recognised that the building has been designed

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<sup>37</sup> Paragraph 6.6.5., page 79.

<sup>38</sup> The Inspector also has a detailed note about the way the existing uses to the north of the Wild Park area function and are controlled so as not to impact on the quality of the Wild Park: ID 1.19.

in parameter (and with detailed surrounding landscape) to encourage ground floor connections with the Wild Park, which will not be walled or gated off. The building will be close enough to provide a degree of surveillance of the southern areas of the Wild Park and it will be an attractive resource to those working in the building as well as others.

53. The main point raised was the distance (or perceived separation) of the Wild Park from Chesterton Gardens, but there is nothing really in this point. The Wild Park is close to the residential; it all lies comfortably within the walk distance set out in the Council's own SPD and does not involve crossing any busy roads or doing so without proper infrastructure (the crossing of Milton Avenue designed in a straight line to the Wild Park will be signal controlled). The Park will be perceived as close by and readily accessible.

*Other design points*

54. I deal very briefly in these submissions with the handful of other design points raised by Ms de Boom and Mr Wakefield, as they fall into the category of what the Council rather euphemistically began to call 'non fundamental' in Ms Bradley's evidence towards the end of the inquiry. Some were described as "niggles" by Ms de Boom. They do not amount even taken together to any form of objection on design.
55. There is no point taken any more on cycle connectivity (all the routes and entrances are well designed as a scheme priority), or double cycle racks – the County supports their inclusion. They would be privately managed rather than public and these days the design is not off putting (indeed the most expensive bikes are usually found stowed away at the higher level).
56. There is ample flexibility to ensure a low proportion of single aspect apartments, let alone north-facing units, and this is a matter for the detailed stage of Chesterton Gardens. The rebuttal gave examples of how this can be done within the parameter, recognising that the final detailed scheme might well contain fewer units than the "up to 425" in the application as these details are worked out.
57. A point was maintained about the character of Chesterton Way and the design/landscaping of that side of building S04, but this is really in the nature of a Design Review Panel critique rather than a planning objection:

- (1) Chesterton Way is a major high speed cycle route and the route of the guided bus.

- (2) It has a very strong landscaped side to the west which (as Mr Myers said) lies extensively within the red line and will be improved (through ‘scallop’ and ecological enhancement); it is not therefore like the other streets.
- (3) Users (including residents) of the site may use it to get to the station by the quickest route if that is their preference (though to describe them as “lazy” as Ms de Boom did was a little disobliging of her; “busy” might have been better).
- (4) It does not have to be activated along its length and it is not poor design for there to be some service uses (the sub station, the car lift, fire egress, etc) at the ground floor of S04 on this façade or for there not to be formal planting. That is about function and variety, and is not “inconsistent”<sup>39</sup>. The large windows into the ‘end of trip’ cycle area at the ground floor of S04 would be quite active as one passes in any event.
- (5) But the main desire line for residents of Chesterton Gardens will be across Milton Walk and through the cut-through in S04 designed to pick up on that route<sup>40</sup>. It is arguably just as quick to the station entrance that way in any event.

58. Mr Wakefield’s landscape design criticisms are without any merit<sup>41</sup>. It is questionable whether he had read with any attention, the Robert Myers landscape strategy document submitted with the application<sup>42</sup>; had he, it is really inconceivable that he would have suggested that the landscape design was “generic”<sup>43</sup>. Mr Myers describes how he has tried to combine the layout of the spaces, the planting, the reuse of what little railway track lengths there are left on the site, the abstract reflection of tracks in paving to suggest the connections with the past, and the creative tension between the formality of the new urban quarter buildings and the artfully ‘rough’ planting (in places “mimic open mosaic habitat”); these all speak clearly of the care and thought that has gone into the landscape design. Mr Wakefield’s points about labelling the spaces, and spaces being overshadowed, were without any merit and have been dropped<sup>44</sup>.

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<sup>39</sup> Ms de Boom, page 33 Figure 19.

<sup>40</sup> See the Parameter Plan 08.

<sup>41</sup> His main point on landscape design which went to the central issue between the parties was his view that the scheme lacked a “substantial landscape buffer to the East” (paragraph 8.11) – as submitted above, this is an ill-thought out meaninglessly generic idea which suffers from the very failing of which he accuses the scheme.

<sup>42</sup> CD 1.62b. In re-examination, Mr Wakefield was asked to confirm that he had read the document, but if he did, he did not pay sufficient attention to it.

<sup>43</sup> Mr Wakefield’s paragraph 8.4.

<sup>44</sup> Mr Wakefield had not read the sunlight/daylight report (CD1.45 page 10 Table 3) and so criticised the scheme’s open space sunlighting from a position of ignorance; Chesterton Square would have 77% sun on the ground in March, well above the BRE test.

59. In conclusion, the scheme would be high quality design in line with HQ1 and the design part of SS/4 of the Local Plan and the guidance in both the NPPF (especially the list at paragraph 130) and the National Design Guide. Given the aspirations for the creation of the area, the Acme/Make proposals would amply satisfy the Council's desire for a high quality new urban area, which as Ms de Boom accepted, should be seen as such from inside and out. Great weight should be given to this benefit in the planning balance as Mr Derbyshire suggests.

## **Landscape and visual effects**

### *Landscape receptors*

60. The site lies in the urban area<sup>45</sup>. In fact it lies well inside the urban area, with the area of residential and commercial/industrial uses west of Fen Road between it and the Cam River Valley.

61. The relevant areas to consider for landscape impact are: the Cam River Valley (Area 9A<sup>46</sup>), area 6A (which includes Fen Ditton), and the residential area<sup>47</sup>. The 'Cambridge skyline' is not really an identifiable character area ("more a characteristic" as Mr Smith put it). Mr Smith identified the most recent Landscape Character Assessment by Chris Blandford Associates as the most useful and up to date character study, but regard should also be had to a limited degree to the NCA 88.

62. The differences between Mr Wakefield and Mr Smith are agreed to be accurately summarised<sup>48</sup> in Mr Smith's table<sup>49</sup>. Emphasis was placed in cross examination of Mr Smith on the judgemental nature of these issues; however, there are clear indicators that Mr Wakefield's judgements are flawed. As Mr Derbyshire put it, "not all judgements are equal".

63. In terms of method and approach:

(1) Mr Wakefield confirmed that he took no issue with the methodology used by Bidwells when carrying out the LVIA, or by Mr Smith when producing his own assessment.

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<sup>45</sup> See Map 8 as reproduced in Mr Wakefield's Appendices page 6.

<sup>46</sup> Ibid.

<sup>47</sup> That is defined in the Inner Green Belt Study, CD5.27 – it embraces Chesterton to the west and south of the site.

<sup>48</sup> Subject to two minor amendments made to his own column by Mr Wakefield which are of limited importance.

<sup>49</sup> Rebuttal on Landscape, page 18ff.

- (2) He also made it clear he took no issue with the accuracy of the visualisations prepared, including the wire lines produced by Mr Smith in his rebuttal.
- (3) Mr Wakefield, however, revealed that he saw the purpose of LVIA as focussing on the worst case<sup>50</sup>. This is not a true reflection of the guidance in GLVIA3, and ran like a fault-line through Mr Wakefield's evidence, which as a result tended to overstate the degree of landscape impact.
- (4) There is something ironic in the Council's case on approach to this subject: Ms Bradley suggested that it might have been 'better' if they had the LVIA in a near-final form before the application was submitted, as if in some way the approach to LVIA and how it informed the design was somehow rushed or partial. Actually, as she acknowledged, there were 10 months of detailed work before the application was submitted, which involved close collaboration between the Appellant's team on landscape, visual and heritage matters and the Council. Views were agreed, and tested as part of the iterative development of the scheme<sup>51</sup>. These used accurate modelling of mass and height in Vu City and led to changes to built form, landscaping and materials.
- (5) The irony comes when one considers that by contrast, Mr Wakefield was appointed at some point in April 2023, accepted the role as landscape witness without having visited the site (he accepted that "ideally" he would have done, but it goes a bit further than that). He told Mr Smith on 21 April 2023 that he had only just visited the site and had not yet reached a view on landscape matters; then his evidence followed within a fortnight. With due respect to Mr Wakefield, the overstatements in his evidence, lack of attention to detail, and erroneous focus on the 'worst case' is consistent with a lack of time afforded to him, and a want of thoroughness on his part. It leaves a feeling that his evidence is part of an appeal defence rather than the kind of full and dispassionate assessment.
- (6) Mr Wakefield wished there to be a landscape buffer (when pressed he accepted that what he had in mind was a substantial depth of tree planting) on the eastern edge. He criticised the scheme on the basis that it was not "screened"<sup>52</sup>. His idea about what would be appropriate in terms of an interface appeared to be one in which the built form, if not totally screened off, would certainly not be prominent in any view. His approach differed from

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<sup>50</sup> In XX.

<sup>51</sup> See again Appendix 4 of the Landscape Rebuttal, as well as the DAS.

<sup>52</sup> Mr Wakefield paragraph 7.89, page 68.

that of Ms Bradley and seems to have coloured his views about both sensitivity of landscape receptors and magnitude of change.

- (7) Mr Wakefield's methodology<sup>53</sup> uses the "high" category of susceptibility to mean<sup>54</sup> a landscape with a strong structure, a high degree of enclosure or intimacy, few detracting features, and of which typical examples might be of national, regional or local importance.
- (8) the "high" category of magnitude in Mr Wakefield's methodology is said to mean "total loss of key landscape characteristics" and "medium" to mean "moderate alteration to key landscape characteristics". Those definitions ought to be borne in mind when assessing his ascribed magnitudes of change as a result of the appeal proposals, bearing in mind that he accepted that the scheme would cause no direct landscape impact, but just indirect effects on visual aspects of character caused by development outside the character areas (to the east).

#### *The Cam River Valley*

64. Mr Smith described this as a valued landscape on the basis of the river, social and recreational characteristics. It is not however a designated landscape, nor is it wild, tranquil or free from lighting<sup>55</sup>. On that basis Mr Smith gives it a sensitivity of High/Medium. Mr Wakefield, however, gives the character area a straight "High" sensitivity rating.
65. The difficulty with that judgement is that it is based on a "high" susceptibility rating, but this is not a landscape such as that described in that category of Mr Wakefield's methodology. It does not have a high level of enclosure or intimacy, it does not have just a few detracting features, and is not of national or regional significance as landscape<sup>56</sup>. Rather, it is a landscape characterised by the River Cam and surrounding floodplain meadows, all of which are heavily used by the residents of the urban area because the Cam corridor lies within and next to the City. Mr Wakefield's evidence acknowledges<sup>57</sup> the built form is a "key characteristic" of the character area, and a "distinctive feature" within it<sup>58</sup>.

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<sup>53</sup> See his Appendices pages 41-47.

<sup>54</sup> Ibid page 43 Table 10.3.

<sup>55</sup> See site visit and Mr Smith page 45 on lighting.

<sup>56</sup> Mr Wakefield's method ascribes only medium susceptibility to landscapes of district or local importance, such as the Cam River valley around this part of Cambridge.

<sup>57</sup> Paragraph 5.71 page 40 and 5.69 page 39.

<sup>58</sup> The inescapability of the urban edge will have been experienced on the site visit but as a reminder, see Mr Wakefield's photographs 1-3.

66. This was something that Mr Wakefield found hard to reconcile with his judgements because it clearly indicates that he had over-played the sensitivity of the Cam River Valley. Whilst he was constrained to accept that the Novotel and One Cambridge Square are identifiable incidents within the general key characteristic of visible urban edge, his position appeared to be that they should not have been given permission and that they increased, rather than decreased, the sensitivity of the landscape receptor. They are simply the first phase of the new urban quarter that the Council wishes to see on this edge of the city, consistent with a key characteristic of this transitional landscape area, and should be assessed dispassionately<sup>59</sup>. His reaction to the presence of science buildings in areas around the fringes of Cambridge was similar: they were “modern”, he said, and therefore harmful. That curious approach does not seem to bear much relationship to the strategic approach of the Council to its global role in the knowledge economy.
67. So Mr Wakefield has pitched the sensitivity too high. He has also reached the wrong conclusion on magnitude of effect – ‘Medium/High’. By his definition<sup>60</sup>, ‘high’ means “total loss of key landscape characteristics”, and to label the indirect effects of the scheme, visible in relatively few distant views in any sense as ‘high’ is without doubt, as Mr Smith said, an overstatement.
68. Finally, Mr Wakefield accepted that the exercise here should include a judgement as to the geographical extent of visual effects, and as to whether the views that would be available of the appeal proposals would change the relationship between the Cam River Corridor and the city. However, it was clear from Mr Wakefield’s evidence that he had not properly weighed that there would only be (1) “clusters”<sup>61</sup> of (2) “glimpsed”<sup>62</sup> (3) distant<sup>63</sup> views available from the character area, which (4) already has, as a “key characteristic”, views of the urban edge – because we are in the “rural/urban fringe”<sup>64</sup>. The geographical extent of the views would be limited because they would form (even in winter) a small part of the overall visual experience in the character area, and there would be no change in the relationship between city and landscape, just a relatively small change in degree to which one of the key characteristics was visually present.

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<sup>59</sup> Not as “alien” intrusions landed upon the earth as Mr Wakefield unguardedly called them.

<sup>60</sup> Mr Wakefield Appendices page 44, Table 10.5.

<sup>61</sup> See the Node photolocation plan at Mr Wakefield’s Appendices, page 12 and the XX about the clusters at (a) points 1-3, points 21-23, and points 18-19; the views at 4-8 are partial at very best.

<sup>62</sup> Mr Wakefield in XC and XX confirmed.

<sup>63</sup> In XC.

<sup>64</sup> Mr Wakefield paragraph 6.38.

### *Cambridge skyline*

69. Mr Wakefield accepted that the appeal scheme would have no effect on the historic skyline of Cambridge, and that, consistent with the published assessment of important views by the City Council in support of its protection policy<sup>65</sup>, no important view would be harmed. There would be no breach of the City Council’s Policy 60.
70. There is in fact no readily identifiable or distinctive skyline in the vicinity of the site<sup>66</sup>. It is variously made up of residential and commercial buildings, including the hotel and earlier offices on the Science Park. Mr Wakefield places perhaps too much weight on the very small role played in a handful of views by St George’s Church, Chesterton, nearly 2 kilometres from views on the east of the Cam. It is very hard to see it in the agreed or Node views, and if glimpsed, it plays an incidental role rather than being the focus for a more grandiose “skyline”.
71. St Mary’s Fen Ditton is barely visible even in winter and is not a view of Cambridge anyway<sup>67</sup>.
72. Of course, there would be a notable change to the skyline where the appeal scheme would appear, but again, to say that it would be “major/moderate adverse”<sup>68</sup> (when major adverse equates to “total loss of the key landscape characteristics”) is indefensible. Mr Smith’s “moderate/neutral”<sup>69</sup> is to be preferred.

### *Residential area*

73. Mr Wakefield says the effect on this area is “Moderate/Major Adverse”<sup>70</sup>, which is again a huge overstatement. In cross examination it became clear that he had just focused on what he considered to be the “worst case” effect from the bungalow end of Discovery Way – but even that is an urban landscape characterised in the baseline condition by middle distance views of One Cambridge Square. If one applies GLVIA3 properly and assesses the effect on the character area, one must (as Mr Wakefield accepted) have regard to

- (1) the fact that for much of the area, the appeal scheme would be invisible due to intervening built form;

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<sup>65</sup> See CD 5.26, pages 14-15.

<sup>66</sup> See Mr Wakefield’s images at his Appendix pages 14, 22, 23 and 24 (the last one being the Plough PH).

<sup>67</sup> See Mr Wakefield’s Appendix page 12 (viewpoint 11 equivalent).

<sup>68</sup> Mr Wakefield page 48.

<sup>69</sup> See page 55 of Mr Smith, paragraph 216.

<sup>70</sup> See his page 48.

(2) For streets like Fairham Road and Bourne Road<sup>71</sup>, the appeal scheme would be visible next to One Cambridge Square which is prominent in those views; and

(3) For Discovery Way, much of the street features 3 storey townhouses which occlude the view of the site or feature much more prominently in the immediate views.

74. For these reasons, Mr Smith's evidence as to a reasonably low level of landscape harm to the relevant receptors should clearly be preferred and Mr Wakefield's rejected.

#### *Visual receptors*

75. There is a large overlap with the landscape points because the only impact is visual. Mr Wakefield has overstated the impacts on the views and this has led him to proffer some dubious suggestions for how the appeal scheme should have been designed - for instance, what I put to him as the grotesquely disproportionate idea that the scheme should have been designed with view corridors cut through it to two churches (Fen Ditton and St George's Chesterton) which would be barely visible at the end of them.

76. Since this is best judged on site, I simply summarise the key problems with Mr Wakefield's assessment and by contrast Mr Smith's findings:

(1) Mr Wakefield's Node Viewpoint 19 (Fen Rivers PROW<sup>72</sup>) which lies some 1000-1100m from the site, is said to be of High Sensitivity and to experience a "High" magnitude of change<sup>73</sup>. Mr Smith has assessed that view by using the agreed wireline (CN-068). That shows the view to be a glimpsed view through a gap in the hedge, not a continuous stretch of open view, and, even then, the size and scale of the appeal scheme as it appears in the view would be small. Mr Wakefield accepted that it would "not be very great". One is already aware of built forms in this view through the hedge (indeed, urban forms – the hotel and One Cambridge Square – at height). There is no defensible basis for a finding of a high magnitude of change, or a "significant deterioration"<sup>74</sup>.

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<sup>71</sup> See Mr Wakefield's Appendix pages 17 and 18.

<sup>72</sup> Page 23 of Mr Wakefield's Appendix.

<sup>73</sup> See Mr Wakefield page 65.

<sup>74</sup> Ibid page 47.

- (2) Mr Wakefield's Node viewpoints 1-3<sup>75</sup> have a foreground dominated by the River Cam. In the middle distance one can see the development on Fen Road (ie urban or suburban edge of Cambridge). In the distance, large urban structures can be made out. Mr Smith's wirelines<sup>76</sup> show how limited the additional urbanisation would be. Mr Wakefield's "medium" magnitude, leading to a moderate/major adverse effect on views is exaggerated given the small degree of alteration.
- (3) Mr Wakefield's view point 21<sup>77</sup> is accepted by Mr Smith to experience a significant change due to the clarity of the view and to be major/moderate adverse<sup>78</sup>. However, it is a view which clearly features existing urban forms, and would not change the fundamental relationship between the area next to the river being enjoyed on the right of way, and the city edge on the horizon in the middle/long distance.
- (4) Mr Wakefield's viewpoints 22-23 are from a private viewpoint, at the Plough PH. The Council did not judge that this was a view that should be included in the LVIA for the application, and since that was the view of the competent authority, its exclusion by Bidwells was in accordance with the advice in paragraph 6.17 of GLVIA3. As Mr Smith said, given that this is a private viewpoint<sup>79</sup> the sensitivity is less than a properly public one. There would be a noticeable increase in degree of perception of the built form on the site from the pub garden, but there is already a clear perception of modern urban city buildings; in addition, the very strong primary relationship, between the pub viewpoints and the Cam (including its recreational activities, and the towpath/fringe vegetation) would not be affected and would remain a dominant visual relationship. Mr Wakefield's ascription of a 'high' magnitude of change and 'major adverse' impact equates on his methodology<sup>80</sup> to the highest possible magnitude of change to a view, and a "significant deterioration" in the view. Both are overstatements.
- (5) Finally, from Bidwells' view point 6 and Node view 20 (above Green End in Fen Ditton). The Bidwells' LVIA finds a major adverse effect on this view but Mr Smith finds it to be medium adverse, due to the relatively small proportion of the view that would be affected<sup>81</sup>.

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<sup>75</sup> See locations at Mr Wakefield's Appendix page 12, and the views at the following pages 14-15.

<sup>76</sup> CN 056 and 058 in the rebuttal.

<sup>77</sup> Appendix page 24.

<sup>78</sup> See Mr Smith landscape rebuttal, page 13 – he finds a major/moderate adverse effect here, but notes (paragraph 42, page 11) that the view is only available when the willow is cut right back as when the Node image was taken; clearly this will fluctuate over time. See his rebuttal paragraphs 19-20, pages 7-8, and Plate XII showing regrowth of the trees and shrubs already since the Node images were taken.

<sup>79</sup> The point put to Mr Smith about people working at the pub did not advance matters because, as he said, they are less sensitive due to the fact they are working, and not there for recreation.

<sup>80</sup> See Appendix page 47, both tables.

<sup>81</sup> See Mr Smith, proof pages 63-64.

77. Mr Wakefield had not assessed any impact on the openness of the Green Belt due to further urbanisation in the views, a conclusion that Ms Bradley shared. It is of some note that where there are views, they all lie in the Green Belt<sup>82</sup>, and yet the Council does not suggest that the visual openness of the Green Belt is affected at all. This is a different but related question to pure visual effects, but gives one a perhaps more realistic overall sense of the limited nature of the visual impacts.
78. The degree to which the evidence of Mr Wakefield was overstated in respect of harm is relevant to the balancing exercise that Ms Bradley carries out, as she identified she had not changed her view at all despite hearing Mr Wakefield's evidence tested.
79. As Mr Smith concludes, the overall level of landscape and visual harm due to the proposal is low. There would be a minor level of non-compliance with paragraph 174 of the NPPF in relation to the valued landscape, and a minor degree of non compliance with local policies dealing with landscape and visual issues.

### **Heritage**

80. There is a direct connection between the visual effects and the heritage impact, because as Mr Brady recognised, the impacts on the two affected assets (the Fen Ditton CA and the Riverside and Stourbridge Common CA) are purely indirect visual effects arising from changes to the assets' settings.
81. Setting changes need to be handled with care, giving due weight to the HE guidance<sup>83</sup> to the effect that setting is not itself a heritage asset. There are two key areas of judgement from which spring the dispute between Dr Burgess and Mr Brady: the contribution of setting to significance, and the effect of the change on that contribution (GPA3 steps 3 and 4). But in both cases, the reason Mr Brady has pitched his assessment too high is a failure to look at all the relevant points rather than focus just on one.

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<sup>82</sup> See Mr Wakefield's Appendix page 7 for Green Belt location.

<sup>83</sup> GPA3 (CD5.24) paragraph 9.

*Riverside and Stourbridge Common CA*

82. There is really very little effect on this CA. It lies almost entirely in urban Cambridge<sup>84</sup> and only in its north easterly section (part of Ditton Meadows) does it contain some more rural elements, though there is no connection physically or visually with open countryside. There is an almost constant visual presence of the city edge throughout.
83. The significance of the CA lies partly in the history of Stourbridge Common and its medieval fairs, partly due to its relationship with Cambridge and the Cam. The CA appraisal notes the backcloth of trees through which the city can be seen. There is some rurality and it does contribute to significance, but it is attenuated by the use of the area for urban fringe recreation, almost municipal footpaths and bridges, and views of buildings.
84. Very little would change. Mr Brady does not suggest any changes in views from Stourbridge Common itself<sup>85</sup>. The angle towards the site is too oblique and there is too much foreground vegetation, and built form (including the way in slightly more north-eastern views, the Novotel and One Cambridge Square align to block any real views of the appeal scheme).
85. From the Ditton Meadows part of this CA, there would be no prominent change in the views from near the river (eg Node views 1-3<sup>86</sup>). The component of rurality would hardly be affected at all, hence why Dr Burgess ascribes the lowest level of Less than Substantial Harm, to recognise that degree of change. Mr Brady considers that the change would be greater, but that view is hampered by the sheer lack of views and the existing baseline (which is part of the character of the area too – the fact it’s an area of open land on the edge of the city).

*Fen Ditton CA*

86. There is agreement, largely about what comprises the significance of the CA: as the appraisal<sup>87</sup> sets out:
- (1) There is a clear focal point in the village: the group comprised of the Church, old Rectory, War Memorial and mature trees<sup>88</sup>.

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<sup>84</sup> See the CA Appraisal, CD 5.08. paragraph 3.2. The appraisal is dated 2012.

<sup>85</sup> See Mr Wakefield’s viewpoint6 (locator at page 12 of Appendix, picture at page 16). Compare Mr Brady at paragraph 8.9.

<sup>86</sup> See the XX of Mr Wakefield on these views and Mr Smith’s CN-060.

<sup>87</sup> CD 5.07.

<sup>88</sup> Ibid paragraph 3.4.

- (2) The good buildings and fine townscape of the village, which are of exceptional quality<sup>89</sup>.
- (3) The relationship with the Cam – both visual across the meadow to the river, cultural (the Bumps course) and historic, bearing in mind the wharves and trade in the past<sup>90</sup>.
- (4) Some identified views through the built form to the river and the meadows on the east side of the river<sup>91</sup>.
- (5) The views of the urban fringe of Cambridge<sup>92</sup>.

87. Mr Brady’s evidence is consistent with there being a certain rural element to some of the places and views in the CA, but also with the overall structuring relationship between this area and the city. Indeed, he describes the entire area of both CAs as a “transition” from the city to the country; he notes how “well used” the area is for recreation by residents of Cambridge<sup>93</sup>, and notes the presence in views of the Novotel and One Cambridge Square<sup>94</sup>.

88. Notwithstanding those points, Mr Brady’s analysis dwelt rather disproportionately on the idea of the CA as rural, rather than having a mix of characteristics, including a clear relationship with the city. His description of the area as having wild and tranquil character is a symptom of the underlying issue – it is neither wild nor particularly tranquil (“well used” etc).

89. When it comes to judging effect, Mr Brady says it would be ‘moderate’ Less than Substantial and clarified that meant half-way between no harm and significant harm to the significance of the CA. Given that there would be no direct impact and most of what makes Fen Ditton special would not be affected at all, that immediately seems to be an exaggeration.

90. Mr Brady acknowledged that the effects on the CA would be in a limited (his own word<sup>95</sup>) clustered set of glimpsed distant views (he did not differ from Mr Wakefield on this). He fairly accepted that where the urban edge appears clearly now (eg in view 8 above Fen Ditton –

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<sup>89</sup> Ibid paragraph 3.3.

<sup>90</sup> Ibid section 8, Key Characteristics.

<sup>91</sup> Ibid Section 8 and views in the diagram.

<sup>92</sup> Ibid paragraphs 7.61 and 7.62.

<sup>93</sup> Mr Brady’s paragraph 4.3.

<sup>94</sup> These obviously post-date the CA Appraisal; but see Mr Brady’s 8.7.

<sup>95</sup> See Mr Brady’s 8.10 and 8.13.

probably just on the edge of the CA though not clear), the change “could be small” in terms of the balance of city views and rurality<sup>96</sup>.

91. Similarly, although he maintained that limited change would affect what he described as “components” of “fundamental importance”, it is difficult to square that with the agreements on the current visual relationship with the city. The key to this is probably as Dr Burgess said, that visibility of the city does not entail more serious harm here because it is an indirect impact which would nonetheless preserve the clear understanding one currently has of the *distinction* between the urban edge and the CA. Mr Brady accepted that with the scheme in place one would still be able to tell clearly (due to distance, intervening features such as the Cam and urban fringe development) that the appeal proposals were something quite distinct from the CA. They would have very little impact on one’s ability to understand and appreciate the significance of the CA; the very low level of harm stems from the fact that there would be a small change in degree of urbanisation in the views, rather than anything fundamental.
92. That is why, on a close analysis, the view expressed in writing by Historic England is to be given limited weight. It is obviously not the case that the additional degree of urbanisation in a few views would “profoundly change the character” of the CA in Fen Ditton, and although officers in HE appear to have made a site visit, one wonders what visualisation or other material they were looking at. The view of HE should be given limited weight having considered the evidence and undertaken a detailed site visit with proper visualisation material available<sup>97</sup>.
93. Dr Burgess’ overall view of degree of harm is to be preferred as much more aligned with the degree of change and the role of the rural/urban balance in Fen Ditton. His approach to the future of the NECAAP area is also right – it does not feature in his assessment of the particular harm that this scheme would cause, but it is reasonable to bear in mind as a material consideration that the site and wider area is intended to be a dense new city quarter, and there will be additional urbanisation to some degree come what may. Mr Smith, it will be recalled, also reasonably bears that in mind.

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<sup>96</sup> That concession removes the need to go into the implications of Mr Brady’s use of the expression “thumping great” when describing the scheme in these distant views.

<sup>97</sup> If there are reasons not to follow HE judgements in a particular case, a decision maker is not obliged to attach a large degree of weight to those judgements just because they are expressed by HE – especially when they have not been present to explain and defend those views.

## Comprehensiveness

94. The supporting text to Local Plan Policy SS4 indicates that schemes may come forward in advance of the AAP if they are acceptable on their merits and do not harm the wider comprehensive development of the NECAAP area. The Council (supported by the County Council) now agrees that the appeal scheme is acceptable in this regard due to the agreement over strategic transport contributions.

95. Mr Bodkin, for the owners of the core site (sewage works and neighbouring land) expresses concern<sup>98</sup> over what he sees as the undersupply of homes on the site, amount of proposed Build to Rent in the scheme and transport. Little weight can be given to his concerns:

(1) There is no policy stipulation about the number of homes to be built on the appeal site, or their tenure. The Council drove the addition of residential to the appeal scheme, and support with a considerable degree of weight the housing benefit it will bring.

(2) Mr Bodkin refers to the numbers found in the AAP evidence base Typology document<sup>99</sup> but no weight can be given to them, since they are not based on policy decisions about the disposition of uses and quanta across the NECAAP area and have not been the subject of testing. As Mr Derbyshire said, there serious problems evident within the figures, such as the idea that an employment led area in the most sustainable site in Cambridge for such a use should only provide another 23,500 sqm of commercial floorspace, ie, the equivalent to just over twice the floorspace at One Cambridge Square. That would be a flagrant under-utilisation of the site and a failure to optimise its benefits in line with the NPPF.

(3) As he accepted when he attended the inquiry, Mr Bodkin is in no position to claim that the appeal scheme (or any of its aspects – BTR, transport contributions or whatever) might be inimical to the Core Site or the rest of the AAP. The Core Site is years away from making its application(s) and perhaps 5 years away from producing a single house, on Mr Bodkin's evidence. He acknowledged the difficulty of attaching weight to a viability argument in circumstances where there is no scheme in existence, and no viability appraisal on which to form any such judgement. The Councils evidently disagree with his points as they form no part of their position on the appeal.

96. In fact, the agreed position, in terms of the right uses being proposed for the right site, is that the appeal scheme will be a catalyst for the rest of the AAP. It will physically join them up to

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<sup>98</sup> ID 1.11.

<sup>99</sup> CD 5.33.

the station, and provide a first-class mixed use neighbourhood, packed with life (and Life Sciences). The master plan, as Mr Ludewig stressed, was developed with an eye always to the wider AAP, and it is a considerable benefit of the scheme that it sets the standard for later phases in placemaking terms.

### **Technical points now resolved**

97. The Inspector and Secretary of State are directed to the Updated Statement of Common Ground<sup>100</sup> for a full summary of the points raised in the putative reasons for refusal that have now been agreed: comprehensiveness, ecology, trees, safeguarded sites, environmental considerations and the section 106 points.

### **Water Supply and quality**

#### *The development plan*

98. It is agreed (between the Appellant, the Council and the EA) that the appeal proposals comply with Policy CC4 of the Local Plan<sup>101</sup>, which is a specific policy aimed at the improvement of water efficiency in new developments; it sets a requirement for water consumption per person of 110 litres per day based on the objective to reduce the overall amount of water abstraction in the Council area<sup>102</sup>. The proposals will comfortably exceed that target, at 89 litres per day for the residential units.
99. The Council also confirms<sup>103</sup> that the proposals would comply with Local Plan Policy CC7. That policy relates to water quality and provides that “all development proposals must demonstrate” three things: (a) that there are adequate water and sewerage systems to service the development; (b) that “the quality of ground, surface or water bodies will not be harmed”, and (c) that appropriate consideration is given to pollution.
100. The first criterion is met: there is no issue here with systems to supply the water, and Cambridge Water have confirmed this. The third criterion – pollution – is also not an issue.

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<sup>100</sup> CD 6.11.

<sup>101</sup> CD5.00 pdf page 104.

<sup>102</sup> Ibid paragraph 4.21.

<sup>103</sup> 23 May Position Statement, CD9.12 page 2; Ms Bradley XX.

That leaves the second criterion; the Council say that this would be met. It is a policy requirement that applies to the effects of the ‘development’, rather than requiring any wider cumulative or strategic assessment, as Ms Bradley confirmed<sup>104</sup>. The EA’s representation (made for the first time at the Round Table discussion) was that the policy encompassed much wider cumulative assessments of harm, but that is not how the Council reads it and must be incorrect as it would require developments to demonstrate no harm to water quality regardless of any causative link or indeed regardless of what actually might cause harm.

101. In relation to water supply and water quality, therefore, the appeal proposals comply with the policies of the development plan.

*The EA’s objection*

102. The EA’s objection falls into the category of ‘material considerations’ for the purposes of s.38(6) of the 2004 Act. As explained by the EA in writing and at its appearance during the inquiry, it comprises the following main points: (1) the current situation in the Cambridge Water area is an exception to the general principle that water supply issues are not matters for the determination of individual planning applications, (2) that is because there has been a ‘material change in circumstances’ since the 2018 Local Plan and (3) that on the basis of its assessment of the evidence, the EA is not confident that Cambridge Water will be able (through its Water Resource Management Plan (“WRMP”)) to deliver a supply of water sufficient to meet the needs of Greater Cambridge without affecting the environmental quality of groundwater and therefore environmental quality of waterbodies.

103. The Appellant accepts that the fact that the EA currently objects to the scheme is a material consideration – it could not realistically be left out of account. But there are very substantial problems in giving the EA’s objection more than very limited weight in the context of the appeal<sup>105</sup>.

104. First, the principle set out in both the NPPF and the accompanying PPG guidance is that supply of water and water quality are not normally matters for individual planning applications because they are of a strategic nature. NPPF paragraph 20 says that water supply

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<sup>104</sup> In XX.

<sup>105</sup> Noting that Ms Bradley for the LPA explained her evidence in XX as meaning that she (and the LPA) gave the EA’s objection (rather than any ‘harm’) moderate weight. For the reasons set out above, that is not the correct approach here.

is a strategic matter for local plans. The PPG<sup>106</sup> echoes this, saying that “water supply would normally be addressed through authorities’ strategic policies, which can be reflected in water companies’ water resources management plans.”

105. The PPG gives examples of exceptions to this principle:

- large developments not identified in plans that are likely to require a large amount of water; and/or
- significant works required to connect the water supply; and/ or
- where a plan requires enhanced water efficiency in new developments as part of a strategy to manage water demand locally and help deliver new development.

106. None of these exceptions supports the EA case. The appeal proposals are for an allocated site and there is nothing exceptionally large about its water needs. There is no issue about physical works needed to connect to the water system. The 2018 Local Plan, in Policy CC4, requires water efficiency measures and it is agreed by all that they would be more than met by the appeal proposals. The EA’s argument is that the last of these examples equates to a much wider point about the EA’s concerns in relation to Cambridge Water’s draft WRMP 2024 – it plainly does not.

107. Furthermore, there is nothing remotely unusual about the current situation, either in Cambridgeshire or elsewhere in the country. The EA has a statutory duty to consider and approve WRMPs, and as things stand, it has not been satisfied with the Cambridge Water draft; in the end, the WMRP will be approved by the EA or approved in some form pursuant to a public inquiry; these are all aspects of the water regulatory system working as it should, not symptoms of something anomalous or unusual. The fact that the EA’s basic point is that it is not yet satisfied *with the draft WRMP* itself tells you that the issue is one for the water regulation system and not for the determination of planning applications or appeals.

108. The second reason that only limited weight should be given to the EA objection is that it is not founded on sound evidence, either (a) that the appeal proposals would give rise to a risk of harm to water bodies or their environments, or even (b) that there is a secure link generally between falling water quality and abstraction by Cambridge Water.

109. As the Round Table Session illustrated, these are quintessentially matters for the WRMP process, but it was also clear from Ms Caldwell’s evidence that one cannot use the data

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<sup>106</sup> Paragraph ID 34-016-20140306.

released by the EA (and contained in Appendix 1 to its statement to the inquiry) to support either of these propositions:

- (1) The data falls into two groups: the summary tables described<sup>107</sup> as “outcomes from WFD<sup>108</sup> Hydrological Regime Investigations” – the tables like Table 4 on page 16 of the EA’s Appendix; and modelling outputs aimed at estimating the ecological status of waterbodies in three scenarios (historical, naturalised and FL or ‘fully licensed’).
- (2) The summary tables are incomplete in relation to various element classifications, which the EA did not deny, citing resourcing and ‘legacy’ issues affecting the data.
- (3) Much more significantly though, there is no specific observed pattern of decline in the hydrological regime. In other words, in the only published assessment based on empirical data, there is no trace of the downward decline in hydrological regime, let alone one which is observably tied to the effects of groundwater abstraction by water companies. There was no substantive response to this point made by the EA at the inquiry.
- (4) Indeed, Mr Page said that (as far as the EA is concerned) the key indicator for detrimental effects caused by water abstraction was the effect on invertebrates. But in the three waterbodies where it is claimed abstraction is causing hydrological regime harm<sup>109</sup>, there is no pattern showing a decline in invertebrates. The Granta<sup>110</sup> has invertebrate criterion results from ‘Good’ rising to ‘High’. Mr Page said that an (unseen) update for 2022 showed ‘Good’ again, but that is not a pattern of decline. The River Cam (Audley End to Stapleford)<sup>111</sup> records the uniform result ‘High’ from 2013 to 2019<sup>112</sup>. The Cam (Stapleford to Hauxton Junction) is the same<sup>113</sup>. None of these three, which are the main waterbodies “where abstraction (including that from CW) is currently a contributing factor to ecological pressure”<sup>114</sup> shows any overall downward trend beyond the key invertebrate indicator.

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<sup>107</sup> See EA Appendix 1 page 15.

<sup>108</sup> Water Framework Directive.

<sup>109</sup> See paragraph 1.0.6 on page 3 of the EA’s Appendix 1.

<sup>110</sup> Page 16, Table 4 of the same document.

<sup>111</sup> See paragraph 1.0.6 as above.

<sup>112</sup> See Table 5 on page 20.

<sup>113</sup> Ibid Table 6 on page 23.

<sup>114</sup> Ibid 1.0.6 page 3.

- (5) The results which are said to show that for the future (at the ‘fully licensed scenario’) water abstraction causing ecological impact and the risk of deterioration<sup>115</sup> are not empirical data, but rely instead on a model which cannot have been validated against trends of downward hydrological indicators, because there are no such trends. The invertebrate (and other indicators) in the summary data tables for those waterbodies show no downward trends (in relation to invertebrates or in general biological quality elements) at all<sup>116</sup>. There are no data on declining flows (no gauge data is provided), and no evidence on monitored levels of groundwater declining.
- (6) There is no evidence presented by the EA which shows direct impact from any abstraction points, or evidence (as Ms Caldwell said) that shows that stopping or reducing abstraction would increase surface water flows and mitigate deterioration of ecology.
- (7) Indeed, if there were evidence of a decline, it may be due to other factors such as effluent discharge, agricultural run-off, or climate change.

110. While one may readily appreciate the challenges in data gathering and assessment that the EA faces, as Mr Page set out, that simply reinforces the doubts that one should have about the repeated assertion that water abstraction is having a measurable and negative effect on the waterbodies in the Cambridge Water area. It would be inconsistent with the evidence that the EA has provided to conclude that there was any material, let alone “strong” evidence of such an effect. The point is effectively acknowledged by NE, whose response to the Inspector includes this: “[w]hilst Natural England is gathering any available information to evidence the ecological implications of existing abstractions (and potential future increases) it is important to understand that this issue, and the seriousness of the matter in terms of its geographical extent and risks to the natural environment, has only recently come to the fore. The urgency of the situation cannot afford the time-span required to gather empirical evidence hence we need to be guided by the evidence currently available...”<sup>117</sup>.

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<sup>115</sup> Ibid 1.0.7 – including the above three watercourses but also Rhee (downstream of Wendy), Sapiston River, and Little Ouse (Hopton Common to Sapiston Confluence) and Little Ouse (Sapiston Confluence to Nun’s bridge).

<sup>116</sup> See for Rhee, Table 11 page 33; for Sapiston, Table 24 on page 60, for Little Ouse (Hopton Common), Table 26 page 64; for Little Ouse (Sapiston Confluence) Table 27 page 66.

<sup>117</sup> ID1.10 page 3/4.

111. The evidence currently available, judging by what the EA has presented to this public inquiry, is not able to support the proposition that Cambridge Water abstraction is causing, or will cause, material harm to the ecology of the waterbodies concerned. It would be disproportionate on the basis of this evidence effectively to call a halt to much needed development around Cambridge whilst the relevant statutory bodies analyse whether there is actually an issue specifically related to water abstraction<sup>118</sup>.
112. Thirdly, to come back to the more general matter of approach, the Secretary of State should take into consideration that the statutory processes are already in place and will continue to be work over the coming years. This is a principle long recognised by the Courts. In *R(An Taisce) v SSECC*<sup>119</sup>, for example, a challenge was made to the DCO consenting process for Hinkley Point C new nuclear power station. The second ground of challenge was that the Secretary of State should not have taken into account, in the context of the Planning Act 2008, of the operation of the parallel nuclear safety regime when considering whether there were any likely significant transboundary environmental effects (the challenger was the National Trust for Eire and was concerned about catastrophic events at Hinkley C affecting Ireland).
113. Upholding the consenting process, the Court of Appeal concluded that the Secretary of State was entitled to have regard to the statutory regime which dealt with design and safety issues. On the facts of that case, it was observed that it was almost the paradigm case where such regard would be appropriate<sup>120</sup>, but the instant case is equally clear. The EA and Cambridge Water are required to undertake a statutory process which ends with the adoption of a WRMP in 2024. That is how Parliament has decided that strategic water supply and quality issues are to be dealt with, and the WRMP feeds into the production of strategic plans for the area in the form (here) of the forthcoming Greater Cambridge Plan and the NEC AAP.
114. As for the statutory process working, Ms Caldwell pointed out that:
- (1) The EA has already made 12 recommendations and 7 improvements to Cambridge Water in the course of their discussions over the draft WRMP 2024, and the water company is due to make a formal response to these by the end of August 2023.

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<sup>118</sup> It was no surprise in this connection that the Council confirmed through Ms Bradley that there was no “moratorium” on granting permissions in S Cambs as a result of the EA’s concerns over the WRMP.

<sup>119</sup> [2014] EWCA Civ 1111 at [46] to [51].

<sup>120</sup> Ibid at [50].

(2) The Water Industry Strategic Environmental Requirements (“WISER”) which are written by the EA and NE set out expectations on the water companies for overall environmental performance, and that influences the content of the Water Industry National Environmental Programme (“WINEP”), a programme on a 5 yearly cycle synchronised with the production of WRMPs. We have not been provided with the WINEP contents for Cambridge Water but we do know from the EA that WINEP measures have been implemented for 2025 on the Cam, Rhee and Granta, and there will be more WINEP measures in the next cycle.

115. Again, these are all aspects of the statutory process in action at the strategic level. Whilst it may therefore put pressure on Cambridge Water and other public bodies for the EA to object to large planning applications (though not, one notes, to small ones), to give those objections anything more than limited weight would be to run counter to the structure of the water industry regulation and the clear guidance in the PPG.

116. Fourth, there is no evidence that the very small effect that the appeal proposals would have on increasing the need for water will affect either supply or quality or that the point has not been treated properly in the ES:

(1) The EA acknowledges that the scheme would, with its water efficiency measures in place, amount to just 0.22% of the total Cambridge Water demand. Without any measures in an adopted WRMP, the residential part of the scheme would represent just 1.6% of the total residential demand – but it is unrealistic to assume that there would be no measures in place.

(2) There is no evidence to suggest that the scheme would be supplied from just one abstraction point; indeed the reverse seems to be the case, ie that one cannot tell the source or sources of the scheme’s water supply.

(3) There has been no objection to the adequacy of the submitted Environmental Statement for this scheme, either from the Council<sup>121</sup> or from the EA. The latter’s suggestion that the scheme needs to be tested against the cumulative scenario including an unspecified amount of development which is neither “existing or approved” (or even identified in a draft plan), is contrary to the requirements of the EIA Regulations<sup>122</sup>. That kind of strategic cumulative scenario testing is for the WRMP process and is under way.

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<sup>121</sup> See Updated SCG, CD6.11 paragraph 8.77; Ms Bradley XX.

<sup>122</sup> See Town and Country Planning (Environmental Impact Assessment)(England) Regulations 2017 Schedule 4 paragraph 5(e).

117. For these reasons, the Inspector and Secretary of State should not give more than limited weight to the EA's objection.
118. The same is true of the points made by NE. They necessarily rely (as they explain) on the evidence from the EA to found concerns about possible risk to SSSIs in the area. The defects in that evidence remove any force from the NE points as well. There is no evidence that any SSSI would be harmed by the scheme on its own; indeed, there is no evidence that the SSSIs would be harmed by water abstraction either.
119. As explained<sup>123</sup>, there is also no issue arising in relation to any Natura 2000 designated European sites. The only moot point, which Mr Barker dealt with, was Wicken Fen, but the evidence indicates that this is not reliant on the groundwater bodies concerned. Although the AAP process scoped it into the Habitats Regulations Assessment on a purely precautionary basis and despite the empirical evidence, the conclusion was that the AAP would not have an effect on the Wicken Fen, since the competent authority can rely on the WRMP in relation to groundwater supply, and Local Plan water efficiency measures.
120. Apart from being a telling example of how in the planning field it is appropriate to rely on the WRMP process, those conclusions also apply to the current situation in this appeal, since the scheme will be delivered under the new WRMP regime and subject to efficiency measures which go well beyond current Building Regulations requirements and could, if necessary, go further as far as residential water efficiency measures are concerned<sup>124</sup>. There is therefore no need for further screening or AA in relation to Wicken Fen.
121. As discussed at the conditions session, there is no need in these circumstances for a condition which restricts residential development until the WRMP is agreed, but if the Inspector or Secretary of State judge differently, wording for such a condition has been suggested<sup>125</sup>.

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<sup>123</sup> See the Note on this point submitted to the inquiry, ID 1.20.

<sup>124</sup> The note ID1.20 in its final paragraph draws attention to the fact that the Council believes that a target of 80 l/p/day is achievable, and this was the draft policy target that the AAP HRA took into account when finding no impact; the appeal scheme was already at 89 l/p/d and agrees it would be reasonable to go to 80 l/p/d if that was felt necessary by the Secretary of State, given the rate of technological change in this field and the enabling scale of the residential scheme here.

<sup>125</sup> The condition ties the occupation of the residential to the publication of the WRMP 2024 (which is being produced in the water regulatory context and has a time frame tied to the availability of funds); the condition is therefore considered to be workable *if* considered necessary (which the Appellant does not agree it is).

## Weight to be given to the benefits

122. As summarised at Table 4 in the Updated Statement of Common Ground<sup>126</sup>, there is agreement now on seven (or eight) of the twelve benefits of the scheme. These are impressive: great weight (the highest or heaviest weight) to be given to the sustainable location<sup>127</sup> and the scheme's response to the climate emergency; considerable weight (the next category down) to the contribution to the cluster effect that the scheme would make, the very considerable new employment (over 4300 jobs), to housing need (up to 425 units), to affordable housing needs (40%, 20% of the BTR), and response to biodiversity given the BNG improvement it would bring; and moderate weight to the amenity and meanwhile uses<sup>128</sup>.
123. There were five benefits over which the parties disagreed, but in relation to making effective use of land, Ms Bradley conceded that the scheme would reuse Previously Developed Land, something which paragraph 120 of the NPPF suggests carries substantial weight. That is nothing to do with views on scheme design – it is a freestanding point based on using brownfield land instead of greenfield (even, eg Cambridge Biomed, Green Belt) land.
124. That leaves four areas. Public Realm and Open Space uses are only given limited weight by Ms Bradley in her proof of evidence<sup>129</sup>, but she acknowledged that she ought to have reached a positive view about Chesterton Square and the Piazza as well as Chesterton Gardens. That simply leaves the point about perceived separation of the Wild Park from the residential units, which I have already addressed. Ms Bradley's reasons for diminishing the weight to the excellent public spaces is not persuasive.
125. Next, wellbeing and social inclusion, which Ms Bradley has at 'limited' and Mr Derbyshire has at 'moderate'. Ms Bradley's reasons for diminishing the weight to the facilities available that might encourage well-being and cohesion are very limited – the lack of outdoor space for collaboration and recreation (the famous outdoor table tennis as at the Genome Campus, in her example). There is really nothing to the point, as she perhaps recognised: the labs and offices are replete with design aimed at wellbeing and social/business collaboration

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<sup>126</sup> CD 6.11 page 45.

<sup>127</sup> Detail was set out in the Transport RTS by Mr Nettleton, all agreed by Council and County in terms of rail, bus, cycle and pedestrian connectivity, parking strategy, no impact on Park & Ride, etc.

<sup>128</sup> See in this connection the Note at ID 1.16.

<sup>129</sup> Page 43, paragraph 6.28.

(balconies, terraces, activation spaces, restaurant and café spaces); the scheme has at least four well designed external spaces for sitting, talking and recreating.

126. The fact that it will be a connected urban place with a mix of uses is exactly what the market wants, as Mr Bryan and Mr Derbyshire both stressed. Mr Bryan's evidence contains data from a survey undertaken with YouGov which shows that employees in this sector prioritise transport connectivity above all.

127. There is also good evidence of major companies like Samsung and Microsoft moving from campuses on the edge of Cambridge to the Appellant's successful CBI development adjacent to the main city railway station, not just for the benefits to staff of being near the centre, but also for being in a centre with a cluster of different potential employers. There is simply no comparison between the way this development would facilitate that kind of beneficial interaction and any of the edge-of-Cambridge parks, even Cambridge Biomed.

128. Inclusion is also about the residential forming part of the mix, and there being a sense of community in the new quarter in addition to a community of scientists and workers.

129. For these reasons, Mr Derbyshire is right to give wellbeing and social inclusion moderate weight.

130. The Updated Statement of Common Ground says "High Quality Infrastructure" when it means "High Quality Architecture". Mr Derbyshire describes the work done by Acme and Make as that of architects of the very highest quality – their work and way they have explained it at the inquiry bears that out. The buildings and spaces would be a quantum leap forward in quality for the area, and an advance even compared to the highly capable work done by Formation in the Novotel and One Cambridge Square and because good design is at the heart of good planning, Mr Derbyshire gives the splendid proposed architecture in the scheme 'great weight. The Council rely on Ms de Boom's evidence to dispute that, but for the reasons given earlier, they are not on firm ground in that regard. Ms Bradley's ascription of both moderate weight (even taking into account Ms de Boom's design criticism) is inconsistent with her giving considerable negative weight to design as well. The alleged harm is used both to downgrade the benefit and to comprise a wholly separate harm to which a lot of weight it then given. That is to double count the harm, and is also inconsistent in terms of overall weight to be given to point. Despite a manful effort from Mr Du Feu in cross examination of Mr Derbyshire, Ms Bradley's evidence on this point is irredeemable.

131. That leaves the difference of weight to be given to meeting the need for office, Labs and R&D space. Mr Derbyshire eloquently set out his view as to why the highest level of weight should be given to it<sup>130</sup>, and he rightly questioned the basis on which the Council refuse to recognise it, despite the Local Plan and the recognition by a “pro-growth authority” (to quote Mr Kelly) of the huge importance of such space and the enormous shortfall.

132. Ms Bradley essentially argued that given that the site “is not critical” to meeting the need for this kind of space, it should be accorded only ‘considerable’ weight – a position perhaps at odds with her summary phrase, *the right uses in the right place*. One wonders whether this is another thinly veiled attempt to give additional support to the argument that the buildings in the scheme should be lower on the eastern side. Actually, as Mr Willis showed, lowering S06 and S07 by a floor, whilst still articulating them properly and providing good external space, would reduce the floorspace in the optimum most flexible two floors to the detriment of the market.

133. But the evidence does not support this line of argument from the Council. It makes little sense to say that the site or scheme is of less weight because it is “not critical” when:

- (1) There is no local policy cap on the amount of weight to be given to this kind of commercial science and office space; there is certainly no national policy cap: paragraphs 81 and 83 of the NPPF are directly on point and strongly support meeting the demands of the market. There is therefore no ceiling of ‘need’ above which schemes are given less weight because they are not needed.
- (2) Ms Bradley accepted that the need we are debating here is not just a Cambridge or regional need, it is genuinely of national importance to the economic prosperity of the UK (and of benefit in all sorts of other ways – think of the role that Mr Willis’ Life Sciences building in Oxford played during the pandemic).
- (3) Unsurprisingly, the Council’s witness on this topic, Mr Kinghan, agreed with Mr Bryan (who is Cambridge’s leading agent in this sector, and on whose evidence Mr Kinghan and his firm confessedly rely) that the labs and office space proposed here will let when it is available. That concession is of considerable importance, because it goes to the heart of whether the site and scheme will be needed when they are delivered, between 2026 and

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<sup>130</sup> Please refer to Mr Derbyshire’s unchallenged evidence about the national need for the floorspace, borne out in the Chancellor’s recent statement, the UK science and tech strategy (2023), and many other sources.

2028. If they are accepted to be likely to let, why is the inquiry being asked to consider the Council's case on need at all? It will *by definition* be needed.

- (4) Mr Bryan is absolutely clear that the space will all be let, indeed it will be highly sought after by the kind of tenants who have space at CB1 (as Mr Derbyshire said, they include Apple, Amazon and Microsoft, three of the world's four trillion-dollar companies).
- (5) In any event, as Ms Bradley accepted, if the appeal site is not critical, then in principle no site in Cambridge is. The argument is a red herring. It is better to acknowledge that there is a huge demand for these facilities, and they should all be supported in principle with the maximum weight to this benefit.
- (6) However, do not lose sight of the fact that the site is in the Council's own opinion the *best* site for such uses to go in sustainability terms; it is top of the notional 'pecking order' that Mr Derbyshire spoke about. It makes little sense to declare that this site should be given less weight than sites which are not as sustainable, nor as desirable by the market due the level of connection and connectivity that they would provide.

134. Just on the basis of those points I would invite you to accord great weight to the way the scheme would meet some of the needs of the knowledge economy in Cambridge. The debate between the experts about supply of floorspace is to some extent academic; we are not dealing with a Local Plan EiP discussion about what the target should be for land or sites for this sector.

135. But to the extent that the points on site availability remains of interest, you should prefer the evidence of Mr Bryan that the current huge shortfall and high need will not have evaporated by the time the appeal scheme is delivered:

- (1) There is no marked difference of opinion between Mr Bryan and Mr Kinghan that a sensible benchmark figure for average demand of new NIA floorspace each year between now and 2028/29 is between 461,000 sq ft per annum to 2041<sup>131</sup> and 536,000 sq ft per annum<sup>132</sup>. That is not to say, of course, that the current groundswell of demand which Mr Bryant is engaging with every day will stop at that level.

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<sup>131</sup> Mr Kinghan's new floorspace supply average figure (from the Greater Cambridge Employment and Housing Update January 2023 CD5.10)

<sup>132</sup> From the agreed 850,000 sq ft/yr (agreed at the RTS) x 63% gross to net: accepted at the RTS.

- (2) But just as a benchmark, on average, that equates to between 461,000 sq ft/year and 536,000 sq ft/ year over that period.
- (3) There is no dispute that as at 2023, there is almost no commercial lab space available, and therefore a huge and tremendously pressing need for supply. Office space is also in deficit<sup>133</sup>.
- (4) Over the period to 2028, some lab floorspace and office floorspace will come on stream, and there will in addition be some movement between premises and therefore some recycling of existing space. However, Mr Bryan – who is uniquely placed to know the commercial realities affecting all of the relevant sites/schemes – does not believe that sufficient space will become available to meet the benchmarked demand figure per year or overall. His view is based on a fine grain of knowledge of the sites in the market.
- (5) His view is that in the short term (by 2024) there is insufficient floorspace to meet even the lower notional 461 sq ft a year target. This does not appear to be in issue<sup>134</sup>.
- (6) The demand slate is not wiped clean at the end of every year regardless of how much floorspace has been delivered – it compounds as unmet need. It is important therefore to keep an eye on the total floorspace figures.
- (7) In the medium term, (2025-2028), Mr Bryan does not think that sufficient floorspace against the notional benchmarks will be available. He thinks that without this site, only 374,000 sq ft per year will be available to the market<sup>135</sup>, considerably less than the lower annual benchmark figure put forward by Mr Kinghan of 461,000 sq ft.
- (8) Mr Kinghan thinks that 398,000 sq ft will be available each year in the medium term period, again, less than the lower notional annual need on Mr Kinghan's basis.

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<sup>133</sup> See Mr Bryan's proof of evidence.

<sup>134</sup> See Table 3 (LPA) version in the Bidwells Note 23 June 2023.

<sup>135</sup> See Table 3 (LPA) version, *ibid*.

(9) In addition, Mr Kinghan's 398,000 sq ft is based on an assessment which includes 270,400 sq ft of floorspace which should not be counted<sup>136</sup>: (a) Wellcome One which is not for the market but for the Institute, (b) AZ at CBC which is an owner occupier not on the market, and (c) ARM at Peterhouse Technology Park, which is double counted, as Mr Bryan's note of 23 June 2023 makes clear. Taking those sites out, there would be a further deficit against the notional 461,000 sq ft pa need figure.

136. Mr Kinghan argues in his note supplied to the Appellant in the evening on 22 June 2023, that there are sites with outline permission which ought to be included. Mr Bryan knows these sites in detail, all the schemes and those in charge of procuring and delivering development, and does not consider that one can rely through to 2028 on these sites because:

- (a) Space at St John's Innovation Park has the impediment that it requires the demolition of a building which currently has two tenants.
- (b) Wellcome Genome Campus – has no detailed consent and is a greenfield site
- (c) CITP – has the same owner as Granta Park and Mr Bryan considers it extremely unlikely that the space would be promoted at the same time
- (d) Eddington – no detailed consent.
- (e) West Cambridge – no consent at all at the moment, and the University is focused on its own needs.
- (f) Cambridge Biomed – no detailed consents.
- (g) Plot 9 CBC – no detailed consents.

137. These sites should be discounted from the supply in quantitative terms<sup>137</sup>; the upshot is that there is no reliable, market-facing evidence that more supply for labs and offices will come on stream by 2028/29 than even the notional ideas of annual need. In addition, that figure itself, needs to be very carefully weighed up, given the evidence that Mr Bryan gives about the amount of pent-up demand, the cumulation of unmet need over the short term, and the sense in the market that Cambridge is on the cusp of another major upswing in market demand.

138. This exercise also ignores the important point that in qualitative terms, the market for the best floorspace has shown a clear preference for highly-connected, urban sites rather than the traditional business park or campus. That places further emphasis on the North Cambridge

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<sup>136</sup> Again, see the commentary (which echoes what was said at the RTS) in Mr Bryan's note of 23 June 2023.

<sup>137</sup> Therefore the figure of over 630,000 sq ft/annum that Mr Kingham suggests in his 22 June 2023 for the first time is not supportable and Mr Bryan rejects it as undeliverable

site, and – to go back to the reality of the situation here – is why the parties agree that when the lab and office floorspace proposed in these proposals comes forward, it will find tenants in those sectors.

139. In conclusion, there is no persuasive basis to give the delivery on this site of nationally-important labs and office space anything less than the highest level of positive weight.

140. The cumulation of the weight to be given to the scheme's various benefits would be, as Mr Derbyshire says, very great indeed.

### **Balancing exercises and conclusion**

141. The heritage balance under NPPF paragraph 202 is met by the scheme, as the enormous public benefits of the scheme outweigh the heritage harm given due weight pursuant to the NPPF.

142. The scheme accords with the development plan overall because of the extensive (agreed) compliance and the relatively small degree of non compliance with landscape and visual policy (the heritage harm is outweighed for the purposes of NH/14 by the benefits), and material considerations add further very great weight to the argument for the grant of permission.

143. Given that the Council and Appellant agree on a great deal of the merits of these proposals, it is regrettable that the Council has, in effect, failed to live up to its own expectations for the site. It does not appear that the Council is influenced by large-scale local opposition – objection has been very low to the scheme from the beginning. No member of the public is here today, for instance.

144. This situation surely cannot be because the Council still clings on to its pre 2018 position that nothing can happen before the adoption of the AAP – that debate was resolved in the Local Plan itself. But given that the Council accepts that public and private need to work together to create a new employment-led urban quarter, the scale and type of objection mounted by the Council to the proposals seems markedly inadequate.

145. The nub of the dispute here is ostensibly the scale of built form perceptible from the eastern edge and much stress is laid on it all being a matter of judgement and so on. But this is

an appeal where that looks more like special pleading than anything else. The Council acknowledges that the site must bring forward a high-quality example of urbanism which meets the operational needs of the market, in buildings which can be prominent, and should be urban and seen to urban. The setting is views and assets for which the relative proximity of the urban edge is already a key characteristic. So when the Council says that it has been “clear eyed” and readily conceded points at the inquiry, it does nothing to repair the fundamental failing here, which is a failure to have the courage of their own planning policy convictions.

146. If permission is granted, this will be a fine example of modern sustainable development in one of the UK’s most important places, and will achieve the aspirations of national and local policy. For these reasons, and subject to the conditions as discussed and the s.106 obligations, the Appellant respectfully asks that the appeal be allowed and permission granted.

**RUPERT WARREN K.C.**

**Landmark Chambers**

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**London EC4A 2HG**

**23 June 2023**