

PROOF OF EVIDENCE

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Land North-East of Humber Doucy Lane,
Ipswich

Appeal Reference:
APP/X3540/W/24/3350673

Date:
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PHASE 2

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1. Experience and Qualifications

- 1.1 I hold a post-graduate Diploma with Distinction in Town Planning of the University of Wales, College of Cardiff, and Bachelor of Science in Town Planning Studies of the University of Wales Institute of Science and Technology. I am a member of the Royal Town Planning Institute.
- 1.2 I have over 30 years of experience in town planning, both in the public and private sectors. During the course of my career, I have worked as both a Development Plan Officer and Development Control Officer in two Local Authorities in Essex, between 1989 and 1996.
- 1.3 I entered private practice in 1996, and have previously held positions as an Associate and Director at Andrew Martin Associates (now part of Capita Symonds), based in Essex, and Associate Director at JB Planning Associates (Hertfordshire), both being planning consultancies undertaking a wide range of projects in the South and East of England areas.
- 1.4 In 2011, I co-founded Phase 2 Planning and Development Ltd, an independent planning consultancy based in Essex. In 2023, I stepped down as a director of that company, but continue to work on projects with them as a consultant.
- 1.5 During the past 25+ years as a planning consultant I have undertaken a variety of work relating to planning applications, appeals, Development Plans, enforcement, listed buildings and conservation, appearing as an expert witness at Inquiries and Examinations, including within Ipswich and East Suffolk.
- 1.6 My involvement with the Appeal Site began in 2013. Having previously worked on the strategic site now known as the Ipswich Garden Suburb in the late 1990s and 2000s, I was approached by the then landowner of the Appeal Site, with a view to its promotion for development through the Development Plan process.
- 1.7 I made representations promoting the site, and appeared at the Ipswich Core Strategy Review Examination in 2016, at the Suffolk Coastal Local Plan Examination in 2019, and then again at the Ipswich Core Strategy Examination in 2020.
- 1.8 Upon the sale of the Appeal Site from the previous landowner to the Appellants, I acted in relation to pre-application discussions for what is now the Appeal Scheme, and in respect of the co-ordination and submission of the outline planning application.
- 1.9 Through my previous experience dealing with both the relevant Development Plans and other applications in the local area, I am familiar with the broad planning context and policies that relate to this part of Suffolk.
- 1.10 The evidence which I provide for this Appeal in this statement has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2. Introduction and Scope of Evidence

The Scope of my Evidence

2.1 The 13 reasons for refusal (11 on the ESC Notice) cover a range of topics, and the Appellants' evidence will accordingly be covered by different expert witnesses. My Proof of Evidence will cover:

- The over-arching Planning Policy framework (individual policies relevant to individual reasons for refusal will be covered by the relevant expert). I will explain why the Appeal Scheme accords with the two site specific policy allocations, and why no breach of any other development plan policy occurs (but that if the Inspector were to find otherwise, that the wider benefits of the scheme still outweigh any limited conflict).
- Market and Affordable Housing need and supply. I will explain that a shortfall in housing supply has arisen within the Ipswich area, even before consideration of the new Government's proposals for increased housebuilding. I will explain that in my view, the 2024 NPPF revisions have also now materially changed the position (within Ipswich) from that which existed at the time the decisions were made.
- Reason for Refusal 1, relating to the alleged need for a "masterplan". With assistance from written material from the architects, PRP (see Appendix KC1), I will explain why the work undertaken through pre-application on the "Framework Plan" is to all intents and purposes the same as "masterplanning", and that, fundamentally, the material submitted with the application on layout, scale, landscaping and appearance (the details alleged to be missing according to Reason for Refusal #1, but not then referred to anywhere in the LPAs' Statement of Case) is more than sufficient for an Outline application where matters of layout, scale, landscaping and appearance are reserved for subsequent approval.
- Reason for Refusal 10, in relation to the loss of sports pitches. In my evidence I will explain the work that was undertaken in relation to existing provision, and the surplus that exists in the local area as regards the quantum of sports pitch provision currently. I will also note and comment on the lawful use of the rugby pitches on the Appeal Site and how this effects their usage. I will explain that both of these factors provide useful context in terms of the implications of the loss of the two training pitches. I will also explain that the planning policy framework does not require a like for like replacement of pitches, rather it allows for alternative forms of provision to be balanced against the loss, which is what the Appeal Scheme provides. However, even if the Inspector were to conclude that a conflict with Policy DM5 existed, then the overall benefits of the development would still exceed any harm arising from the loss of those pitches.
- Reason for Refusal 11, which relates to the fact that the Appeal scheme is for up to 660 homes, rather than 599. The allegation that this number of homes results in "... a number of pressures on the layout ..." will be covered separately by others (chiefly in respect of landscape). In my evidence I explain why the figure of 599 should be attributed very little weight, as there is little to no substance to support the figures quoted in either of the allocation policies. I explain why a yield of 660 homes is, in fact, entirely justified when one considers the requirement for minimum densities and the site area. Finally, I draw attention to the shortfall in local housing delivery and renewed emphasis by the Government on

housing delivery, and explain that the fact that the site can deliver 61 more homes than originally envisaged is actually an additional benefit of the Appeal scheme, to which due positive weight should be given.

- The overall 'Planning Balance', and the weight that I consider should be given to the benefits of the Appeal Scheme, compared to the weight I consider should be given to the matters raised in the various reasons for refusal (should the Inspector agree that any of those matters actually arise).

The Reasons for the Appeal

- 2.2 In their Statement of Case, and presumably within their evidence, the LPAs argue that the Appellant should have conducted more pre-application discussions, both before the original submission, and before going to Appeal.
- 2.3 However, as explained in the Appellants' Statement of Case (paras 1.15-1.19), the submission of the outline planning application followed an extensive period of pre-application discussion. The reason pre-application ceased at the time it did was because (i) the Local Planning Authorities could not provide resources (ii) the Local Planning Authorities made clear that further pre-application would be dependent on my clients securing an unnecessary pedestrian link across 3rd party land and changing the main access position to unnecessarily include 3rd party land and (iii) because the major topics had already been substantially discussed.
- 2.4 Before deciding to lodge the Appeal, I did make enquiries of IBC as to whether or not their suggestion of further pre-application and a revised application, rather than Appeal, were dependent upon the Applicant agreeing to the LPAs' "preferred"¹ access position. Both verbally and by email², it was made clear to me that the LPAs' view was that changing the access position and bringing in 3rd party land as a consequence would be central to any further dialogue. Since there was at that point a fundamental disagreement between the parties as to the necessity for this change, it was clear that further pre-application would not resolve the "fundamental concern" referred to in RfR #3.
- 2.5 Additionally, since statutory consultees typically do not provide consultation responses until close to the end of the 13-week statutory period, and since IBC/ESC had made clear their intention to determine applications they are not willing to approve within the 13-week period come what may, there was no certainty that a further application would have resolved any of the other 12 reasons for refusal either.
- 2.6 Whilst the procedural reason for these Appeals is because IBC and ESC have refused the Appellants' applications, the underlying reason, in my view, based upon my experience of the pre-application process, is because the LPAs have adopted an unsubstantiated and unjustifiable "preference" for an alternative access location, which is not deliverable and not necessary. This stance effectively curtailed any prospect of matters being capable of resolution at the application stage, and rather than the application processes being extended to enable other matters to be resolved, as requested at the time, the applications were refused for the 13/11 grounds set out.
- 2.7 What is hugely frustrating for the Appellant is that the "fundamental concern" referred to in RfR #3, which is expressed in IBC's email at Appendix KC2 in terms of the character and amenity of Humber Doucy Lane at the point of the signalised junction, has turned out, just prior to the submission of proofs of evidence, to be no so fundamental after all, as the LPAs have withdrawn

¹ The wording used in the Highway Authority's response on this matter.

² See Appendix KC2

that aspect of the reason for refusal. The views of the Highway Authority, as relied upon by IBC in the email at Appendix KC2, were never expressed as anything other than a preference in their consultation response, and the matters of detailed design were eminently capable of being addressed (as the evidence of Mr Hassel shows).

2.8 I appreciate that the LPAs may have their view on this matter, and that this may differ from my view above. Ultimately, whether or not further pre-application would or would not have obviated the need for an Appeal (exceedingly unlikely given the position of the parties), or whether more of the reasons for refusal could have been addressed (possibly, but by no means certain), is completely irrelevant to the Inspector's consideration of the merits of the Appeal. The Appellants have a right to Appeal a refused application, and have chosen to exercise that right.

2.9 Although in my view the Authorities acted unnecessarily in refusing the applications when they did, as by doing so it offered no realistic prospect for technical matters to be resolved at the application stage, the Appellant has nonetheless sought to resolve matters through appropriate Statement of Common Ground to minimise Inquiry time.

The Reasons for Refusal

2.10 The table below lists the matters covered in the 13 reasons for refusal on the Ipswich decision notice and the 11 reasons for refusal on the East Suffolk notice. Some matters have now been addressed through further exploration of the issues between the parties, as set out in relevant Statements of Common Ground.

2.11 I return to this table in Section 8 of my evidence to summarise my understanding of which of these 13 reasons for refusal are still 'live' issues of contention, and which have been wholly or partially addressed by the parties since the decision notices were issued. Matters that I believe are now not in dispute as a result of Statements of Common Ground/Statements of Case (subject to appropriate conditions/obligations as appropriate) are crossed through.

RfR Summary	IBC RfR No	ESC RfR No	Insp MM No
No masterplan submitted in support of the application	1	1	1
Impacts on highway network not assessed to satisfaction of SCC	2	2	4
Position of access onto Humber Doucy Lane	3	N/A	4 and 2
Landscape and Heritage Impact	4	3	2 and 3
Flooding and Drainage Strategy	5	4	5
Ecology and BNG	6	5	6
Adequacy of greenspace for HRA mitigation	7	6	7
Pre-determination archaeological investigation	8	7	8
Air quality mitigation measures	9	8	9
Loss of sports pitches	10	N/A	10
Quantum of housing proposed	11	9	11
Quantum of open space proposed	12	10	12
Lack of completed s106	13	11	13

2.11 In the Appellant's Statement of Case, we noted that we would use the IBC refusal numbering throughout, as it covers all of the issues. In this Proof of Evidence, when referencing issues, I continue to use the IBC Reason for Refusal (RfR) numbering, but also cross-reference that to the Inspector's Main Matters, and vice versa, which differ for RfRs 2-4 only.

3. The Site and Surroundings

- 3.1 The location of the site, its relationship to the surrounding area, and a brief description of the three parcels of land A, B and C is set out in the Appellants' Statement of Case at paragraphs 2.1 to 2.10.
- 3.2 The Appeal Site comprises three separate parcels of land. The referencing used for the three parcels varies slightly in the application documentation, but for the purposes of this Appeal, I adopt the Parcel A, B and C references used in the Landscape and Visual Impact Assessment by CSA Environmental, submitted as part of the planning application. The location of Parcels A, B and C are shown on the extract from the site Location Plan below.

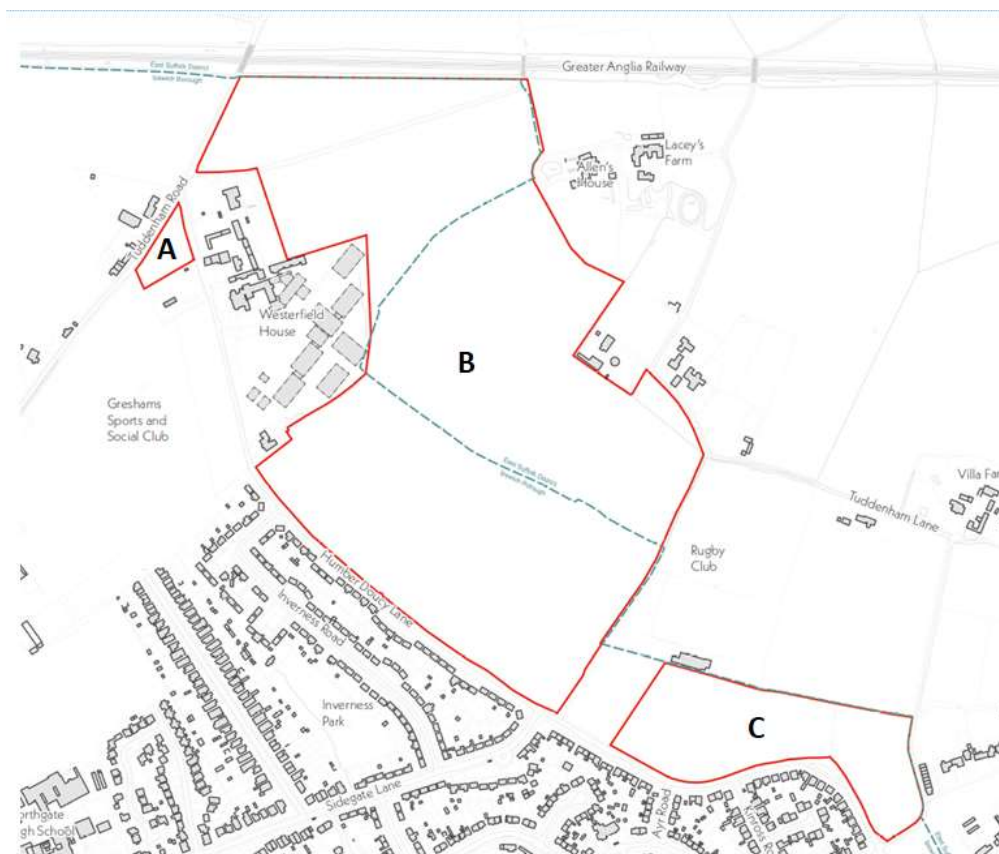


Figure 1 – Extract from Site Location Plan with parcel references added.

- 3.3 The LVIA describes the parcels at paragraphs 4.2 to 4.4 of that document as follows:

"Parcel A occupies a small parcel of land with generally outgrown vegetation, including a mature oak tree of veteran status. The parcel is bound by Tuddenham Road to the west and Humber Doucy Lane to the east, with the junction of these two roads located to the immediate north of the parcel.

Parcel B is the large central part of the Site and comprises two arable fields, which are separated by a public footpath, two hedgerows and several mature oak trees in the northern part of the parcel. The northern boundary of Parcel B is predominantly defined by mature trees including English Oak, Field Maple and Hawthorn adjoining the railway line, with a vegetation gap in the middle. The north eastern boundary of Parcel B comprises mixed species semi-mature trees with a well-established hedgerow beneath, which separate the Site from the grounds of the adjacent detached properties. A small block of woodland is located in the northeast corner of the parcel. The eastern parcel boundary

is bordered by mixed-species of hedgerow and trees with well managed understory vegetation. The western boundary of Parcel B is mainly composed of hedgerow and post and wire fence, with occasional vegetation gaps next to the Westerfield House as well as along Tuddenham Road. A series of TPO trees, Austrian Pine, are located adjacent to the undergoing construction work to the rear of the Westerfield House along the western boundary. The southern parcel boundary comprises an established native hedgerow along the edge of Humber Doucy Lane.

Parcel C is located in the east of the Site and comprises an area of sports pitch in the west and an arable field in the east. A combination of hedgerow and trees makes up the northern boundary of Parcel C, with two mature English Oaks located along the boundary. The western boundary of Parcel C is undefined on the ground, running roughly from the western edge of rugby club building in the north, in a southerly direction to join Humber Doucy Lane. The eastern boundary of Parcel C is bordered by mixed-species of hedgerow and trees. The southern section of the eastern parcel boundary is generally open with occasional multi-stem ash trees and hedgerow. The southern parcel boundary comprises an established native hedgerow along the edge of Humber Doucy Lane."

3.4 For the purposes of the matters covered in my evidence, there are no specific additional factors regarding the site and surroundings to which I need to draw the Inspector's attention, other than:

- To highlight the fact that Parcels B and C are separated by land in 3rd party ownership, the background to which I explain in the following section of my evidence;
- To note that the Appeal Site is a highly sustainable location for residential development, having regard to its proximity to the town generally, and specifically in respect of the existence of local schools, shops, and public transport, all within relatively close proximity to the site, as explained in the original Transport Assessment (see also paras 2.7 and 2.8 of the Appellant's Statement of Case).

4. Background to the Local Plan Allocations

- 4.1 As noted in my statement of experience, I have been actively involved in the promotion of the Appeal Site for development since 2013, firstly through representations to seek its allocation for development in the respective Local Plans, and then more recently through the submission of the planning applications that are the subject of these Appeals. In this section of my evidence, I explore a number of matters related to the Local Plan history that have a bearing on the Reasons for Refusal.

The reasons for the extent of the allocated land

- 4.2 The four separate parcels that make up the allocated land under Policies ISPA4.1 and SCLP12.24 were under the control of a single landowner at the time of my appointment. Three of those parcels lie wholly within Ipswich's administration, but the largest parcel (Parcel B) is partly within East Suffolk's administrative area (then called Suffolk Coastal).
- 4.3 The land was initially promoted as part of the preparation of what became the 2017 Ipswich Core Strategy Review. The Local Plan Inspector found at that time that Ipswich Council were unable to demonstrate a 5 Year Land Supply, thereby raising the quandary that the Plan would effectively be out-of-date at the time of adoption, having regard to the NPPF's requirement for 5 Year Supply to be maintained. Nevertheless, and based in part on a commitment by the relevant authorities in the wider Ipswich Housing Market Area to bring forward joint or aligned plans by 2019, the Inspector proceeded to find the Core Strategy sound, and it was accordingly adopted.
- 4.4 In respect of the Appeal Site, the Inspector noted the following:
- "There is not currently the evidence to support the allocation of land at North East Ipswich for housing, or to identify it as an "area of search" for residential development in preference to any other land in the Borough. However, there would be no reason in principle why residential development should not come forward on the land in accordance with modified policy DM34."*³
- 4.5 Rather than pursue a piecemeal planning application for the land within the Ipswich boundary at that time, the landowner decided to continue to promote the site as a cross-border allocation, in the expectation that a joint or aligned plan between Ipswich Council and Suffolk Coastal Council would facilitate a wider cross-border allocation. Although in the event the Suffolk Coastal Local Plan was prepared in advance of the Ipswich Core Strategy, the two authorities did engage with each other, which enabled the Suffolk Coastal Plan to allocate the land within its boundary in 2020, in the knowledge that, although coming later, the Ipswich Plan intended to allocate the balance of the land within the IBC area, which it duly did in 2022.
- 4.6 At the time of my instruction, I was made aware that there had been a long history of dialogue between the landowner and their neighbour, Ipswich Rugby Club, regarding the possibility of the Rugby Club relocating to nearby land under the same control, and so potentially enabling some or all of the Club's land to come forward for development. However, there was no formal working

³ The modification referred to by the Inspector was one that effectively removed an 'in principle' protection of countryside on the edge of Ipswich, because in the absence of a 5 Year Land Supply, there was no justification for such protection.

arrangement between the landowner and Ipswich Rugby Club, and hence the land that I promoted through the respective 'call for sites' processes for the two authorities was defined by the extent of the landowner's interest.

- 4.7 As per the correspondence and extract from Ipswich's 2020 Strategic Housing & Economic Land Availability Assessment (SHELAA) contained at Appendix KC3, it seems the Rugby Club did provide a response to IBC as part of its 'call for sites' exercise in respect of the parcel of land labelled PF (playing field) on the diagram below, but appear to have stated that the land was not available for development (though the subsequent correspondence from the Club included at Appendix KC 2 is less clear on the matter).

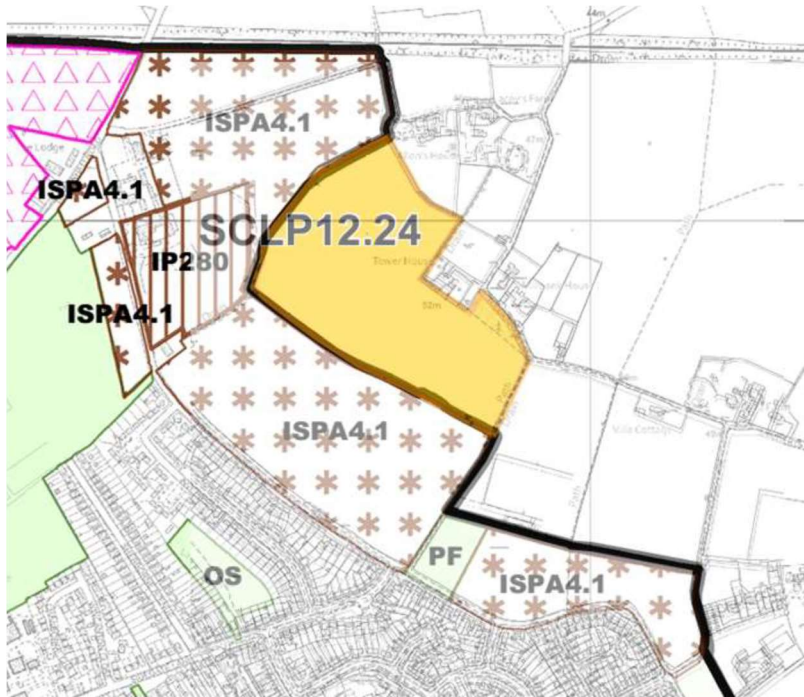


Figure 2 – The IBC/ESC Policies Maps, showing the 'PF' land separating the ISPA4.1 land.

- 4.8 The Rugby Club land does not therefore appear to have been promoted as available for development, and so it is not part of either the land allocated under Policy ISPA4.1 or SCLP12.24. The result is the allocation as shown above - the two parcels of land north-east of Humber Doucy Lane are clearly separated by an area of land owned by Ipswich Rugby Club which is allocated as Playing Field.
- 4.9 I raise this history merely to explain the background as to why it is that there is an area of land that physically separates the two main allocation parcels.
- 4.10 At no point during either Local Plan Examination was there any suggestion made by the LPAs that the implementation of the allocated land was dependent on securing access across 3rd party land (and nor is there any such reference in either policy). The LPAs were fully aware that the two allocated parcels on Humber Doucy Lane were not physically connected and were separated by third party land.
- 4.11 If it were truly necessary for the two parcels to be connected, then this matter would have been addressed at the Local Plan stage, either through the allocation of the intervening land, or through a specific policy requirement for such a connection to be delivered.

The number of homes (and its relationship to the 2020 Heritage Impact Assessment)

- 4.12 In the context of RfR #11, it is relevant to note that the Regulation 19 Submission Draft of the Ipswich Core Strategy and Policies Development Plan (January 2020) stated that the expected capacity of the site was 496 homes, and that the rationale for this number of homes was set out in Appendix 3 of the separate Site Allocations DPD. I attached a copy of the relevant extract from Appendix 3 at Appendix KC 4 to my evidence.
- 4.13 As shown by the material at Appendix KC 4, the calculation is based on residential development at 35 dwellings per hectare on 60% of the total allocated site area, being approximately 14.2 ha out of the total site area of 23.62 ha.
- 4.14 The following paragraphs of my evidence were all written prior to the receipt of the Council's amended Statement of Case on 10th December. In essence, that new Statement of Case confirms that the LPAs have now also come to the same view as myself, but I have left the paragraphs that follow, as I think the fuller explanation is important for the Inspector to understand.
- 4.15 In its representations at Regulation 19 stage, Historic England noted the existence of nearby heritage assets, and advised that a Heritage Impact Assessment was required to support the site allocation. IBC therefore commissioned an HIA, produced by John Selby, and dated September 2020 (Core Document H5). Paragraph 5 of the Executive Summary to that report explains that the assessment identifies "areas of opportunity" where development could proceed "without causing harm to the significance of heritage assets". These 'no heritage harm' areas were extremely limited in extent and area, and I have shown the approximate extent of these on the extract from the Application Site Location Plan overleaf, alongside my measurements.
- 4.16 Leaving aside the small parcel of land on the corner of Tuddenham Road and Humber Doucy Lane (which is not suitable for development for other reasons), the *gross* site area identified by Mr Selby as having zero heritage harm amounts to no more than around 12.2 hectares. Although Mr Selby did not look at the land within East Suffolk, it is evident that based on his approach, much of that land would be ruled out for development by his analysis, if the Masterplan for the site were required to achieve zero heritage harm.
- 4.17 Ipswich Borough Council entered into a Statement of Common Ground with Historic England, which proposed the modification of the text of Appendix 3 to state that any future masterplan should "*take forward the recommendations set out in the Heritage Impact Assessment*", and the figure of 496 units was changed to 449 (see Appendix KC 5). There was no explanation given as to how the figure of 449 was calculated, but moreover, the policy still assumed 35 dph on 60% of the site, which still adds up to 496, not 449.
- 4.18 I mentioned above that 12.2 hectares of "opportunity areas" is a gross measurement, because given other constraints, such as protecting the TPO'd trees to the boundary of Westerfield House, retaining the hedgerow and setting of Humber Doucy Lane, and accommodating drainage, it is clear that the actual developable extent of Mr Selby's "opportunity areas" would be significantly less than 12.2 hectares. At an aggregate 35 dph, I do not consider that there would be any conceivable way of achieving 449 homes within the allocated site if Mr Selby's 'zero harm' approach were required and the development area restricted to his "opportunity zones" accordingly. With other constraints, achieving the scale of development envisaged by ISPA4.1 in practice means having development outside of Mr Selby's zero harm zones, and therefore as a consequence, the policy must have an element of embedded heritage harm – it is simply not possible to achieve circa 600 homes within the allocation and achieve zero harm to the setting of all Listed Buildings.



Figure 3: "Opportunity Areas" for development according to Mr Selby

- 4.19 For the reasons discussed above, I do not consider that 'no harm' was ever an achievable outcome. It is fundamentally incompatible with the purpose of the policy in delivering circa 600 homes. This is the point now agreed by the LPAs in their revised Statement of Case.
- 4.20 Returning to the methodology for the calculation of the site yield given in Policy ISPA4.1, the text that had previously been set out at Appendix 3 of the Site Allocations document at Regulation 19 was subsequently subsumed, through Modifications, into Policy ISPA4.1 and its supporting text. Although Policy ISPA4.1 no longer refers to 35 dph specifically, that remains the minimum density for new residential development under Policy DM23.
- 4.21 The mathematical inconsistency in the policy, being the fact that putting residential development at a minimum of 35 dph on 60% of a site measuring 23.28ha achieves 489 homes⁴, not 449, was never addressed by the Ipswich Local Plan Inspectors.
- 4.22 The reduction in the site yield from 496 to 449 neither properly reflects the actual capacity of Mr Selby's "opportunity areas", nor is it explicable, to my knowledge, by any other rationale.
- 4.23 Accordingly, it remains my view that the figure of 449 in Policy ISPA4.1 is erroneous, and it is unfortunate that the error was not addressed before the Local Plan was adopted.
- 4.24 Within East Suffolk, the provenance of the reference to "approximately 150 dwellings" is even less clear. In the Council's draft SHELAA of July 2018, a capacity of 148 units was stated, which I echoed in my own representations at the time - but that was based on a site area of 5.5 hectares, as shown in the extract below, not the site as subsequently allocated. The final version of the SHELAA, published in December 2018, increased the size of the site to 9.9 hectares, and adjusted the potential capacity to 247 homes (see Appendix KC 6 for both the July 2018 and December 2018

⁴ The reason the resulting figure is 489, not 496, is that a small 0.4 ha parcel on the west side of Humber Doucy Lane was removed from the allocation between Regulation 19 stage and adoption, and so the total site area reduced from 23.62 ha to 23.28 ha between Regulation 19 and Adoption.

assessment sheets). However, the wording of Policy SCLP12.24 did not change, despite the evidence base showing greater capacity.

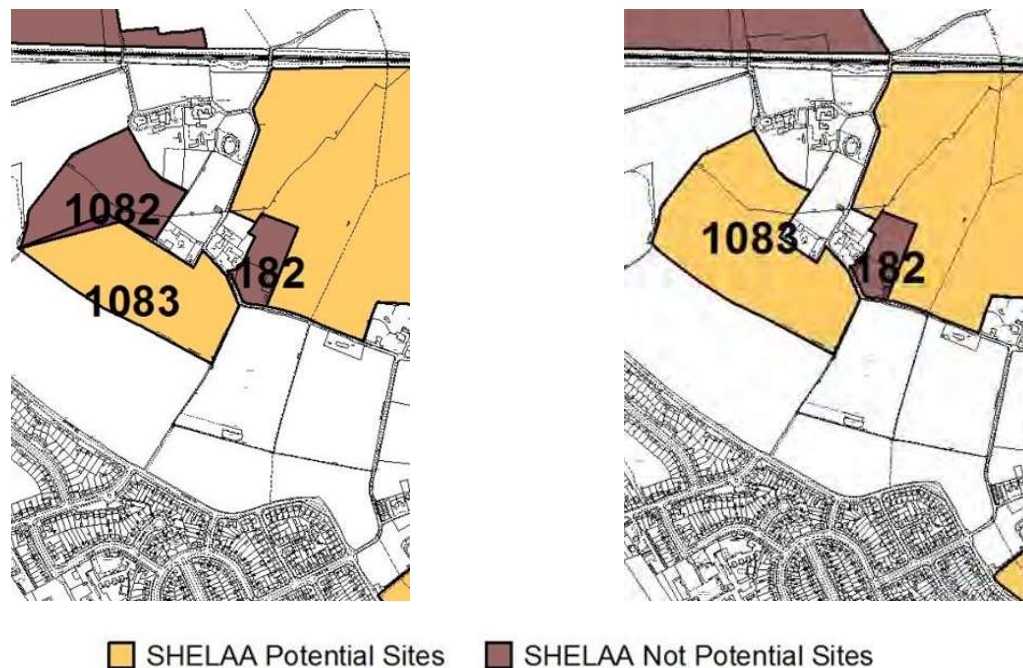


Figure 4: Extracts from July 2018 (left) and December 2018 (right) SHELAA Map book. The July 2018 SHELAA gave an estimated capacity of 148, the December 2018 document stated 247.

- 4.25 In conclusion, whilst the combined policy figures of “approximately 150” and “449” total 599 homes, for the reasons explained above, the weight to be attributed to these figures is in my view reduced by the fact that the IBC figure is mathematically incompatible with the policy requirement for 60% residential, and the East Suffolk figure is incompatible with the evidence base that underpins it.

Transportation Impacts

- 4.26 Prior to the Ipswich Local Plan Examination, a Statement of Common Ground was entered into between IBC and SCC in respect of highway matters. An appendix to that SoCG covered transportation matters relating to the Humber Doucy Lane allocation.

- 4.27 In terms of traffic modelling and impacts on the wider network, the SoCG states the following:

“Vehicular traffic has multiple routes from the site, either along Tuddenham Road to the A1214 Colchester Road or along Humber Doucy Lane to Sidegate Lane, Rushmere Road or Woodbridge Road. It is likely that traffic from the site will dissipate through the network, minimising local pressure points.”

- 4.28 As part of RfR #2, and in the Highway Authority’s response on the Outline Planning Application, queries are raised as to the adequacy of the transport modelling provided in the Transport Assessment. Whilst the Inspector will note from the Appellants’ highway evidence that these criticisms are considered to be unfounded, it must also be remembered that the premise for the original allocation in terms of traffic impacts was that the multiple routes available in the area means that traffic will disperse so that its impacts on the wider network are limited.

Replacement Playing Fields

4.29 As part of the Ipswich Local Plan Examination, the Inspector raised the following question:

"Should the proposed allocation be enlarged to allow for the future expansion of Ipswich Rugby Football Club or would the provisions of Policy DM5 and criterion b of Policy ISPA4 ensure the needs of the Rugby Club for replacement or additional facilities are met?"

4.30 In its Hearing Statement, IBC answered this question as follows:

"The proposed allocation should not be enlarged for future expansion of Ipswich Rugby Football Club. Given the Ipswich administrative boundary, the likelihood is that replacement provision would be in East Suffolk. There are no current proposals for replacement or additional facilities. Policy DM5 is the appropriate mechanism to manage future proposals."

4.31 It was clear therefore at the time of the allocation that the development could have an impact on the existing facilities used by Ipswich Rugby Club, but rather than have any specific requirement for alternative land to be allocated, or a specific requirement for replacement provision to be made, the Council was happy for the matter to be addressed through the operation of Policy DM5.

4.32 Whether or not Policy DM5 is satisfied in this case is a matter of disagreement between the parties and is a matter that I discuss further in Section 10 of my evidence. However, if, as Sport England seem to suggest in their Appeal Statement⁵, the combined requirements of part F(ii) of Policy ISPA4.1 and DM5 were that circa 2.7 ha of rugby pitches would need to be provided in the alternative, then it is patently clear that this could not be achieved within the site allocation area, alongside the provision of circa 600 homes.

4.33 Firstly, if there were a requirement to maintain a like for like provision, then the only feasible option would be for the rugby pitches to stay where there are - it is not conceivable that it would be cost effective to dig up 2.7 ha of existing pitches, only to have to level 2.7 ha of land elsewhere in the site to lay out 2.7 ha of new rugby pitches. If there is indeed a requirement to provide 2.7 ha of rugby pitches to satisfy the policy, then the part of the allocation where the rugby pitches currently lie is in all practical terms undevelopable, and its allocation for housing is non-sensical.

4.34 Secondly, whilst the quantum of open space on site exceeds the policy requirement, there is no part of the 40% 'secondary uses' area that does not have an alternative purpose, as shown in Figure 5 overleaf. In particular, the surplus of semi-natural open space is helping to achieve the Green Trail policy requirements and provide the 'countryside edge'. Providing 2.7 hectares of playing fields elsewhere within the allocation would therefore also be incompatible with achieving 600 homes and all of the other aspects of Green Infrastructure that the development needs to provide.

4.35 If the site-specific policy assumed that 2.7 hectares of replacement rugby club land should be found outside of the site allocation on land elsewhere, then that land should have been allocated, and its deliverability verified, rather than the matter being left to Policy DM5 – but that option was specifically rejected by IBC as discussed above. In any event, providing two training pitches on a separate piece of land somewhere else is hardly likely to be a practical option, and so off-site re-provision is only ever likely to be feasible in a scenario where Ipswich Rugby Club relocates in its entirety to a different site – something that has not been achieved over the last two decades.

⁵ See Paragraphs 4.4, 6.21 and 6.22 of Sport England's Statement of Case



Figure 5: Examples of purposes of green infrastructure within the site allocation boundary

- 4.36 For all of the above reasons, it is my view that site allocation ISPA4.1 cannot be predicated on a like for like replacement of rugby pitches within the allocation.
- 4.37 In my evidence in Section 10, I will explain further why, in my view, the proposals do actually meet the terms of Policy DP5, but that if the Inspector considers otherwise, the benefits of the scheme would outweigh any such conflict, particularly given the limited use of the existing pitches for the wider community.

Primary School Provision

- 4.38 Based on advice from Suffolk County Council at the time, both allocation policies assumed that the delivery of the site would be delayed towards the end of the respective Plan periods, due to a projected shortfall in primary school places, and a need for additional provision to be made first in the Ipswich Garden Suburb.
- 4.39 What has actually transpired, however, is not only is there no need for the Appeal Site to rely on new primary school places being made at the Ipswich Garden Suburb, there is in fact a surplus of primary school places, so much so that the Education Authority is not even asking from a contribution to fund additional places.⁶ It is also common ground that the local school, Rushmere Hall, has the capacity to accommodate pupils from the Appeal Site.
- 4.40 I assume the LPAs will highlight in their evidence the fact that in their respective Local Plans, the Appeal Site was not expected to be delivered until much later in the Plan period. However, the reason for that delayed delivery no longer exists. By contrast, as I explain further in my evidence, there is in fact an urgent need for additional housing delivery in Ipswich.

⁶ See SoCG 6 on education matters.

5. The Appeal Scheme

- 5.1 The substance of the Appeal Scheme, and an explanation of what the Outline/Hybrid application comprises, is set out in the Appellants' Statement of Case at paragraphs 1.7-1.10, and so is not repeated here.
- 5.2 The key "deliverables" of the Appeal Scheme include:
- 1) Up to 660 homes in an area where, as discussed in the Section 7 of my proof, housing land supply is falling below required levels;
 - 2) Circa 200+ affordable homes, at between 30-33% affordable housing, in a location where affordable delivery is a fraction of need, and where the affordable housing policy for the remainder of Ipswich requires only 15% due to problems of viability, and where the only other large strategic site (Ipswich Garden Suburb) is typically delivering 5% affordable housing due to issues of viability;
 - 3) A 10% improvement in biodiversity habitat – whilst it is not feasible to provide all of that improvement on-site, the proposals nevertheless will achieve a net on-site improvement in bio-diversity habitat compared to what is currently predominantly arable land, as well as achieving other on-site improvements for wildlife through measures such as bat/bird nesting opportunities, and an off-site enhancement.
 - 4) On-site opportunities for youth play, which exceeds normal policy requirements, in a location with an identified shortfall in such facilities.
 - 5) On-site opportunities for active sport, through the inclusion of a multi-use games area, capable of being of a size and format to support different types of sports, including tennis, netball, and 5-a-side football.
 - 6) A network of walking routes, designed to facilitate access for both existing and new residents to the on-site open space network and beyond to opportunities for recreation in the wider countryside. New crossing opportunities will facilitate easier and safer access for existing residents.
 - 7) A substantial increase in natural/semi natural greenspace, above and beyond policy requirements, to facilitate on-site recreation and activity, to support healthy communities (available to new and existing residents), in addition to formal park space and children's play.
 - 8) Incorporation of the "Green Trail" route around the periphery of Ipswich, to encourage wider informal recreation in the form of interconnected walking and cycling opportunities.
 - 9) Improvements to pedestrian and cycle safety on Humber Doucy Lane, via the provision of a parallel cycle/pedestrian route within the development boundary.
 - 10) On-site Early Years setting and on-site opportunity for 'everyday' retail offer, both centrally located to maximise access for new residents and to minimise travel by car, but also accessible to existing residents via the safe crossing points provided on Humber Doucy Lane.
 - 11) Economic benefits arising from the construction activity, estimated at £100m (see Appendix KC7).

- 12) Supporting employment through an estimated 150 construction jobs and 200 additional supply chain jobs (see Appendix KC7).
 - 13) Additional local spending arising from new home spending estimated at £1.5m (see Appendix KC7).
 - 14) Additional direct and indirect employment arising from the non-residential uses and additional local expenditure (see Appendix KC7).
 - 15) The opportunity for CIL receipts to be applied to local community schemes.
 - 16) The delivery of land allocated for development in two recently adopted Local Plans, ahead of the originally anticipated timescale, very much in accordance with national planning policy objectives to significantly boost house building.
- 5.3 The fact that the Appeal Scheme can deliver more than 600 homes is to my mind an additional benefit of the scheme. As I explain later in my evidence, there is a significant shortfall in local affordable housing delivery, in addition to a general need for more market homes. The Government has made clear that building more homes (and quickly) is required not just to meet housing need, but to help drive the nation's economic performance. The refusal of the application (IBC RfR 11) on the grounds that the scheme provides more housing than originally assumed is to my mind a very strange approach, and very much out-of-step compared to national planning priorities.
- 5.4 At the same time as delivering more homes than originally envisaged, the Appeal Scheme also manages to deliver more open space than local policy requires. Whilst the LPAs criticise the on-site open space (IBC RfR 12), the choice of typologies was informed by an Open Space Assessment that was shared as part of pre-application, and upon which the advice of IBC's leisure services section was specifically sought. There is little point in LPAs requiring Open Space Assessments to be undertaken to inform planning application proposals if the results are just to be ignored.
- 5.5 From the outset, the scheme was assessed and planned on the basis of being 'blind' to the administrative boundary between the two authorities, exactly as the respective Local Plan policies required. For the LPAs to now be basing their evidence in support of RfR 1 on the premise that the absence of the rectangle of land opposite Westerfield House is somehow essential to the proper wider planning of the area is very difficult to understand, as no question was raised as to the geographical extent of the analysis or extent of the Framework Plan at the time.
- 5.6 Notwithstanding my concerns expressed above as regards the pre-application process, it is also fair to say that the design of the scheme improved as a result of pre-application inputs, including for example in respect of the highways configuration (which involved a useful exploration of different options before the eventual selection of the Appellant's preferred solution), in respect of the Masterplanning of the site as regards the layout of open space and the siting of the local centre in a central position within the scheme, and in respect of ways to maximise hedgerow retention.
- 5.7 I am aware from my involvement as part of the consultant team that the Parameter Plans were derived from the Framework Plan, and that the Framework Plan was properly informed both by pre-application feedback and by the work of the technical/environmental team on matters such as drainage, highway design, ecology, landscape, and arboriculture.
- 5.8 I believe it is a well-designed scheme, that shows how the requirements of the site-specific policies can be delivered successfully on the ground, whilst properly optimising the capacity of the site to deliver housing – which is ultimately the reason why the land was allocated in the first place.

Post Refusal “Changes” to the Proposed Development

- 5.9 The Appellant’s case is that none of the submitted Application Plans needs to be amended for the Appeal Scheme to be acceptable.
- 5.10 There are however three matters that I would like to draw attention to at this point that could affect what is delivered on the site, should the Appeal be allowed, in ways that do not affect the Application Plans, or the description of the development.

Early Years/Local Centre

- 5.11 When the Outline Planning Application was submitted, it was assumed that the extent of land needed for the Early Years facility would be 0.22 ha. The size of the Local Centre as shown on the Land Use Parameter Plan is 0.33 ha. That sizing was on the basis the parcel would be large enough to accommodate a 0.22 ha Early Years facility and 400 sq m of other non-residential floorspace.
- 5.12 The size of the Early Years facility is not specified in the description of development, and nor is the figure of 0.33 ha for the Local Centre specified on the Land Use Parameter Plan (or any other application plan). Rather, the Land Use Parameter Plan notes in the key against the Local Centre that the precise/detailed boundaries of this element would be fixed at Reserved Matters stage.
- 5.13 The consultation response from SCC dated 23rd April 2024 notes the intention to provide a 0.22 ha Early Years setting, on the basis of an expected number of Early Years pupils of up to 60.
- 5.14 However, I now understand from work on the relevant Statement of Common Ground that the expectation is that a higher number of Early Years places is required, above the assumptions of both the Education Authority and the Appellant at the application stage. The larger number of places will, I understand, require a larger Early Years site of 0.32 ha. The Appellant is happy to provide that through the s106 agreement, but clearly to accommodate the other non-residential element, the overall size of the Local Centre would increase to circa 0.44 ha from 0.33 ha.
- 5.15 For the reasons explained above, that change does not necessitate any revision to the Land Use Parameter Plan, as the Plan already had an element of flexibility ‘built in’. It also does not affect the ability of the site to accommodate 660 homes, because as explained in the original Planning Statement, the provision of residential units at upper floors in the Local Centre was never taken into account in the calculation of the 660, and in any event, the effect on the quantum of residential land would be minimal.
- 5.16 Delivering an Early Years facility of 0.32 ha, rather than the 0.22 ha originally assumed, is a matter than can be secured through the s106 agreement, without impacting on any of the submitted Application Plans or affecting the description of the development.

The on-site MUGA

- 5.17 On the Illustrative Landscape Plan, and in the Design and Access Statement, it was assumed that the on-site MUGA would comprise of around 0.06 ha in area (0.08 ‘youth’ space overall with the additional area shown next to the MUGA). Having considered the matter further and taken additional specialist advice on optimising Multi-Use Games Area space, the Appellant considers that a larger MUGA would offer greater opportunities for sport, and is happy to commit to a larger facility accordingly.
- 5.18 Again, this would not require any changes to the submitted Application Plans, as the Green Infrastructure Parameter Plan only shows the general location of the MUGA, not the size. As I explain further in Section 10, the larger facility would also have no effect on residential yield, and,

if secured through condition/s106, can be effectively designed into the scheme at Reserved Matters stage.

Highway Access Designs

- 5.19 The design of the access junctions as submitted with the application are considered to be appropriate in any event, but as Mr Hassel explains in his evidence, the comments raised by the Highway Authority in their original consultation response, and reiterated in the Highways SoCG (SoCG 4) can be accommodated without changes to the position, size or geometry of the junctions shown on the application plans, through either the s278 technical approval processs, or the imposition of appropriate conditions/obligations, as they are all minor matters.

6. The Planning Policy Framework

Introduction

- 6.1 S38(6) of the 2004 Planning and Compulsory Purchase Act provides that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 This approach is re-iterated at paragraph 2 of the National Planning Policy Framework 2024 (the NPPF). The NPPF explains at paragraph 11 that at the heart of national planning policy is a “presumption in favour of sustainable development”, and that for decision taking, this means approving development proposals that accord with an up-to-date development plan without delay.
- 6.3 The Appellants’ case is that the Appeal scheme is entirely in accordance with the adopted Plans for both Ipswich and East Suffolk, both in terms of the requirements of the site-specific allocations, and in terms of the Development Management policies of both Plans. The Appeal scheme is also entirely in accordance with the site-specific Neighbourhood Plan policy that forms part of the Rushmere St Andrew Neighbourhood Plan.
- 6.4 The Appellant’s Statement of Case explained that therefore the “presumption in favour of sustainable development” applies by reason of Development Plan compliancy. Since the publication of the 2024 NPPF on 12/12/24, the situation in respect of Ipswich is now potentially different, as in likely absence of a 5 Year Land Supply would now render that Plan out of date, and hence the ‘presumption in favour of development ...’ would apply by reason of paragraph 11(d), rather than 11(c). I discuss housing provision in the following section.
- 6.5 In terms of the statutory test set out by s38(6), the Appellant’s case is that there are no material considerations existing that would justify refusing planning permission for the Appeal Scheme.
- 6.6 However, there are material considerations which lend additional substantial weight in favour of the Appeal Scheme, and therefore even were the Inspector to identify any conflict with any Development Plan policy, these additional material considerations would need to be considered in the overall planning balance (to which I return in Sections 13 and 14 of my evidence).

The Adopted Plans – the site-specific policies

- 6.7 The Appeal Site is subject to two site allocation policies, one in the Ipswich Core Strategy (ISPA4.1) and one in the East Suffolk Local Plan (SCLP12.24). Between them, these policies allocate the site for residential development of circa 600 homes. The principle of development of the site for circa 600 homes, i.e. as proposed in the Appeal scheme, should not therefore be at issue.
- 6.8 Between them, the site allocation policies also set out a number of more detailed requirements for the development. A list of these, and a commentary, was provided as part of the Appellant’s Statement of Case. For convenience, I summarise the list of the main policy requirements in the table overleaf.
- 6.9 There are obviously some aspects of the policy where there is dispute between the parties as to whether or not the Appeal Scheme is compliant. For other aspects, it appears to me from the LPAs’

Statement of Case that there is no dispute. The latter I have coloured coded green, the former I have colour coded yellow.

Policy Ref	Policy Requirement	How the Appeal Scheme complies
ISPA4.1 para 1 SCLP12.24 para 1	Development to planned and delivered on a comprehensive basis, covering both the Ipswich and East Suffolk areas.	This is exactly the approach taken, with pre-application discussion having been undertaken jointly with both LPAs, and without regard to the administrative boundary. The absence of the rectangle of land opposite Westerfield House is of no material consequence to the comprehensive approach.
ISPA4.1 para 2	60% of the site is proposed for housing and 40% for "secondary" uses ⁷	As explained at paragraph 3.13 of the Planning Statement, taking the site as a whole, the residential development parcels shown on the Land Use Parameter Plan total 18.86 ha, which is 59.8% of the total site area of 31.52 ha.
ISPA4.1 (f) (i) SCLP12.24 (c)	Inclusion of an Early Years facility on-site	The Local Centre on the Land Use Parameter Plans includes for an Early Years facility. The draft s106 includes for Early Years provision accordingly.
ISPA4.1 (f) (viii)	On-site retail to be considered through master planning work	As per the Retail Assessment submitted with the application, this has been considered as part of the master planning work, and provision made for convenience retail within the scheme.
ISPA4.1 (b) and (c) SCLP12.24 (d), (f) and (i)	Green Infrastructure to be used to maintain separation, protect heritage assets, and create a transition between the new development and more rural landscape of East Suffolk	The Green and Blue Infrastructure Parameter Plan shows how open space is to be provided between the proposed development areas and the boundaries of the site. The site exceeds the LPAs' open space policy requirements. Notwithstanding the LPAs' assertion that the buffer is "too narrow in some areas" ⁸ , the buffer is still described as "substantial" in the Officer report.
ISPA4.1 (e)	TPO'd trees to the boundaries of Westerfield House to be retained	The scheme involves no loss of trees to that boundary. There is no objection to the application on arboricultural grounds.
ISPA4.1 (f) (ii)	Replacement sports facilities "if required" to comply with Policy DM5.	As discussed in Section 4 of my evidence, replacement/retention of the existing playing fields on-site is fundamentally incompatible with achieving the overall requirements of the policy, but in any event, as explained further in Section 10 of my evidence, is not necessary in this case for other reasons.
ISPA4.1 (a) SCLP12.24 (a)	30% Affordable Housing (ISPA4.1 part a). 33% in East Suffolk under development management policy SCLP5.10.	The delivery of affordable housing to policy requirements is agreed and covered in the draft s106. The ability of the Appeal Site to deliver this quantum of affordable housing makes it essentially unique in Ipswich.
SCLP12.24 last para.	Vehicular access to be from Humber Doucy Lane	The development is accessed from Humber Doucy Lane. Whilst the LPAs have a different view as to the preferred location of the access, the principle of access from Humber Doucy Lane is not challenged. Whilst the scheme also includes a secondary point of access from Tuddenham Road for the northern parcel, no objection to this is raised either.

⁷ At the outset of pre-application, it was noted that if, as all parties agreed, the site should be master planned comprehensively across the administration boundary, it would not be sensible to apply different policy approaches on one side to the other, and that a pragmatic approach of 'blending' policy requirements would be appropriate. The 60/40 split technically applies to the IBC area, but is logically applied to the scheme as a whole

⁸ The wording used in RfR #4.

- 6.10 I have not included off-site mitigation measures within this table, as these do not affect the physical layout of the site, and are essentially matters for the s106 agreement/conditions to specify, having regard to the relevant tests. Nor have I included items that simply relate to the documentation required at application stage.
- 6.11 The table illustrates, at least on a crude level, that the areas of disagreement in terms of compliance with the site allocation policies is relatively limited, and essentially comes down to:
- Whether the Appeal Site has been “masterplanned”;
 - Whether the “substantial” green buffer is indeed “too narrow in some areas” or not; and
 - How the development mitigates for the loss of the existing rugby pitches.
- 6.12 The difference of preference for the location of the access on Humber Doucy Lane is not a site-specific policy issue. In any event, my understanding is that this matter is not now being pursued as an objection by the LPAs.
- 6.13 The Rushmere St Andrew Neighbourhood Plan was ‘made’ on 28th June 2023. This document also includes a site-specific policy for that part of the Appeal Site that falls within East Suffolk, under Policy RSA 2. The key requirements of RSA 2 are:
- The development should make provision for reinforcement of existing planting and additional native tree planting along the north-eastern/eastern boundary of the site.
- Note:* The specifics of planting species would be a matter for detailed approval at a later stage, but the Illustrative Landscape Strategy submitted alongside the application shows how the substantial open space areas on the eastern side of the site would be capable of providing structural landscaping and new native tree planting, exactly as required under the policy.
- 6.14
- The planting scheme should be designed to maintain separation between the development and adjoining areas, and should be accompanied by a management plan.
- Note:* The open space ‘buffer’ alongside the type of planting shown on the Illustrative Landscape Strategy achieves this objective. Management of open space would be a matter for detailed approval at a later stage.
- Access onto Tuddenham Lane and Seven Cottages Lane shall be only for pedestrian and/or cycle access.
- Note:* This is exactly what is proposed, as per the relevant Parameter Plans and details access drawings.
- 6.15 In conclusion on the site-specific policies, I can see nothing in the Appeal scheme that conflicts with Policy RSA 2, and nor is RSA 2 quoted in any of the reasons for refusal. For the reasons set out elsewhere in my evidence (and that of Mr Self on landscape matters), I do not agree with the LPAs that there is any conflict between the Appeal Scheme and the three matters that I highlight above and in the table on the previous page.
- 6.16 Accordingly, my view is that the Appeal Scheme accords with the site-specific allocations contained within all three relevant Development Plan documents, and that this is a matter that should attract very substantial weight in the overall planning balance.

The Development Plan - Other key Policies

- 6.17 Policy DM23 of the Ipswich Development Plan requires all housing development to achieve a minimum density of 35 dwellings per hectare, in order to ensure efficient use of development land. This is characterised as “low density development”.
- 6.18 Whilst the Suffolk Coastal Plan does not have a minimum density policy, it would be reasonable to assume that, as the Appeal Site is to be treated as a single comprehensive proposal, and as there is no natural dividing line between one side of the administrative boundary and the other, that a similar “low density” approach of 35 dwellings per hectare would be applicable across the Appeal Site as a whole.
- 6.19 With a requirement for 60% of the site to be developed for housing under Policy ISPA4.1, and a minimum requirement of 35 dwellings per hectare, the minimum number of homes for the site to accord with policy would be 660 homes (18.86 ha multiplied by 35 dwellings per hectare). The Appeal Scheme provides the right number of homes to comply with the adopted site allocation and density policies (I return to this point in my response to RfR #11).
- 6.20 The Key Diagram shown at Diagram 3 on page 35 of the Ipswich development plan sets out a series of ‘green corridors’ that connect the centre of Ipswich with the countryside surrounding the town, as shown in the extract overleaf. One of those Green Corridors runs along Tuddenham Road, and so adjoins the north-western side of the Appeal Site. The Key Diagram also shows the location of a “Green Trail”, which is intended to provide a network of accessible green space around the periphery of the town.
- 6.21 The relevant policies that relate to Green Corridors and the Green Trail are Policies CS16 and DM10. Alongside other open space and ecology requirements, Policy CS16 notes an intention to “work with partners” to improve green infrastructure and link green corridors with a publicly accessible green trail around Ipswich. Policy DM10 states that development within green corridors will be expected to maintain and where possible enhance the functions of that corridor, and states a wider objective of enhancing public access through the green trail around Ipswich. It states that development at the edge of Ipswich will be required to provide green trail links as part of open space provision.
- 6.22 The proposed development maintains a landscaped frontage to Tuddenham Road, with development set back from the road behind a green ‘buffer’ presenting opportunities for new tree planting. The development creates new opportunities for pedestrians and cyclists to cross the Appeal Site, and to link into a ‘green trail’ route running around the peripheral open space network, and the wider countryside beyond.

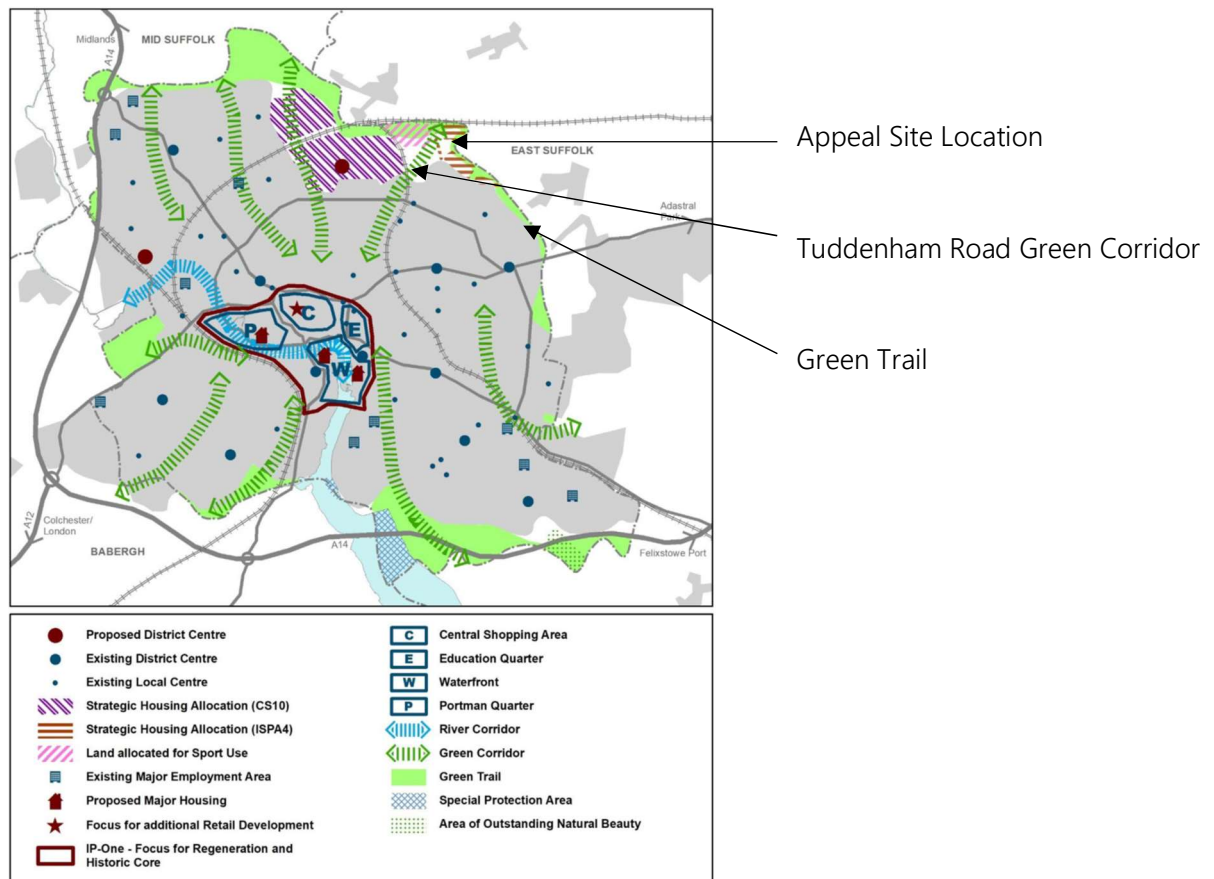


Figure 6 – Key Diagram Extract from 2022 adopted Core Strategy and Policies Development Plan

- 6.23 The Appeal scheme therefore contributes positively to the objectives of Policies CS16 and DM10. None of the reasons for refusal cite Policy DM10, and Policy CS16 is only referenced in the context of RfR 13 on s106 matters (presumably in connection with the need for a 'RAMS' financial contribution), and therefore it is assumed that IBC also agree that the physical form of the development accords with Policies DM10 and CS16.
- 6.24 The East Suffolk Decision Notice references Neighbourhood Plan policy RSA9 in respect of design in support of its RfR 1 (masterplanning), 3 (landscape and heritage), 4 (flood risk) and 10 (open space).
- 6.25 Policy RSA 9 sets out a number of largely generic design considerations across 11 criteria, referenced (a) to (k). Criteria (a) to (c) relate to the protection and enhancement of existing features and vegetation, which it is submitted is achieved by the Appeal scheme through its Green Infrastructure proposals. Criterion (d) relates to highway impacts, which it is submitted is addressed through the matters set out in the Transport Assessment submitted as part of the application. Criterion (e) relates to management of surface water, which it is submitted is addressed through the Flood Risk Assessment submitted with the application. Criteria (f) to (k) relate to detailed design considerations not relevant to the Outline proposals.
- 6.26 The ESC Decision Notice also reference Policy RSA 11 of the Neighbourhood Plan in support of the reason for refusal relating to open space provision. Policy RSA 11 has similar objectives to Policy DM5, but as the playing fields to be lost are not within the Neighbourhood Plan area, I assume that Policy RSA 11 is only being quoted because it contains a generic sentence regarding the need for proposals to provide appropriate open space. As it sets no open space standards of its own, it does not add anything to the higher level plans in that respect, and of course it is common ground that the Appeal Scheme is providing a quantum of open space that exceeds the requisite standards.

6.27 Finally, the Neighbourhood Plan includes a Policies Map which identifies important views, an extract of which is provided below – as can be readily seen, the Appeal Scheme affects none of the key views shown.

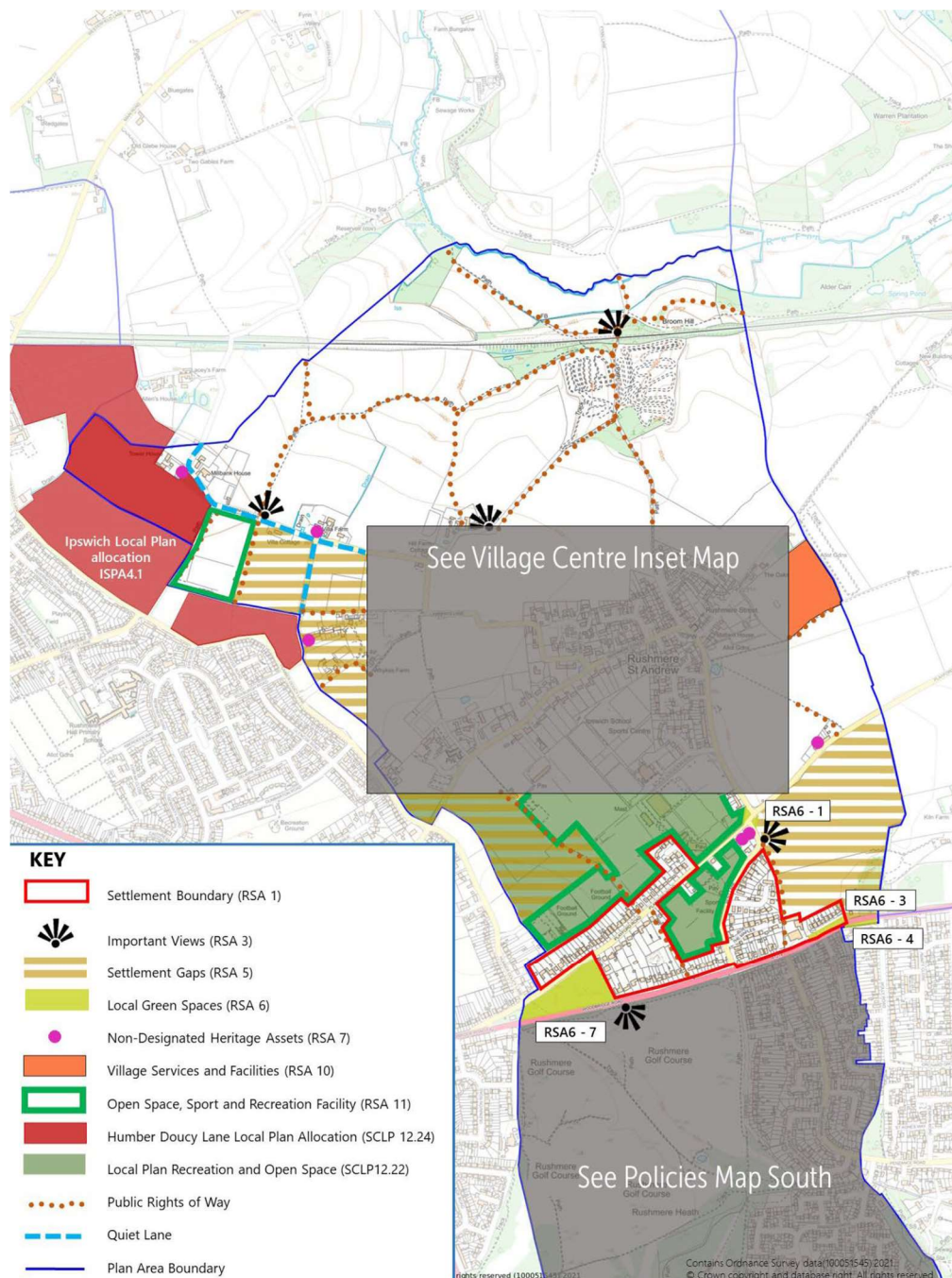


Figure 7 – Extract from Neighbourhood Plan Policies Map

Development Plan Summary

6.28 For the reasons explained above, my view is that the Appeal Scheme is 100% in accordance with the three Development Plans in force within the area.

6.29 As such, my view is that the starting point for determination of this Appeal should be that planning permission should be granted (on the basis of s38(6) and the presumption in favour of sustainable development), unless there are material considerations of such weight as to justify a refusal against the provisions of the Development Plan. My view is that there are no such material considerations at all, let alone any of such weight as to justify refusing development on an allocated site.

- 6.30 Even where there is disagreement between the parties on Development Plan compliance, the areas of disagreement are relatively few, when compared to all of those parts of the site allocation policies (and the broader policies I highlight) where the LPAs have raised no objection.
- 6.31 I return to consider the areas of disagreement, and the weight to be attached to the LPAs concerns were the Inspector to agree with any of those matters, in my overall 'Planning Balance' section.

The 2024 National Planning Policy Framework

- 6.32 As set out at paragraph 2 of the NPPF, national policy is a material consideration in planning decisions. In the table below, I have highlighted those areas of the 2024 NPPF that I consider to be most significant in connection with this Appeal, and my reasons for highlighting these paragraphs.

NPPF Paragraph	Relevance to the Appeal/Appeal Scheme
Para 11 (presumption in favour of sustainable development)	In my view the 'presumption ...' applies by reason of Paragraph 11 (c) of the NPPF – approval of development proposals that accord with an up-to-date development plan without delay, or, as the case may be depending on a further examination of land supply, under Paragraph 11 (d).
Paragraph 39 (positive decision making)	Para 39 states that "Decision-makers at every level should seek to approve applications for sustainable development where possible". This is an allocated site in a location that has extremely poor delivery of affordable housing and has struggled to deliver enough homes generally in recent years. Clearly poor-quality development should be rejected, but that is not the case here, and rather than looking for obstacles to approval, it is appropriate in the context of Paragraph 39 for all parties to be assisting the Inspector to come to a positive decision to allow the Appeals.
Paragraphs 61, 78 and 79 (boosting housing delivery and maintaining land supply)	The relevance of paragraph 61 is that, irrespective of whether or not paragraphs 78-79 come into play in this case, it still remains a national planning objective to significantly boost supply. The relevance of otherwise of paragraphs 78-79 I discuss in the following section.
Paragraph 103 (open space and open space assessments)	<p>The opening sentence of para 103 states "Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change." The Appeal Scheme delivers in excess of the local policy requirement for open space, and lies within an area where there is excellent access to existing opportunities for sport (not limited to just the two rugby clubs), and where there is ready access to informal recreation in the surrounding countryside.</p> <p>Para 103 also draws attention to the value of Open Space Assessments in determining what type of open space is</p>

	<p>needed. I acknowledge that the published assessments by Ipswich are somewhat long in the tooth, but as I explain in my evidence, having checked the information against up to date population data and current availability of playing fields, my assumption that the situation has not materially changed in this part of Ipswich is I believe correct.</p> <p>Para 103 (albeit in the context of policy making) notes "Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed ...". That is exactly what the Appeal Scheme addresses – the Open Space Assessment identified a surplus of parks and allotments, and therefore the on-site open space has focused more on area of deficiency, including youth space.</p>
Paragraph 104 (loss and replacement of sports facilities)	Paragraph 104 is similar in intent to Policy DM5, and therefore I cover this in more detail in respect of my comments on RfR #10. My view is that provision for alternative sporting activity that has wider benefit to the local community (including the youth of the local community) is a benefit that outweighs the loss of the existing rugby pitches. It is a question of maximising the benefit of sporting activity for as many people as possible, rather than protecting space for one particular sports use.
Paragraph 105 (access and recreation)	The objectives of para 105, to protect existing rights of way and take opportunities to create better access by connecting routes, is exactly the purpose of the Green Trail, which the Appeal Scheme helps to deliver for this part of Ipswich.
Paragraphs 109, 115, and 117 (sustainable transport and designing for movement)	The scheme has been designed to achieve safe and suitable access for all users through the access arrangements on Humber Doucy Lane, and sustainable modes of access have been integrated into the proposals from the outset.
Paragraph 116	Irrespective of the differences of view on the best means of modelling highway impacts, ultimately, the relevant test is whether or not the impacts of a development on the road network would be "severe". The Appellant's case is that the impact is not severe.
Paragraphs 124, 129 and 130 (effective use of land and density)	As noted by paragraph 124, there is clearly a balance between making the best use of land for development, and safeguarding the environment/providing quality living conditions. Additional open space in developments may be desirable, but land for housing is in short supply, and if the Appeal Site is not used efficiently for housing, it simply means more countryside is lost. Having regard to the positive support in para 129

	for efficient use of land, and para 130 regarding the optimal use of land in situations where there is a shortage of land to meet housing need, which is the case at Ipswich, increasing open space on the site at the expense of optimising the yield from the site (which includes exceeding the number set out in policy) should only occur where that additional open space is absolutely necessary for the development to be acceptable. On a site that is already delivering a higher level of open space than policy requires, and which is barely meeting the 60% residential development area which policy suggests is appropriate, reallocating land from beneficial residential use to additional open space should be a last resort.
Paragraph 135 (design matters)	Although the Appeals relate to an Outline proposal, the Appeal Scheme has been designed to provide the right framework for a high quality design, which will be appropriate to the area and which will enable the objectives of paragraph 135 to be delivered. I would note in particular that the Appeal Scheme achieves the objectives of paragraph 135 (e), to optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space), but would also emphasise that this has been achieved without compromise to objectives (a-d) and (f).
Paragraph 215 (heritage impact)	The heritage experts for both the Appellant and the LPAs agree that the scheme causes harm to the setting of two Listed Buildings, and both agree that the level of harm is at the low end of "less than substantial". This is the lowest level of harm recognised by planning policy, and the appropriate test is set out at para 215 i.e. do the benefits of the scheme outweigh that harm. My view, as explained in Section 14 of this evidence, is that the paragraph 215 test is passed in this case.

- 6.33 For the reasons summarised above, my view is that the 2024 NPPF provides a policy framework that is essentially supportive of delivering additional housing in the right locations, and not preventing development unnecessarily. Clearly that does not extend to support for development that is inappropriate to its context, damaging to its environment, or which does not achieve a high quality, but that is not the case for the Appeal Scheme.

Conclusions on the Development Plans, their weight, and the "Presumption in favour ..."

- 6.34 As things stood on the 11/12/24, before the publication of the new National Planning Policy Framework, I had regarded both the Ipswich and East Suffolk Development Plans to be 'up to date' for the purposes of NPPF Para 11(c). In my view, the 'presumption in favour of sustainable

development' came into effect in both authority areas, as the proposed development is in accordance with the relevant Development Plan policies.

- 6.35 However, for the reasons discussed in the following section, my view on the currently available evidence is that the removal of the protection previously provided by paragraph 76 of the 2023 NPPF, is likely to have rendered the Ipswich Development Plan out-of-date, due to the absence of a 5 Year Land Supply. Indeed, as of the time of writing, the last published information by IBC on land supply has a base date of April 2022, and therefore the requirement under paragraph 78 for LPAs to "... identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years ..." is clearly not met.
- 6.36 In that context, and notwithstanding the fact that the Ipswich Plan as a whole would be out-of-date, the weight to be attached to the successful delivery of Policy ISPA4.1/SCLP 12.24 becomes even greater, particularly (as discussed in Section 7), delivery of the Appeal Site was flagged up a priority action when IBC published its previous Action Plan for increasing housing delivery).
- 6.37 In this context, my view is that the 'presumption in favour of development' would be triggered within the Ipswich administrative area by reason of Paragraph 11(d), rather than Paragraph 11(c).
- 6.38 There are of course two exceptions to the operation of Paragraph 11(d), which are set out in parts (i) and (ii). The first relates to situations where the proposed development would conflict with NPPF policies that provide a strong reason for refusing permission, and footnote 7 explains that one such policy area is that of impact on heritage assets. However, whilst the Appeal Scheme does have an impact on heritage assets, this impact is not a strong reason for refusal, as the relevant policy test at paragraph 215 is a balancing judgement of benefits against harm, not an 'in principle' objection. The test under part (ii) also requires a balancing exercise, but one 'tilted' in favour of permission.
- 6.39 Either way, in my view the Appeal falls to be considered against the 'presumption in favour ...'.
- 6.40 If the Inspector were to conclude that the Appeal scheme is not in accordance with one or more policies of the Development Plan, to the extent that in the first scenario, Paragraph 11(c) did not come into effect, then it would be necessary to undertake the wider balancing exercise of benefits against harm that I undertake in Section 14 of my evidence.
- 6.41 That wider balancing exercise is still required in the second scenario where the Ipswich Development Plan is deemed out of date, but from a starting point that permission should be granted unless any adverse effects identified by the Inspector significantly and demonstrably outweighed the substantial benefits of the Appeal Scheme. Again, I return to this at Section 14 of my evidence.

7. Housing Supply (affordable and market housing)

- 7.1 In this section of my evidence, I set out my understanding of the position as regards housing delivery in both the Ipswich and East Suffolk areas. As things stood on 11/12/24, under the 2023 NPPF, both authorities had plans that were adopted less than 5 years ago and so neither was obliged to maintain a 5 Year Land Supply under what was paragraph 76 of the 2023 NPPF.
- 7.2 The last published land supply position from Ipswich Borough Council that I am aware of dates from April 2023, and covers the period up to April 2022. The last published position statement from East Suffolk however is up to date, and provides information up to April 2024.
- 7.3 I begin with Ipswich, before turning to East Suffolk, and then provide some conclusions on the implications of the evidence for the consideration of these appeals. Unfortunately, there has not been time between the publication of the NPPF and the submission of proofs to undertake a detailed review of land supply, but I would hope that liaison between the parties will be possible before the start of the Inquiry.

Housing Delivery in Ipswich

- 7.4 At my paragraph 4.3, I noted that the 2017 Core Strategy was found sound, notwithstanding that IBC were unable to demonstrate a 5 Year Land Supply at that time. At paragraph 3.43 of the Appellant's Statement of Case, it was noted that at the time of the Examination of the current Core Strategy, the Local Plan Inspectors came to the conclusion that there was a "realistic prospect" that a 5 Year land supply existed, with the Council suggesting a supply of 5.12 years at that time.
- 7.5 A precarious land supply position is therefore not new for Ipswich. As the figures from the Council's published Annual Monitoring Reports show, it has been struggling along at close to the minimum or under since the start of the Plan period, even taking into account the fact that the Core Strategy adopted a stepped trajectory in the early years.

Year	New Homes Built	Affordable Built	Published 5 Year Land
Apr 2018-Mar-2019	223	9	3.17
Apr 2019-Mar 2020	421	35	3.0
Apr 2020-Mar 2021	321	47	5.42
Apr 2021-Mar 2022	166*	34	5.2
Apr 2022-Mar 2023	203	18	N/A
Apr 2023-Mar 2024	206	7	N/A
Total	1540	150	

Table 1: Ipswich AMR figures for land supply since the start of the current plan period (2018)

* This figure was originally published as 171, and appears to have been adjusted.

- 7.6 Policy CS7 of the adopted Ipswich Core Strategy sets out an overall housing requirement of 8,280 dwellings between 2018 and 2036, at a rate of approximately 460 homes per annum (i.e. close to the previous standard methodology figure of 466 per annum, but substantially below the new 2024 standard methodology figure of 723 homes per annum).
- 7.7 However, due to expected delays in delivery, Policy CS7 adopted a stepped housing trajectory, with delivery for the first 6 years (2018 to 2024) set at 300 dwellings per annum, and provision for the last 12 years set at 540 per annum.
- 7.8 It is relevant to note therefore that IBC's ability to deliver a 5 Year Land Supply up to now has only been premised on deferring delivery until later – whilst that may have been a necessity to ensure a sound Plan at that time, the fact that the Appeal Site can be brought forward earlier than anticipated at the time the Plan was adopted is a substantial benefit, as it means that less of the immediate housing need is being artificially pushed backwards in the Plan period.
- 7.9 Even with that stepped trajectory of 300 homes per annum, delivery to date over the first 6 years of the Plan period has been an average of 257 dwellings per annum, meaning a shortfall in delivery already of 260 homes, immediately prior to the annual requirement increasing to 540 homes per annum from next year onwards. As shown in Table 1 above, housing delivery in Ipswich has been below even the reduced rate of 300 dwellings per annum for each of the past 3 years. In not one of the first 6 years of the Plan period has it achieved the aggregate of 460 homes per annum.
- 7.10 IBC previously failed the Housing Delivery Test by delivering 64% of its housing needs in 2020, and by delivering 82% in 2021. It produced a Housing Delivery Action Plan in 2022 (see Appendix KC 8). Ironically, one of the 9 action points was to work with East Suffolk to bring forward the Appeal Site. Although it passed the HDT in 2022 by delivery 116%, it has now failed the recently published 2023 results, by delivering 77% of its requirement, and so triggering the need for a 20% buffer under paragraph 78 (b) of the 2024 NPPF. I would assume therefore, that the priorities identified in the 2022 Action Plan would still apply i.e. expediting the delivery of the Appeal Site as one.
- 7.11 Paragraph 4.1 of the LPAs' Statement of Case notes that neither plan envisages delivery of the Appeal Site within the early years of either plan period (for the reason of primary school capacity that turned out not to be correct). That apparent complacency as regards the urgency and importance of the Appeal Site to land supply ignores the fact that the stepped change in delivery in the approved IBC Plan was a matter of perceived necessity, rather than it being desirable, and the fact that early delivery of the Appeal Site has since been identified as one of IBC's key priorities for tackling what are on-going issues of housing delivery.
- 7.12 In respect of affordable housing, the problems of undersupply are even more significant numerically, and of course even more significant in terms of meeting the needs of those for whom decent housing is most urgent.
- 7.13 Paragraph 8.152 of the adopted Core Strategy explains that the total annual affordable housing need in Ipswich is 239 homes per year. Therefore, the provision of just 150 affordable homes in the first six years of the Plan period in total, against a need of 1,434 affordable homes over the same period, is, bluntly, desperate. To use an Inspector's wording from a recent Appeal decision in another authority where Affordable Housing delivery was failing, each of the 1,434 affordable homes " ... that should have been built, but have not, represent a missed opportunity to help alleviate the housing concerns of individuals and families."⁹

⁹ Appeal Ref: APP/V1505/W/22/3296116, para 32.

- 7.14 Due to issues of viability, the policy target for affordable housing set by Policy CS12 is only 15%, the only exceptions being the Ipswich Garden Suburb (at 31%), and the Appeal Site (at 30%). In reality, the typical level of affordable housing secured in s106 agreements for the Ipswich Garden Suburb is just 5% (unless future viability reviews allow any increase on that).
- 7.15 Therefore, the only site within the whole of Ipswich that is capable of delivering affordable housing at 30% is the Appeal Site.
- 7.16 Although the exact number of affordable homes that the Appeal Site will provide is not known at the moment, as it will depend how many are actually built in each administrative area, the total is likely to be somewhere in excess of 200 (assuming an aggregate of 31%). The Appeal Site will deliver more affordable homes in one location than has been achieved across the whole of Ipswich in the last 6 years. It will not solve the backlog of affordable housing delivery, but it will at least make a significant contribution, and it is the only site within Ipswich capable of delivering to that degree.

Housing Delivery in East Suffolk

- 7.17 The equivalent table for housing delivery in the former Suffolk Coastal area, since the start of that Plan period in 2018, is as follows:

Year	New Homes Built (incl C2 equivalents)	Affordable Homes Built	Published 5 Year Land Position
Apr 2018-Mar-2019	594	126	7.03
Apr 2019-Mar 2020	660	197	5.88
Apr 2020-Mar 2021	507	90	6.52
Apr 2021-Mar 2022	530	114	6.47
Apr 2022-Mar 2023	450	113	6.34
Apr 2023-Mar 2024	570	N/A	6.39
Total	3311	640	

Table 2: East Suffolk AMR figures for land supply since the start of the current plan period (2018)

- 7.18 The Suffolk Coastal Local Plan identified a need for at least 9,756 homes over the Plan period from 2018 to 2036, a requirement of a minimum of 542 homes per annum. As at March 2024, the delivery of 3311 homes (including C2 equivalents) is slightly exceeding (by 59) the requirement for 542 homes per annum. The Council has also been successful in maintaining a positive 5 Year Land Supply position.
- 7.19 East Suffolk's Housing Strategy¹⁰ set a target for the delivery of 100 new affordable homes per annum over the period from 2017-2023, and the table above suggests that this target was achieved.
- 7.20 The plan overleaf, taken from East Suffolk's Delivery Dashboard, shows the location of new affordable housing delivered in the 5 years up to 2023.

¹⁰ East Suffolk Housing Strategy 2017-23

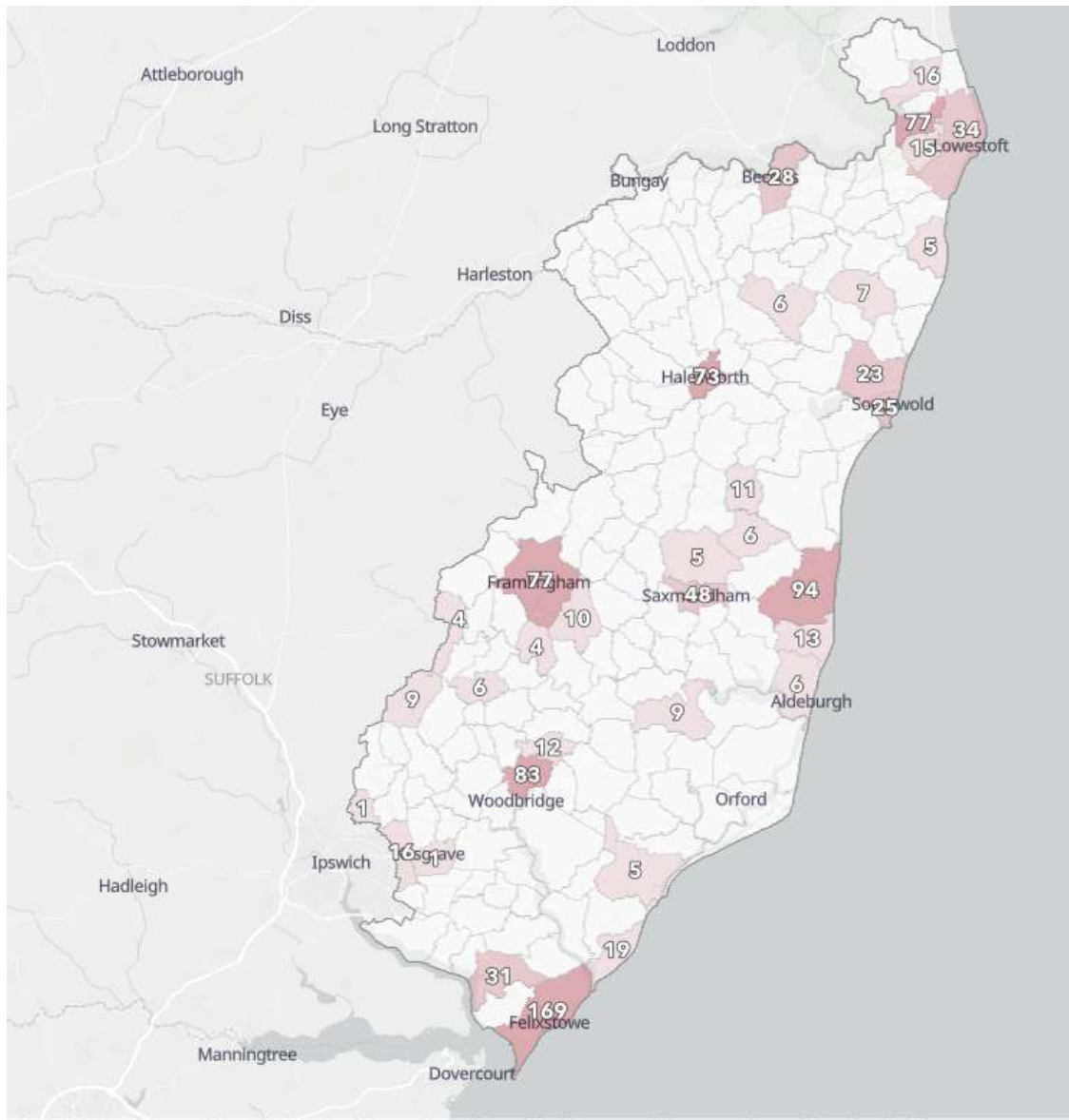


Figure 8 – Location of affordable housing delivery in East Suffolk 2018-2023.

- 7.21 It is notable, but not surprising given the lack of strategic sites on the edge of Ipswich, that the delivery of affordable housing in East Suffolk has been predominantly at Felixstowe, Lowestoft, and the larger towns. The success that East Suffolk has had at delivering affordable homes has not therefore contributed as much to meeting the significant shortfall in Ipswich.
- 7.22 Of the 200+ affordable homes that the Appeal Scheme would provide, it is of course the case that a proportion would technically be contributing to East Suffolk's affordable housing supply, but the location of the Appeal Site would suggest that, regardless of which side of the administrative boundary the affordable houses are on, they would be primarily meeting the desperate need for additional affordable homes in Ipswich.

Conclusion

- 7.23 Due to the fact that there is no recently published data for land supply in Ipswich, the Council is unable to demonstrate that it has a 5 Year Land Supply. In the event that further information is published, the Appellant would wish to reserve the right to comment further, but at the current time, the effect of the lack of an up-to-date 5 Year Land supply is that the Ipswich Core Strategy is out-of-date for the purposes of Paragraph 11(d) of the 2024 NPPF.

- 7.24 Irrespective of the above, it is clear that Ipswich has only been managing to maintain a 5 Year Land Supply in the recent past because it adopted a stepped trajectory as a necessity for the Plan to be found sound, not because it is desirable for housing delivery to be postponed.
- 7.25 It is even less desirable for housing delivery to be postponed when there is a shortfall in affordable housing provision, as is the case in Ipswich. Affordable Housing supply in Ipswich is desperately low, and there is no meaningful way that delivery can be substantially increased through the planning process because of viability issues and a low affordable housing target on other sites.
- 7.26 Unfortunately, in the time available between the NPPF being published and the date for submission of proofs, and owing to the absence of up-to-data, it has not been possible to undertake a more detailed assessment on 5 Year Land Supply, and the Appellant would wish to reserve the right to comment further. Notwithstanding, there is already evidence, as discussed above, to show that land supply, and affordable housing supply, is failing in Ipswich.

8. The Main Matters

- 8.1 In advance of the Case Management Conference, the Inspector identified an initial list of 'Main Matters' for the Inquiry to focus on. I set out that list below, alongside a commentary of my understanding of how matters have progressed since the CMC. I also indicate where the Inspector can find the Appellant's evidence in respect of each of these matters.

	Main Matter	Current Position	Appellant's Evidence
1	Whether the approach to the appeal scheme would provide a comprehensive and coordinated approach to development of the site (IBC RfR #1; ESC RfR#1)	No agreement between the parties	My Section 9 and the statement by PRP at my Appendix KC 1 of this PoE.
2	The effect of the scheme on the character and appearance of the area (IBC RfR #3 and #4; ESC RfR #3)	No agreement between the parties in respect of IBC RfR#4 and ESC RfR#3 on landscape, but character/appearance now withdrawn by the LPAs from IBC RfR #3	Mr Self's PoE
3	The effect of the scheme on designated heritage assets. (IBC RfR #4; ESC RfR #3)	Heritage SoCG agrees harm is limited to the two Listed Buildings to the North-East, that harm is at the low end of less than substantial, and that the test at para 215 of the NPPF applies.	My Section 4, the truncated version of Mr Kennington's Proof of Evidence at my Appendix KC 9, and SoCG 3 on heritage.
4	The effect of the scheme on highway safety. (IBC RfR #2 and #3; ESC RfR #2)	The Highways SoCG clarifies the points of disagreement between the parties on the design of the access junctions. It includes agreed walking routes to local facilities, but has not advanced agreement on any interventions that SCC consider are	Mr Hassel's PoE

		necessary on those routes.	
5	Whether the scheme would be at risk from flooding, having particular regard to flooding and drainage strategy (IBC RfR #5; ESC RfR #4)	The Drainage SoCG has reduced the matters in dispute. The remaining issues are either disputed or are matters that the Appellant considers are for detailed design that have no material impact on the application as submitted.	Mr Fillingham's PoE
6	The effect of the scheme on ecology (IBC RfR #6; ESC RfR #5)	The Ecology SoCG confirms impacts on ecology can be mitigated through appropriate conditions.	Dr Marsh's PoE
7	The effect of the scheme on the Stour and Orwell Estuaries, and Deben Estuary, designated European conservation sites (IBC RfR #7; ESC RfR #6)	The parties remain in dispute as to the measures required to mitigate impact.	Dr Marsh's PoE
8	The effect of the scheme on the archaeological significance of the site, having particular regard to investigation and mitigation strategies. (IBC RfR #8; ESC RfR #7)	The Archaeology SoCG confirms no outstanding matters, subject to conditions.	SoCG2
9	The effect of the scheme on air quality, having particular regard to mitigation measures proposed. (IBC RfR #9; ESC RfR #8)	The relevant SoCG confirms that the findings of the assessment provided at the application stage are accepted, and that appropriate mitigation to outweigh the calculated damage cost can be secured through a Travel Plan condition.	Short summary statement by Dr Evans at my Appendix KC 10, which is a note lifted from what would have become the Appellant's air quality PoE but for SoCG7.
10	Whether the loss of sports pitches arising from the scheme would be justified.	No agreement between the parties.	My Sections 4 and 10 of this PoE.

	(IBC RfR #10)		
11	<p>Whether the scheme would represent an appropriate quantum of development on the site</p> <p>(IBC RfR #11; ESC RfR #9)</p>	No agreement between the parties	My Section 11 of this PoE
12	<p>Whether the scheme would make appropriate provision for green infrastructure (quantum and quality)</p> <p>(IBC RfR #12; ESC RfR #10)</p>	No agreement between the parties	<p>Mr Self's PoE</p> <p>(Also my Section 10 as regards the Open Space Assessment).</p>
13	<p>Whether the scheme would make appropriate provision for infrastructure</p> <p>(IBC RfR #13; ESC RfR #11)</p>	<p>The social infrastructure SoCG shows substantial progress between the parties on matters relating to education, libraries and waste.</p> <p>The Highways SoCG sets out the Highway Authority's requests for transport infrastructure, the principle of which is agreed (but not the sums at this stage).</p>	<p>Mr Kinsman's PoE for SCC social infrastructure.</p> <p>The Appellant will wish to comment further following issue of the relevant CIL compliance statements from the parties.</p>

9. Main Matter #1 (RfR # 1 Masterplanning)

- 9.1 In the Appellant's Statement of Case at paragraph 4.22, the LPAs were "challenged" to explain exactly what harm they contend has arisen from the alleged absence of a Masterplan. Having read the Council's Statement of Case on the matter (paragraphs 7.5 to 7.12), I confess that I remain unclear as to what this reason for refusal is actually concerned with.
- 9.2 Before dealing with the matters raised in the LPAs' Statement of Case, there are two key points that I would like to re-iterate from the Appellant's Statement of Case:
- (1) I do not agree that there is no Masterplan for the site – as explained in the Appellant's Statement of Case, the Framework Plan submitted with the application is to all intents and purposes a Masterplan, and it was derived following the same process that would normally be followed for a Masterplan – analysing the site in its wider context, undertaking surveys of relevant matters, exploring options, discussing those with key stakeholders, and refining the proposals based on that work before submission. All of that work was done, led by the appointed architect for the scheme, PRP. At Appendix KC 1 to my proof, I attach an explanatory note from PRP that sets out the process that they undertook in more detail, and which explains why, in their view, the Framework Plan is essentially the same as a Masterplan.
 - (2) There is no policy requirement for "a Masterplan" – this may appear as a semantic point, but in terms of compliance with the Development Plan, even if the Inspector were to find that the Framework Plan is not a "Masterplan", the requirement under the policy is for the site to be considered comprehensively through a process of "masterplanning", and PRP have done that, as they explain in their note at Appendix KC 1.
- 9.3 The Reason for Refusal alleged missing areas of detail, effectively saying that because, in the LPAs' view, the submitted Framework Plan fell short of being a Masterplan, this somehow led to a lack of sufficient detail for their assessment.
- 9.4 For the reasons set out in the Appellant's Statement of Case at paragraphs 4.15 to 4.20, I do not agree that any additional information was required in order for the LPAs to be able to assess the Outline Application, and obviously by the same token I would say that there is sufficient information in front of the Inspector to reach a conclusion on whether or not the proposal for up to 660 dwellings, up to 400 sq m non-residential floorspace and an Early Years facility is acceptable on the site, in the manner set out on the Parameter Plans.
- 9.5 Furthermore, however, as far as I can see, nowhere in the Council's Statement of Case is the argument that the application contained insufficient detail actually being pursued.
- 9.6 Rather, from the opening paragraph 7.5 onwards (and with one exception regarding the small rectangle of land opposite Westerfield House), the Council's case in respect of RfR #1 is simply an exercise in cross-referencing its other reasons for refusal. In order, the Council comments as follows:

Paragraph 7.5 – The Councils state "The deficiencies in the application, which have led to the reasons for the refusal, are at least in part the result of a failure to demonstrate how the components parts have shaped the proposed development and that the allocated site will come forward in an acceptable form of development which is coordinated and comprehensively

planned". This sentence is simply suggesting that somehow a Masterplan (as opposed to the Framework Plan) would have resulted in a different form of development that resolved all of the LPAs' other reasons for refusal. As there is no practical difference between a Masterplan and the Framework Plan in terms of content relating to the general arrangement of the site, there is no substance behind this comment whatsoever.

Paragraph 7.6 – The additional information provided in respect of ecology and archaeology has no bearing on the 'masterplanning' of the site. At the application stage, the consultant team already had a sufficient understanding of ecological constraints/mitigation from its ecology team, and sufficient understanding of below ground archaeology to be confident that the proposed design was appropriate for the site. The fact that the subsequent survey work has borne out those assumptions is not luck, it is because a sufficient understanding of the issues already existed for design work.

Paragraph 7.7 – This sentence is simply part of the LPAs' underlying discontent that the application was submitted sooner than it wished, but other than registering my disagreement as regards the suggestion that there was not an opportunity for effective engagement, it requires no further comment.

Paragraph 7.9 – The Councils state: "... the masterplanning process should have been used to determine, and justify, key elements of the proposal, such as the appropriate amount of residential development on the allocation; the most suitable location for the site access; and the internal connectivity between the site parcels ...". In order, this sentence is simply a cross-reference to RfR #11, #3, #2 in turn.

Paragraph 7.10 – The Councils state: "... the masterplan provides no justification for the amount of residential development proposed, or the consequential impact ... on the extent of land available to function as a green buffer ... the amount and disposition of open space; and the loss of sports pitches". In order, this sentence is simply a cross-reference to RfR #11, #4, #12, and #10 in turn.

Paragraph 7.11 is simply a cross-reference to RfR #3. Paragraph 7.12 is back to RfR #2 again.

- 9.7 In the light of the above, I reach the conclusion that RfR #1 is not actually a reason for refusal in its own right. If the Inspector is satisfied with the proposals in all other respects, then the alleged absence of a Masterplan is not actually a matter that creates any harm (even leaving aside the issue as to whether or not policy actually requires one), and it is not a reason for refusal in and of itself.
- 9.8 The suggestion by the LPAs at paragraph 7.6 of their Statement of Case that there was a procedural requirement for a Masterplan has no bearing on the Inspector's decision in my view, because there is no legal or regulatory requirement for a Masterplan that could make a decision to approve without a Masterplan subject to challenge. The issue for the Inspector is not the process of how the Appeal Scheme was arrived at, but whether or not the Appeal Scheme accords with the Development Plan, taking into account other material considerations.
- 9.9 There is however one new matter raised in the LPAs' Statement of Case, which is at paragraph 7.8. Here the LPAs state that the Appeal scheme will not deliver comprehensive planning, because it does not include the rectangle of land opposite Westerfield House, highlighted in yellow on the plan overleaf.

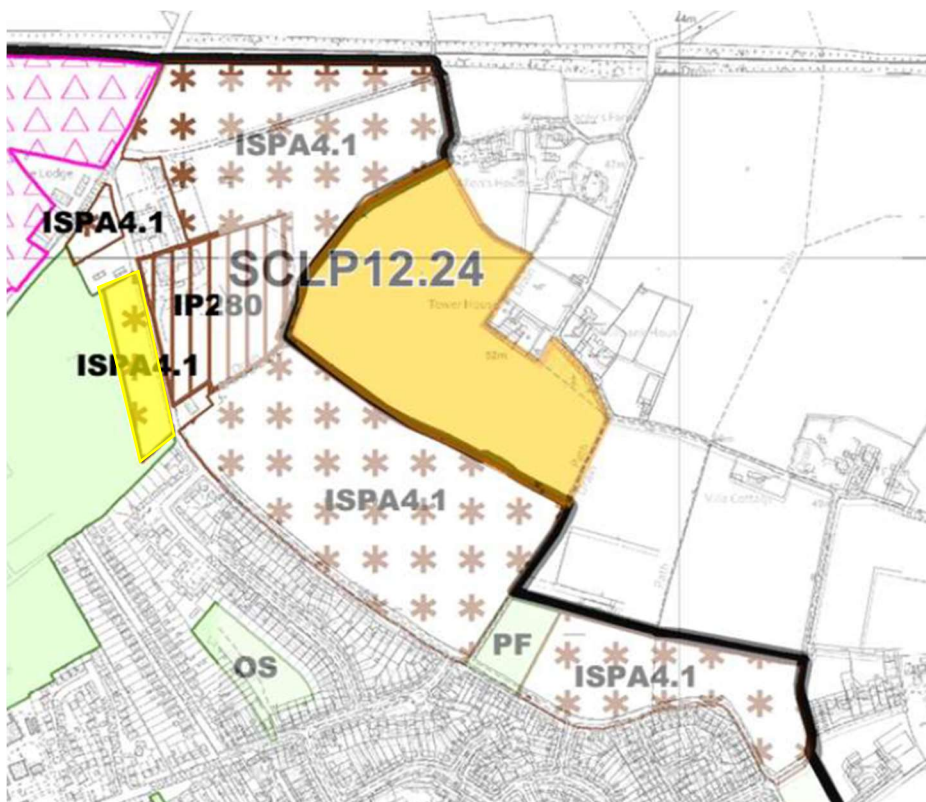


Figure 9: Location of land opposite Westerfield House shown with yellow highlight.

- 9.10 As the LPAs note in their Statement of Case, this parcel of land has been the subject of an application by another party, a full application for 13 dwellings in July 2024, but subsequently withdrawn. The reason for withdrawal is not evident from the Council's website, but I am aware that concerns had been raised by the Highway Authority, and I also note that the scheme as submitted did not appear to address the impact on the principal elevation of Westerfield House, which I know had been a matter of concern with IBC in the past.
- 9.11 Given how much emphasis the LPAs place in their Statement of Case on the benefits of effective pre-application discussion, I am surprised that this matter is being raised as an issue in their Statement of Case, when in 5 months of pre-application discussion, this parcel of land was not referred to once.
- 9.12 Appendix E to the LPAs' Statement of Case contains the pre-application advice issued in February 2024. The pre-application letter starts by explaining that the *"matters raised in this letter reflect the discussions held between parties to date"* and that its purpose is to *"... identify the further areas of work which will need to be considered in order to progress the planning process ..."*. In the section on page 2 headed "background", the pre-application note confirms that the proposals discussed up to that point do not include the yellow highlighted parcel above. And yet nowhere in the 11 pages is the absence of the yellow highlighted parcel raised as a concern, or any suggestion made that the proposals are deficient by not including it.
- 9.13 It is hard to escape the impression that the reference to this parcel now, in the Council's Statement of Case, is a retrospective attempt to identify an area of harm in support RfR #1, that has never been raised before, and surely would have been had it been at all relevant.
- 9.14 More importantly, it is quite clear that there is no interdependency between the ability to design a scheme for the yellow highlighted land and the remainder of ISPA4.1 – the two are not physically linked, and there is no expectation that the yellow highlighted land is required to deliver anything of utility upon which the wider scheme depends. Residents from the yellow highlighted land may well wish to use facilities within the wider allocated site, but fortunately, the new site access opposite

Inverness Road provides a suitable pedestrian access in close proximity to that site, via an existing footpath, with a crossing facility.

- 9.15 The LPAs' Statement of Case has in my view veered away from the original substance of RfR #1, which primarily alleged that a lack of detail had hampered the LPAs and that there had been a "missed opportunity" which may have led to a different proposal. There is no reference or further explanation in the LPAs Statement of Case to explain these previous comments, and instead, the rationale for RfR #1 now appears to be that the lack of a Masterplan is the cause of various other reasons for refusal, and a rather surprising and belated reference to the lack of inclusion in the Appeal Scheme of the small separate parcel opposite Westerfield House.
- 9.16 For the above reasons, and for the reasons set out in the Appellant's Statement of Case regarding the sufficiency of the level of detail provided, I do not believe that RfR #1 has any substance.

10. Main Matter #10 (RfR #10 and Policy DM5)

- 10.1 The Inspector is being presented on the one hand with evidence from the Appellant that there is a surplus of playing fields in the local area, and on the other hand by evidence from the Rugby Club/Sport England etc that there is a shortage of land for rugby.
- 10.2 Although the local area is in fact very well served by two long standing rugby clubs, the two statements above are not necessarily mutually exclusive, and both could be true, as rugby is only one of a number of outdoor sports that uses playing fields. It is possible therefore to have a surplus of sport pitches in a particular area against LPA standards, but also a shortfall for a particular activity.
- 10.3 It is important therefore when considering this matter to be clear that we are comparing 'apples with apples', and not confusing requirements for a particular sport with requirements for sport in the round.
- 10.4 Before progressing to the substantive relevant matters, I note that the Council's Statement of Case (paragraph 7.46) repeats the assertion in the Officers' Report that the Appellant has somehow claimed that the rugby pitches are not in use. This is not the case, and the Appellant's Statement of Case makes it perfectly clear (para 4.116) that the Appellant has never argued that the pitches are not in use, and it is self-evident that usage implies demand. But Policy DM5 does not only apply to sports pitches where there is no current use – indeed, it would be a bit odd if it did, since unused pitches are not much of an asset. Policy DM5 requires a proper assessment between what is being lost and what is being provided, an exercise that it is not obvious was undertaken by the LPAs, judging from the Officer Reports, before the applications were refused.

Use of the land by Ipswich Rugby Club

- 10.5 I understand from the Appellant that Ipswich Rugby Club's use of the land in question was by agreement with the former landowner via a Licence and therefore represented a personal relationship between the parties. No rent is paid, and the continued use of the land by the Rugby Club is subject to the continuing consent of the current landowner (the Appellant).
- 10.6 The Inspector will be aware that there is a matter of disagreement between the Appellant and Sport England as to the whether or not Ipswich Rugby Club's usage of the land in question is authorised. According to IBC's website, applications for use of the land within the IBC area for rugby over the years have comprised the following (in reverse chronological order):
- 16/00588/FUL Change of use from agricultural land to playing fields for a temporary period of 3 years.
 - 12/00581/FUL Change of use from agricultural land to playing fields for a temporary period of 3 years (extension of planning consent IP/09/00466/FUL).
 - 09/00466/FUL Change of use from agricultural land to playing fields for a temporary period of 3 years.

- 01/01160/FUL Continued use of agricultural land as playing field for a period of 5 years (renewal of Planning Permission I/96/0729/FP).
- 96/00729/FUL - Change of use from agricultural land to playing field for a period of 5 years.
- 94/00750/FUL - Continued use of former agricultural land for playing and coaching youth rugby on Sunday mornings - Renewal of Planning Permission I/92/0526/FP and variation of conditions 2 and 4 to allow the use to extend from 10.00 am to 12.00 pm and to allow a goal post at each end of the playing area.
- 92/00526/FUL - Use of former agricultural land for playing and coaching youth rugby on Sunday mornings for a period of 2 years.

10.7 In its representations on the Planning Application, Sport England argued that, because the 1994 renewal was not subject to a condition requiring the use to cease, it remains extant and therefore the Rugby Club's continued use is lawful. However, within 2 years of that consent, the history shows the submission of a new application for a temporary change of use under reference 96/00729/FUL (NB note the description does not refer to "continued use"), which has subsequently gone on to be renewed a further 4 times, most recently in 2016, with the authorised use expiring in 2019. I also note that the RFU state that Ipswich Rugby Club has operated on the site since 1997, immediately after the temporary consent was granted.

10.8 The continued submission of applications for temporary consent would suggest to me that there is at least the possibility that the 1994 consent was not implemented. The existence of 5 temporary permissions since then may also indicate that even if it was implemented, it has effectively since been abandoned.

10.9 All of these permissions have been subject to a condition restricting the hours of usage to 10.00am to 12.30pm on Sunday mornings (the 1992 consent was 10.30 start). Even if it were demonstrated that the 1994 consent were lawfully implemented, it will still be subject to the same limited hours of usage.

10.10 On that subject, the Statement of Case from Sport England states as follows (paragraph 6.54):

"... Ipswich Rugby Club, have advised that the site is used for rugby matches and training on hours outside of 10am to 12pm on Sunday including during weekday evenings in the Spring and Summer when evenings are lighter. Although the hours of use exceed those in the permission established in 1994, there have been no enforcement actions related to the days or hours of use of the playing field since the planning permission was issued nearly three decades ago ...".

10.11 The absence of enforcement action is not equivalent to lawfulness. It may be that the extent of usage outside of the approved hours has not been so extensive as to trigger action, but that also does not render such activity authorised. The Inspector in this case is not determining a certificate of lawfulness, and is not being presented with evidence in that respect, and therefore the position remains that the continued use of the land for rugby is either unlawful by reason of the expiry of the last temporary permission in 2019, or at the very least is limited to permission for usage between 10.00 and 12.30 on Sunday mornings only.

The findings of the Open Space Assessment

- 10.12 The Open Space Assessment submitted with the Application (CD AD15) was issued to the LPAs in draft form in October 2023, in advance of a 'Green Infrastructure' workshop at the start of November 2023. As recorded in the Pre-App meeting log, the action arising was for me to check with the Council's Leisure Services team for updated information, as the base data came from IBC's 2016 "Background to the Revised Public Open Space Standards and Surplus and Deficiency Maps".
- 10.13 A meeting was duly arranged with Leisure Services and held on the 22nd November, at which it was confirmed that the Council had no more up to date information than the 2016 analysis. The findings of the assessment were not disputed, albeit the Officers did note that the playing field provision consisted primarily of private sports clubs (for example, like Ipswich Rugby Club).
- 10.14 As the pre-application process did not result in any new information being provided, and no challenge to the draft assessment, the Open Space Assessment was duly 'topped and tailed' and submitted to inform the planning assessment process.
- 10.15 I note that at paragraph 7.50 of the LPAs Statement of Case, it is stated: "The Councils shall provide their position in relation to the Appellants assertion that there is a surplus of playing fields and allotments in the area ...". This sentence does not actually tell me whether or not the Council does now have alternative data, or simply that it will let us know what their view is in due course. To date, however, I have not seen anything to suggest that the conclusions of the Open Space Assessment in respect of open space *typologies*, is inaccurate. The relevant data is set out in Table 1/Page 2 of the Open Space Assessment. It shows that, whether tested against Rushmere ward or the wider North-East ward group, there is a surplus showing for allotments and sports pitches¹¹.
- 10.16 I can appreciate that the age of the data may be a cause of concern, and I note the criticism at paragraph 6.45 of Sport England's Statement of Case that no evidence has been provided to support the assertion that matters have not changed materially since the IBC data was produced. Accordingly, I have interrogated the 2021 Census data to compare the most recent official population statistics to those used in the Open Space Assessment, and also re-assessed the areas of existing playing field within the North-East Ipswich area.

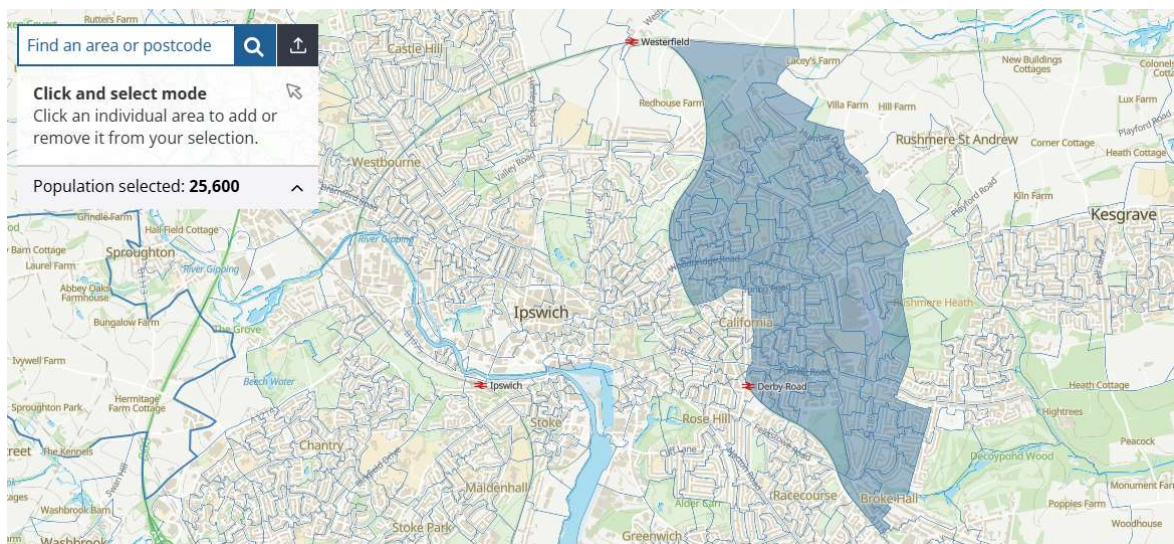


Figure 10: 2021 Census Population data for "North-East" Ipswich

- 10.17 The extract from the ONS website mapping above shows a population of 25,600 at 2021, compared to the figure of 24,513 for the same wards in IBC's "Surplus and Deficiency Maps" from 2016 (see

¹¹ Data for sports pitch provision is from the 2009 Open Space Sport and Recreation Facilities Study.

Appendix KC11). At 1.42 ha per 1000 population¹², the requisite area for sports pitches would be 36.4 hectares.

- 10.18 I am aware that there have been changes to existing provision since 2009, the date at which the plan extract below was published (CD OT5), with some areas no longer available. The figure for existing provision given in the IBC 2016 assessment for the North-East area of Ipswich is 54.7 hectares (see Appendix KC 11), which matches the figure given in 2009 for the areas shown below, with golf excluded¹³. Interestingly, the 2009 assessment notes (para 9.14 1st bullet p125 of CD OT5):

"...provision of outdoor sports facilities across Ipswich is highest in the North East analysis area, with 3.18 hectares per 1,000 people, or 2.23 hectares per 1,000 people excluding golf courses"

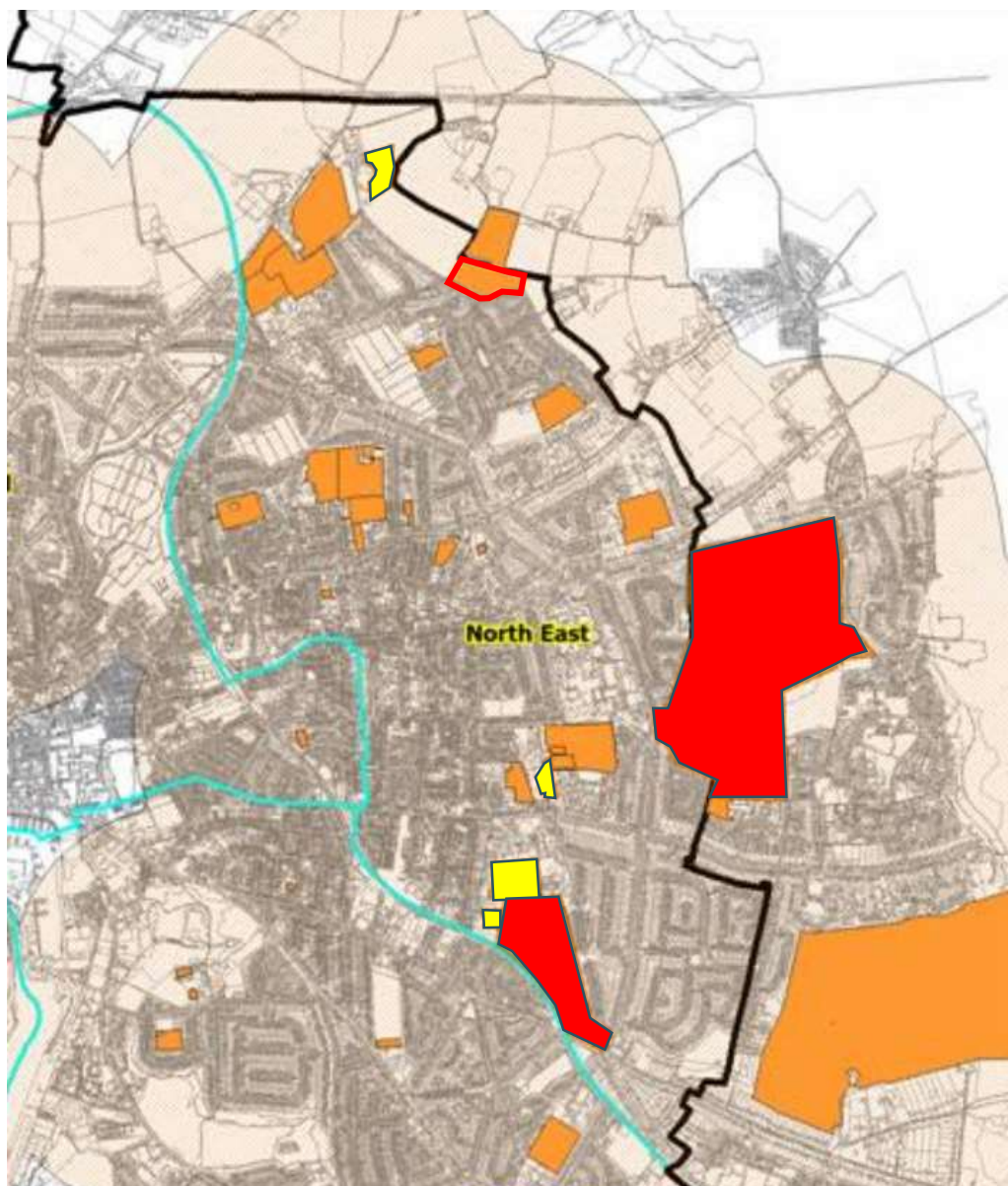


Figure 11 – Areas no longer used for outdoor sports (yellow highlight) and golf courses (red highlight)

- 10.19 On the diagram above, I have highlighted those areas that I am aware of that are no longer used for outdoor sports since the previous assessments. I have taken approximate measurements of the yellow highlighted areas, and they equate to around 6.5 hectares. Therefore, even if I also include the totality of the land used by Ipswich Rugby Club within the Ipswich Council administrative area

¹² Excluding golf

¹³ Table 9.2 of the 2009 OPEN SPACE SPORT AND RECREATION FACILITIES STUDY

(i.e. the gross area shown edged in red on the previous plan), which is about 3.4 ha, then there would be a reduction of around 10 hectares of sports pitches since the 2009 assessment, including the Appeal Site. That is an over-exaggeration as Ipswich Rugby Club would still have an area of land left for training purposes on the land that separates Parcels B and C.

- 10.20 The total of 54.7 ha excluding golf is therefore reduced to circa 45 ha. I note that Sport England, at paragraph 2.42 of their Statement of Case, agree that based on the IBC evidence, there is a surplus of outdoor sports in the North-East part of Ipswich, at circa 43 ha, albeit noting that this was expected to drop to 40 ha by 2021. Whether current provision is 45 ha, as per my approximate figures, or 40 ha, is immaterial, as even with the increase in population since 2009, and a reduction in playing fields, the North-East area still exceeds the required standard of circa 36.4 ha.
- 10.21 I also note the criticism by Sport England that the OSA prepared for the planning application only looked at Ipswich, and so I have therefore undertaken a further review, to assess whether or not the results would have been different had I extended my assessment 'over the border' into the neighbouring part of East Suffolk.
- 10.22 The Accessibility Standard for outdoor sports facilities, as per Table 9 at Appendix 3 of the 2022 Local Plan, is a 15 minute walk time, which is about 1.275 km based on an average walking speed of 5.2km/h. The North-East Ipswich area used by IBC for its Open Space Assessment (and so used by ourselves for the Open Space Assessment submitted at the application stage) varies in distance from the rugby pitches on the Appeal Site from around a minimum of 1.2km in extent, to around 2.5km. Taking into account the barrier to movement created by the Ipswich/Felixstowe railway line, the North-East area is roughly commensurate to being those properties within around a 15 minute walk of the site.
- 10.23 To make sure I am proceeding on an 'apples with apples' basis, I have therefore broadened by assessment area to look at the population within around 2.5km from the rugby pitches on the Appeal Site within the East Suffolk area. I could have used the lesser distance of 1.275 km, but I am aware that within that distance, there are very few properties, but a lot of playing fields, and the results would therefore be even more favourable in terms of the surplus of playing fields. By extending my assessment to 2.5km, I have therefore again taken very much a 'worse case' scenario.
- 10.24 The results in terms of population, based on the area shown overleaf, is that the catchment population increases from 25,600 for the Ipswich area alone, to 31,200 for the Ipswich and East Suffolk area combined.
- 10.25 Using the same standard of 1.42 ha per 1000 population, this would require a total of 44.3 ha of playing fields.

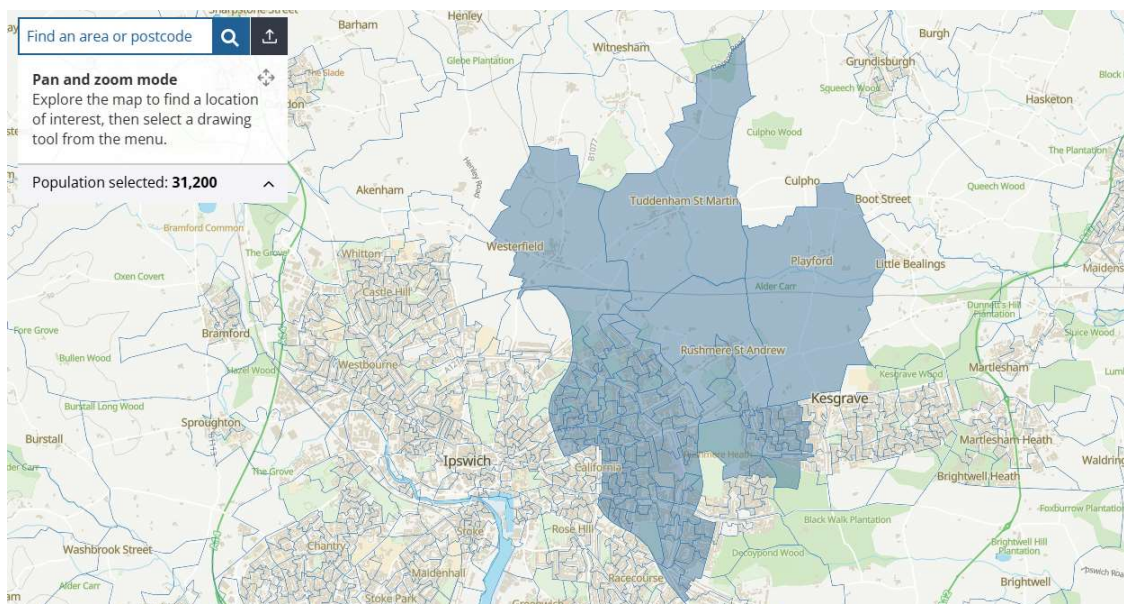


Figure 12: 2021 Census Population data for "North-East" Ipswich and adjoining parts of East Suffolk

10.26 Based on the tables included within the 2021 East Suffolk Playing Pitch and Outdoor Sports Strategy (CD OT6, pages 81-86), I have sought to identify those facilities that fall within the wider area shown above, and I have measured the overall site areas on the same basis as the site areas in Ipswich. The results are shown below.

Ipswich School Sports Centre	<p>Outdoor:</p> <ul style="list-style-type: none"> • 3 astro hockey pitches including 2 floodlit • 2 grass football pitches <p>6 netball / tennis courts including 4 floodlit</p>	5.3 ha
Ipswich Rugby Club	Rugby	4.0 ha (this is the area within East Suffolk only)
Ipswich YM	Rugby	4.47 ha
SEH Sports and Social Club	2 x adult football pitches– Wanderers FC	2.1 ha

10.27 When taken with the circa 45 ha within the Ipswich boundary, the additional playing fields within the East Suffolk area take the total provision to around 60 ha, significantly excess of the circa 44 ha required at 1.42 ha per 1000 population. The pitches within this area include the two local rugby clubs, Ipswich Rugby Club (which uses the two playing fields that overlap the Appeal Site), and Ipswich YM, which lies close by at Rushmere St Andrew. The two clubs are barely a kilometre apart.

10.28 I do not seek to suggest that, because there is a surplus of playing fields against the LPAs' standards that this means Policy DM5 does not apply, or that it means playing fields can automatically be lost. The purpose of the Open Space Assessment is to provide context to help a decision maker come to a view as to the relative weight to be placed on the loss of the existing playing fields in this case.

The impact on Rugby

- 10.29 It is of course the case that, as Ipswich Rugby Club are using the two pitches that would be lost (whether lawfully or not), there would be an impact on the availability of playing pitches for rugby within the local area. To my mind, that impact is best assessed not in terms of the physical area (the 2.7 ha referred to by Sport England), but it's practical usage. What is being removed, is 2.5 hours use per week, which is the maximum allowed under the previous permissions (if indeed that permission still exists at all).
- 10.30 The East Suffolk Playing Pitch Strategy (CD OT6 page 26) notes that improvements to pitch quality would reduce overplay and reduce the shortfall in match equivalent sessions. It notes:
- "Improving pitch quality through maximising maintenance and the type of drainage system installed would alleviate overplay on seven of the 13 pitches that are currently overplayed ..."*
- 10.31 Both YM Sports Ground and Humber Doucy Lane are identified as locations where improved drainage would help reduce overplay (CD OT 6 page 27).
- 10.32 In respect of training sessions, the East Suffolk Strategy is clear that the best means of increasing capacity is through additional floodlighting. The Strategy states:
- "Overplay at Humber Doucy Lane could be fully alleviated through the installation of additional floodlighting. Nine match equivalent sessions of training demand currently take place across two floodlit pitches at the site, with current quality providing three match equivalent sessions of capacity per pitch. This means that establishing floodlighting on one additional pitch could accommodate existing training demand without any overplay being present, although no capacity would exist for the pitches to also host matches (unless quality improvements also took place).*
- At YM Sports Ground, all demand could feasibly be accommodated if all three pitches were M2/D3 and floodlit, with 10.5 match equivalent sessions of spare capacity able to be created to accommodate 10.5 match equivalent sessions of current demand. However, this would leave no room for growth, despite future demand being expressed. Based on current quality (M2/D1), a shortfall of 1.5 match equivalent sessions would be evident."*
- 10.33 For the two Clubs, the East Suffolk Strategy (CD OT6 pages 84 and 85) notes the following:
- Humber Doucy Lane: Five senior pitches all of which are a good quality. Two are floodlit, with one at capacity and the other considerably overplayed. The remaining three pitches have spare capacity.*
- Ipswich YM: Three good quality senior pitches that are available for community use. Two are floodlit and overplayed due to match and training demand from Ipswich YM RUFC whilst the remaining pitch has spare capacity.*
- 10.34 Even with the two pitches on the Appeal Site removed from use, Ipswich Rugby Club and Ipswich YM would be similar in physical size, and both would be left with three senior pitches, two of which are already floodlit. In both cases, the East Suffolk Strategy notes that additional floodlighting at either club would assist with accommodating training needs, and better drainage would also assist usage.
- 10.35 The East Suffolk Strategy would therefore suggest that the most effective means of addressing the need/demand for rugby is not by retaining two pitches used for 2½ hours per week, but by investing in the quality of the pitches that already exist and which are capable of more intensive use.

- 10.36 I do of course acknowledge that the removal of the two pitches by the Appeal Scheme would reduce the availability of pitches, and I account for this in the overall planning balance by assigning a level of harm to this accordingly. But that level of harm is reduced by the limited lawful utility of these pitches, and the fact that the overplay of rugby pitches is better addressed by other means that retaining these pitches, and the surplus of playing pitches generally relative to local provision standards.

On-site provision

- 10.37 Although the size and specification is not fixed on any of the submitted Parameter Plans, the original Planning Application included provision for the delivery of a MUGA. The approximate location of the MUGA is shown on the Green Infrastructure Parameter Plan, and its use is described in the Design and Access Statement on page 119 for hard surfaced ball court uses as part of the Play and Recreation Strategy, and the facility is shown on the illustrative Landscape Strategy plan.
- 10.38 I note that in Sport England's evidence, the suggestion seems to be made that because the MUGA forms part of the 'youth' typology, it cannot be counted as providing 'playing field', and Sport England seem to suggest that it should therefore somehow be discounted as providing beneficial space for sports. Of course, it has never been the Appellant's case that the provision of a MUGA is the same as providing replacement playing fields – it is the Appellant's case that a MUGA provides more opportunities for participation in active sport than the limited use of the playing fields to be lost, a matter to which I return below. But I do not agree that classification of a MUGA as contributing to the policy requirement for youth space in any way diminishes its value as a sports facility, because it would not be exclusively for the use of a certain age group, and nor are persons of youthful age any less in need of facilities for sport than any other section of the population. It can be both suitable to meet the need for youth activity, and satisfy a wider role in providing a place for active sport.
- 10.39 I also note that Sport England's 10 year vision for transforming lives and communities through sport and physical activity, called "Uniting the Movement"¹⁴, identifies 5 key priorities, at least 3 of which would be positively supported by the provision of an on-site MUGA at the Appeal Site – "Connecting communities", as a MUGA can provide a focus for sport and physical activity for the local community, "Positive experiences for children and young people", as a MUGA offers opportunities for all ages and abilities, and "Active Environments", as an on-site MUGA (along with other opportunities for leisure and play on the Appeal Site) will help to provide easy access to local courts to encourage greater activity.
- 10.40 The proposed MUGA may not be welcomed by Sport England in its role of protecting playing fields, but it would certainly contribute to Sport England's broader policy objectives for encouraging sport, healthy activity, opportunity and inclusivity on a wider basis.
- 10.41 I also note that an on-site MUGA would contribute to the FA's "Football Foundation Playzones Programme"¹⁵, which describes "PlayZones" as " ...safe, inclusive and accessible outdoor facilities that bring communities together through recreational forms of football and a range of other sports".
- 10.42 A MUGA obviously has the benefit of being capable of use all year round, and for catering for different types of sport – typically football, netball, basketball, tennis and mini-tennis. If lighting were installed (not part of this planning application, but potentially feasible given the adjoining rugby club has lighting), it would be suitable for use for extended periods, even in winter. A MUGA

¹⁴ www.sportengland.org/about-us/uniting-movement

¹⁵ footballfoundation.org.uk/playzones-programme

offers more people more opportunity to engage in sport more of the time than 2½ of rugby per week.

- 10.43 Notwithstanding the above, having considered the matter further, the Appellant is willing to commit to a larger MUGA than was indicatively shown on the illustrative Landscape Strategy plan. By providing a MUGA of 34m x 37m (as sketched on the plan below), the facility would be large enough to meet Sport England's preferred size for two tennis courts¹⁶, netball, basketball, and mini soccer/single 5 aside football pitch – i.e. greater opportunities for sport all round, by allowing both a greater range of activities and more persons to participate at the same time.



- 10.44 None of the application plans are affected by the provision of a 37m x 34m MUGA, as the impact on the closest residential parcels is a matter for detailed design to ensure that properties are located a minimum of 30m from the activity area (likely anyway due to outward facing properties needing a perimeter road within the parcel¹⁷). The size of the MUGA is not specified anywhere in the application documentation, and can simply be controlled therefore through an appropriate condition/obligation that specifies what is required to be delivered.

The application of Policy DM5/NPPF Para 104

- 10.45 Policy DM5 and NPPF Paragraph 104 have broadly the same objectives – preventing the loss of open space/sports facilities - and are superficially similar in approach. However, there are some distinctions in the wording as regards the exceptions that each offer to retention of existing facilities, as highlighted in the table below.

¹⁶ The minimum size is 35m x 32m – Source: Sport England's Comparative Sizes of Sports Pitches & Courts (OUTDOOR)

¹⁷ As illustrated in the DAS on page 102.

Policy DM5	NPPF Para 104
<p>Exception 1:</p> <p>"the site or facility is surplus in terms of all the functions an open space can perform, and is of low value, poor quality and there is no longer a local demand for this type of open space or facility, as shown by the Ipswich Open Space, Sport and Recreation Facilities Study 2009 (as updated in 2017) and subsequent update"</p>	<p>Exception 1:</p> <p>"an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements."</p>
<p>Exception 2:</p> <p>"alternative and improved provision would be made in a location well related to the users of the existing facility"</p>	<p>Exception 2:</p> <p>"the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location"</p>
<p>Exception 3:</p> <p>"the development is for alternative sports and recreation provision, the need for which clearly outweighs the loss."</p>	<p>Exception 3:</p> <p>"the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use"</p>

- 10.46 In terms of the first exception, an Open Space Assessment (CD AD15) has been done which has shown there to be a surplus of playing field space compared to the relevant local planning authority standards in the local area. However, as that is not the same as saying "surplus to requirements", as referred to in the NPPF, and as it does not also mean that the land has no function as open space as referred to in DM5, I would not consider the first exception under either DM5 or the NPPF to be satisfied in this instance.
- 10.47 As regards the second exception, the NPPF wording does not specify that the "equivalent or better provision" needs to be for the same sport. It does however require that equivalence is achieved in terms of both quantity and quality, and in this case, it is clear that the alternative provision proposed is smaller in size than the existing playing fields (this seems to me to be a fairly poor indicator, because physical size is not a good indicator of usefulness).
- 10.48 Under Policy DM5, however, there is no stipulation that the "alternative and improved provision" is required to be the same or greater in physical area. It also does not state specifically that the alternative provision has to be for the same sport. Therefore, I consider that the Appeal Scheme complies with Policy DM5 (b) by providing alternative and improved provision in the same local area as the existing facilities, with the proposed MUGA being of significantly greater use for sport than the existing playing field.
- 10.49 For the third exception, the position is simpler, in the sense that the wording is essentially the same in both cases. The Appeal Scheme includes for the provision of both alternative sports provision and alternative recreational opportunities, which in my view provide benefits that clearly and outweigh the loss.
- 10.50 In coming to the view that, I consider that the surplus of playing fields generally in the local area, as described above, and the limited use (and/or lawfulness) of the existing playing fields are

material considerations – they weigh into a balanced decision to the effect that the proposed on-site provision creates clear benefits for sport overall, that outweigh the loss of the existing.

- 10.51 As I have explained elsewhere in my evidence, it would never be realistically feasible to relocate the existing playing fields and re-provide them elsewhere on the site on a like for like basis (and nor would that be a good use of open space, given their single use function). In reality, the pitches would just be left where they are, but in either of those scenarios, it is inconceivable that any scheme would be able to achieve the requisite number of homes that the Local Plans envisage whilst meeting all of the other scheme requirements for open space, density, heritage constraints etc.
- 10.52 Fortunately, neither Policy DM5 nor the NPPF require like for like replacement for the Appeal Scheme to be acceptable in planning policy terms, and nor does Policy DM5 or the NPPF prevent loss of existing facilities just because they are in use, if alternative provision provides greater benefits.
- 10.53 The overall assessment in this case is, I consider, a relatively simple comparative exercise as to which of the two scenarios offers the greater benefit for sport overall – a single use playing field with restricted hours of use for a seasonal sport, or a multi-use sports area offering access to a greater range of sports, which is available all year round, and which is available for use every day of the week for an extensive number of hours. My view is the latter, and so I conclude that DM5 and the NPPF are satisfied.
- 10.54 If the Inspector takes the view that it is the former, then a conflict with Policy DM5/NPPF para 104 exists, and the question then becomes whether or not the wider benefits of the scheme, as discussed further in my Section 13, outweigh the harm caused by that conflict.

11. Main Matter #11(RfR #11 Additional Housing)

- 11.1 I remain unclear, having reviewed the LPAs' Statement of Case, as to whether or not RfR #11 is actually a reason for refusal in and of itself, or whether it is simply that the LPAs consider that the exceedance of 599 homes is the cause of the issues raised in RfR #4, #7, #10, and #12.
- 11.2 If the LPAs were satisfied that these other RfR were overcome, would they still consider that the Outline Planning Permission should be refused purely and solely because more than 599 homes are being provided? I do not know the answer, but if I start by assuming that RfR #11 is actually a reason for refusal in its own right, then my response would be as follows:
- a) Where land is removed from the countryside in order to provide for new housing, then any responsible Planning Authority should be seeking to ensure that the most efficient use of the land is made to deliver homes. The consequence of not doing so is inevitably that more countryside will need to be developed at some point. Paragraphs 129 and 130 of the NPPF support that approach, encouraging optimisation of land, and stating that at both the policy stage and at decision making stage, development that makes efficient use of land should be supported.
 - b) As I have described in Section 7 of my evidence, the context in this case is limited land availability for housing in the Ipswich area and poor recent delivery, coupled with a clear need for additional affordable housing. It is even more important in such circumstances to maximise housing delivery, and to deliver those additional homes as soon as possible.
 - c) Even if there were no shortfall in housing delivery locally, the new Government has made clear its intention to significantly boost housing supply, both to meet housing need and bolster economic growth, and therefore new national policy (and the new standard methodology figures which see significant increases in both authority areas) provides an additional reason for LPAs not to seek to limit new development to existing Local Plan figures, if additional housing can be successfully achieved.
 - d) For the reasons I set out in paragraphs 4.21 to 4.26 of my evidence, the weight to be attached to the figures of 449 in ISPA4.1 and 150 in SCLP12.24 should be very limited anyway, as neither figure bears any close scrutiny.
 - e) Finally, the combined totals of 449 and 150 do not set a policy maximum anyway. The figure of 150 in Policy SCLP12.24 is expressed as an approximate total, whilst the 449 homes at Humber Doucy Lane are set out in Policy CS7 as part of a policy objective to provide "at least" 8,280 new homes in the Plan period, with allocations (including Humber Doucy Lane) delivering "at least" 4,431 new homes. There can therefore be no 'in principle' policy objection to the number of new homes on the Appeal Site exceeding 599¹⁸.

¹⁸ The LPAs Statement of Case notes that the Appeal Site does not cover all of the ISPA4.1 allocation, and that there is an additional parcel of land that could/would also provide housing towards the total. However, that parcel is minimal in size, and the previous application for 13 homes that was withdrawn helps to indicate that, in reality, the yield from that parcel makes no significant difference to the overall number of homes delivered on the allocated land.

- 11.3 For all of the above reasons, if the LPAs are putting forward RfR #11 as a reason for refusal in its own right, I consider it to be a fundamentally misconceived reason for refusal.
- 11.4 Turning then to the assumption that RfR #11 is actually cited because the LPAs view the 'additional' 61 homes as having caused, or at least substantially contributed to, the matters raised in RfR #4, #7, #10 and #12, then of course if the Inspector were to agree with the Appellant's case in respect of each of those reasons for refusal, it would follow that RfR #11 would fall away automatically.
- 11.5 My commentary above covers RfR #11 both in the scenario that it is a reason for refusal in its own right, and in the scenario that it exists merely as a consequence of matters raised in other reasons for refusal. I could therefore end this section here, but there are two related matters that I consider should be addressed here, as follows:
- Paragraph 7.55 of the LPAs' Statement of Case, which implies that the 61 houses above 599 are somehow the cause of the issues raised by the Council in its other reasons for refusal, and by further implication that somehow a reduction to 599 homes is a solution. I do not agree.
 - Paragraph 7.10 of the LPAs' Statement of Case, which states "... the masterplan provides no justification for the amount of residential development proposed".
- 11.6 Dealing firstly with paragraph 7.55, the LPAs' Statement of Case alleges the following deficiencies in the application, linked to the number of homes proposed:
- a) A failure "... to demonstrate that there will be adequate spaces around the application site to comply with relevant open space standards";
 - b) A failure "... to provide a suitable drainage design";
 - c) A failure "... to provide sufficient space to the rural edge to the north and protect the character of Humber Doucy Lane to the south"
 - d) A failure to "... retain or replace the existing sports pitches".
- 11.7 Item (a) can be quantified in terms of land take, as the LPAs' Statement of Case cross-refers to the respective Committee Reports, which both contain the same table of proposed/expected open space. That table identifies a shortfall in 1.0 ha of Parks and Gardens open space, and 0.65 ha of allotments. I am unclear at the point of writing as to what the LPAs' view on allotment provision actually is, as their Statement of Case simply deferred giving a view on the matter, but I have to assume that meeting the first of the above matters would require an additional 1.65 hectares of open space to be provided, comprising of both allotments and parks.
- 11.8 Point (b) above regarding "suitable drainage" is hard to quantify, but as the Appellant's case is that addressing the remaining matters raised by the LLFA has no implications in terms of development land take, I do not consider that it is relevant in this discussion.
- 11.9 Part (c) is also hard to quantify, as the LPAs are not specific in their case as to how much land is needed to the north and south to resolve their concerns, but they do explain that for the 'northern' (by which I assume they mean north-eastern) open space to function as a suitable transition between town and country, it should be stripped of drainage, play space, and other forms of activity (paragraphs 7.25 and 7.37 of the LPAs' Statement of Case), plus of course they argue that it is "simply too narrow". Obviously, the Appellant's case rejects these assertions. Exactly how much additional land would be required for the uses described above to be relocated from the northern transition zone and provided elsewhere, alongside making both the northern and southern open spaces wider by some undefined margin, is impossible to determine with any accuracy. I will notionally allow an additional 1 ha of extra buffer/relocated uses.

- 11.10 Part (d) is quantified by Sport England as being 2.7 hectares.
- 11.11 Taken together, the consequences of reasons for refusal #4, #7, #10 and #12 are, according to the LPAs' Statement of Case, a need for over 5 ha of additional open space.
- 11.12 At 35 dwellings per hectare, 61 homes would occupy 1.75 hectares of land.
- 11.13 Therefore, when one goes through the list of everything the LPAs say is needed (as per their reasons for refusal) and what the site needs to provide in terms of a minimum of 599 homes, it becomes clear that everything the LPAs say is needed doesn't actually fit onto the available area. It is not even the case that densities could be increased, as pre-application feedback and the urban design responses make clear that if anything, the LPAs would prefer lower density, not higher.
- 11.14 Of course, the Appellant's case is that RfR #4, #7, #10, and #12 are all misconceived, and that the site achieves a significant and appropriate buffer to both the north-east and south, delivers an appropriate quantum and type of open space having regard to local surpluses and deficiencies, achieves better outcomes for sport and activity than retaining the rugby pitches, and achieves the requirement for off-site recreational pressures to be managed.
- 11.15 In my view it is not necessary, and nor is it in fact desirable, for 61 homes to be removed from the scheme. But even if that were done, the fact is, it wouldn't create sufficient space to address the matters raised in the LPAs' reasons for refusal anyway.
- 11.16 Turning then to Paragraph 7.10, and the allegation that no justification for 660 homes has been put forward, I find this very surprising, as that figure has been consistently justified, for example at paragraphs 3.13 to 3.16 of the Planning Statement that accompanied the application, and at paragraph 4.123 of the Appellant's Statement of Case. It is justified by applying a minimum density of 35 dwellings per hectare to 60% of the site area, i.e. exactly the approach originally used by IBC in its assessment of the site yield (i.e as per Appendix KC 4), using the site area figures set out in ISPA4.1.
- 11.17 Additionally, I would note that the current rate of affordable housing delivery in Ipswich is on average 25 affordable homes per annum (150 affordable homes over 6 years). The 61 homes that the Appeal Scheme would deliver above the original expectation of 599 homes would therefore provide additional affordable housing roughly equivalent to a whole year of supply under current delivery rates in Ipswich. Given the desperate need for affordable housing, the ability of the Appeal scheme to deliver more affordable homes than the original policies envisaged, whilst still achieving a level of on-site open space that significantly exceeds the policy requirement, is a justification in itself for the number of homes delivered. Providing an even greater over provision of open space, at the expense of affordable housing delivery, seems to me to be focussing on the wrong priorities.

Conclusion

- 11.18 In my view therefore, RfR 11 comes down to the fact that there is a clear and quantifiable benefit for the Appeal Scheme delivering 660 homes rather than 599 – that is 61 homes that will not need to be found on land elsewhere, and circa 20 additional affordable homes, all delivered in the short-medium term. Making best use of allocated land is rightly supported by the NPPF policy.
- 11.19 Against that, the Inspector is presented with what I can only really describe as ill-founded conjecture as to what the scheme might be capable of delivering were those 61 homes not included.
- 11.20 In terms of the matters the LPAs raise as suggested benefits for not having the additional 61 homes, at paragraph 7.55 of their Statement of Case, I would comment as follows:

- The Local Plan figures are not supported by any evidence of substance, and nor is the figure of 599 set as a precise policy quantum anyway, due to the flexibility set by ESC policy.
- The level of harm to the Listed Buildings cited by the LPAs would not materially change, as changing 1.75 ha of land from housing to open space would not make any difference to the extent of agricultural land retained. I note this point is now effectively agreed in the Heritage SoCG.
- In terms of formal Parks and Garden space, it is common ground that the scheme exceeds policy requirements in terms of overall open space. The reason the scheme provides for more natural rather than formal space is explained by the Open Space Assessment and the Appeal Site's location, but if the LPAs want more parks rather semi-natural space, that could still be achieved, as its primarily a detailed design issue.
- Removing 61 homes doesn't create sufficient land to have playing fields retained/relocated on site – therefore there would be zero benefit in removing homes for that reason.
- Removing 61 homes will result in a loss of potential affordable housing, in an area desperately in need of more affordable homes.
- In terms protecting the character of Humber Doucy Lane, I would be concerned that creating a much wider set back would lead to the new development being seen as divorced from the existing town, but in any event I do not consider it necessary, for the reasons explained in the design note from PRP at my Appendix KC 1.
- The locations and extent of land for drainage will not change with additional open space, as the locations and extent are dictated by hydrology.

- 11.21 Irrespective of whether I am right or wrong as to whether the Appeal Scheme is better with 660 homes than 599, the decision maker is required to determine the scheme as submitted, not some other possible scheme.
- 11.22 The question is whether or not the scheme as submitted accords with the Development Plan, and is acceptable having regard to any other material considerations. A theoretical alternative scheme is not a material consideration.
- 11.23 I do not see any cogent argument for reducing the amount of housing the site can deliver to increase the amount of open space on a site which already has in excess of the policy requirement. I do however see a material benefit in the fact that the Appeal Scheme is able to provide additional homes over and above the original (poorly justified) estimates.

12. Other Main Matters

- 12.1 In terms of those Main Matters/RfRs that fall outside the scope of my evidence, I briefly summarise the Appellant's position, as now informed by work on Statements of Common Ground, as set out below.

Main Matter 2 (IBC RfR 3 and 4)- The effect of the scheme on the character and appearance of the area

- 12.2 As explained in the evidence of Mr Self, the Appeal Scheme involves the loss of existing countryside, and will therefore have an impact on the existing character and appearance of the area via the loss of countryside. A level of harm is inherent in the allocation of circa 600 homes in the countryside, and the allocation of the site for residential development in the respective Local Plans is of itself an acceptance that the benefits of the scheme outweigh that inherent harm.
- 12.3 In order to ensure that harm is minimised so far as practically possible, the Appeal Scheme has been appropriately designed to reduce its impact, for example in terms of retaining existing landscape features, providing an appropriate set-back to Humber Doucy Lane, including for a green 'buffer' to the countryside edge, and by providing appropriately scaled and designed buildings and spaces.
- 12.4 In terms of RfR 3, and as explained by Mr Self, the suggestion that the location of the main vehicular access opposite to Sidegate Lane, rather than opposite to Inverness Road, would make any difference to the visual impact of the scheme is firmly rejected. I note that the revised Statement of Case provided by the LPAs makes clear that this objection is no longer being pursued. Main Matter 3 (IBC RfR 4) - The effect of the scheme on designated heritage assets.
- 12.5 The Appeal Scheme succeeds in ensuring that the harm to heritage assets is reduced to the lower end of less than substantial harm, and that harm is limited to the setting of two adjoining Listed Buildings, Allens Farm and Laceys Farm. Delivering the site allocations and achieving zero heritage harm are simply incompatible concepts on any realistic assessment. I note that these points are now effectively agreed anyway, through the LPAs' revised Statement of Case and the Heritage SoCG.

Main Matter 4 (IBC RfR 2 and 3) - The effect of the scheme on highway safety.

- 12.6 Although this Main Matter is couched in terms of highway safety, we are not aware of any specific highway safety issues arising from the alternative views of the parties on the results of the highway modelling exercises.
- 12.7 The original application was accompanied by a Transport Assessment, which is normal practice for a large application. That TA demonstrated that the Appeal Scheme can be accommodated without justifying a need for off-site highway works to mitigate the impact. SCC's preference was for their 'dynamic' model to be used, but for the reasons explained by Mr Hassel, whilst the Appellant did attempt to utilise that model, it has not provided useable output. The Appellant remains of the view that the TA remains robust and provides the only reliable information on the highway impacts of the scheme.

- 12.8 The second main strand of the Highways matters relates to the design of the detailed access points. As Mr Hassel explains, the matters of detail raised by the Highway Authority do not materially affect the submitted plans, and are matters that can simply be addressed (if necessary) through the s278 technical design process or through appropriate conditions (or obligations in the case of the TRO funding).
- 12.9 In terms of off-site walking and cycling interventions, the criticism from the Highway Authority has been that the Applicant/Appellant has not undertaken a review of any offsite improvements required and come forward with a proposal. That is not the case, it is simply that the review undertaken by the Applicant did not identify any necessary off site measures (other than the crossings to Humber Doucy Lane that are included within the proposals). As part of work on the Highways Statement of Common Ground, further information on potential off-site measures was put forward, but was then excluded from the SoCG because the Highway Authority has not done any investigation of potential off-site interventions. It will ultimately be up to the Inspector to consider whether or not any of the areas of betterment that are identified in the evidence of Mr Hassel are necessary or not, and any such interventions as are required can be appropriately conditioned.

Main Matter 5 - Whether the scheme would be at risk from flooding, having particular regard to flooding and drainage strategy

- 12.10 The drainage strategy for the site was presented and discussed at pre-application stage, including the reasons why deep infiltration was necessary, as the Appeal Site has no other means of positive drainage. The receipt of the holding objection by the LLFA therefore came as a surprise at the time.
- 12.11 The LLFA have subsequently confirmed, in its withdrawal of points 1-4 of its holding objection as set out in its Statement of Common Ground, that the drainage strategy submitted at application stage was, in fact, substantially correct.
- 12.12 Of the remaining points, point 8 was simply a matter of clarification to ensure that the education land within the Appeal Site would not have a restricted rate of discharge, a matter that has been confirmed in the drainage SoCG.
- 12.13 The remaining unresolved matters relate, as I understand them, to detailed matters of the attenuation basin design (which is not a matter for determination in the submitted application) and to the requisite levels of treatment, which Mr Fillingham explains in his evidence have in fact already been allowed for.

Main Matter 6 (IBC RfR 6) - The effect of the scheme on ecology

- 12.14 The impact of the scheme on ecology and the requirements for BNG are addressed in the relevant Statement of Common Ground, from which I understand that the parties are agreed on the impacts and the required mitigation.

Main Matter 7 (IBC RfR 7) The effect of the scheme on the Stour and Orwell Estuaries, and Deben Estuary, designated European conservation sites

- 12.15 As explained in the evidence of Mr Marsh, the Appeal Scheme provides a threefold package of measures to address its recreational impact on the nearby protected sites.

- 12.16 That threefold package of measures was set out in the Shadow Habitat Regulations Assessment submitted with the application. The Shadow Habitat Regulations Assessment was revised by Natural England, who provided a consultation response of 'no objection', provided that the measures set out in the Shadow HRA were implemented, which the Appellant is happy to commit to.

Main Matter 8 (IBC RfR 8) - The effect of the scheme on the archaeological significance of the site, having particular regard to investigation and mitigation strategies.

- 12.17 The Appellant and SCC had differing opinions as to the extent of evidence required in advance of a decision being made, but as further work has been undertaken anyway, the Appellant and SCC are now agreed (through the Archaeological SoCG), that this matter can be effectively conditioned.

Main Matter 9 (IBC RfR 9) - The effect of the scheme on air quality, having particular regard to mitigation measures proposed.

- 12.18 The Air Quality modelling submitted at the application stage, which concluded negligible effects across all pollutants, is agreed by the parties. The damage cost calculation of circa £118k calculated within the application documentation is also agreed. The parties also agree that the use of a Travel Plan condition would be sufficient to secure mitigation sufficient to off-set the damage cost calculation without the need for a financial payment.

Main Matter 12 (IBC RfR 12) - Whether the scheme would make appropriate provision for green infrastructure (quantum and quality)

- 12.19 As Mr Self explains in his evidence, the preference in the Appeal Scheme for a greater provision of semi-natural greenspace over formal parks/gardens space, was based in part upon the findings of the Open Space Assessment, and in part upon selecting the most appropriate typologies for the Appeal Site's location.
- 12.20 Mr Self also explains the purposes of the various types of open space, and justifies the location of the elements within the Appeal Site, noting in particular that the criticisms raised regarding the distribution of play space are not borne out by the information submitted with the application.
- 12.21 The Planning Officer Reports for the two applications confirm that the amount of on-site open space exceeds the policy requirement, and therefore overall quantum should not be an issue.
- 12.22 The Appellant's case remains therefore that the quantum and quality of open spaces shown to capable of being provided are entirely appropriate.

Main Matter 13 (IBC RfR 13) - Whether the scheme would make appropriate provision for infrastructure

- 12.23 For those areas of social infrastructure for which the County Council has statutory responsibility, SoCG 6 shows that agreement has been largely reached on matters relating to Early Years, Primary, and Waste, but that further work is required in relation to secondary/sixth form and SEND contributions. There is a disagreement on the need for a library contribution.
- 12.24 In respect of transportation contributions, SoCG 4 shows that agreement has been reached on the main transportation Heads of Terms, but that further work is needed in respect of the detail.

- 12.25 A draft s106 agreement has been prepared by the Appellant's solicitors, and some initial feedback has been received. The draft s106 is intended to be submitted by 10th January in line with the Inspector's timetable as set out at the CMC.

13. Benefits of the Appeal Scheme

13.1 In Section 5 of my evidence, I identified some of the main ‘deliverables’ from the Appeal Scheme. In this section I seek to identify the weight that I consider should be ascribed to the benefits of the development, including the benefits derived from the scheme ‘deliverables’.

13.2 The ‘weighting’ terminology agreed for use between the parties is as follows:

- No weight/harm/benefit
- Minimal weight/harm/benefit
- Medium weight/harm/benefit
- Substantial weight/harm/benefit
- Very Substantial weight/harm/benefit

13.3 The agreement between the parties didn’t go beyond the above list, but to assist the Inspector, I have applied these terms on the basis of the following explanation:

- No weight/harm/benefit – A matter that I consider inconsequential/immaterial in the overall planning balance.
- Minimal weight/harm/benefit – A material consideration in the overall planning balance, but of limited importance.
- Medium weight/harm/benefit – A material consideration of weight to the planning balance, of greater significance than the matters to which minimal weight is attached, but of less significance than matters to which substantial weight should be attached.
- Substantial weight/harm/benefit – A material consideration of great significance to the overall planning balance
- Very Substantial weight/harm/benefit – A material consideration of such significance as to be crucial to the overall planning balance of itself, in isolation.

13.4 The table below summarises the benefits of the scheme, the weighting I attach to these, and my brief reasoning.

Benefit	Weighting	Reasoning
Delivery of allocations ISPA4.1 and SCLP12.24	Very Substantial benefit	I have explained why I consider the Appeal Scheme accords with Policies ISPA4.1 and SCLP12.24 in all material respects (and other relevant plan policies). The ability of the Appeal Scheme to deliver these Local Plan commitments is central to Plan-led delivery. Indeed, it means under s38/NPPF para 11(c) that planning permission should be granted,

		unless material considerations indicate otherwise.
Housing delivery	<p>Substantial benefit (IBC area), rising to Very Substantial in the event of a 5 Year land shortfall, due to para 11(d).</p> <p>Medium benefit (ESC area)</p>	<p>Housing delivery in Ipswich is already below the Local Plan trajectory, with an increasing backlog, even before the stepped trajectory period has finished. There is an urgent need to deliver more homes.</p> <p>Housing delivery in the Suffolk Coastal is keeping pace with Local Plan requirements, and land supply under the current standard methodology is good. Delivering new housing is still a benefit of the scheme, but there is less urgency in East Suffolk as things stand, and therefore I have given this factor less weight than for the Ipswich area.</p>
Ability of the Appeal Scheme to increase delivery over and above Local Plan assumptions.	<p>Substantial benefit (IBC area)</p> <p>Medium benefit (ESC area)</p>	<p>Given the shortfall in local housing delivery, and given the emphasis in national policy to boost supply, the ability of the Appeal Scheme to exceed the Local Plan assumptions on yield is a substantial benefit in the IBC area. IBC is a tightly constrained urban area with a high housing need and limited land supply. The ability of the Appeal Scheme to make best use of the land for housing is a further benefit, particularly in terms of affordable housing supply.</p> <p>The ability of the Appeal Scheme to exceed Local Plan expectations on yield is a benefit, particularly in light of ESC's increased standard methodology figure from and is in accordance with national policy. It means less land will be needed elsewhere to meet housing need. However, as housing land supply is less urgent in East Suffolk, I reduce the weight given to it accordingly.</p>
Affordable Housing Delivery	Very Substantial benefit	Providing decent homes for those most in need is a substantial benefit of any residential scheme capable of providing affordable housing, but I have given this a "very substantial" weighting because of the exceptionally low delivery in Ipswich, and taking into account that delivery in East Suffolk is generally concentrated in other parts of that district.

10% Biodiversity Net Gain (on-site and off-site)	Medium benefit	The proposals will achieve a net on-site improvement in bio-diversity habitat compared to what is currently predominantly arable land, and a 10% gain overall. Whilst 10% BNG is a statutory requirement, it is still a benefit to which weight should be attached. As achieving BNG is a national policy of a generalised nature, I have assigned this only a medium benefit (but still of greater weight than the additional on-site ecology measures referred to below).
Additional on-site ecology measures	Minimal benefit	As well as BNG, additional on-site improvements for wildlife through measures such as bat/bird nesting opportunities are proposed. I attach less weight to these smaller scale measures than the 10% BNG however.
Assisting in addressing a shortfall in Youth play opportunities	Medium benefit	By exceeding the requirements for the youth typology, and by making provision for different youth activities, the Appeal Scheme will help to facilitate physical activity and community integration, for the benefit of existing as well as new residents.
Improved opportunity for participation in sport.	Medium benefit	The proposed multi-use games area will offer more opportunities for participation in sports for a wider range of people than the single use/limited use rugby pitches. I have assigned this a medium benefit, but I recognise that the loss of the rugby pitches also creates harm, which I address as part of the overall planning balance.
Improved access to open space for existing residents.	Minimal benefit	The network of walking routes is designed to facilitate access for both existing and new residents to the on-site open space network and beyond to opportunities for recreation in the wider countryside. New crossing opportunities will facilitate easier and safer access for existing residents, as will the new signposting/ PROW enhancements suggested by the Highway Authority in the Highways SoCG.
Measures designed to support healthy communities.	Minimal benefit	The provision of a substantial increase in natural/semi natural greenspace, including opportunities for informal play and exercise, above and beyond policy requirements, will

		help to facilitate active lifestyles for both new and existing residents.
Contribution to the "Green Trail" policy objective.	Medium benefit	As the delivery of the Green Trail is part of a wider strategic objective for encouraging recreational walking and cycling for Ipswich, I have assigned this element a higher level of significance than the localised benefits referred to in the previous item.
Improved availability of local facilities for existing residents	Minimal benefit	The provision of the on-site Early Years setting and on-site opportunity for 'everyday' retail offer, whilst primarily for residents of the new development, will also increase opportunities for existing residents in terms of the range of local services available.
Economic benefits	Medium benefit	The benefits of increased employment, spending and investment at the construction and operational statements would all be beneficial to the local and national economy.
Community infrastructure	Minimal benefit	The use of a proportion of CIL receipts locally for community projects would be beneficial, but likely to be small scale in nature.
Contributions to health care, libraries, school places, and waste	No benefit	As these contributions are intended to provide mitigation for the impacts of the Appeal Scheme rather than enhancement to local services, I assign no weight to them.

- 13.5 The successful delivery of an extant Local Plan allocation, and the delivery of both market and affordable housing, are all factors that I consider to be substantial or very substantial benefits of the scheme.
- 13.6 Alongside these, the scheme includes other economic, social and environmental benefits, to which I have attached medium or minimal weight, but which nevertheless serve to demonstrate that the Appeal Scheme achieves beneficial impacts across a wide range of measures.

14. The Planning Balance and Conclusion

14.1 In my previous section I listed the main matters that I consider to be benefits of the Appeal Scheme, and assigned what I consider to be the weight that should be attached to these. In this section I turn to the matters of alleged harm in the various Reasons for Refusal, and undertake the same exercise, before turning to consider firstly the balancing exercise set out in paragraph 215 of the NPPF in respect of heritage matters, and then the overall planning balance).

14.2 The table below provides my views on the areas of alleged harm.

Alleged Harm	Weighting	Reasoning
Main Matter 1/RfR 1 – Procedural matters	No harm	The LPAs allege that the absence of a Masterplan has a procedural impact. I disagree. Even if it were the case that the Framework Plan produced with the application were deemed not to constitute “masterplanning” in the terms of the relevant policies, there is no legal/regulatory or procedural requirement that has been breached. The only requirement (GPDO Article 7(c)(ii)) is that applications have “... plans, drawings and information necessary to describe the development which is the subject of the application ...”, and of course BNG details. The application material provides this.
Main Matter 1/RfR 1 – “substantive” matters	No harm	In its Statement of Case, the only alleged area of harm arising other than the principle of not having a Masterplan is the reference to the fact that the Appeal Scheme does not include the rectangle of land opposite Westerfield House, which is outside the Appellant’s control. Whilst correct, the exclusion of this piece of land creates no substantive issues of harm, as it is physically distinct and capable of independent delivery. In the absence of any harm, the matter attracts no weight.
Main Matter 2/RfR 3 and 4 – impact on character and appearance of the area.	Medium harm	The LPAs have effectively withdrawn this aspect of RfR 3, and therefore the only area of harm arising relates to RfR 4, and the impact of the Appeal Scheme in landscape and visual terms. Whilst the development of the Appeal Site will cause harm in landscape terms as the new development is replacing an area of countryside, the evidence of Mr Self shows the impacts are limited and localised. In respect of visual impacts, the effects are generally limited, and only become substantial

		for limited viewpoints close to the new development. I have summarised the combined harm very generally as “medium”, but I would point out that this level of harm is essentially integral to the site allocation, as any development of circa 600 homes will have essentially the same impacts in visual and landscape terms.
Main Matter 3/RfR 4 – heritage impacts	Low end of less than substantial harm	The parties agree that the scheme is at the lower end of less than substantial harm, and that this level of harm is similarly integral to the site allocation, and therefore was effectively determined to be outweighed by the benefits at the point of allocation. Although the level of harm is agreed as being at the lowest end of the policy scale, I recognise that this level of harm still requires the special consideration afforded to it by statute and policy, which I address further below.
Main Matter 4/RfR 3 – Main access	No harm	<p>The consultation response from the Highway Authority stated “SCC as Local Highway Authority considers that the main site access would be <u>better served</u> opposite Sidegate Lane ...”, that this comment is made “... to <u>improve</u> the development proposal ...” and that this is SCC’s “... preference for site access ...”. SCC’s Statement of Case also uses the wording “better served”. The requirement for the decision maker is to determine the application submitted, not to consider whether or not some other proposal may be preferable.</p> <p>The “fundamental concern” referred to in RfR 3 does not therefore arise as a result of a concern by the Highway Authority. It can only have come from the LPAs, in respect of their concerns regarding townscape impact, which have now been withdrawn.</p> <p>There remain minor points of dispute between the parties as to matters of technical detail relating to the design of the main access, but as explained elsewhere, these minor matters can be addressed during the approval process without alterations to the submitted plans.</p>
Main Matter 4/RfR 2 – highway safety arising from trip generation and trip distribution.	Minimal harm	Any development of this scale is likely to have an impact on the local highway network to a degree, but the traffic modelling in the original TA shows that the scheme would have minimal impact on the operation of the highway network. There are no matters of highway safety raised by the

		Highway Authority in this regard that the Appellant is aware of.
Main Matter 4/RfR 2 – pedestrian and cycle connectivity.	No harm to moderate benefit	With the proposed crossing facilities to Humber Doucy Lane included within the Appeal Scheme, the Appeal Site will be connected to existing pedestrian routes, and to roads already used for cycling. Whilst as set out elsewhere in the Appellant's evidence, it is not considered "necessary" to improve off-site connections for walking and cycling, there are potential areas that could be improved, if the Inspector were to take a different view as to the necessity for such changes. Any improvements secured would have benefits for all users, and so would inevitably have a beneficial effect over and above mitigation of the Appeal Scheme. The extent of the benefit would depend on the scale of interventions determined as being "necessary".
Main Matter 5/RfR 5 – risk of flooding	No harm	Although the parties retain some differences as to whether or not the detail of the drainage strategy as submitted is acceptable, the relevant Statement of Common Ground now provides evidence that the core principles of the strategy (i.e. deep bore infiltration on-site) is correct, and that the overall principles of conveyance and treatment are acceptable. The drainage strategy diagram is not an Application Plan, and the final design of the drainage is a matter of detail that can be conditioned, in the normal way for an Outline application.
Main Matter 6/RfR 6 – impact on ecology	No harm	The parties are essentially agreed that impacts can be mitigated. Overall the scheme can deliver net benefits for ecology, both on site and off-site, without creating any ecological harm.
Main Matter 7/RfR 7 – impact on off-site protected habitats	No harm	The three-way package of mitigation (off-site financial contribution, off-site recreational routes, on-site open space/facilitating access by existing residents) is agreed by Natural England to mitigate any adverse effects.
Main Matter 8/RfR 8 – archaeology	No harm	The effects are agreed to be being capable of mitigation by condition.
Main Matter 9/RfR 9 – air quality	No harm	The results of the air quality modelling have been accepted, with negligible impacts, and with a relatively limited Damage Cost calculation which the parties agree can be mitigated.

Main Matter 10/RfR 10 – loss of sports pitches	Medium harm	The extent of playing fields in the local area and the limited lawful use of the existing playing fields reduces the impact of their loss, but it would still be the case that harm arises to the extent that there would be less opportunity for playing rugby in the local area (though there are still two rugby clubs in close proximity to the Appeal Site). The level of harm is localised, limited to rugby, and limited to the loss of 2.5 hours of use on non-floodlit pitches per week (during the season).
Main Matter 11/RfR 11 – exceedance of 599 homes.	No harm	The additional homes do not have any material impact on landscape impact, heritage (agreed between the parties) or achievement of sufficient open space, which is already agreed to be in excess of the policy requirement in overall quantum.
Main Matter 12/RfR 12 – open space provision	No harm to minimal harm.	<p>The selection of the open space typologies to be provided on site has been informed, as it should be, by the level of provision for existing typologies in the local area, and the site context. The absence of allotments, playing fields and the reduced extent of formal park/garden areas is to the benefit of additional natural and semi-natural greenspace. There is no disagreement that the site is delivering in excess of the normal policy requirement for the number of new homes.</p> <p>I note that in respect of allotments and playing fields, the LPAs' Statement of Case simply states "The Councils shall provide their position in relation to the Appellants assertion that there is a surplus of playing fields and allotments in the area ... ", but at the time of writing, the Appellant does not know what the LPAs' position actually is, let alone whether or not the LPAs have identified any harm.</p>
Main Matter 13/RfR 13 – contributions to infrastructure.	No harm	Contributions to health care, libraries, school places, and waste will all be mitigated through the s106 agreement, subject to agreement by the Inspector as to their CIL compliance. Affordable housing is to be provided in accordance with policy. Off-site active travel interventions will be provided according to CIL compliancy.

- 14.3 The matters where I have identified harm arising from the Appeal Scheme are all essentially matters of harm that are enshrined within the respective site allocations. As the LPAs have now accepted, any development of circa 600 homes on the Appeal Site will generate harm to the setting of the two Listed Buildings to the northeast. Any development of circa 600 homes will have a visual and landscape impact. For the reasons I have discussed previously, any development of circa 600 homes

will, in practice, require the loss of two existing pitches that lie within the Appeal Site, and therefore mitigation for their loss will need to be made by other means (such as in the manner that the Appeal Scheme provides).

Heritage Impact/NPPF Paragraph 215 Test

- 14.4 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 imposes a general duty on decision makers to have "... special regard to the desirability of preserving the building or its setting ...". As per the findings of the Court of Appeal in the *Barnwell Manor* case¹⁹, considerable importance and weight need to be given by decision makers to any harm created when carrying out this duty, irrespective of the degree of the harm.
- 14.5 Paragraph 212 of the NPPF states that when considering applications affecting heritage assets, "great weight" should be given to the asset's conservation, regardless of whether the harm amounts to substantial harm, total loss, or less than substantial harm to its significance. The impact of the Appeal Scheme, agreed between the parties to be at the lower end of less than substantial harm for each of the two Listed Buildings affected, is therefore a matter to which the decision maker is required to give great weight.
- 14.6 Paragraph 213 states that any harm allowed should be based on clear and convincing justification. In that context I note that the Appeal Scheme has been designed to include a "substantial" buffer between any new development and the two Listed Buildings to the northeast ("substantial" is the word used in the respective Officer Reports), and has been designed to ensure that no harm arises to any other heritage asset (designated or un-designated) in the surrounding area. The Appeal Scheme has been designed to reduce the harm to local heritage assets to the lowest level of harm reasonably practicable, and the parties agree that the site allocations cannot be delivered with any materially lower level of harm. The delivery of the allocated development therefore provides the clear and convincing justification under Paragraph 213.
- 14.7 The relevant test for the decision maker is then set out at paragraph 215, which comes at the end of the sequence of steps in the preceding paragraphs²⁰. Great weight/considerable importance needs to be attached to the harm created. But that harm then still needs to be weighed against the public benefits of the Appeal Scheme, which as set out in Section 13 of my evidence, are many and, both individually and cumulatively, very substantial. In my view, the very substantial benefits of the Appeal Scheme mean that the public benefits do outweigh the harm to heritage assets, even taking into account the need to have special regard to the protecting of those heritage assets, and the great weight to be attributed to the harm arising.

Development Plan status in the context of the December 2024 NPPF

- 14.8 At the point of writing, immediately after the publication of the December 2024 NPPF, my provisional view on the weight to be attached to each of the adopted Local Plans in place (pending further examination and agreement on the positions of respective Land Supply) is as follows:
- Ipswich Local Plan – Although adopted within the last 5 years, the Council's last published information on land supply has a base date of April 2022, and so as things stand at the time of writing, the Council has failed to identify a 5 Year Supply pursuant to paragraph 78 of the NPPF. Moreover, the published data from that time indicates that it is highly likely that Ipswich will not be able to demonstrate a 5 Year Land Supply with a 20% buffer. The 20% buffer is required under part (b) of NPPF Paragraph 78, as the HDT shows results for

¹⁹ [2014] EWCA Civ 137 *Barnwell Manor Wind Energy Limited*

²⁰ [2015] EWHC 3 (Admin) *Pugh v SoS for CLG and Cornwall Council/Maiklem*

the last three years of less than 85%. Accordingly, for the purposes of Paragraph 11 of the NPPF, the 'presumption in favour of sustainable development ...' is engaged under paragraph 11(d)²¹.

- Suffolk Coastal Local Plan – Having been adopted in September 2020, then barring any as yet unexpected shortfall in land supply, the Suffolk Coastal Local Plan remains up-to-date and will not be affected by the new Standard Methodology figures (which increase the required rate of annual housing delivery from 905 to 1,644), until September next year. For the East Suffolk area, therefore, the 'presumption in favour of sustainable development ...' is in my view triggered by reason of paragraph 11(c) i.e. because the development accords with an up-to-date Local Plan.

Overall Planning Balance and Conclusion

- 14.9 In my view, the Appeal Scheme accords with both the site allocation policies in the respective Local Plans, and with all other relevant policies (including Policy D5 on open space as cross-referenced from ISPA4.1).
- 14.10 Section 38(6) of the Planning and Compulsory Purchase Act states that in circumstances such as this "... the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 14.11 If my assumption of housing land supply in Ipswich is proved to be wrong, and the Ipswich Local Plan remains up-to-date as well as the East Suffolk Plan, and if the Inspector agrees that the Appeal Scheme is in accordance with both Plans, then the planning balance exercise is a very quick one, as paragraph 11(c) of the NPPF states that in such circumstances, development proposals should be approved without delay.
- 14.12 As all of the areas of harm arising from the LPAs reasons for refusal are matters that are essentially integral to delivering the Local Plan, they cannot conceivably be 'material considerations' that would, under S38(6), outweigh the determination being in accordance with the respective plans, particularly in the light of the wording of paragraph 11(c).
- 14.13 If my assumption regarding housing land supply in Ipswich is correct, and that Plan is out-of-date, then the balancing exercise for the Ipswich area is that set out at paragraph 11(d) i.e. whether or not the adverse impacts of permitting the Appeal Scheme would "... significantly and demonstrably outweigh the benefits ...". In terms of the particular factors to be considered under paragraph 11(d), I comment as follows:
- Para 11(d)(i) – the Appeal Site is not protected for any of the reasons stated in footnote 7, and, subject to the mitigation proposed in respect of matters such as off-site habitats, does not adversely affect any protected site. The impact on heritage assets does not provide a "strong reason" for refusing permission as the test at paragraph 215 is passed.
 - Para 11(d)(ii) – the Appeal Site is a sustainable location for development (it must be, or else it wouldn't have been allocated), the Appeal Scheme does make effective use of land (it is managing to deliver over and above the assumed number of homes at the same time as

²¹ In the Appellant's Statement of Case, it was noted that the 'presumption ...' applied by reason of Paragraph 11(c). Although the Appeal Scheme is still in my view in accordance with the Development Plan, and although I consider that, in the current context, delivering the ISPA4.1 allocation is even more important than ever, that allocation would now technically lie within an 'out-of-date' plan rather than an 'up-to-date' Plan, if the Council cannot demonstrate a 5 Year Land Supply. That does not mean that the weight to be attached to the successful delivery of the ISPA4.1 allocation is diminished – rather it is enhanced.

delivering more open space than required), the Appeal Scheme provides the framework for a high quality design, and the Appeal Scheme is more important than any other single site in Ipswich for delivering affordable housing.

- 14.14 As set out in Section 13 of my evidence, the benefits of the Appeal Scheme are many and very substantial. The areas of harm arising from the Appeal Scheme are few and of, at worst, medium significance. In the context of Paragraph 11(d), there can be no serious argument to the effect that the harm arising from the Appeal Scheme, on matters that are essentially 'part and parcel' of delivering the site allocations, are so significant as to outweigh cumulative benefits.
- 14.15 In the context of s38(6), if the Ipswich Development Plan is now accepted as being out-of-date, that cannot be a material consideration acting against the approval of the Appeal Scheme, given that the reason that Plan is now out-of-date is because of a shortfall in housing delivery. Rather, the benefits of the Appeal Scheme in terms of housing delivery are simply enhanced, and in this context, my assessment of a "substantial benefit" for housing delivery/additional housing delivery over and above the allocation becomes a "very substantial benefit".
- 14.16 If the Inspector were to come to the view that the Appeal Scheme is not in accordance with one or more of the respective Development Plans, then the relevant balancing exercise, under s38(6), is whether or not there are sufficient material considerations to justify the grant of consent, notwithstanding the conflict with the Development Plan.
- 14.17 My assessment of the elements of harm arising from the Appeal Scheme against each of the Inspector's Main Matters/LPAs' Reasons for Refusal are not 'policy related' assessments. In other words, if, for example, the Inspector were to conclude that the Appeal Scheme is not in accordance with the Development Plan because, as alleged in RfR #1, there is no Masterplan as part of the application documentation, then my assessment that the absence of that document causes no harm on either procedural or substantive grounds would be the same. The same is true for all of the other areas of harm that I describe.
- 14.18 Accordingly therefore, in the scenario where the Inspector finds a breach to one or more policies of the Plan, such that paragraph 11(c) of the NPPF is not engaged in either case, and the starting point under s38(6) is that permission should be refused unless material considerations indicate otherwise, I would still consider that the very substantial benefits of the scheme would provide the necessary 'material considerations' for approval, particularly in a context where it is evident that housing supply, especially for affordable housing, is failing, even before the new standard methodology requirements come into effect.
- 14.19 Whichever of the scenarios above the Inspector alights on at the end of the Inquiry, my view is that the Appeal Scheme should be allowed.

Appendices provided as separate file

