



Report to the Secretary of State for Communities and Local Government

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TOWN AND COUNTRY PLANNING ACT 1990

THURROCK THAMES GATEWAY DEVELOPMENT COPORATION

APPEAL BY COLONNADE LAND LLP

Inquiry held on 9 - 12 February & 24 - 26 February 2010

Land at Bata Field, off Princess Margaret Road, East Tilbury

File Ref: APP/M9565/A/09/2114804

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Land at Bata Field, off Princess Margaret Road, East Tilbury

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Colonnade Land LLP against Thurrock Thames Gateway Development Corporation.
- The application Ref 09/50045/TTGOUT was submitted on 8 June 2009 and registered by the Development Corporation on 18 June 2009.
- The development proposed is residential development of up to 299 dwellings.

Summary of Recommendation: The appeal be allowed and planning permission granted.

Procedural matters

1. The appeal is against the failure of Thurrock Thames Gateway Development Corporation (TTGDC, otherwise "the Corporation") to determine the application in the appropriate period. The Corporation's planning committee subsequently resolved on 9 November 2009 that, had it retained jurisdiction, outline planning permission would have been refused for the following reasons: i) the location of the site within the Green Belt; ii) The harm to heritage assets, including archaeology, the setting of the listed buildings and the effect upon the conservation area and the wider landscape; iii) based upon the recent advice of Thurrock Borough Council (TBC) it is not accepted that there is not a five year land supply; iv) it is not accepted that there are no other sites in a lower flood risk category capable of development; v) the effect of the proposal upon the highways network particularly upon the existing junctions, one of which is a priority for improvement, and the effect of the development given its location south of the railway line and in the absence of any means of crossing the railway line for vehicles and/or pedestrians; vi) it is not accepted that the site represents a sustainable development given a lack of choice in transport and a lack of services locally; vii) the failure to provide any undertaking or other indication of financial contributions towards mitigating the effect of development or providing additional facilities.
2. The application was made in outline, with all matters of detail reserved for consideration at reserved matters stage. Nevertheless considerable detail was incorporated in the Design and Access Statement and the amended Design Code dated February 2010. These were the subject of considerable discussion at the Inquiry, and in view of the proximity of the site to the conservation area and listed buildings, great emphasis was placed on the ability to ensure that the design principles embodied in these documents would be carried forward to the reserved matters stage. It was accepted by all parties that, if the appeal is allowed, provision should be made to ensure that the design principles and ethos would be carried through to the reserved matters stage, by incorporation of appropriate conditions into any grant of outline permission.
3. Before the Inquiry opened the Appellant requested the substitution of revised plans, reflecting the omission of a small part of the original site to the north of Bata Avenue, in view of questions which had arisen over rights of access to this part of the site. I raised this at the start of the Inquiry, when no objection was

made to this minor change to the basis of the application, either by TTGDC or any others present. The omission would reduce the number of dwellings by sixteen, and it was proposed that the description of development accordingly be amended to read 'not more than 299 dwellings.' I am confident that there would be no prejudice to the interests of any party or objector to the scheme from these changes, which are well within the scope of the 'Wheatcroft principles' relating to minor changes to planning applications.

4. For the avoidance of doubt I have considered the application on the basis of the following documents and plans:
 - Design and Access Statement
 - Design Code amended February 2010
 - Planning Application Boundary Parameter Plan 589_07_001 PL-3
 - Existing Site Levels Parameter Plan 589_07_002 PL-3
 - Proposed Site Levels Parameter Plan 589_07_003 PL-3
 - Proposed Uses Parameter Plan 589_07_004 PL-3
 - Access Parameter Plan 589_07_005 PL-3
 - Building Heights Parameter Plan 589_07_006 PL-3
 - Demolition Parameter Plan 589_07_007 PL-3
5. The planning application fell to be considered by Thurrock Thames Gateway Development Corporation. The statutory plan making authority and also the highway authority for the area is Thurrock Borough Council (TBC). Evidence on access and transport matters was given on behalf of TTGDC by TBC's traffic engineer, Mr Rawlingson. Mr Rawlingson's evidence was effectively adopted by TTGDC, but for the sake of simplicity I have referred to it as the evidence of TBC throughout.
6. The appeal was recovered for determination by the Secretary of State, as the site involves proposals for residential development of over 150 units and exceeds 5 hectares, and is considered to significantly impact on the government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities, and proposals for significant development in the Green Belt. The matters on which the Secretary of State specifically wishes to be informed are set out in full in a letter dated 26 October 2009, and may be summarised as follows:
 - a) the extent to which the proposed development would be in accordance with the development plan for the area;
 - b) the extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 1: Delivering Sustainable Development (PPS 1), and accompanying guidance *The Planning System: General Principles* with particular regard to whether the design principles adopted in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, will preserve or enhance the character of the area, having regard to the advice in paragraph 33 to 39 of PPS 1;
 - c) the extent to which the proposed development is consistent with Government policies in Planning Policy Guidance Note 2: Green Belts;

- d) the extent to which the proposed development is consistent with government planning for housing policy objectives in Planning Policy Statement 3: *Housing* (PPS 3);
 - e) the extent to which the proposal is consistent with advice in Planning Policy Guidance Note 13: *Transport* (PPG 13), in particular on the need to locate development in a way which helps to promote more sustainable transport choices;
 - f) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act, and if so, whether the proposed terms of such obligations are acceptable;
 - g) whether any planning permission granted should be subject to any conditions, and if so, what form they should take; and
 - h) any other matters that the Inspector considers relevant.
7. An Environmental Statement (ES) accompanied the planning application. I consider that the ES satisfies the requirements of the EIA directive and regulations and provides sufficient environmental information to enable the Secretary of State to determine the application. It has considered the likely significant environmental effects of the development, on the basis of a detailed appraisal of the site and the surrounding environment, and identified ways of avoiding, reducing or offsetting any potential adverse impacts through mitigation.

The Site and Surroundings

8. The site extends to around 13.33 hectares. All of the site apart from the curtilage of 253 Princess Margaret Road is identified as Green Belt in the adopted Thurrock Borough Local Plan 1997. The majority of the site is or was most recently in productive agricultural use.
9. The site is roughly triangular in shape and lies to the south of East Tilbury Railway Station and to the west of Princess Margaret Road largely behind the existing semi-detached dwellings which face the road. The western boundary of the site is an electrified main-line railway.
10. The development would adjoin the East Tilbury (Bata) Conservation Area, which was designated in 1993. A conservation area appraisal was undertaken by Thurrock Council in 2007. There are a number of listed buildings whose setting would be affected by the development including Nos. 2, 4 & 6, 8 & 10, 12 & 14, 16 & 18, 24 & 26, 28 & 30 and 32 & 34 Bata Avenue. Numbers 20 & 22 Bata Avenue are facsimile buildings as the originals were demolished, and are unlisted.
11. The site appears generally level, though it rises gently from the south to the north, from approximately 4.55m (AOD) at its lowest point adjacent to Bata Avenue to 7.85m (AOD) at the northern edge of the site. There are a number of mature trees located along the north-west boundary between the site and the railway line. It is intended to retain all healthy trees. Overhead power lines which cross the site would be placed underground.
12. The Thames Industrial Estate (TIE), formerly the Bata Factory site, includes a number of prominent listed buildings – Trafalgar House, Victory House, Nelson House and Building 12.

Planning Policy

13. The development plan for the area includes the East of England Plan 2008 (EEP) and the Thurrock Local Plan (LP), adopted in 1997.

East of England Plan 2008 (EEP)

14. Policy SS3 of the EEP identifies key centres for development and change where new development should be concentrated, including Thurrock urban area. Paragraph 3.13 states that concentrating development at such locations will make the most of existing infrastructure and the potential for improvements and extensions to it. Policy H1 sets out regional housing provision for 2001 to 2021. Thurrock Unitary Authority Area is required to provide a minimum of 18,500 dwellings, of which 14,250 (minimum) remained to be provided at the time of adoption. A comment in the table states that the figures apply to the part of the District within Essex Thames Gateway, but does not imply a moratorium on housing development outside Thames Gateway through use of previously developed land. Policy H2 includes a monitoring target for affordable housing coming forward through planning applications of some 35%.

Thurrock Local Plan (LP)

15. Certain policies of the LP are the subject of a saving direction and continue in force pending replacement by local development documents. Policy BE1 requires a high standard of design for new development proposals, which should demonstrate that full and appropriate consideration has been given to the integration of development with its surroundings, and wider setting where relevant. Policy BE3 sets an expectation of 10% of the gross area of development sites to be laid out as open space. This expectation is reinforced by Policy LR6. Policy BE10 seeks appropriate contributions to infrastructure made necessary by a development, and Policy BE 11 requires account to be taken of the need for energy efficiency.
16. Policy GB1 of the LP reflects national policy in PPG2 and resists proposals for the construction of new buildings or the change of use of land (other than in specified circumstances) except in very special circumstances. Policy GB2 requires attention to be paid to siting, scale, layout, and location of any buildings which are acceptable in principle, as well as to their environmental and landscape impacts. Policy GB9 resists the loss of good quality agricultural land to irreversible development.
17. Policy LN2 refers to identified landscape improvement areas, where sympathetic landscaping schemes are expected in association with new development, and environmental improvement schemes encouraged. Policy LN12 expects landscaping schemes to make provision for new wildlife habitat creation and management, and Policy LN16 that development in identified ecological corridors will only be permitted where the nature conservation interest of the area is retained.
18. Policy H5 seeks negotiation to secure an element of affordable housing in major new developments. Policy CF2 seeks contributions towards community facilities related to the scale and nature of the proposals.
19. Policy T1 aims to reduce reliance on motor vehicles and promote greater use of alternative modes of transport. Policy T3 promotes improvements to roads and

highway junctions, including Buckingham Hill Road. Policy T8 seeks to secure the retention and maintenance of public pedestrian rights of way.

National policy

20. In my consideration of the proposals I have fully taken into account the relevant provisions and advice in PPS 1 – Delivering Sustainable Development; PPG 2 – Green Belts; PPS 3 – Housing; PPG 13 – Transport and PPS 25 – Development and Flood Risk. Following the close of the Inquiry PPG 15 – Planning and the Historic Environment and PPG 16 – Archaeology and Planning were superseded by the new PPS 5 – Planning for the Historic Environment. The evidence to the Inquiry was prepared and presented on the basis of the now superseded documents. While I have retained reference to these documents in my report below, I have also considered the implications of the PPS 5 in making my recommendation.

Other policy documents

21. Thurrock Unitary Authority has published a submission draft Core Strategy and policies for the management of development. This is at an early stage in the statutory process and carries little weight at present. Thurrock Thames Gateway Development Corporation is not the plan-making authority for the area. It has produced a number of master plans, including the South - East Thurrock Master Plan covering the area, but this is a non-statutory document, and as such carries little weight.

The Proposals

22. The amended proposal seeks outline planning permission for the development of the site to provide up to 299 dwellings. The application proposes the demolition of 253 Princess Margaret Road, currently in use as single residential unit. The mix of dwelling types to be provided is the subject of determination at the reserved matters stage. The supporting information that accompanies the application provides an illustrative layout, which identifies family houses and flats with an approximate mix of dwellings of the following order:

- 37% 2-bedroom dwellings (110 units)
- 42% 3-bedroom dwellings (126 units)
- 21% 4-bedroom dwellings (63 units)

23. The main point of access to the site is from Princess Margaret Road, near to Bata Avenue. An additional access point would be provided to the north of the site onto Princess Margaret Road, where No. 253 now stands.

The Case for Colonnade Land LLP

Introduction

24. The planning system in Thurrock is failing to provide sufficiently for that most basic of requirements, a home.

25. The plan led system is at sea and is not driving housing delivery. There is a policy vacuum in Thurrock which cannot properly be filled by emerging non-statutory master plans created by TTGDC which is the determining authority for this application but has no responsibility for statutory plan-making.

26. The provisions relating to the need for a rolling 5 year housing land supply contained in PPS 3 were introduced specifically to ensure that the planning system could act with decisiveness and certainty in circumstances where local authorities were failing to shoulder the burden of providing sufficient homes in their administrative areas.
27. In this case on any realistic view of the evidence, there is a housing land supply shortfall of monumental proportion. The most optimistic trawl of available brownfield sites does not come close to securing the 5 year needs of the community. The land supply that there is relies on the development of significant areas of Green Belt land. Each time that the land supply falls well short, the residual need year on year increases disproportionately. This is simply unacceptable, in a policy area of growth (Thames Gateway) where enhancing the supply of housing is seen as part of a national priority. In such circumstances, the development of some further appropriate Green Belt land for development is an inevitability - as is recognised in reality by the emerging development plan.
28. The planning system cannot and should not await the emergence of a plan which is several years away. Such an approach would be contrary to the clear advice in PPS 3. The need is urgent and is growing; it falls to be met now. The need is further compounded by the affordable housing delivery crisis in which the area finds itself. The numbers of units delivered in the recent past in Thurrock would be laughable if the matter were not so serious. There is little prospect on the authority's own figures of the matter improving significantly in the future.
29. Of course, these factors do not justify the development of any Green Belt site which might be promoted to meet the 5 year supply. The Secretary of State still requires a critical assessment of whether sites proposed for development are appropriate and sustainable contributors to the 5 year supply.
30. Such an assessment itself cannot be undertaken in a vacuum. It must have regard to the scale of the shortfall in the housing land supply and to the realistic opportunities of meeting that shortfall. If these matters are not taken into account, the system will do little more than pay lip service to the requirements of PPS 3.
31. The application site is uniquely well placed to allow a sustainable and substantial contribution to be made to the housing needs of the Borough, for the following reasons:
 - a. Although within the Green Belt, it is surrounded on all sides by built development or the clear, understandable, physical and psychological barrier of the main-line railway.
 - b. It will allow for the provision of c 300 family houses of which 100 will be affordable. On the basis of recent building rates in Thurrock this constitutes by itself a 5 year supply of affordable housing.
 - c. It will, uniquely, allow for the enhancement of the Bata village concept: a concept which is in danger of becoming little more than an historic relic, left to wither on the vine of modern land use planning.
32. Furthermore, the site brings with it a series of other compelling very special circumstances which justify development. The appeal site can be developed safely both in terms of flooding and in terms of highway and appropriately in

terms of its relationship to archaeological remains. All these factors were once sufficient to mean that the site was included as an appropriate significant development site in the emerging non-statutory master plans for the area.

33. That judgment was made by consultants and officers even at a time when the full nature of the housing shortfall was little understood. As a development plan type document, of course, little weight can be given to the non-statutory content of the emerging master plan. But as a freestanding planning judgment similar to that which now has to be made by the Secretary of State in the clear absence of either a 5 year land supply or an up-to date plan, it has much to commend it.
34. In opening, a series of propositions were advanced which sought without repetition to encompass the matters upon which the Secretary of State wished to be advised. These form the structure for the presentation of the Appellant's case.

Proposition 1: The local planning authority's 5-year housing land availability situation is dire: urgent and positive action is needed to remedy the deficiency.

35. The starting point for any consideration of the 5 year housing land supply situation in this case is the plain acceptance by both the plan making authority and the decision making authority that there is not a relevant 5 year land supply. This by itself is sufficient to mean that the PPS 3 provisions requiring the planning system to act urgently to remedy the situation are met. However, the situation is much worse in the circumstances of this case.
36. Several attempts have been made by both TTGDC authorities to establish that the shortfall is a relatively small one and that there exists in the longer term an ability to meet 15 - 20 year housing land supply targets. Such attempts fall woefully short.
37. Thurrock Borough Council (TBC) as the plan-making authority produced an assessment of 5 year land supply in its 2009 Annual Monitoring Report (AMR), as required by PPS 3. It alleged on its face a land supply of some 3 years. But importantly it did not contain any justification at all for the calculation of this figure. The AMR itself promised a further and detailed justification of that figure in a separate paper. That paper never appeared.
38. In its absence, TTGDC produced its own calculation of land supply. The most recent version of this assessment is contained in TTG 5, App 14. However, TTGDC is not the body charged with the calculation of the 5 year land supply situation. There is little evidence that it has the relevant experience or expertise to produce such a forecast. Its calculation was a little more optimistic than that of TBC and included some sites which had not been thought appropriate to be included in the AMR. The rebuttal paper claimed a supply of some 4 years.
39. Both analyses are self evidently deeply flawed and rely to a massive extent on sites which do not come close to meeting the usual criteria for inclusion in a 5 year land supply. In short they are not deliverable in terms of the PPS3 criterion or in terms of the guidance issued to Inspectors by DCLG (INQ 4).
40. These 'category' errors are so significant that it is not necessary to deal with each of the problematic sites individually. Suffice it to say that the analyses are deficient in that they rely:

- a. On 100% of extant planning permission sites coming forward within the 5 year supply.
 - b. With one exception on 100% of each of those sites being developed within the 5 year period.
 - c. On brown field sites which are not allocated and have not been identified sufficiently in any statutory planning process; identification in non statutory master-plans is to be given little weight.
 - d. On Green Belt sites.
 - e. On sites in Flood Zone 3 where there has been no consideration of whether the sequential approach or exception test apply.
 - f. On sites the subject of obvious constraint where there is no indication of reasonable solution.
41. Ironically these very deficiencies with the land supply process had been identified as weaknesses by TTGDC as recently as August 2009 as part of its judgment on whether to grant planning permission for development at Aveley Bypass (Doc TAB 8, section 11). In that case the deficiencies were said to point to a significant absence of 5 year land supply. In these circumstances, it is not surprising that an Inspector faced with the 2009 AMR evidence and some additional Corporation sites as recently as January 2010 found that the land supply situation was dire and required urgent remedy (TTG 5, App 15). His assessment was that the land supply was closer to the absolute maximum of 2.6 years argued for by the Appellant in that case. Because of the "category errors" referred to above he did not even think it necessary to deal with each of the individual sites relied upon. Nor is it necessary in this case.
42. This level of supply or anything close to it is an appalling dereliction of the delivery duty of the authorities, particularly so in an area which has been earmarked for significant growth in the national interest. Little time has been spent at the inquiry in considering the status of the Thames Gateway in national planning terms because an assumption has correctly been made that the imperative for growth here is so much part of the sustainable future for the UK, that it can be taken as read.
43. But the importance of the national imperative (now contained in the EEP) should not be taken lightly or for granted. The Secretary of State will place very significant weight on the delivery of units in the Gateway and the effect on momentum of delivery of failing to meet housing targets.
44. The mindset of TTGDC in relation to Housing Land Supply was further illustrated by its actions post the January 2010 conclusion of the Inspector that the housing land supply was dire. Rather than seek to act upon the independent Inspector's conclusions, the Corporation sought to go behind them by producing another document which not only contained all of the sites which the Inspector had found failed to meet the deliverability criteria, but also sought to rely on a series of sites which were not even thought appropriate to include before the Inspector. (TTG 5, App14)
45. It is worth spending a little time on these new sites not before the previous Inspector, because they illustrate the paucity of thinking of TTGDC and help to explain the nature of the objections raised to the appeal site.

46. None of the new sites pass the PPS3 tests that TTGDC was reminded of by the Inspector. It is unsurprising that they were "mislaidd" earlier since they completely fail the PPS 3 tests. They add nothing to the consideration undertaken by the previous Inspector.
47. Finally, on day 2 of the inquiry, TBC produced a draft schedule containing brief draft comments justifying the 2009 AMR land supply figure. No regard had been had to the "category errors" identified by the January Inspector. All of the sites which were the subject of the category errors identified above remained in place. The list had been annotated with draft commentary of the least persuasive type.
48. Little weight should in any event be given to a document produced in such circumstances. But the fact that this document was produced in the way that it was, further emphasises the inability of either the plan making or the decision making authority to appreciate the seriousness of the situation. This colours the approach of both bodies to the development of the appeal site.
49. In contrast, the Appellant's up-to-date assessment of Housing Land Supply is set out in COL 18, App 19 It is also summarised in the comparison table produced for the inquiry (INQ 27). It seeks to adopt and apply the guidance in PPS 3 and the DCLG note to the circumstances of Thurrock. Applying this guidance thoroughly and with the assistance of local and expert commercial advice, it concludes that the land supply position in truth sits at some 1.5 years. Such a conclusion is consistent with the finding of the Inspector in the January Inquiry, and with the assessment of the applicant for planning permission at Aveley Bypass, whose assessment was in effect endorsed by TTGDC in August 2009 - (1.4 years).
50. Thus although the Appellant takes the view that upon a proper analysis the land supply is as low as 1.5 years, clearly anywhere in the range from 1.5 to 2.6 as an absolute maximum is sufficient for the Secretary of State to be forced to treat the issue as a material consideration of the most powerful kind.
51. Because the levels of delivery achieved by the Corporation are so low, the rolling housing land requirement is massively increased year on year. The housing land deficiency is correspondingly also massively increased since the figure is sensitive and is designed to be sensitive to previous years' failures.
52. The Secretary of State in this case will be determining the appeal in the spring of 2010. There is only a month left of the present period 2009/2010 and the most accurate assessment of completions for 2009/10 is just 140 (see 2009 AMR – COL 18, App 20). This means that the housing land requirement for 2010 will again rise and the 5 year land supply identifiable at the date of the determination will correspondingly have fallen to 3.9 years, even accepting all of the TTGDC sites. It will remain at below 2 years on the Appellant's case (1.89 years).
53. The scale of failure becomes more real when it is realised that on TTGDC's most optimistic analysis, they are still short of 4 sites of the scale of the present appeal site at Bata Field. On the Appellant's analysis the shortfall would need in excess of 7 such sites.
54. In the real world this is not how the shortfall is likely to be made up for the reasons set out below - but it does give a real feel for the nature and extent of deficiency.

Policy implications

55. Since the existence of a shortfall is accepted, para 71 of PPS 3 is clearly engaged. That means that applications are required, suggested and expected to help make up the shortfall. They are to be determined favourably having regard to the terms of PPS 3, in particular para 69. For the reasons set out in the evidence of the Appellant's planning witness it is clear that:
- a. the tests of the PPS fall to be considered having regard to the absence of 5 year land supply or any suitable alternative site, and
 - b. the provisions of para 69 are easily met by the nature of the proposal.
56. Of course the para 71 route is only one route available to the authority to assist in remedying its shortfall. It would also be expected to be urgently reviewing its supply position as urged by para 65 and by the Ardale School Inspector (TTG 5, App 15). But this authority is not doing this and is unlikely to do it until the Secretary of State intervenes. It complains about the potential for success here to open the flood-gates in relation to Green Belt sites. That is not the case. It has within its own hands the means to address housing land supply urgently. Until and unless it does, applications such as this are encouraged by the Secretary of State. If this approach is not adopted, the land supply provisions of PPS 3 will be robbed of any force at all.
57. TTGDC has not itself identified any Green Belt sites which would make a net addition to the housing land supply which are better placed than Bata Field to meet the need. The Ardale School Inspector records that there might be some but none were identified by the Corporation.
58. It is instructive to note that this appeal site has already been identified as appropriate for development in an earlier version of the South-East Thurrock Masterplan.
59. TTGDC has sought to place reliance on a much higher level of completions coming forward after 2011. This is simply not an appropriate approach, for the following reasons:
- a. It would undermine the very concept of requiring a 5 year land supply.
 - b. We know that TBC can't make it in any event- they have already specifically asked to be released from the accumulated backlog in their representations to the Regional Assembly.
 - c. Counsel for TTGDC correctly removed reliance on this issue in closing as a result of the submissions made by TBC to the Assembly (INQ 26). This is a critical concession since it represented the main defence to the consequences of absence of 5 year supply in his opening and in evidence given by TTGDC.

Conclusion on Housing Land Supply

60. There is a pressing and dire need for further housing to meet the 5 year land supply requirement. Meeting this requirement is not optional, it is a central plank of Government's sustainability agenda. Para 71 of PPS 3 is therefore engaged. Suggesting that in the longer term, land supply targets might be met is irrelevant and in any event not borne out by the evidence.

61. All potential brown field sites have been considered and often inappropriately included within the 5 year housing land supply. Even then they do not come close to being able to provide the appropriate level of supply.
62. On any view of the evidence, Green Belt sites are inevitably needed to meet the requirement. It is not appropriate to seek to await the emerging plan which recognises the need to develop on Green Belt land but is at its earliest stages. Sites need to be found now. No better Green Belt sites are relied upon by the authority. There are none.
63. It is against this context, which TTGDC's planning witness steadfastly refuses to accept, that the appeal site falls to be considered.

Proposition 2: There is a massive and pressing need for affordable housing, the record of provision is abysmal.

64. The issue of affordable housing takes on a particular significance at times of economic hardship. This is because more people are forced into hardship and require affordable homes and because house builders are less able to meet the enhanced need. The position in this Borough is very poor indeed.
65. In 2008/09, only 13 affordable houses were provided in the Borough against a 2004 assessment of 204 units/year and a 2008 assessment/requirement of 524 units a year. The average provision in the last 2 years is 20 units a year. The total amount of all housing anticipated for this year is 140, and so the figure for affordable housing is hardly likely to rise at all.
66. There was therefore even before the recession truly hit a requirement for a dramatic increase in the delivery of affordable housing. And yet, there is little prospect on the basis of the limited land supply available to the Borough of achieving such an increase. This is particularly the case since some of the sites relied upon are small sites which would not give rise to the requirement for affordable housing.
67. Further the economics of provision on the larger sites are likely to militate against their achieving anywhere close the 35% target set by policy H2 of the RSS in the short to medium term. If they are to be built at all it is likely that their affordable component will have to be reduced.
68. This is well illustrated by the proposals by Family Mosaic at Fiddler's Reach, which is being developed by an affordable housing group. There is in fact little prospect of any of this development being viable in its present form. But even setting these concerns aside, the affordable housing content which has been agreed with the registered social landlord (RSL) is only 10% of the total units proposed.
69. This failure to meet affordable housing needs, (13 against a target of 524) is not a marginal one. It is a massive failure, with human consequences which are often forgotten in the arid analysis of completions and statistics.

Proposition 3: The Appeal Site will provide a significant number of units towards the 5 year housing land supply and assist greatly in meeting the massive need for affordable housing in the Borough.

70. The proposal will provide some 300 units of residential development of a type which are needed and likely to be developed within an appropriate timescale to assist in the meeting of the housing land supply shortfall. There are no significant

impediments to delivery and the proposal posits family housing of a type which is still required and sought after by the market.

71. The evidence of the Appellant's housing market witness explained fully why the site would be attractive to house builders and why it would be profitable to develop now. There is no different or better market evidence before the Inquiry. Further, the evidence of development at Aveley By-pass and the inclusion by all parties of that site easily within the 5 year land supply corroborates the Appellant's evidence. It is instructive that he has been professionally involved in both sites and was in no doubt that both could come forward.
72. The need for archaeological investigation has been taken fully into account. Again the only professional evidence before the inquiry in relation to this issue came from the Appellant's archaeological witness who was very confident that the timeline assumed for archaeological excavation was a robust one. He gave a specific example of how bigger (and more important) sites had been excavated safely and appropriately within lesser timescales. That evidence was not seriously challenged in any way.
73. Further the proposal will provide an added boost to the potential for the market to see other less desirable sites in East Tilbury in a better light. This in turn will assist in altering the perception of the town as a settlement within the Thames Growth Area.

Affordable Housing

74. The scheme has been designed to provide 30% affordable housing across the site in accordance with the wishes of policy and the TBC Housing Department. At 100 units, the proposal would, in effect be providing about 5 years affordable housing supply based on recent years' supply. This is a very significant affordable housing offer - well in excess of the much smaller offer achievable at the Ardale School site.
75. This scale of provision is much more comparable to that which was relied upon by TTGDC as creating very special circumstances in the Aveley By-pass case. As such it deserves to be given significantly greater weight. It represents a very significant contribution to the meeting of affordable housing need which would dwarf the recent cumulative annual completions from sites across the entire borough.

Proposition 4: These matters alone are sufficient as a matter of principle to constitute very special circumstances capable of rebutting the presumption against "inappropriate development" in the Green Belt. But in the circumstances of this case, the nature and extent of the very special circumstances reaches much further.

76. The site sits in the Green Belt. What is proposed is inappropriate development. Very special circumstances are required to be shown to justify a departure from Green Belt policy.
77. The entire package of very special circumstances relied upon by the Appellant is set out in full in the evidence (COL 16, para 5.29). However, the issues of the 5 year land supply and affordable housing are of crucial importance to the consideration of very special circumstances in this case because:

- a. The Inspector in the recent Ardale School case took the view that the “dire” housing land situation facing the Secretary of State in this case was by itself such as to mean that the “principle of residential development could appropriately be considered” on that Green Belt site (TTG 5, App 15, para 41).
 - b. TTGDC as recently as August 2009, granted consent for up to 340 dwellings in the Green Belt on the basis that “the combination of housing land supply in the Borough and the delivery of affordable housing are considered to be very special circumstances which could outweigh the harm to the Green Belt”. (IA app 8 para 11.46).
78. The suggestion by TTGDC that the Aveley By-Pass decision also relied upon a non-needed financial contribution simply does not bear scrutiny, for the following reasons:
- a. That is not how the report to committee, properly read, portrays it. The report (Col 17, App 8 para 11.46) says in terms that the contribution is not part of the very special circumstances. (Indeed if it were, a contribution of that nature would be little more than a purchase of a consent).
 - b. That is not how it was portrayed to the Secretary of State in the letter inviting him not to interfere with the grant (COL 17, App 9).
 - c. There is no reference in the Secretary of State’s decision not to call-in the application.
79. In the very recent past therefore either the housing land supply alone or a combination of the housing land supply and affordable housing needs have by themselves correctly been seen in the circumstances of Thurrock as being capable, as a matter of principle, of overcoming the presumption against inappropriate development in the Green Belt. There should be no reason for the Secretary of State to take a different position in the circumstances of the present case. These factors by themselves would be sufficient to constitute very special circumstances as a matter of principle. In this case, the very special circumstances go much deeper.

Proposition 5: The proposals do not harm the character and appearance of the Conservation Area or the settings of any relevant Listed Building. They are uniquely placed to significantly enhance the Bata concept and its historic and architectural interest. This enhancement is in itself a pressing very special circumstance.

80. East Tilbury is a remarkable and unique place. As Pevsner commented ‘a perambulation is in order.’ It will give the feel often of being on a slightly faded film set. There has been little investment in the town since the 1970s and this is clear. And yet the importance of the Bata village is also readily and immediately apparent. This is a special place with a special character. This character is not only felt by those with an interest in Modernist Architecture but derives from the sense of place that the architecture generates as a whole.
81. It is true that the present condition of the town reflects the ultimate failure and decline of the Bata empire. But it would be wholly inappropriate to allow the town to continue to decay in a way which reflects the decline of the shoe

manufacturer. That is not an appropriate approach either in historic asset terms or in land use planning terms. Indeed it had been thought that this was sensible common ground, with both TTGDC and TBC advocating between 1000 and 1500 new homes for East Tilbury as part of their forward planning regimes.

82. In short the proposals for Bata Field are exemplary. The evidence given by the Appellant's architectural witness demonstrates a clear and extraordinary grasp of the existing context. He has produced a design solution for the Bata Village which will enhance the significance of the place as a whole, preserving and enhancing the character and appearance of its listed buildings by reflecting their character and adding modern investment and confidence to the concept as a whole.
83. The key elements of the proposal can be summarised as follows:
- a. Identification of Bata Field as the only realistic site where the ethos of the village can be extended and replicated appropriately.
 - b. The rebalancing of the village, to allow the Bata style housing to regain its predominance in a settlement which only ever existed because of the Bata brand.
 - c. The replication of the street pattern and grain which characterises especially the early phases of the Bata concept with which the site will most clearly be associated.
 - d. The use of building typologies which again reflect without aping the modernist proposals of the original concept.
 - e. A series of green spaces which will enhance the setting of the new and existing buildings.
84. In short this extension of the Bata concept will be an exciting, innovative and much needed boost for East Tilbury both in terms of historic fabric and its land use planning future. Its sense of place and overall significance will clearly be enhanced by the proposal. In particular, the sense of history and shared communal value in the buildings and their place in South Essex history will be enhanced. In these circumstances it is hugely important that there is no objection to the proposal from English Heritage (EH). This is particularly the case since the weft and warp of the Bata concept are fully understood by EH.
85. Their appraisal document (CD 3) is a model of its type. It clearly establishes that EH understand the nature and value of the Bata elements of the settlement extremely well. It establishes a knowledge and understanding of a depth which is rare in cases such as this. In these circumstances, the Secretary of State should take great care not to impose an objection to the proposal where EH see none. Indeed the only dissenting voice in relation to these matters was TTGDC's architectural witness, and even he shifted his position from initial support (albeit not unequivocal) to objection in principle.
86. The essence of his assertion eventually was that there was an in principle objection to development of the application site. This assertion was not one shared by any other design or historic professional or body. The evidence establishes why:
- a. The appeal site was never designed to be left vacant - indeed in various versions of the master plan it was meant to house several streets of

Bata type housing. In addition, the site was to be the location of the main road to the station as EH points out.

- b. Further the housing abutting the appeal site does not face out onto saved open space. Rather it faces away from it inward to the centre of the community of which it formed part. The further houses to be built on the site no doubt would have done much the same.
 - c. It is true that because of the failure of the Bata empire such developments did not take place and that the vacant nature of the field reflects that fact. But this historic accident is well understood by EH, who refer to it as 'poignant'. It does not come close to an in-principle objection to the use of the appeal site.
 - d. The impact of the proposal upon views from the north-west was very carefully considered by the Appellant and EH as is clear from the documentation. The creation of a linear park, the identification of avenues retaining key views and vistas and the subordinate nature of the dwellings to the factory buildings behind were all thought to be a very positive aspect of the proposal - a clear and transparent benefit of the proposal and its ability to enhance the significance of the place as a whole. That is a judgment which should not be set aside lightly.
 - e. The ability to see the main factory buildings rising from the countryside in the most important locations is maintained (TTG 7, App 4). Where the buildings will be seen above other buildings, they are already seen behind Bata Avenue and would always have been seen behind some buildings or a busy roadway in either event that the master plan had been completed.
87. TTGDC expressed concern about the ability appropriately to "fix" the vision through conditions and design coding. The use of design coding is now a very well settled and approved of device in cases such as this and it is now hoped that these concerns have been allayed. In any event the Secretary of State need have no such concerns, for the following reasons.
- a. There is now a condition tying the developer to the terms of a design code which is to be submitted and approved by the local planning authority before the submission of reserved matters.
 - b. It will contain the provisions of the design code and address a series of other design codings sought by the authority. It will not be limited to the grey boxes in the originally submitted design code.
 - c. Thereafter, no reserved matters applications can be submitted unless they are in accordance with the approved design code. In this way the local planning authority have complete control over the nature and ethos of the development. They will have jurisdiction to refuse reserved matters applications which do not achieve the vision set by this application.
88. The Secretary of State is urged to adopt the weight placed by the Appellant in these submissions upon the enhancement achieved by the quality of these proposals for a unique settlement, which would give further support to TTGDC in

resisting reserved matters proposals which sought a dilution of the design concept.

89. If consented, there can be no doubt that Bata field will renew and restore interest in the Bata legacy and in the architecture which it gave Britain. It will enhance the understanding and significance of this place in a way which little else could. This is a very special circumstance of powerful moment. The words on the page cannot begin to do justice to the impact to the sense and significance of place which these proposals could bring.

Proposition 6: There exist in addition a series of further very special circumstances which weigh in favour of the grant of consent.

90. In addition to the matters set out above, there are in the particular circumstances of East Tilbury a set of other circumstances which significantly add to the nature and extent of the very special circumstances which apply in this case. These are set out fully at para 5.29 of COL 16. Many arise as a result of the analysis which is detailed above and although they are properly separately identified and deserve separate consideration, they do not need further exposition here. This does not mean that they are not important.
91. Others such as the geographical proximity of the appeal site to key new and existing employment uses are self evident and fall to be given significant weight as supporting very special circumstances. They are exactly the sorts of circumstances which the Secretary of State has found compelling in other cases particularly in conjunction with an absence of 5 year land supply.
92. In combination with the matters set out above, these amount to a very special circumstance case of powerful compass, which is clearly sufficient to outweigh any Green Belt harm.

Proposition 7: The proposals would not cause unacceptable harm to the Green Belt. The very special circumstances clearly rebut the presumption against inappropriate development.

93. New residential development inevitably causes harm to the Green Belt in the sense that it is "inappropriate development". Further, built development where presently there is none will result in a loss of openness. This would be the case in relation to the loss of any Green Belt land to built development.
94. And yet it is quite clear in the circumstances of this Borough that Green Belt losses are an inevitable requirement if housing numbers are to be met. This was appreciated by the Inspector at the Ardale School inquiry. (TTG 5, App 15, para 29) and has been accepted by the TTGDC in the number of Green Belt housing sites that it is seeking to promote and/or to rely upon in seeking to demonstrate an adequate land supply.
95. It was an argument which TTGDC's planning witness appreciated but with which she steadfastly refused to engage. The consequence of such an argument is that if the Secretary of State applies his own policy and requires the meeting of a 5 year housing land supply, and accepts the logic that follows that the only way that such a requirement will be met will be by the development of some Green Belt land, then it cannot be an in principle objection to the development of the application site that it is Green Belt.

96. Such an approach does not involve the setting aside of Green Belt policy, since the rigours of PPG 2 would continue to apply. But as other Secretary of State decisions have illustrated, they would fall to be applied in the circumstances of the case which would include the acceptance of the need for Green Belt development in the round.
97. The question to be addressed by the decision maker is whether having regard to the dire housing land supply, the benefits of the proposal clearly outweigh the in principle harm of development in the Green Belt and any other harms associated with the development.
98. Further, as mentioned above it is incumbent on any rational decision maker having found a dire failure to meet the 5 year land supply to consider how else that land supply is to be met if consent were to be refused in the present case.
99. An assessment of the impact of a proposal upon the Green Belt and upon the open countryside involves a matter of subjective judgement of the type not susceptible to detailed written submissions. But any assessment of impact must for the reasons set out above be undertaken in the context of the need for Green Belt development and the delivery of a 5 year supply.
100. Suffice it to say here that the appeal site is almost entirely surrounded by existing or proposed built development and contained to the east by the main-line railway, clearly a robust and defensible boundary to the Green Belt were development to be approved on the application site.
101. The contention of TTGDC that the railway is not a defensible boundary is plainly wrong. It is a physical and psychological barrier of the most impenetrable type. It is represented not only by the track, its security fencing and electric paraphernalia but also by associated and significant landscaping which will be enhanced by the proposal.
102. The identification of the potential for the appeal site to constitute an urban park feature in the Council's Landscape strategy is very instructive. It is a clear recognition of the way in which the site is seen as separate to and distinct from the open countryside beyond. Such a park would be an urban feature reflecting present disposition of the site.
103. Earlier suggestions that there would be an inappropriate coalescence between Linford and East Tilbury were not seriously pursued. It is easy to understand why. It is the northern extension of Linford, close to the railway station which is an aberration in this respect. If and insofar as there is coalescence, it is occasioned by this 1970s development. The appeal site is, as EH recognise, a logical extension to and rounding off of East Tilbury. The proposal does not give rise to harmful coalescence in any meaningful respect as a result.
104. It is not without interest that TTGDC itself has previously taken the view that the site might well be developed as an appropriate housing site. It can hardly be said in these circumstances that its Green Belt credentials make the site sacrosanct.
105. In all of these circumstances, the limited harm to the Green Belt is massively outweighed by the very special circumstances identified above.
106. There follows an analysis of whether there are other harms occasioned by the proposal.

Proposition 8: There are no flooding reasons for refusal associated with the proposal.

107. TTGDC is no longer pursuing this issue. The starting point for this matter is that there is no objection to the proposal from the Environment Agency. This was despite many months of negotiation and study.
108. As a result of work being done by consultants progressing the Strategic Flood Risk Assessment (SRFA) in connection with the emerging TBC Core Strategy it is now apparent that even assuming a worse case breach of the sea defences, the site lies above the 1/ 1000 yr flood level for tidal flood and is accepted by all parties to be at no realistic risk of flooding.
109. In such circumstances the operation of the standard policy based on an indicative Flood Risk map would appear to be rather artificial. Certainly it falls to be considered in the overall balance of planning issues in that context. Notwithstanding this the Appellant has with the assistance of the Environment Agency (EA) formally undertaken a sequential site analysis which further establishes that there is no objection to development. In particular it has been established that in this case the sequential analysis would involve a search for a reasonable alternative site which met the needs catered for by the appeal site.
110. Since the appeal site on any view would assist in meeting the 5 year land supply shortfall, it would not be reasonable to identify sites as alternatives which had already been counted as part of the supply that was short or which could not assist with the shortfall because they were not deliverable in terms of PPS 3.
111. In other words unless a site was capable of making a net new contribution to the land supply it would not be a reasonable alternative. Further, the geographical scope of the search is appropriately limited to specific defined land-use areas where that is justified. In this case, it is accepted both that there is need to limit the search to the relevant Masterplan area and that there is a specific need for regeneration in East Tilbury.
112. When all of these parameters are understood, there is no sequentially preferable site available to meet the needs catered for by the appeal site and the Secretary of State can so find.
113. The suggestion by TTGDC that the Thames Industrial Site (TIE) is sequentially preferable is baseless. It is in the same Flood Risk category (but much more of it is in 3a). Its residual risk of flooding is higher for the reasons identified by the Appellant's planning witness in chief. It is furthermore accepted not to be deliverable within the 5 year timescale and is therefore not a reasonable alternative for the purposes of PPS 25 and PPS 3.
114. Once the sequential test is met, the exception test is easily traversed, for the following reasons
 - a. The site's sustainable community benefits – i.e. meeting land supply requirements, affordable housing provision, mixed and balanced communities, enhancing the significance of East Tilbury as a special place in historic terms - all easily outweigh the risk of flooding which is accepted to be minimal. For these reasons limb A of the test is met.

- b. Although the site is not brownfield, there is no reasonably alternative brownfield site which can meet the need catered for by the proposal, therefore limb B is met also.
 - c. There is no residual risk of flooding and the Environment Agency is wholly satisfied that even at existing levels the site is completely safe and secure from flooding. Further it is satisfied that the Suds (sustainable urban drainage) proposal set out in outline will be a benefit of the proposal. Thus limb C and all three limbs of the exception test are met.
115. For all of these reasons, there are no sustainable reasons for refusal based on flooding.

Proposition 9: There are no sustainable highway objections to the proposal

116. Many of the original objections on these grounds have been resolved during the course of discussion and negotiation. Three issues remain to be considered.
- a. The access to the site and its X distance
 - b. The impact of the proposal upon the level crossing
 - c. The overall sustainability of the settlement.
117. On a rational consideration none of these matters should stand in the way of a consent.

The Access proposals.

118. The application is made in outline in relation to access. The issue therefore is whether in principle a safe means of access can be achieved. The Appellant's highways witness has designed an access with a 2.4 m X distance. TTGDC's witness argues for a 4.5 m X distance.
119. The 4.5 m access derives from the requirements of Design Manual for Roads and Bridges (DMRB) which relates to trunk roads. This is not a trunk road and no reasonable suggestion has been made as to why trunk road standards should be made mandatory in this location for the X distance.
120. The 2.4 m X distance proposed by the Appellant has been specifically designed by reference to Manual for Streets (MfS). This is the correct approach. Indeed, even the consultants that were instructed by TTGDC to appraise the arrangements concluded that it would be acceptable to use MfS in this location. Its rationale was clearly explained by reference to the identification that a longer X-distance would be likely to increase the risk of accident at the junction rather than to decrease it. This is because those that can see further along the Y distance early tend not to be so cautious at the stop line and attempt to push in where there might not be space.
121. Further, the junction proposed by the Appellant would be consistent with other residential accesses along the same route where there is no history of accident or other difficulty.
122. Finally, although the Appellant does not consider it necessary, the existing junction as proposed could - with alterations to the indicative planting only -

achieve the DMRB standard to the south (the most important element of the splay) and all but meet it to the north. Indeed, if necessary the junction could be reconfigured a little to allow for a full compliance with DMRB trunk road standard.

123. In conclusion, the Appellant's solution is to be preferred. There has been no justification at all proffered for a trunk road requirement at this location. But the Secretary of State can be clear that there are a number of options available at reserved matters stage to ensure a safe and appropriate access in principle.

The level crossing and the need for an all-purpose bridge.

124. The concerns expressed by TBC (and adopted by TTGDC) relate to the existence of a level crossing adjacent to East Tilbury station. Such a crossing is not an unusual feature of life in South Essex or indeed of southern England. The concern expressed relates to potential impacts of the proposals in the AM peak. The specific concern involves the potential for increased car generation to increase the number of times that a driver might not be able to clear the railway crossing in one "cycle".
125. There is an issue as to vehicle generation issues and its significance.
126. The Appellant was very careful to agree each and every limb of the traffic generation assessment with the highway authority (TBC). All assumptions were agreed with TBC's traffic engineer who signed off the assessment in its entirety. All relevant meeting notes confirm this to be the case.
127. That assessment led to a conclusion that the site would generate between 3 - 6 vehicles in the a.m. peak to be added to each AM peak queue. In evidence TBC's witness referred to this addition as 'minimal', though later (realising the implications of this remark) he altered his characterisation to 'small'.
128. In any event, it is clear that such an addition is well within daily variations and that there are many other factors other than queue lengths which appear to determine whether or not a vehicle clears in one cycle. In such circumstances the addition identified by the Appellant's witness is self evidently so small as not to constitute a material harm, much less one which should stand in the way of the further meeting of the housing land supply or the needs of families for affordable housing.
129. Notwithstanding that TBC's witness had signed off every element of the Traffic Assessment (TA), he then sought to instruct consultants with a view to seeing whether the traffic generation figures could be unpicked. They did so by reference to a ten year old survey of a much wider and inappropriate area, and by reference to a selection of TRICS database sites that they were not available for scrutiny at the Inquiry and which TBC's witness had not checked.
130. The Appellant's witness however did check them and they are hardly representative of the situation in East Tilbury which is likely to be unique by reason of the existence of the crossing and the proximity of the railway station.
131. In such circumstances, the Appellant's evidence is to be preferred since it is based upon an exactly same pattern of streets as that proposed. But the issue is probably academic. This is because even the new traffic generation figures

only resulted in an increase of up to 8 as opposed to 6 (minimal) to the queues. Certainly the difference is still within the daily variations and within those variations which seem to make little difference to the ability of the motorist to clear the crossing in the usual way. Certainly there is nothing in the new generation figures which would give rise to a requirement for an all purpose bridge as suggested by TTGDC's witness. Such a response is wholly disproportionate. There is no reason for refusal here.

132. There is no evidence to support the need for a pedestrian bridge. The number and length of crossing closings will simply not be altered by the proposal. The additional vehicles will not alter the way existing or proposed pedestrians cross the bridge. There is no indication at all that this existing position is in any way dangerous or inappropriate.
133. The bridge is proffered by the Appellant as a result of a clear understanding of the position of TBC's witness, to the effect that the provision of a bridge would remove all of his objections to the proposal. That understanding has not resulted in a removal of objection but having publicly indicated that the bridge was to be provided, the Appellant does not resile from it.

Sustainability.

134. The settlement of East Tilbury is identified as a centre in the Local Development Framework (LDF) hierarchy. It is far from being the smallest of such centres. The centre is identified for additional development by both TBC and TTGDC. The Corporation indicate developments in the region of 1000 - 1200, while TBC indicates in the region of 1500. Such provision is meant to enhance the sustainability of the existing services. This is wholly inconsistent with the remarkable stance taken to the 300 units proposed in this appeal at a very similar location.
135. The reason for this becomes clear when the type of facility that would be expected at a centre such as this are explored in the emerging Core Strategy (CD 4). The settlement has all of these and clearly has sufficient services to meet the day to day needs of the existing and new residents. The development can only result in an enhancement and stabilisation of these facilities.

Proposition 10: There are no other Development Control Issues which mean that planning permission should not be granted.

136. A number of other development control concerns have been raised at various times and in various places.
137. Only one is now left for consideration in this closing and that is the issue of archaeology.
138. The archaeological remains on the site are recognised. They have now been the subject of very significant consideration. The remains are not of national importance. Nor are they close to being of national importance - this evidence is not challenged by any party. There is therefore no presumption against in situ preservation of the remains – the matter is one of balance.
139. The issue was carefully considered very early on in the design process. In situ preservation would sterilise a very significant part of the site, much wider than that shown on the Architect's 2008 assessment of the ability to keep the

remains in situ and still produce a coherent Bata style enhancement to East Tilbury as a whole. (INQ 23)

140. In short, the balance of convenience lies very firmly with development as proposed. If there was a real issue with this it was open to the County archaeologist to object. He could have but does not. The fact that he would prefer in an ideal world to have preservation in situ does not change the fact that he does not insist on it in all the circumstances of this case. Again there is no ground for refusal here.

Overall Conclusion

141. This proposal provides the chance to enhance the significance of East Tilbury greatly. It will ensure that Bata village does not become a decaying backwater, a pickled relic of its former self.
142. It will also allow for this area to begin to make progress toward meeting its 5 year land supply issues and will provide remarkable new homes and affordable homes for new residents of East Tilbury.
143. The Secretary of State should grant planning permission.

The Case for Thurrock Thames Gateway Development Corporation

Green Belt and Very Special Circumstances

144. It is accepted that any number of otherwise commonplace benefits of a particular scheme of development could, when viewed cumulatively, amount to very special circumstances in any particular case; but it does not follow that just because there are a number of benefits to be derived they can be relied on as justification for inappropriate development without objective scrutiny. In any particular case, there must be something about the combination, found to exist in association with the specific site and the proposal in question, to amount to something very special. If the combination is, in substance and extent, capable of being found substantially elsewhere in the administrative or other relevant area, in any number of potential sites that might come forward for similar development, it cannot be said that the combination in question is objectively very special.
145. In this context the Ardale School decision (TTG 5, App 15) is instructive because it is very recent and shares two distinctly important features with the appeal proposal: namely Green Belt and housing supply and the provision of affordable housing within the Thurrock area. The clear and unambiguous reasoning of the Inspector in that case is very relevant. And insofar as parallels or distinctions might be drawn between the sites, this will also mean having regard to his judgments in relation to the Green Belt and openness and, of course, very special circumstances and 5 Year Supply.
146. In the Ardale School case the Appellant sought to argue that the harm to the Green Belt was limited because, inter alia, the appeal site was enclosed, could not be said to be open countryside, and made a limited contribution to the purposes for including land in the Green Belt. The Inspector considered the issues and found that: (1) there would be harm to Green Belt by reason of

inappropriateness; (2) there would be harm caused by loss of openness; (3) there would be harm caused by compromising the site's role in checking unrestricted sprawl; (4) there would be harm caused by compromising the site's role in preventing merger/coalescence; and (5) there would be loss of open countryside because of encroachment.

147. The Corporation has assessed these concerns with reference to Bata Field. That there would be harm to the Green Belt by reason of inappropriateness is axiomatic. It must be the case that Bata Field is open and that it forms part of the open countryside. Indeed in comparison with Ardale School it can be argued that it is substantially more open and most certainly less enclosed in visual terms, and is unequivocally very much part of the open countryside. It is, as the Inspector concluded (TTG 5, App 15) "...open, essentially undeveloped and of rural appearance". It cannot be said but that the development of Bata Field will "be a failure to assist in safeguarding the countryside from encroachment" [Para.21].
148. Moreover, the development of this site will not assist in keeping the land permanently open and it would compromise the role (albeit limited) of checking urban sprawl of the built up area of East Tilbury. It would compromise its role in separating East Tilbury and the southern part of the community of Linford which remain distinct in their identities.
149. There is one other purpose which is significant in this case: that the Green Belt in the Thurrock area plays a very important role in assisting urban regeneration, by encouraging the recycling of derelict and other urban (brownfield land). This is a most important objective for Thurrock given the requirements of the RSS (in terms of the location of new development) and the imperative to regenerate the urban area. The Inquiry was informed of the efforts being put into this by the Corporation in relation to a number of important sites. Indeed the absence of this constraint would make the realisation of the regeneration of the urban fabric considerably more difficult for reasons that are obvious. This is one of the purposes of the Green Belt as laid down in PPG 2. It is an important facet of the Corporation's case that this will be the consequence if ad hoc, incremental or wholesale Green Belt releases are permitted on the basis of housing need and affordable housing alone. Without some very exceptional justification not common to all Green Belt sites, housing need (and I include the need for affordable housing), whilst of utmost concern (and the Corporation is far from complacent about delivery) cannot justify it, and it is no answer to say that the release of this site alone will have only a marginal negative impact on this Green Belt purpose. That might be said of any ad hoc Green Belt release.

Other harm

Highways and Transportation

150. A great deal of time has been spent by the Appellant dealing with meeting notes that were supposed to be conducted on a without prejudice basis. Indeed, one was in respect of an entirely different proposal. It is somewhat surprising to see without prejudice notes being put into evidence before this Inquiry with the intention, one assumes, to undermine TBC's highway witness. Without prejudice means in effect without prejudice to the parties' stated in principle position with regard to the case. It is not meant to be before the

decision maker. The LHA made its position entirely clear to the Corporation and the Appellant was perfectly aware of the in principle position which was to refuse permission because of a number of factors that remained at large by late November 2009 (TTG 9, App.1). Hence the working party meeting to see how the objection might be overcome. What is quite clear from these meetings is that there remained substantial areas of disagreement and, moreover, they were taking place whilst consideration of the appeal proposals in highways terms was ongoing.

151. Moreover, there was nothing improper in employing external consultants to examine the Appellant's highway data. The very obvious concern of TBC was that the evidence base was not sufficiently reliable and left many issues unresolved. They are all referred to in the TBC response. The work undertaken on behalf of TBC indicated that many issues were capable of being overcome. Hence we have agreement in relation to detailed design parameters and the overall solution to the junction improvements necessitated at the A1013 and Buckingham Hill Road junction.
152. So what remains in contention? Doubts remain about the traffic generation figures and an in principle objection remains in respect of the impact of the proposals on the crossing, the suitability of this development this side of the railway line, the suitability of a Manual for Streets (MfS) solution for the main access and sustainability generally.

Level crossing

153. TBC quite clearly consider this crossing to be problematic (TTG 9, App 16). The objections essentially related to safety and misuse exacerbated by increasing the resident population to the east of the crossing.
154. The Appellants have calculated that peak hour additions to the queue would be 4 - 6 vehicles, while TBC's consultants put the figure at 6 - 8. There may not seem very much between the parties but some perspective needs to be brought to bear on the nature of the problem. First of all the Appellant's survey took place on one day in mid July which is unlikely to be representative of the common position (although it is not disputed that it was representative of the day on which it took place). There is nothing to corroborate or verify the Appellant's conclusion about generation, and although they have said they applied an appropriate trip generation (TRICS) analysis by way of a comparator this has not been available to TBC. Whether or not the TRICS analysis on which TBC rely can be criticised, it is very important to have regard to the highway witness' own informal observations made shortly before the Inquiry, when he counted 60 plus vehicles queuing and behaviour that indicates unwillingness by some drivers to wait. This is enough to indicate that the Appellant's assessment of generation may significantly underestimate the true picture with development and hence the extent to which it will compound the safety issues recognised by TBC's witness.
155. The issue of the appropriateness of locating a substantial housing development east of the line cannot be addressed by a reference to issues surrounding Thames Industrial Estate (TIE). This site has been identified in the Corporation's Masterplan because of the regeneration/conservation imperatives that seek to guarantee its long term future. The housing figures which have been notionally ascribed to it respond to the representations made

by Icení Developments as to its capacity and viability. That is constantly under review and whatever transpires at the end of the day, the proposals will have to be considered in light of all constraints and that will include transportation issues. That is not a proposal before this Inquiry and the history of negotiations and its identification in the Masterplan should not divert your attention away from the fact that what is being proposed through this appeal is a greenfield development that is not connected with the regeneration/conservation objectives that apply to a Bata Field site with conservation imperatives. Nor is it appropriate to assume that the balance of considerations that apply to any redevelopment proposal of the TIE should inform the Secretary of State's approach to the appeal proposals.

156. The actual effect of locating development east of the railway line is that the community will be cut off from the west for substantial periods every hour and up to 20 mins or more in total per hour during peak periods. This will be compounded by longer trains in due course. The effect is not one reflected in lack of convenience only. It has a profound impact on community perception and the fact that emergency vehicles will be prevented access when the barrier is down. In transportation terms this represents a "Barrier to Movement" that is relieved only by this crossing. The other level crossing should not figure given it may be accessed only via a country lane. It is inconceivable that if one were looking to find a greenfield site for substantial residential development one would choose a site that lacks convenient and full communication with the community functions and emergency services upon which it must rely and this must mean access to more than just the neighbourhood centre. It really would be wholly irrational to subject further development to the same substantial restraint without some overriding locational imperative. The debate on this issue alone serves to emphasise the fragility of East Tilbury in transportation and connectivity terms.

Footbridge

157. This situation would only be partially assisted by a footbridge that makes provision also for the disabled and those with pushchairs. The fact is that pedestrians would be likely to cross the line only to access local facilities or the poor bus service which serves East Tilbury. There is nothing before the Inquiry to suggest how the footbridge will be delivered or when it will be delivered or, indeed, whether it is properly costed.
158. Insofar as the Appellant argues that the Secretary of State should accept that the bridge is not a necessary component of the development because it is not needed to mitigate it in whole or part (and this conclusion is only possible if it is shown that the appeal proposal, by reference to the crossing, causes no harm in highway and transportation terms), the SoS is obliged by his own policy advice to ignore it in any event. Its provision can play no role in the decision making process at this level.¹

¹ The position is as a matter of law as follows: A local planning authority (other than the SoS) is able to take into account and treat as material any offer which has more than a de minimis relationship to the proposed development and has a genuine planning purpose. A local planning authority (including the SoS) may only *require* a contribution if it is needed and fulfils the *Newbury* principles. The Secretary of State applies the latter principles to any offer and to this extent the position of the LPA and the SoS may be distinguished.

Access to the Site

159. This issue must be looked at in the context of the policy approach to this road as an important distributor carrying substantial amounts of HGV traffic. It is not sufficient merely to apply MfS irrespective of these issues, particularly with a single main access serving a community of the size proposed. Nevertheless, should it be decided that the higher standard applies there is a technical solution. Whether it is acceptable in design terms is another matter. Loss of the entrance formality will necessarily dilute the cohesion the Architects wish to create.

Sustainability

160. There are very real and substantial problems with sustainability and accessibility. The local road network is unsuitable for cycling and walking. Local services are inadequate. Major convenience shopping will be done at major supermarkets/superstores in other areas, there are no major leisure facilities, there is no bank, and comparison shopping will entail journeys most likely to be done by car. Bus services are sparse. There is no secondary school. Location close to East Tilbury Station is a positive but cannot remedy the harm caused by the identified inadequacies/deficiencies.
161. The train station is a positive factor but it does not make the settlement sustainable. It has a limited utility save for the commuter. The Appellant's transportation witness postulates (perhaps speculates) that there will be linked trips but there has been no attempt to analyse this by reference to the percentage who work out of East Tilbury and by reference to their work destinations and it is not enough to rely upon internet shopping or daily top up in circumstances where households with children will follow the majority in wishing to undertake bulk shopping trips.
162. Were it not for the station, East Tilbury would not feature at all in sustainability terms. So what utility has the station absent transportation enhancements which might have come about by a much larger settlement? What does or could the Station contribute in sustainability terms?
163. It is most unlikely that the majority of the population will use the train to do major convenience shopping. It will be easier to drive to Lakeside for comparison shopping (will give a choice between retail park and regional shopping centre). At best it provides a commuter service. It is unlikely any driver would use the train in preference to a car to go to the dentist or leisure facilities.
164. There is nothing in the proposals apart from a pretty ineffectual Framework Travel Plan to address the communications/sustainability deficit: its sparseness is redolent of the remoteness of the settlement where modal split is represented 50% by reliance on the car and where the best that can be expected is a 5% improvement (latest version). It is noteworthy also that predicted changes to modal split as an end target (2015) for the bus is 0.1%, walking 2.3%, bicycle 0.3%. Even the train shows only a modest increase of 1.9%. This is not surprising given the location of the development and that links for walking and bicycles are poor, and, unfortunately, there is not, nor is there likely to be, a bus service that can be taken seriously as an alternative means of travel.

165. By way of comparison, although East Tilbury has a neighbourhood centre, it fares far less well than Ardale and certainly far less well than Aveley, in key respects in terms of their relationship to the urban centre where jobs and major community and shopping facilities are situated.
166. If one were starting with a clean sheet, it would be irrational to locate a major community at East Tilbury unless the proposal were self sustaining or had the effect of promoting greater sustainability by way of a significant and substantial net gain over existing. There is no equivalent planning imperative or gain that drives the appeal scheme, irrespective of and despite those matters it prays in aid of its proposals.

Landscape and Visual Impact

167. The most comprehensive and the most authoritative landscape study is the Thurrock Landscape Capacity Study (TLCS) carried out in 2005 (CD 5). The date is not significant. It assesses the Thurrock landscape and provides a valuable tool in assessing the capacity of the East Tilbury landscape to accommodate change by way of development. It has received scant recognition from the Appellant's advisors, and even then it is misrepresented; yet it is not criticised by the Appellant's landscape witness, nor, for reasons expressed below, is it diminished by any part of her methodology. Its methodology and its conclusions must, therefore carry very significant weight in the Secretary of State's determination of the appeal.
168. Set within the West Tilbury Urban Fringe D7 landscape character area (see CD 5, p.25), the key characteristics of the area are defined as gently undulating, large open fields, absence of hedgerow cover, harsh urban edges, visual intrusion of pylons etc.. Sensitivity to change is evaluated and it is assessed that sensitivity to substantial scale development is medium and that one of the key qualities of the landscape in the context of East Tilbury is the cultural heritage designation of the planned settlement including the setting of the Bata Conservation Area with key views from Muckingford Road. So at least this landscape study acknowledges the role of setting as a component of the quality of the landscape (see p.37). It is accepted that the purpose of the Study in terms of the area of search was to focus on areas of undeveloped land within a kilometre radius of a settlement's railway station; the premise being that this distance was considered to be an acceptable walking distance for commuters and that East Tilbury was considered along with other settlements to provide an available transport interchange to facilitate access to jobs, shops and services by modes other than the car. It is not clear what informed this or if it was anticipated that services would need to be augmented or enhanced to make the most of this in terms of any identified potentiality. However, the Study does recognise that the railway line is a "Barrier to Movement" (Figure 5.2)².
169. Figure 5.2 of the Study indicates graphically where some development can be tolerated in landscape terms but specifically excludes the appeal site. We know from Para. 5.6.5 that the Study concludes that the landscape capacity is restricted east of the railway line by, inter alia, the need to safeguard the

² In any event, this was not the primary focus of the Study itself and the Inspector and the SoS are best to judge the issue of sustainability by reference to the facts, not the premise of the inclusion in the Study of East Tilbury itself.

setting of the Bata Conservation Area and that must be by reference to the key viewpoints to the west. Indeed, the “Hard Exposed Urban Edge” is expressly indicated as a key feature along all its boundaries including that which adjoins the appeal site. It is also noteworthy that the railway line is not recognised in the Study as constituting a major landscape constraint or influencing factor in character terms. A site visit will confirm its relative weakness as a landscape feature, appearing more as a field edge or boundary despite its impermeability and a barrier to movement.

170. The importance of site is, thus, deeply contextual : the Conservation Area affords greater importance to it in counterpoint and the Appellant’s landscape witness cannot escape this fact by reference to an inward looking assessment that seeks to draw somewhat artificial distinctions between adjoining fields. If ever there were a worthless distinction to be drawn between forms of expression, it is surely in her micro approach to analysis that fails to see the bigger picture.³ This issue is of greater significance than the casual approach of the witness to the analysis of context would indicate.
171. This juxtaposition/counterpoint must therefore define the role of the appeal site in landscape terms and, in this regard, it is pertinent that the Appellant’s architectural witness at least recognises the sensitivity of the appeal site. Of course, the landscape issue must converge with the heritage issue in this regard.
172. The Corporation has already drawn attention to EH’s appreciation of the Bata development in the context of the East Tilbury landscape (CD 3, p.52): “the landscape also plays an important role as counterpoint to the rational form of the industrial community at East Tilbury.....The kind of culture shock induced by this juxtaposition....the Bata settlement retain[s] this frisson of the unexpected when first encountered”. This relationship would be lost from all major viewpoints from the west were the development to be allowed, including those from Muckingford Road which are indicated in the TLCS as “Key Views” [CD 3, Figure 5.2] which receive no recognition let alone any analysis by the Appellant’s witness.
173. The effect of the appeal proposals as reinforced by the proposed landscape scheme for the western boundary will be to present an impervious visual barrier where none exists and where none ought to exist. This runs entirely counter to the valuable characteristics identified in the TLCS and its consequential spatial approach.
174. Views of the appeal site from the west and north of the site were not considered by any of the Appellant’s team. The landscape was not considered nor the setting of the listed buildings nor the context of the conservation area from the west. It is not that they were considered improperly, they were not considered at all.
175. The Appellant’s conservation witness appeared to think that the site was not visible from within as there is no public right of access and assumed therefore

³ In essence, VS areas 1, 4 and 5 hold essentially the same landscape characteristics: generally flat to undulating, limited tree cover, arable fields, no distinctive features, settlement distinctiveness: Bata counterpoint of general relevance but particular contextual reference to the appeal site. The better approach must be that adopted for the purposes of the TLCS which seeks to examine capacity by reference to broader and more distinctively important features.

it could not be seen from elsewhere. The landscape witness did not look at the site from Muckingford Road or from the footpath network on the other side of the railway line.

176. Not only is the site visible from close to by train passengers, it is visible from close quarters from public footpaths. With the questionnaire papers the definitive map was provided and the network of paths can be seen as well as the bridleway. For users of the footpaths on the opposite side of the railway and from Muckingford Road views of the listed buildings will either disappear wholly or will be severely compromised both in the short to medium term by the introduction of buildings and in time further compromised by the planting and dense boundary treatment.
177. For train passengers, the view of the factory buildings and Bata Avenue may well disappear completely- as indicated in the wireline drawings accompanying Chapter 9 of the ES and the intended boundary treatment that is not indicated.
178. The response by English Heritage (EH) appears to misunderstand the effect of the 'linear park' planting as he talks of gaps at the end of streets allowing views in when the DAS and Design Code talk of planting in copses of trees which would screen the development. The Appellant's landscape witness confirmed the screening effect of the planting and said that any fence would be wholly hidden by the planting very quickly. The planting must therefore be considered to be a continuous and complete uninterrupted visual barrier to views both outward and inward.
179. The advice of the County Archaeologist was entirely conditional. The Secretary of State's advice is also plain on the issue of preservation. Broadly stated it is as follows.
180. There is a presumption in favour of physical preservation of nationally important remains. In less clear cut cases involving remains of lesser importance authorities will need to weigh the relative importance of archaeology against other factors including the need for the proposed development (PPG 16: *Archaeology and planning*, para 8).
181. If physical preservation in situ is not feasible, preservation by record may be an acceptable alternative (PPG 16, para 13). The last paragraph doesn't distinguish between remains of national importance or those of lesser importance and it may be inferred that notwithstanding the presumption in favour of preservation of nationally important remains, the preference is for physical preservation in situ, subject to the balancing act referred to in para. 8 of PPG 16.
182. In this case it is clear that the response from the County Archaeologist, (TTG 7, App 3) was that he was not convinced that the remains were of merely local importance and that he would prefer to see the remains preserved in situ.
183. His clearly stated position was that set out in his letter to the Corporation dated 19th November 2009 that preservation in situ was the preferred option. He assented to excavation only if preservation in situ was not achievable. He was not satisfied that it was not achievable. The Corporation adopted that position accordingly.

184. We have now for the first time seen an alternative layout that appears to have been explored in order to see if important elements of remains, a Bronze Age enclosure, might be preserved in situ (INQ 23). Quite clearly this demonstrates that options are available, and it would appear that the Appellant's explanation is a brief one insofar as it would have the effect of shortening the internal roads. However, the linear essence would still be maintained even if, like Bata Avenue the roads led to the area kept free of development.
185. Unless the Secretary of State accepts the Appellant's view that such a compromise would affect the design integrity of the proposal, it should be accepted, on balance, that the remains cannot be preserved in situ and therefore a precautionary approach to this issue should be taken.

Factors advanced by the Appellant in support of the proposed development

Maintaining delivery and momentum – 5 year supply of housing land and affordable housing

186. These issues are closely related. Indeed, maintaining delivery and momentum cannot stand apart from housing delivery for the simple reason that it can only be the need for housing that justifies this as a Green Belt application. It could not have been justified otherwise and, despite the evidence given by the Appellant's planning witness in cross-examination, it has never been suggested by the Appellant that a lower threshold should apply.
187. Whilst it is accepted that housing and jobs must match, the way in which the matter is put by the Appellant ignores other fundamental co-objectives: the regeneration imperative for the Thurrock Urban Area, the existence of undeveloped brown field sites, the RSS requirement to direct development to the urban area. There is, in any forward planning sense an innate need to balance any proposed greenfield strategy with these other objectives. It stands to reason that an ad hoc process that characterises this appeal process must be treated with caution against co-existing objectives and their underlying structural issues (substantially regeneration based). Hence the need, in the Corporation's submission, to look beyond the 5 year supply and affordable housing issues.
188. Ordinarily, and in a strategic context, it would be appropriate to apply a comparative assessment that seeks to rationalise any contemplated releases by reference to a number of factors, including a comparative assessment of sites in order to identify and select locations which minimise the harm to the Green Belt as well as other harm. No such comparative exercise has been undertaken by the Appellant and it is impossible to gauge the comparative merits of the Appeal site with other identified Green Belt sites in the Corporation's list but which do not have planning permission. (See also Ardale School Decision Letter – TTG 5, App 15, para.29). This is a fundamental weakness of the Appellant's case and it is not good enough simply to approach the Green Belt issue on the basis that any need to identify further sites for housing will inevitably mean Green Belt releases and that the appeal site is the only one before the Inspector. Even if it is appropriate to apply a "straight line" analysis of 5 year supply (as distinct from that exhorted by TBC), the logical destination of such an approach, and it appears to be one adopted by the Appellant, is that the 5 year supply issue is overriding

irrespective of Green Belt status. Put another way, the Appellant's approach dictates that the 5 year supply issue is overriding (irrespective of longer term supply and short term take up issues), it dictates that there is a requirement to find around 160 hectares or more of Green Belt land now, irrespective of other constraints and objectives that give priority to regeneration and the prior development of previously developed land. It also predicates that such an approach is consistent with Government policy. This simply cannot be the case.

189. Were this to be so, logically, and in relation to any proposal for a Green Belt site, the very special circumstances test becomes inapplicable leaving other factors to be weighed into the balance as if it were a proposal affecting open countryside only. In the Thurrock context this is a particularly dangerous proposition given the requirement to regenerate the urban area and the fact that when seen overall, the identified housing supply is capable of providing the EEP requirement full term.
190. Of course, the housing supply situation in Thurrock will inevitably admit consideration of the principle of residential development in the Green Belt (TTG 5, App 14 para.45) but it does not, without substantially more, establish the principle with respect to any given Green Belt site. Moreover, it is wrong to suggest that the Inspector in the Ardale School case exhorted the planning authorities to search for and release further Green Belt sites for housing (ibid para 29). That fundamentally misrepresents his reasoning. What the Inspector said was that he "would expect urgent consideration to be given to the bringing forward and preparation of housing sites". Insofar as he noted that "some of these sites are Green Belt sites" he could only be referring to existing sites: those sites identified by the Council and the Corporation but which for the reasons expressed in para.26 (ibid) could not yet be counted in the 5 year supply with the degree of certainty required by PPS 3. Such an interpretation is entirely consonant with his overall approach and his decision not to regard the issues of land supply and affordable housing as overriding (that is either that the principle of residential development could be accepted without the need to consider very special circumstances, or that they are sufficient in themselves to constitute very special circumstances) and it respects the structural issues confronting Thurrock with respect to its regeneration priorities. That approach was impeccable and there is no evidence before this Inquiry to adopt a different approach in this case up to this point in the determination process.
191. Indeed, it appears that the Appellant's planning witness accepts that a decision to allow this appeal should be on a basis that does not open the floodgates, and the Corporation interprets this response as implying at the very least that something more than 5 year supply and affordable housing must justify it.
192. Moreover, the exhortation in PPS 3 para 71 to consider applications for housing favourably in the absence of a 5 year supply (whatever that may mean in any individual case) cannot be interpreted as an invitation to ride roughshod over Green Belt policy and the recently adopted strategy of the EEP or the requirement to bring forward previously developed land for development (a key purpose of PPG 2).
193. TBC's position statement, which is acknowledged by TTGDC, requires a more detailed examination of the 5 year supply in the context of PPS 3. A

continuous 5 year supply may not mean a theoretical straight line approach. In accordance with para 10, the quantity of housing available over the 5 year period must be based on need and demand and that in turn must be assessed against the requirement of para 11 that this must be evidence based. It does not talk in terms of adherence to a straight line analysis. If a cumulative annualised residual basis of calculation were the only one which Government recognised, PPS3 might have said so. It may not be inferred irrespective of the evidence base despite the common application of the analysis in this way. TTGDC endorses TBC's stated approach of managed delivery over the plan period having regard to the structural issues that confront the Borough, and the importance of the previously developed land/brownfield strategy: (see PPS 3, para 63 with regard to trajectories). This may not necessarily be at odds with the requirement to identify a 5 year supply of deliverable sites, if aberrations or market conditions force a correction that can be and is managed so that medium and long term delivery to meet RSS requirements is not detrimentally affected. However, it is acknowledged that TBC have indicated that even this is in doubt despite the 2009 Annual Monitoring Report (AMR), so it would be inappropriate to suggest that the SoS can rely upon the AMR strategy of managed supply over the Plan period by reference to the identified sites.

194. The Corporation has attempted to undertake a genuine assessment of supply having regard to the Council's most up to date documents. It has maintained a reference to a supply figure in excess of 4 years by reference to all those sites included in the 2009 AMR and those additional sites identified by TTGDC not identified at the Ardale School inquiry. Whilst, as noted by the Ardale School Inspector, there was discussion at the inquiry about the extent of the shortfall and reference was made to a number of the sites in dispute, it is pertinent that the Inspector did not make any site specific findings, and he was understandably reluctant to embark on a site by site analysis in that behalf. Only broad conclusions could be derived. The Corporation sought to develop its understanding of the sites further since then and has sought to analyse the larger sites in its evidence to this inquiry genuinely and by reference to the best information it has at its disposal, bearing in mind that there were no site specific findings. The work was not done despite the Ardale School Inspector's finding that the position was closer to the 2.6 years as advocated by that Appellant, but it was done to assist in setting out clearly what intelligence TTGDC has in relation to the sites and to assist in rebutting the Appellant's contention that the position is fundamentally worse than the Inspector found (and without the benefit of the other sites identified by the TTGDC). Indeed that work and the work of the Appellant in this case indicates that the situation with regard to assessment is problematic and TTGDC is not suggesting that there is a straight line 5 year supply or that a number of the identified sites do not fulfil the criteria of the CLG advice to the Inspectorate. In any event that advice cannot be regarded as necessarily conclusive or exclusive of the matters that might be taken into account in any particular case as the Aveley Bypass example indicates. Judgments have to be made – albeit by reference to the advice – but there is no requirement to stick rigidly to it where circumstances indicate that sites are capable of fulfilling the criteria even if they do not have planning permission. TTGDC suggests that its evidence in relation to the larger sites, including those identified since Ardale School, should be treated with seriousness.

195. TTGDC contends that the 5 year supply is substantially greater than the Appellant's figure even if the Secretary of State concludes that it is not substantially greater than the 2.6 years on a straight line basis. The point is that TTGDC has presented evidence of a large number of high yielding sites that have the ability to fulfil the longer term housing supply and that there are real opportunities to bring many of the disputed sites forward, in accordance with the Appellant's advice that the land supply should be managed pro-actively.
196. The major sites, including Cornwall House (PRIDe), VOPAK, Gray's Athletic Club, William Ball, Network Rail, Botany Way sites (TTG 5, App 14) have the real potential to deliver housing in the short and medium term. The Corporation also say, and the evidence points towards, the real likelihood that the contribution of Botany Way (Purfleet) will come forward (its contribution seriously underestimated by the Appellant) to deliver 900 dwellings in the next 5 years and more beyond. Arisdale Industrial Estate (South Ockenden) will also deliver housing within the next 5 years in a sustainable location, and it appears that Manor Way will be coming forward this year even though the present Appellant's witness discounts it because it does not fall four-square with his interpretation of PPS 3 deliverability criteria. Moreover, and although the Appellant's housing market witness relates current market preferences to the issue of take up, it should not be forgotten that flats provide an essential component of the housing requirement. The Appeal scheme, indeed, contains a substantial component of flats.
197. In short, the Appellant dramatically underestimates the true supply position and the posited supply figure should not be relied on to favour a Green Belt strategy that would on a straight line analysis appear to warrant a Green Belt release the equivalent of 12 Bata Fields.
198. For the avoidance of any doubt, TTGDC takes its role (and the Ardale School Inspector's decision) seriously. It continues to bring sites forward pro-actively and jointly with other stakeholders through its Masterplanning and it is a gross misrepresentation to suggest that it has done nothing or intends to do nothing to respond to the housing supply issue. It should be remembered that TTGDC is not the forward planning authority and must exercise its development control functions objectively having regard to all material considerations. That it considered the balance of considerations did not favour the Appellants proposal is not an indication that it is acting improperly.
199. However, that there is a shortfall is agreed, but the circumstances confront the Thurrock area in terms of its constraints and regeneration imperatives, particularly the need to focus major development (of all kinds) on the Thurrock Urban area and to facilitate a previously developed land strategy should be taken into account in any strategy that contemplates major Green Belt releases. This is why it is so important to take into account and make some assessment of the contribution which the sites identified by TTGDC will make to housing supply. A strategy that contemplates a series of GB releases must be considered strategically in this context.
200. That being so, this appeal must be determined by reference to the criteria in PPG 2 and it is necessary for the Appellant to show that, even if it is concluded that the 5 year supply and affordable housing issues should carry significant weight, there are other factors which contribute to very special circumstances

which justify this proposal above and beyond those considerations of need that could otherwise justify the release of any Green Belt site in principle in the sense that harm by way of inappropriateness is overcome. Secondly, the Appellant must show that, to the extent that weight is placed on those matters prayed in aid of very special circumstances by the Appellant in the form of housing supply, affordable housing and those other matters referred to below, that weight is sufficient to constitute very special circumstances so as to overcome the harm to inappropriateness and other harms identified in terms of impact on openness, the harm to the purposes of including land in the Green Belt, transportation issues (including the crossing and the access), sustainability, the visual and landscape impacts and the setting of the Conservation Area.

Other matters the Appellant relies on to contribute to very special circumstances

Absence of Local Development Framework

201. The absence of an adopted local development framework should not be used to justify the appeal proposal in the context of an up to date Regional Spatial Strategy (RSS) and saved policies which do not support a greenfield strategy to housing land release.

Linkages to Thames Industrial Estate (TIE):

202. The benefits postulated in this regard are no more than speculative. That the development of the appeal site might affect some impetus in the redevelopment of the industrial estate is no basis upon which to place any but insignificant weight, if any, on this contention. In particular, the premise appears to be threefold in nature: it will increase consumer interest in TIE; it might have the effect of uplifting the market value of the residential element of the TIE proposals; and that up front investment in marketing will somehow translate in an enhanced awareness/profile of TIE.
203. There is no evidence to show that the evolving development of the appeal site over the later development stages of Bata Field or, indeed, its completion, will have any material impact on the ultimate viability of TIE by increasing consumer demand for its offer, whatever it might transpire to be. Indeed, the extent to which the availability of Bata Field as a development opportunity or as a place to live might possibly have a disincentive or negative impact on the viability of the redevelopment of TIE or its attractiveness to the consumer has not been explored at all by the Appellant (and in this regard it should be remembered that the appeal proposal contains substantial flatted elements which could well compete with any TIE proposal).
204. In terms of timing it is inconceivable that up front marketing investment will have any material benefit for TIE and there is no indication that Bata Field and TIE will be promoted homogeneously. They are owned and promoted separately and, should Bata Field be granted permission and assuming the site is sold on, there is no evidence to suggest that there will be any incentive on the part of the successor to treat TIE benevolently.
205. If this contention were to have been advanced seriously it would have been open to The Appellants' witnesses to demonstrate this by reference to

comparables or a business projection that encompassed market based research and projections. There is no such evidence.

Design and conservation objectives – Significance and Sense of Place

206. Government policy places high importance on design. All developments should achieve it. In this case location of the site which affects the setting of the conservation area and listed building demands design of the highest order. It cannot, therefore, be a material consideration that drives the development of this site (in the sense that it constitutes a consideration capable of contributing to very special circumstances). It is no more than an essential standard that has to be applied and only then if the development is acceptable in principle.
207. In any event properly evaluated, it is quite clear that what is relied upon is simply the grid alignment to reflect the original Bata spatial concept employed within the conservation area. The squares and courts are not reminiscent of the conservation area nor, it seems any Bata Masterplan. Whilst the original concept is a distinguishing feature of the conservation area in terms of an early 20th century approach to an industrial settlement, its emulation on the appeal site does not itself make the appeal proposal very special. One would at the very least expect a sympathetic approach. Apart from this it is to be noted that the actual design of the houses was, surprisingly, not a factor that appeared to signify particularly with the Appellant's architectural witness as a necessary reserved matters parameter. However, TTGDC is pleased that stronger parameters will be imposed by reference to the updated Design Code and associated documents through the proposed conditions.
208. Nevertheless, if the development of the appeal is to be permitted it should only be on the basis of a development that is worthy of the conservation area. Thus the design concept, which attempts to emulate its neighbour, whilst sympathetic and worthy, cannot be regarded as exceptional in its own right, and certainly should not contribute any weight to the very special circumstances claimed for this proposal unless, beyond this requirement, the proposal can be said substantially to enhance the setting of the conservation area.
209. This view was advanced by the Appellants' conservation witness. His grounds for doing so are tenuous though he attempted to embellish the matters set out in his proof (COL 9, para 6.9). The first of these was the provision of open space and landscaped park. If there is any such benefit to the conservation area it must be of very minor significance given the existing role the appeal site already plays in the setting of the conservation area and the fact that the park, even as a landscape feature, will be formalising what is an open space characterised by the open agricultural context of the setting of this part of East Tilbury. The current view is certainly not terminated in the way he suggests in his proof (though subsequently corrected) and the existing hard-standing can hardly be regarded as an issue of any particular significance.
210. The second of these, the layout of the development, is a necessary function of the respect the proposed development must have for the Bata concept that it attempts to emulate. It is replacing a setting of significance and importance with built development.
211. The third is the open spaces. These spaces may complement the spaces that currently exist, but the Conservation witness' justification for his view was

almost entirely internalised, justified by reference to the proposed development itself. This is nothing more than mutuality, i.e. a response to what exists within the conservation area.

212. The fourth, the height of the buildings being subordinate to the factory buildings, is essential if some semblance of the existing counterpoint is to be maintained, but cannot be regarded as an enhancement over existing by any stretch of the imagination.
213. A sense of place and significance is a matter only belatedly relied upon by the Appellant's conservation witness and embroiders the true significance of the proposed development in its context. It is an addition to the community and will add to the community in terms of population and some functionality (limited to the provision of open space). But apart from this it does not give anything to the existing community nor does it attempt to make any direct inputs to the Bata conservation area. It expresses itself only in terms of mutuality.
214. Whilst it may be speculated that the proposed development will add a sense of renewal and uplift (and one would hope that it would if allowed), hope and speculation cannot carry the day in this decision making process.

Links to London Gateway

215. This proposition appears simply to rest on geographical location. No assessment has been made to show how in transportation terms the appeal site will perform as well as or, more to the point, better than any other settlement in the Thurrock Area by reference to available and likely transport links or, indeed, why, having regard to the requirement to direct development to the Thurrock Urban area, this site should take precedence. It is, in this regard, not enough simply to derive general and untested conclusions based on broad geographical considerations alone. Moreover, this proposal has none of the advantages to be derived from a major settlement proposal that has the ability to address major communications issues in a planned and structured spatial manner. The appeal proposal does not effect any improvements in transport links and proposed none between the appeal site and the proposed employment areas of the Thames Gateway. The Appellant's transport evidence does not advance the case any further, based as it is on broad assumptions and assertions.
216. In temporal terms there is no evidence that the proposed development will attract persons whose workplace will be within the Thames Gateway proposals, and beyond this and although no population is static, it cannot be said that there will be any planned synergy between the two.

Vitality of East Tilbury neighbourhood centre:

217. There is no evidence that without the proposed development the centre will fail, although of course it is recognised that a larger population will assist in increasing turnover and hence the vitality of the centre and that this is an aspiration of the Masterplan. It is axiomatic of any large increase in population in East Tilbury. Whilst it may lend some weight to the proposals it cannot carry significant weight in justification of this proposal and justifying a Green Belt release, given the opportunities which will arise for any such increase by reference to a brownfield/regeneration strategy for East Tilbury

which, even if it is realisable only in the medium term, must remain an overriding imperative.

Balance

218. This issue is fundamentally a concept brought in latterly by the Appellant's advisors. It does not find expression in the written evidence of the conservation or architectural witnesses. It is another superficially attractive argument that appears to be advanced in two ways, not necessarily connected. The first is spatial, the second functional.
219. In spatial terms there is no planning significance in the fact that the bulk of the residential development in East Tilbury is situated to the east of the neighbourhood centre and industrial areas. This is the way it has developed. Moreover, there appears to have been no urban planning imperative to have caused those responsible for the various Bata master plans to seek in some way to "balance" the residential components of the Bata estate by the comprehensive development of the appeal site and restricting further development to the east. On the contrary, apart from some limited development of Bata Field, the predominant residential element of the development was planned eastwards of the community functions and industrial area, leaving the industrial area distinct in its close and wider environment.
220. Secondly it cannot be said that any so called "imbalance" has any deleterious impact in urban design or functional terms (criticisms of the form and execution of the later Fairview development aside). No disfunction has been identified let alone interrogated. This is an artificial construct that should not be used to justify the development of Bata field.
221. Moreover, such justification as was provided was characterised by an internalised rationale which sought to explain the relationship between spaces, proposed and existing. But that can do no more than justify the layout and form of the development in context. It cannot justify its context, let alone justify the development itself. The notion of balance has no significance for East Tilbury let alone this inquiry, therefore.

Role of the appeal site in the Green Belt

222. If it should be maintained that the role the appeal site plays in fulfilling the purposes of including land in the Green Belt is limited and that this factor should contribute to very special circumstances, it is not a proposition that can find favour with the Secretary of State. Any perceived or alleged limitation in its functional performance should not be utilised this way. To do so would be inimical to the scheme of PPG 2. Indeed, any limited role should never be used to justify inappropriate development even though it may be a material factor in any comparative assessment in determining potential Green Belt release in strategic terms in order to fulfil competing planning objectives. No such comparative strategic assessment is possible in the context of this appeal and the Inspector has not being invited to make any such assessment.

The Open Space

223. The proposed rectilinear park/open space gives appropriate form to function in its simple geometry and preserves the open vista at the end of Bata Avenue and, overall, responds to the form of the proposed development. It is what one would ordinarily expect to be provided, given its intended functional status within the development; but it goes too far to suggest that this should contribute to very special circumstances.
224. It is, beyond its obvious utility, no more a benefit than any open space that might be required in connection with any greenfield development. Ardale School is a good example. Moreover, the linear park simply formalises, in visual terms, the current open vista that is characteristic of this area of open farm land. Though the provision of public access to this space is a significant benefit (accessible open space in excess of normal provision), it should not be regarded with any more weight than the Ardale School Inspector found in relation to the substantial provision of amenity space in the form of allotments, formal playing field, other open space, Locally Equipped Area of Play and nature conservation areas in that particular case. As the Inspector stated: "...I recognise that the Appellant has sought to maximise opportunities on land within the ownership of the Four Acre Trust. Indeed, the whole of the open space provision and landscaping is beyond the requirements of Local Plan Policy LR6. Nevertheless, given the availability of the blue land, I see the approach as essentially opportunistic. The planning gains are welcome but, to my mind; do not amount to weighty considerations". What is being provided by the Appellant in this case does not purport to make up any perceived local shortfall or deficit in accessible open space and, moreover, should not be regarded as a visual advantage given that the area forms part of the characteristic open countryside that has always typified this locality. Given its functional status, its provision, its layout, the formal landscape proposals are essentially necessitated by the development and are no more than functionally required and, in the sense that they provide some broader enhancement, that enhancement is not significant in the broader context and is largely opportunistic in nature: it is not a weighty consideration.
225. In any event, it is a requirement of PPG2 that when large scale development occurs in the Green Belt, the development should so far as possible contribute to the achievement of the objectives for the use of land in the green belt irrespective of whether the developments are appropriate or inappropriate development justified by very special circumstances (para.3.13). Efforts made in this behalf through an otherwise inappropriate development should not, in my submission, therefore, be used to justify the development.

Conclusions

226. In brief, even if the Secretary of State finds that the 5 year Supply and Affordable Housing issues should carry significant weight, it does not justify a decision to allow the appeal so as to permit the development of this Green Belt site without more. In other words, and to justify the scheme by reference to very special circumstances, it is necessary to find that there are other factors which contribute to very special circumstances which justify this proposal above and beyond the common place considerations of need that could otherwise justify the release of any Green Belt site in principle based on

housing and affordable housing need alone in the sense that harm by way of inappropriateness is overcome.

227. Secondly, and to the extent that the Secretary of State places weight on those matters prayed in aid of very special circumstances by the Appellant in the form of housing supply, affordable housing and those other matters referred to, TTGDC contend that that weight is not sufficient to constitute very special circumstances so as to overcome the harm to inappropriateness and other harms identified in terms of impact on openness, the harm to the purposes of including land in the Green Belt, transportation issues (including the crossing and the access), sustainability, the visual and landscape impacts and the setting of the conservation area and the listed buildings as indicated above.
228. Accordingly, the Secretary of State is requested to dismiss the appeal.

The case for third party objectors

229. Councillor Barry Palmer spoke at the Inquiry, representing the views of local residents. He drew attention to East Tilbury's unique status as a collection of settlements with important historical legacies associated with its Thameside setting and the model Bata village. These attract many visitors who enjoy the views from local lanes and footpaths, and from Coalhouse Fort, and it is important to preserve and protect the unique heritage of East Tilbury.
230. The Bata field site is set in unspoilt Green Belt. Much of the Green Belt surrounding East Tilbury has been destroyed by mineral workings and landfill. Further residential development will erode the semi-rural environment and undermine the historical backdrop. It will be harmful to the conservation area and the setting of the Bata listed buildings.
231. The site is not identified as a preferred option in the emerging local development framework. Part of it lies in the floodplain and there are surface water and sewerage capacity problems in the area.
232. The main access would be opposite a very busy junction, close to and parallel with Bata Avenue. It would create a staggered cross-roads and would be likely to have safety implications. The local highway network is inadequate and unable to deal with any further traffic. There is an existing problem of capacity and congestion at key junctions, and at the level crossing in Princess Margaret Road. The frequency of closure of the level crossing is already causing massive hold-ups and frustration for industry and private motorists. It would increase the risk of motorists attempting to beat the barriers. The problem will be made worse by additional freight trains arising from the Shell Haven proposal (London Gateway).
233. The level crossing results in the community being inaccessible to emergency services for significant periods. Noise, dust and pollution from queuing traffic represents an increasing health risk.

234. The development will put further pressure on inadequate local infrastructure, including health services and schools. There is no secondary school at East Tilbury and all secondary school children have to travel out of the village. The development would not contribute any new amenities, facilities or highway improvements.

Written Representations

235. Angela Smith MP raised similar concerns, focusing on the level crossing, and floodplain, and sewerage. She also considered that development of the site would lead to the loss of a valuable public open space.
236. A resident of Bata Avenue considered that opportunities for development of brownfield sites should be explored, including the Thames Industrial Estate, before further greenfield development is permitted. The proposed development would have significant adverse effects on safety, infrastructure and access by emergency services. It would damage the conservation area and the setting of listed buildings. Infrastructure and facilities in East Tilbury would be inadequate for the additional development. The development would make inadequate provision for car parking and lead to increased noise, disturbance and pollution for residents of Bata Avenue.
237. A resident of Linford considers that the local highway network and service provision would be inadequate to cope with the increase in population.
238. A large number of local residents (some 820 representations) responded to consultation at planning application stage. Many of these were in the form of a standard objection form, reflecting the concerns voiced at the Inquiry by Councillor Palmer. Other specific concerns raised related to the potential for increased noise and pollution, loss of view and privacy for residents living near the scheme, harm to wildlife, lack of need for the development, that the development would represent a disproportionate increase in the size of the village and the need for a road bridge to the west of the station.

Conditions and Obligations

Conditions in the event of approval

239. A schedule of conditions is set out in the Annex to this report. Draft conditions were put forward at the Inquiry (INQ 29). A number of these have been amended following discussion at the Inquiry. In particular it was agreed that the discretionary wording in some conditions was incompatible with the advice in Circular 11/95: The use of conditions in planning permissions. Where I have found it necessary in the interests of precision I have made further alterations to the wording in the light of advice in the circular.
240. Conditions 1 – 3 are the standard outline conditions. Condition 4 is necessary to ensure that the design principles set out in the Design and Access Statement and Design Code would be carried forward to the submission of reserved matters. This is necessary to ensure a high standard of design and layout which respects the character and appearance of the conservation area and listed buildings of the Bata Estate. However I do not consider it necessary to specify the matters to be addressed in as much detail as was suggested by TTGDC. Condition 5 is needed to amend finished site levels as there is no longer any necessity to raise the slab levels to avoid flood-risk. The revised

building heights parameter plan submitted is inconsistent with the information contained in the Design and Access Statement (Section 3.4.5) regarding those parts of the site where a third storey may be acceptable. Conditions 5 and 6 are needed to enable revised plans to be approved. Condition 7 specifies what has been permitted, for the avoidance of doubt. Condition 8 is needed to reflect the change to the description of development and the reduction in the number of units.

241. The site contains important archaeological remains. Condition 9 requires that excavation and recording takes place before any other work commences on site. Conditions 10 – 13 would assist in minimising disruption during construction and protect the amenities of existing residents. Conditions 14 and 15 are needed to ensure satisfactory appearance to the development, and Condition 16 to ensure that trees to be retained are protected during the course of development. Condition 17 would provide a mechanism for any unsuspected contamination problems to be resolved.
242. Condition 18 is needed to ensure that provision is made for vehicles to turn within the development, and access to adjoining garages is maintained. Condition 19 would ensure that the wildlife potential of the railway corridor is protected and enhanced. Conditions 20 – 23 would ensure economy in the use of water and energy resources. Condition 23 has been amended to refer to the submitted Energy Statement. Condition 24 is needed to prevent unnecessary clutter which would detract from the appearance of the development and preserve its architectural integrity.
243. Condition 25 would ensure that parking spaces within the scheme are retained for that purpose, while Conditions 26 & 27 would ensure that satisfactory provision is made for storage of cycles and refuse containers respectively. Condition 28 would ensure that lighting provision is considered as an integral part of the development and to avoid light pollution. Condition 29 addresses compliance with lifetime homes standards, and has been amended to accord with adopted policy. Condition 30 would ensure that measures to avoid crime are incorporated into the design.
244. Condition 31 would ensure that any dwellings likely to be affected by noise are properly insulated to protect the living conditions of occupiers. However, there is no evidence to show that acoustic treatment of amenity areas is necessary. Condition 32 requires the submission and implementation of a landscaping scheme to ensure a satisfactory appearance to the development. Condition 33 is needed to protect nesting birds from disturbance during the breeding season. Conditions 34 and 35 would ensure that appropriate provision is made for play areas as part of the development, and their subsequent management. Condition 36 would ensure that flood risk avoidance measures are implemented as part of the development.
245. A further suggested condition requiring the provision of a footbridge over the railway line before development commences would be onerous and unnecessary. For reasons explained in Para 306 of my conclusions I consider that such provision is not made necessary by the development. A number of other suggested conditions requiring compliance with approved plans are satisfactorily covered by Condition 7. A suggested condition restricting buildings heights is satisfactorily covered by Condition 6. A suggested

condition requiring the submission of a travel plan would duplicate the unilateral undertaking, and is therefore unnecessary.

Section 106 Unilateral Undertaking

246. A signed Unilateral Undertaking dated 26 February 2010 was submitted before the end of the Inquiry. It addresses the provision of contributions to infrastructure and service provision. The provisions of the Undertaking are set out in full in the executed deed (INQ 32) but in summary the main items are a series of staged contributions towards the provision of indoor sports facilities, outdoor sports facilities, health facilities, education facilities, transport improvements (including level crossing safety and improvements to bus stops), highway improvements, and a visitor monitoring contribution. In addition it provides that 30% of the dwelling units shall be provided as affordable housing units (of which 70% would be social rented dwellings), and undertakes to produce a travel plan.
247. The purpose of the travel plan is to reduce reliance on the private car and to encourage travel by sustainable modes. I acknowledge that the scope for achieving this is limited by the limited opportunities for walking and cycling to other settlements. Nevertheless, such a travel plan would encourage new residents to take advantage of the high quality rail service which is a key feature of East Tilbury's sustainability credentials, and would help to minimise reliance on the car.
248. I consider that these elements of the Undertaking are fairly and proportionately related to the development proposed, and meet the tests of Circular 5/2005: Planning obligations.
249. The Undertaking also covenants to make a payment of £450,000 to TBC for the provision of a pedestrian footbridge with lifts to ensure compliance with the Disability Discrimination Act. There is uncertainty as to how and when it would be provided. TBC argued that the contribution should be paid to Network Rail, which would have to approve any scheme and be responsible for the carrying out of the works. In any event I do not consider that it would be necessary to make the development acceptable in planning terms, directly related to the development, nor that it would be fairly and reasonably related in scale and kind by the development, for reasons explained in Para 306 of my conclusions below. As such, it would fail to comply with Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010. Accordingly I have given this element of the undertaking no weight in arriving at my recommendation.

Inspector's Conclusions

[figures in square brackets give the sources in preceding paragraphs]

250. On the basis of the matters on which the Secretary of State wished to be informed, as set out in paragraph 6 above, and the parties' statements, I consider that the main issues are:
- a) The effect on the Green Belt and landscape
 - b) The effects on East Tilbury Conservation Area and the setting of listed buildings
 - c) The effect on Archaeology
 - d) The effect of the development on highway safety, with particular regard to visibility standards applicable to the access point and the operation of the level crossing
 - e) The extent to which the proposals comply with national policies in respect of design and sustainability (PPS 1), provision of high quality housing (PPS 3) and access to jobs, services and transport choices (PPG 13).
 - f) The effect on the supply of housing, including affordable housing, having regard to the requirement in PPS 3 to identify a flexible responsive 5 year supply of housing land
 - g) Flood risk
 - h) Whether there are material considerations amounting to very special circumstances which clearly outweigh the harm by reason of inappropriateness, and any other harm to justify granting permission for the development
251. In reaching my conclusions on each of these matters, I have also assessed compliance with national guidance and relevant regional and local development plan policy.

a) The effect on the Green Belt and landscape

Green Belt

252. It is common ground that this appeal is concerned with inappropriate development, which is by definition harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development. In the absence of very special circumstances, there would be clear conflict with saved Policy GB1 of the LP.
253. The appeal site is for the most part open agricultural land extending to some 13.3 hectares, adjoining the settlement of East Tilbury. East Tilbury lies in an extensive area of Green Belt to the east of the more developed areas of

Thurrock adjacent to the M 25 and is clearly separated from other major settlements. This part of East Tilbury dates almost wholly from the 20th century and its growth and development is intimately tied up with the fortunes of the Bata Shoe company, which bought the land and developed the Bata settlement from the 1930s onwards.

254. The proposal includes some 8.64 ha identified for residential development, with provision of 4.24 hectares of land identified for public open space. This would be laid out in two principal areas, one to the south of the site and one bordering the railway line to the north-west.
255. It is not disputed that the residential element of the proposal would involve loss of openness in the triangular area bounded by the railway line, Princess Margaret Road and in part by Bata Avenue, where the open agricultural field would be replaced by two-storey and part three-storey housing. In the northern part of the site development would infill the gap between frontage development to Princess Margaret Road and housing development to the north-west of the railway line.
256. Having said that, I consider that the site is relatively well contained by existing built form, and the proposed development would relate well to the existing form of settlement. Housing development to the north-west, along Princess Margaret Road to the east, and Bata Avenue/Thames Industrial estate to the south would provide a substantial degree of visual containment. Built development would not extend significantly further west than employment development which has been permitted and can be implemented at the Thames Industrial Estate (COL 5, App 6). The position of the proposed open space would create a clear southern limit to development [146, 147].
257. I acknowledge that the railway line is not highly visible in the landscape unless trains are moving along it, and to that extent is visually permeable [169]. Nevertheless I consider that it would act as a strong and identifiable physical boundary to development, similar in effect to the Aveley By-pass where TTGDC has recently permitted development in the Green Belt (INQ 6). While there would be a clear loss of openness locally, I do not consider that the visual impact of the development would be severe in the context of the wider Green Belt in this area. While the edge of development would be brought forward, new development would be seen against the existing built forms of the Princess Margaret Road and the Thames Industrial Estate in longer distance views towards the site from the countryside and roads to the north.
258. While the development would involve some local consolidation of development, there is justification for regarding East Tilbury and the area of housing around Halt Drive and Stenning Avenue as contiguous. In my opinion, they read as part of one settlement, notwithstanding their separate origins, and the fact that they bestride the railway.
259. Looking at the five purposes of including land in Green Belts as set out in PPG 2: Green Belts I do not consider that the appeal site has a significant role in checking the urban sprawl of large built-up areas, or preventing neighbouring towns from merging into one another. It has some function in safeguarding the countryside from encroachment, though in my judgment such encroachment would be contained by the form of existing built development, the railway line and the park [147]. I consider its role in preserving the

setting and special character of the East Tilbury Conservation Area and the Bata listed buildings under a separate heading below (Paras 271 – 286), where I conclude that the development would not result in material harm [170]. It follows that I do not consider that this purpose of Green Belt policy would be materially harmed.

260. I acknowledge that there is some risk of the release of a site in the Green Belt being seen as undermining the impetus for urban regeneration, which is a key objective of planning policy for Essex Thames Gateway [149]. On the Appellant's evidence there is an urgent need for the release of some 12 Green Belt sites on the scale of the appeal site in order to achieve a 5 year housing supply in Thurrock. This is a matter which needs to be balanced against other key objectives of national and regional policy, of which housing delivery is one. I return to this and the potential to set a precedent for further approvals in my assessment of whether very special circumstances exist, below (Paras 347 – 349 and 358 – 362).
261. However, the harm to the Green Belt by reason of inappropriateness is acknowledged, and I conclude that there would also be harm to the purposes of the Green Belt [148]. In view of this, very special circumstances need to be demonstrated to clearly outweigh the harm by reason of inappropriateness and any other harm.

Landscape

262. With regard to the effect on landscape, the Thurrock Landscape Capacity Study 2005 (TLCS) (CD 5), referred to in evidence, was carried out to test the capacity of the landscape to accommodate various development options around key settlements within the Borough, amongst other things.
263. The site is identified as lying within landscape character area D7 (CD 5, pages 26/27) [168]. Key characteristics identified include gently undulating farmland, large open fields, absence of hedgerows and woodland cover, harsh urban edges and visual intrusion of pylons and power lines. In my judgement all these characteristics apply to the appeal site. Figure 3.1 describes this character area as having low sensitivity to small-scale urban developments (defined as being a settlement of the size of East Tilbury). It is stated on page 26 of the study that "there is potential that well mitigated urban extensions at the western edge of East Tilbury could soften the current abrupt urban edge."
264. Section 5.6 deals specifically with East Tilbury Settlement Edge Landscapes. Paragraph 5.6.5 states that "landscape capacity is restricted within the search area by the coastal protection zone, nature conservation and by the need to safeguard the setting of the Bata Conservation Area" [168]. All land east of the railway, including the appeal site is identified as lying within the coastal protection zone, though to my mind the appeal site is isolated from the coastal protection area in visual terms by the remainder of the settlement of East Tilbury. The TLCS identifies the main options for development to be west of the railway line, where it identifies opportunities to create new landscapes.
265. The indicative landscape capacity to accommodate development west of the railway line is described as "low to moderate". With regard to the appeal site, it suggests that "Despite the environmental constraints to the east of the railway line there is an opportunity to create high quality parkland, with

extensive tree cover, between the Bata Conservation Area and the railway line.”

266. I consider the effect of the appeal proposal on the setting of the Conservation Area below, in paras 276 – 286, where I conclude that the proposed development would not be harmful [170]. While the TLCS expressed a preference for development west of the railway line, I consider that the landscape of the appeal site shares the characteristics of character area D7 and has little of visual interest which makes a positive contribution to the character of the landscape, beyond its freedom from development. It is marred by lack of vegetation and by the presence of overhead powerlines, and proximity to the urban edge of East Tilbury. To my mind, its relationship to existing development renders it of low sensitivity in landscape terms [169]. In other terms (which it was not part of the TLCS brief to consider) it has clear planning advantages over land to the west of the railway in the vicinity of East Tilbury. While the non-statutory South-East Thurrock Master Plan also identifies the appeal site as having potential for improved open green space, there is no public access to the land at present, and no mechanism is identified for bringing this forward [235].
267. Although it was originally considered that site levels might need to be raised to address flood risk, this is no longer a requirement of the scheme. From the west and south I consider that there would be very limited visual impact. Landscape zones would be established along the railway line and the principal open space (New Bata Park), which would help to soften the impact of development, and would provide visual interest where little of landscape interest exists at present. The present edge of the built up area, including Princess Margaret Road, Bata Avenue and the factory buildings of Thames Industrial Estate is not itself of high quality, notwithstanding the views it affords of the listed buildings.
268. The most significant effect on views would be from the rear of properties on Princess Margaret Road and Bata Avenue, and from Stenning Avenue on the other side of the railway, where there would be a loss of views across fields. However, while I accept that there would be a change to the current outlook of a number of dwellings, I do not consider that this would amount to material harm to the public interest, and it would not therefore weigh significantly against the proposal.
269. Chapter 9 of the ES concluded that the proposed development of the site would not have a material impact on the landscape in terms of visual impact and landscape character. I acknowledge that the replacement of an open field with development would have an effect on local views, but in terms of the wider landscape in which East Tilbury is set, I agree with this assessment.
270. I conclude that the proposed development would contribute to the aim of softening the urban edge of East Tilbury, without harming the setting of the conservation area and listed buildings. [169, 172]. It would not result in material harm to the landscape setting of East Tilbury. I consider that the indicative landscaping treatment would comply with saved Policy LN2 of the LP. The suggestion that the landscape proposals will result in an impenetrable visual barrier is somewhat exaggerated in my judgment [173, 178]. With regard to the potential to create a habitat for invertebrates, a condition could

ensure that the landscaping proposals include provision to enhance the ecology of the corridor along the railway line.

b) Effect on setting of East Tilbury Conservation Area and the setting of Listed Buildings

271. The historic heritage of East Tilbury is the subject of a comprehensive analysis carried out by English Heritage (CD 3) [35]. It was published in 2007, to inform consideration of proposals for a development of 14,000 new homes, commercial and community facilities and a new town centre. (These proposals are no longer being pursued). It describes the Bata settlement as "a purpose built industrial village largely developed between the 1930s and the 1960s for the British Bata Shoe Company Ltd.... The highly unusual Bata settlement combines Garden City planning and Modernist architecture. Both the layout and design of the pre-war factory, housing and community facilities were devised by the parent organisation, the Bata Shoe Company, based in Zlin, Czechoslovakia." It notes that East Tilbury was one of a number of satellites or colonies that the firm was constructing around the world in the 1930s, and comments that its architecture has subsequently been diluted by a large private residential estate of the 1970s and piecemeal change to the company buildings.
272. The design ethos of Thomas Bata was rooted in a preference for simplicity, spaciousness, straight lines and economy in construction. It was influenced by American rational factory design, based on standardisation, modular units and a functional engineering-driven aesthetic. These preferences are reflected at East Tilbury. The five-storey modular buildings on the factory site (one topped with a water tank bearing the Bata name) dominate the settlement, acting as local landmarks, and visible for some distance across the flat fields and from the river. The company housing is uniform and regular, built over an extended period to a limited number of designs with a simple Modernist aesthetic (although mixing flat and pitched roofs). As built the company housing represents only a fragment of the much larger intended scheme, adapted over the decades in the light of an evolving general plan. Almost all the houses are grouped into the residential zone to the east of Princess Margaret Road. Bata Avenue, however, built in 1933-1934 and the first company housing to be built, lies to the west of Princess Margaret Road. The two-storey, semi-detached, flat-roofed houses are arranged on a distinctive chequerboard plan to maximise the garden space between the houses. The arresting contrast between the Modernist architecture and its setting amongst fields is recognised as providing a 'frisson of the unexpected' when first encountered.
273. The report recognises that while East Tilbury is manifestly the product of a planned development following a well-designed set of architectural principles, it is not the result of a single, rigidly adhered to master plan. Modification and adaptation has also played a role in the evolving form of the settlement. Commenting on the potential for future development in and around East Tilbury the report emphasises the importance of a clear set of design principles based around a separation of areas by function, a semi-formal pattern of streets, a difference of scale between the housing and the non-residential components and a landscaped environment. It proposes the avoidance of forms of development which would compete with the dominance of the multi-storey blocks and particularly the factory buildings, and advocates the

protection of key views from the settlement to the countryside to help maintain the relationship between East Tilbury and its setting.

274. The report recognises that the significance of the Bata Settlement is both international, as one of an unparalleled global collection of Functionalist satellites or colonies, and national, as a rare example of an inter-war planned industrial village and an uncommon assemblage of modernist buildings. Nevertheless it acknowledges the potential for further development at East Tilbury [80].
275. In a consultation response, English Heritage advised that “if any new development were to be allowed here, then it should acknowledge and relate to its context in terms of layout, spatial arrangement, form and massing, and that furthermore, that the detailed design must be expressed so that it is informed by the earlier Bata housing, whilst making a contemporary contribution to the surrounding townscape.” (TTG 7, App 4).
276. Although all matters of detail are reserved, the submitted Design and Access statement and the Design Code (which has been amended in response to concerns expressed by TTGDC at the Inquiry), include a great deal of detail indicating how the site could be developed. It is clear to me from the evidence that the Appellants’ design team has recognised the importance of a design solution which responds to the strong functional, rational and modernist aesthetic of the settlement buildings.
277. The proposed layout adopts a clear network of linear streets which responds to the residential element of the Bata Settlement as built, and the character of the Conservation Area. The position of the public park to the west of Bata Avenue would preserve the vista along Bata Avenue and views out to the countryside. It would also ensure separation between the new housing development on the factory site, preserving the open setting of the five-storey listed structures, and enabling them to be appreciated in context. While the view from the station platforms and the open space at Stenning Avenue would be obscured, I do not consider that this would conflict with English Heritage’s objective of retaining the dominance of the five-storey factory structures in the landscape [86, 174, 212]. Views from Stenning Avenue are in any event partially obscured by trackside vegetation. The setting of the factory buildings can also be appreciated from the southern part of Princess Margaret Road, from the vicinity of Coalhouse Fort, from the bridleway which crosses to the railway to the south-west of the site and where it joins Low Street Lane, and from the higher ground to the north-west at Buckingham Hill Road. To my mind, “the frisson of the unexpected” would remain a feature of any encounter with the Bata settlement, and would be readily apparent to train passengers approaching East Tilbury from the south-west [172, 176, 177]. I do not consider that the proposed development would significantly erode that context. Accordingly it would preserve the setting of the conservation area and the listed buildings.
278. Significantly, English Heritage do not object to the proposed development, provided that if permission is granted it should be conditional on the adherence to a design code that follows the prescriptive details that are included in the submitted Design and Access Statement, and the public realm arrangements are reinforced by planning conditions [85]. This is addressed in the discussion of suggested conditions above (para 240) [87]. English Heritage’s Historic

Areas adviser commented "We are therefore pleased to see that the proposed street grid reflects the adjoining village as laid out by the architects Karfik and Gahura and extends the pattern that they intended for the eastern part of the site." He goes on to commend the retention of the vista along the new street, and the open space which would help to protect existing views along Bata Avenue, and from the railway to the listed factory blocks. He considers that the disposition of houses would be appropriate to the streets and would reflect the original character of the Bata scheme, with some scope for three storey accommodation in the centre of the site (TTG 7, App 4) [82].

279. In a subsequent letter (TTG 7, App 5) EH did comment that the development would radically change the view of the Conservation Area from the north-west, in which the juxtaposition of the earliest flat roofed houses with the three five-storey factories rising behind them is considered striking. It is noted that recent changes to the fortunes and perceptions of East Tilbury village has given the views of the conservation area from the north west greater resonance and importance, "which could be seen to strengthen the argument that the Bata Field site should not be developed at all. While EH has not adopted this stance, it is recommended that views into and across the site be fully considered."
280. I acknowledge that the 1932 Karfik and Gahura Masterplan shows extensive areas of housing on the east side of the settlement. However, much of this was never realised, and later development to the east in the 1970s represented a departure from Bata principles in terms of layout and design ethos. A later iteration of the Masterplan (1947) did envisage further development to the north of Bata Avenue, though not as extensive as that now proposed. To my mind, however, the appeal site is well related to the form of the settlement, and there would be a logic to its development in terms of its location in relation to the station and key facilities. Current approaches to settlement planning attribute greater weight to accessibility and convenience. While I do not agree that there is a design imperative to create 'balance' to the settlement, I do not consider the lack of conformity with an earlier Bata Masterplan to be a significant issue in the context of the character and appearance of the Conservation Area as it now stands [86, 219, 220].
281. The design approach was welcomed by the TTGDC Urban Design Officer, who commented as follows: "Strong building alignments and a modulated built form, with uniform built frontages and gaps, are evident in the proposals, with longer terraces defining nodal spaces such as courts and squares. This provides an urban form that is both coherent and legible. The rigidity of the layout breaks down in places but this provides variety and does not compromise the clarity of the composition." [210]
282. The DAS incorporates open space provision which would exceed the requirement of LP Policy BE 3. I consider the linear open space along the railway line to be of sufficient width to create a meaningful landscaped corridor which could also provide habitat for invertebrates. While security fencing would inevitably be required, there is no evidence that a solid acoustic fence would be needed, or that landscaping would interfere with views of the tall buildings over a wide area, other than from land immediately to the north of the appeal site. I have already concluded (para 277 above) that I do not consider that obscuring of views from this direction would constitute a significant interference with the setting of the conservation area and listed

buildings. To my mind the landscaped corridor along the railway would create an attractive edge to built development, and would enhance the existing urban edge along the north side of Bata Avenue and the rear of properties on Princess Margaret Road.

283. Similarly, the proposed park (New Bata Park) would create an attractive setting for Bata Avenue, preserving the vista of the countryside, and providing opportunities for viewing the listed buildings of the TIE [211]. I acknowledge that as a result of the exclusion of land to the north of Bata Avenue from the site area there is some uncertainty over what might happen to this land in future. However, if development or other use were proposed at a later stage, there is no reason why it could not be treated in a manner which respects the setting of Bata Avenue and integrates with the appeal proposal.
284. The disposition of open space within the residential area has been carefully considered, providing a series of small courtyards and squares which respond to the linear pattern. The design includes shared surface 'home-zones', which place primary emphasis on the needs of pedestrians and cyclists, while making satisfactory and appropriate provision for vehicles.
285. The inclusion of three storey elements in the dwellings would require careful handling, and in my view would not be appropriate adjacent to Bata Avenue or Princess Margaret Road. Elsewhere I consider that the inclusion of limited three-storey elements, in defined groups as proposed in the DAS would add diversity to the housing stock and provide an opportunity for contemporary expression of Modernist design principles. Such matters would undoubtedly require careful consideration at reserved matters stage, but I consider that the DAS and a further Design Coding exercise in the event of outline permission being granted would enable the determining authority to ensure that the final designs would be compatible with the setting of the Conservation Area and listed buildings.
286. I conclude that the high quality of design would preserve the setting of the Conservation Area, and the listed buildings. It demonstrates that full and appropriate consideration has been given to the integration of development with its surroundings, as required by LP Policy BE1 [82, 208]. In my opinion the proposed development within the setting of designated heritage assets would not result in harm or loss of significance, or conflict with Policy 9.1 of PPS 5: *Planning for the Historic Environment*

c) The effect on Archaeology

287. The site contains remains of a Bronze Age settlement enclosure. There is agreement that the archaeological remains on site are of value, but there is a dispute as to whether they are of such importance as to merit preservation in situ.
288. The position stated in Chapter 8 of the Environmental Statement: Archaeology and Cultural Heritage is that the archaeological remains are not considered to be of national importance and the case for regional importance is marginal.
289. A statement on Archaeological Information was provided by Essex County Council's Senior Historic Environment Officer and is included in TTG 7, App 3. A full record of earlier correspondence and consultation is included at COL 7, App 3. Trial trenching undertaken in a connection with a previous scheme for

large scale development at East Tilbury confirms that the area contains archaeological deposits comprising a bronze age settlement enclosure, associated field system and other features of a bronze age date. The County Council's response to the archaeological assessment questions whether plough damage is sufficient reason to suggest that the remains are not of national importance, and considers that group value may have been downplayed in the absence of any assessment of associated field systems outside the development area. However, the County Council do not unequivocally seek to argue that the archaeology is of national importance. The Appellant's witness comments that there is evidence that the sub-soil covering the deposit has been damaged by ploughing, and this could continue in the absence of the development [138].

290. The County Council's preference is for preservation in situ [180]. It recognises however, that if this is not achievable, then open area excavation (preservation by record) would be the only alternative. In the event of permission being granted, the excavation works would need to encompass a large part of the development area. Limiting the excavation to the area specifically around the enclosure would not be acceptable. A condition is suggested which would require excavation in accordance with a scheme to be approved by the Council before development or groundworks are commenced, and this is acceptable to the Appellant.
291. I understand the preference for preservation in situ [183]. Policy HE 9.6 of PPS 5: *Planning for the Historic Environment* recognises that there are many heritage assets with archaeological interest that are not currently designated as scheduled monuments, but which are demonstrably of equivalent significance. However, there is no evidence to demonstrate that the archaeological interest of the appeal site is of such importance, and therefore subject to the level of protection afforded by Policies HE9.1 to HE9.4 and HE10.
292. Extensive work has been carried out on behalf of the Appellant by appropriately qualified consultants to evaluate the archaeological potential of the site including aerial photographic assessment, desk-based assessment, geophysical survey and trial trenching undertaken in accordance with a programme of work discussed and agreed with ECC's archaeological officer. On the basis of this work, the archaeological assessment reaches a clear conclusion that the site is of less than national importance, a conclusion which has not been directly challenged by English Heritage or ECC [182]. TTGDC has not presented independent expert archaeological evidence at this Inquiry. Notwithstanding the views of TTGDC's witness on heritage matters that the site may be of wider significance and of greater importance, there is no expert evidence before me to challenge the position set out in the archaeological assessment [140].
293. ECC consider that the importance of the archaeological deposit was not sufficiently taken into account in the early stages of design and sought consideration of alternative layouts which might achieve in-situ preservation, including an assessment of the potential for positioning open space in the area of the enclosure. The layout of the site, including the positioning of the open space at the southern end of the site, has been influenced by considerations of flood-risk, but also provides an undeveloped setting for the factory buildings and the western end of Bata Avenue, which I consider to be important in

preserving the setting of the built heritage. Furthermore, I agree that an alternative layout could not be achieved while maintaining the Bata style approach to design which is central to the proposal. A layout which allowed the enclosure to be preserved in situ would significantly compromise the integrity of the design approach, and the ability to achieve a coherent linear pattern of development which is a particular feature of the Conservation Area at East Tilbury. The potential effects are illustrated in the architect's sketch scheme dated August 2008 (INQ 23). To my mind this would sterilise a significant proportion of the site, which would in turn compromise the viability of the development and its ability to contribute to the supply of housing, including affordable housing [184].

294. In the circumstances I consider that the alternative of preservation by excavation and record, which could be achieved by condition, would be acceptable as a satisfactory form of mitigation [72]. Such an approach would accord with Policy HE12.3 of PPS 5, which provides that where the loss of the whole or a material part of a heritage asset's significance is justified, developers should be required to record and advance understanding of the significance of the heritage asset before it is lost.

d) The effect of the development on highway safety, with particular regard to visibility standards applicable at the main access point and the operation of the level crossing

295. The scope of TBC's objections was narrowed during the course of the Inquiry. The remaining areas of difference were the adequacy of visibility at the principal access, and the effect on the level crossing. All traffic (except for very local trips) has to cross the railway to access the wider road network. Most of this is via the level crossing at East Tilbury Station. There is an alternative route, via a level crossing in Station Road, but this involves the use of country lanes with a poor width and alignment, which are not suitable for most traffic. In any event, the location of East Tilbury to the east of the railway line results in frequent queuing while trains pass, especially at peak times. On occasions, the crossing closures are of longer duration as trains pass in opposite directions. The approach roads can be congested at such times. During peak periods, the crossing can be closed for a total of some 22 minutes in any hour [156].

296. The principle access for vehicles to the site is proposed via a simple priority junction with Princess Margaret Road, adjacent to the doctor's surgery. The focus of dispute was over the appropriate visibility standard. TTGDC sought splays of 4.5 m X 70 m, the standard advised in the Design Manual for Roads and Bridges (DMRB). While these can be achieved, the Appellant considered that this is an onerous requirement in this location, and that advice in Manual for Streets (MfS) is more applicable. This would permit the use of visibility splays with substantially lower X and Y distances.

297. I acknowledge that Princess Margaret Road is busy at times, and the junction location would be close to the junction with Coronation Avenue, which has a higher standard of visibility. Nevertheless I consider that lower X and Y distances would encourage drivers to be more cautious in making turning movements, requiring them to wait for clear gaps in traffic. I consider that the MfS standard would operate safely in this location at the centre of the settlement [120]. Consultants acting for the highway authority appear to

have accepted that it would be appropriate to apply MfS in these circumstances. The greater distances advised by DMRB are applicable to trunk roads and this road is currently unclassified [123]. Para 7.7.8 of MfS states that using an X distance of 2.4 m is not generally required in built up areas, and I do not consider that there are any special reasons why a higher standard would be required in this location [49]. While there is a proposal to designate it as an urban road in the emerging LDF, this is at an early stage. In any event, I consider that the application of DMRB standards here would be unduly onerous and unnecessary. The geometry needed to achieve the higher standard would dilute the linear emphasis of the proposed layout, and the careful approach to place-making taken of the Design and Access Statement [122, 159].

298. With regard to the operation of the level crossing, there is no pedestrian overbridge, so that pedestrians and cyclists are also required to wait while the crossing is closed. Network Rail raised concerns that in the absence of a bridge the development would not provide future residents with safe and convenient movements across the railway. Network Rail also referred to 7 reported incidents of misuse of the crossing and suggest that the development would increase the risk of misuse and compromise safety. A large number of residents who commented on the planning application expressed concern over increased congestion and inconvenience, and delays to emergency vehicles when the crossing was closed [153].
299. The transport assessment supporting the planning application predicts that the development would add between 3 – 6 vehicles to each queue for the crossing. TBC's witness raised questions about the accuracy of the survey arising from the date on which it was carried out, and the lack of calibration against other sites with similar characteristics. It was suggested that it would have been preferable to carry out the survey at a different time of year such as February or November, which would be considered more representative of traffic flows, rather than July when holidays were beginning to have an effect [154].
300. I accept that the time of year a survey is undertaken can have an effect on trip patterns. Nevertheless the methodology and timing of the survey was agreed in advance with the highway authority (TBC) [126, 151]. The reported queuing patterns are not obviously at variance with what I was able to observe on site visits made during the Inquiry in February. The TRICS database sites selected for comparison purposes by TBCs advisors may not have been fully reflective of the circumstances of the appeal site, and particularly its location close to a frequent rail service [129].
301. I accept that the closure of the crossing causes congestion and inconvenience to existing residents and road users at present. However on the basis of the evidence presented at the Inquiry, I do not consider it would be made materially worse by the addition of 3 or 6 vehicles to each queue [127]. Even if the figure of 6 – 8 vehicles added to queues preferred by TBC and its advisors is used, I do not consider that there would be identifiable harm to highway safety [131, 154]. For the most part, the data shows that queues clear relatively quickly after each closure, and that was consistent with my observation. Longer queues of 56 and 61 vehicles were observed by TBC's transport witness during the AM peak on two days in February, though the queue cleared after the barriers lifted on both occasions [154]. On one occasion the transport assessment showed the northbound queue failing to

clear between closures of the crossing, but the queue cleared at the next opportunity. It seems reasonable to assume that existing and future residents would adjust their travel times to avoid peak queuing periods where possible.

302. TBC's witness also considered that there would be an increased likelihood of residents being unable to exit their drives, and of drivers making turning manoeuvres to get out of the queue. While such events will occur on occasion, they should not be assumed to be typical. When the barriers are down there will be fewer vehicles coming in the opposite direction, so there is unlikely to be any significant safety issue. For most drivers, the quickest option is to wait in the queue for it to clear. I do not consider that the present situation regarding accessibility for emergency vehicles would be made materially worse by the levels of trip generation predicted.
303. The provision of an all-purpose bridge to carry vehicles and pedestrians is a very remote possibility in the present policy context, given the scale of development currently being envisaged for East Tilbury. It would certainly be an onerous requirement in relation to the current proposal that would effectively result in the development being unviable. The Appellant has offered to provide funding for a pedestrian footbridge over the railway (including lifts to provide for use by the disabled) through a unilateral undertaking. The offer is to provide funding to TBC who would transfer it to Network Rail to carry out the works. However there is no agreement in place to ensure that the works would be carried out, or timetable for it to be implemented.
304. In my view, though there would be some benefit from the provision of a footbridge, it would be unlikely to significantly change patterns of usage. At present pedestrians and cyclists have to wait for the barriers to lift before crossing the line to continue their journey. For the majority of closures which are of short duration that is likely to remain the case, even were a bridge to be provided. It might be of assistance to pedestrians hurrying to catch an approaching train, but regular users would be aware of train and closure times. While I appreciate safety concerns, the hazards of crossing when the barriers are coming down are abundantly clear, and I consider it unlikely that pedestrians or drivers would take risks at the crossing.
305. I am aware that the development of London Gateway is likely to increase the use of the line by freight trains, resulting in additional and longer closures. However, I was informed that there is little additional capacity at peak periods to accommodate an increase, and there are restrictions on the London Gateway permission restricting freight journeys through the crossing to non-peak times.
306. To my mind, the benefits arising from the provision of a footbridge would be in large measure for the existing community. It is difficult in my opinion to sustain an argument that it would be made necessary by the development [132]. In such circumstances I question whether it would comply with the advice in Circular 5/2005 regarding S.106 undertakings, and I attach little weight to this aspect of the undertaking [133, 157, 158]. Nevertheless I do not consider that the absence of firm and enforceable provisions for the construction of a footbridge would result in material harm to highway safety, or that of other users of the crossing, or to the flow of traffic. The S.106 undertaking contains other safety provisions in respect of the crossing which I consider would be appropriate and proportionate.

- e. **The extent to which the proposals comply with national policies in respect of design and sustainability (PPS1), provision of high quality housing (PPS 3) and access to jobs, services and transport choices (PPG 13).**
307. I have considered the design of the scheme in the foregoing paragraphs, from which it will be apparent that I consider the development would achieve high quality and inclusive design. It has sought to take opportunities available for improving the quality and character of the area and the way it functions.
308. The development would provide for an inclusive range of housing type and tenure, with an emphasis on family housing. The Appellant's uncontested evidence was that there is a continuing unmet need for this type of housing, many recent developments having focused on the provision of apartments at higher densities. A major benefit in my view would be the provision of 30% of the dwellings as affordable homes which, although a little below the EEP regional monitoring target of 35%, represents a substantial contribution in the context of recent levels of provision in Thurrock. These have fallen well short of projected need [64]. While I accept that this is in part due to prevailing economic conditions, there is evidence of a shortfall over a longer period. More recently, the additional cost associated with major brownfield schemes has in some cases seen the proportion of affordable housing renegotiated downwards. An example is the Fiddler's Reach scheme at West Thurrock, where viability considerations have restricted the proportion of affordable housing to 11%. In contrast, the provision of affordable housing in the appeal scheme would be similar to that at the Aveley by-pass scheme, where TTGDC has recently resolved to grant consent subject to a S.106 undertaking being entered into. In the present case, an undertaking to provide 30% of units as affordable housing is in place. The proposal would comply with LP Policy H5.
309. In terms of the outcomes sought by paragraph 10 of PPS 3, I consider that the proposal would deliver high quality housing that is well designed and built to a high standard, as well as a mix of housing to support a wide variety of households. It would contribute to the quantity of housing required by Policy H1 of the EEP.
310. TTGDC question the sustainability of East Tilbury as a location for this scale of housing development [166], though the non-statutory Masterplan for South-East Thurrock (CD 1) proposes up to 800 dwellings within the existing framework of the settlement. I acknowledge that the Masterplan places weight on regeneration benefits to the settlement, the Conservation Area and the listed buildings in support of this. Nevertheless it presumes a reasonable measure of sustainability, which in terms of service provision and accessibility would equally apply to the appeal site [155, 160].
311. East Tilbury is identified as a Neighbourhood Centre, and has a limited, but in my view satisfactory, range of day-to-day convenience provision and local services. There is a primary school and a doctor's surgery. It would be unusual to find significant comparison shopping opportunities or higher level service provision, such as a secondary school, in a settlement of this size [163]. Dedicated bus services are provided for secondary school children. I acknowledge that in other respects bus provision is poor, with infrequent services and no evening or weekend provision. However this is likely in part to be a consequence of the frequent and in my view high quality rail service

which gives the settlement excellent connections with Tilbury and Grays, as well as major centres in East London and the City [160, 161].

312. There is some existing employment within the TIE, and opportunities for further job provision exist. East Tilbury is well located in respect of the London Gateway proposal at Corringham, which is estimated to generate some 11,000 jobs. While I accept that the Appellant's case is that the site if permitted will be developed within the next five years, and that initial occupiers would not be employed at London Gateway, in the longer term residents would benefit from the availability of employment opportunities [134].
313. While I acknowledge that there are more sustainable locations for housing development in Thurrock than East Tilbury, I consider that the location offers a reasonable range of community facilities and reasonable access to jobs, key services and infrastructure, for a settlement of this size. The potential to contribute to a flexible and responsive supply of land is a main issue in this appeal, and my conclusions on this are set out in paragraphs 314 -336 below. However in broad terms I consider that the proposal would perform well measured against the requirements of PPS 1 and PPS 3 for well designed, high quality, inclusive housing, and those of PPG 13 in respect of accessibility to employment and transport choices.

f) The effect on the supply of housing, including affordable housing, having regard to the requirement in PPS 3 to identify a flexible responsive 5 year supply of housing land

314. TTGDC does not dispute that a 5 year supply of housing land cannot be demonstrated [35]. While this is accepted, the extent of the shortfall remained in contention at the Inquiry [36].
315. Under the heading 'Delivering a flexible supply of land for housing' PPS 3 requires local planning authorities to identify sufficient specific deliverable sites to deliver housing in the first five years. To be considered deliverable sites should be available, suitable and achievable. Once identified, the supply of land should be managed in a way that ensures a continuous five-year supply of deliverable sites is maintained, i.e. at least enough sites to deliver the housing requirements over the next five years of the housing trajectory. Where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites or there is less than a five years supply of deliverable sites they should consider favourably planning applications for housing, having regard to the policies in PPS 3 including the considerations in paragraph 69 [26, 55]. Paragraph 69 requires local planning authorities to have regard to achieving high quality housing, achieving a good mix of housing, the suitability of a site for housing including its environmental sustainability, and using land effectively and efficiently.
316. The starting point for the calculation of the 5 year supply of housing in Thurrock is the housing allocations in the East of England Plan, which requires the completion of 18,500 houses in the period 2001 to 2021. Taking account of the rate of completions to date, this translates to an annual requirement from 2009 onwards of 1129 dwellings per year in order to meet RSS targets. The five year requirement would then be 5645 units.
317. Thurrock Borough Council (TBC) has responsibility for monitoring housing land supply, and is the authority responsible for preparing development plan

documents. TTGDC, as the determining authority for the application now subject to appeal, is in large measure dependent on information provided by TBC in this regard. TBC had not published its Strategic Housing Land Availability Assessment (SHLAA) at the time of the Inquiry.

318. TBC's 2009 Annual Monitoring Report (AMR) (COL 18, App 20) was published in January 2010. The AMR estimates that sufficient sites will come forward in the next 5 years to deliver an additional 4,152 new homes. On this basis it is calculated that there is a 3.7 year supply of deliverable sites within Thurrock [37].
319. The 2009 AMR has shown that the number of completions in Thurrock in 2008/09 has again fallen substantially short of the annual requirement. There were 130 net completions during 2008/09. The last year in which annual completions exceeded the EEP requirement was 2004/05. Since then there has been a growing deficit: 739 dwellings in 2005/06; 413 dwellings in 2006/07; 161 dwellings in 2007/08; and 130 dwellings in 2008/09. Predicted completions for 2009/10 are 140 dwellings. There are no immediate indications of the significant upturn postulated in TBC's housing trajectory (COL 18, App 20, page 24). Actual completions between 2001 and 2009 averaged 619 dwellings per year against an annualised requirement of 950 dwellings. In consequence of the recent low rate of completions the requirement for the 5 year period 2010/11 – 2015/16 will have risen to 6,095 (1,219 per year), thus making the supply situation worse.
320. The gravity of the situation has been recognised by TBC, in a response dated November 2009 to consultation on the review of the EEP to 2031 (INQ 28) [59]. Commenting on housing growth scenarios TBC states "the borough already has a challenging target to achieve under the existing East of England Plan including bringing forward complex, extensive and difficult brownfield sites within the urban area of Thurrock KCDC (Key Centre for Development and Change). An underprovision of new homes is likely to occur in the next few years compared to the delivery rates set out in the East of England Plan as a consequence of the UK economic recession, calling into serious question the ability of Thurrock to deliver the current RSS figures by 2021 and a continuation of the rate between 2011 to 2031 implied by scenario 1 – 3." (Page 8) It goes on to suggest that that housing performance between 2001 – 2011, which has generally fallen behind the target of 950 per annum, should be entirely discounted from any calculation of future housing requirements as it would be unrealistic to expect the accumulating large shortfall in housing delivery between 2001 – 2011 to be carried over and made up entirely during the 2011 – 2031 period.
321. TTGDC produced a document in January 2010 setting out its view of the land supply situation (TTG 5, App 14) [38]. The report concludes that 4.3 years is an accurate figure. It suggests that the TBC 2009 AMR fails to identify all the sites likely to come forward in the next five years. In reaching this conclusion, TTGDC identifies sites which have been allocated in their non-statutory Masterplans for residential development.
322. Further discussion and analysis has been undertaken in connection with the Inquiry. The differences between the parties are set out in a comparative assessment (INQ 27), based on the Thurrock 2009 AMR, but including the additional sites identified by TTGDC not identified in the AMR. This puts the

Appellant's assessment of supply at 1.89 years, while TTGDC arrive at a figure of 3.95 years.

323. This represents a significant change in the position by TTGDC since it determined a planning application for the development of a site for 340 dwellings in the Green Belt at Aveley By-Pass in August 2009 [41]. Though referred to the Government Office as a departure, the application was not called in, and outline permission was granted by TTGDC, subject to completion of a section 106 undertaking. TTGDC's position at that time was set out in a committee report (COL 17, App 8). "Thurrock Council's assumptions rely on all sites with planning permission as at April 2008, approximately 3100 units, being delivered in the next 5 years. There is no evidence to suggest that 100% of these consented sites will be implemented and it is considered inappropriate to rely on such an assumption" (Para 11.25). "It should also be noted that there is an existing and growing shortfall in housing delivery measured against RSS targets The recent trend in housing completions since 2004/2005 has been an increasing shortfall in delivery measured against RSS targets (Para 11.26). "Furthermore, Thurrock Council's 5 year housing supply figure of 5441 dwellings includes reliance on 2,341 units being delivered on LDF Preferred Options and reasonable alternative sites which do not have planning permission. To rely on unconsented sites to provide completed dwellings in the five years until 2013/14 is a high risk strategy which does not imply a reasonable prospect of delivery." Assessed against the PPS 3 definition of deliverable sites as those which are available, suitable and achievable within 5 years, the report concludes "...it is not considered that Thurrock Council have clearly demonstrated an up to date five year supply of deliverable sites" (Para 11.27).
324. Housing land availability was also considered at a recent appeal concerning a Green Belt site at Ardale School, North Stifford (APP/M9565/A/09/2112346 & 2112350). The land supply position was assessed on the basis of TBC's 2009 AMR plus a number of other sites sponsored by TTGDC. The Appellant's absolutely maximum figure was given as 2.6 years supply, while TTGDC argued that 4.5 years supply could be identified. The Inspector concluded "Suffice it to say that it is unlikely that all sites with planning permission would come forward within the five year period. Similarly, it would be wrong to assume that completions would be delivered, as estimated, on all identified sites without planning permission. I am also mindful that in PPS 3 terms not all the sites are (or will) meet the definition of "deliverable". My conclusion is that the true supply situation is likely to be much closer to the figure calculated by the Appellant" (Para 26).
325. That Inquiry was held on 3 – 6 January 2010. The housing land information considered at the present Inquiry was essentially the same but with the addition of further sites identified by TTGDC as contributing to the supply. These are set out in TTG 5, App 14.
326. The land supply position in Thurrock is complex, and as the Ardale School Inspector commented "one might have expected all potential land to be identified by the Borough Council and identified in its documentation." (Para 24). I understand that a Strategic Housing Land Availability Assessment (SHLAA) is in the course of preparation, but it was not available to the Inquiry to inform the discussion. A position statement and accompanying table was submitted by TBC (INQ 1, INQ 2), though this falls considerably short of the

rigorous assessment one would expect to see in a SHLAA. [47] I acknowledge that TTGDC does not simply rely on sites identified by TBC, but has undertaken its own discounting exercise, and identified other sites which do not appear in the AMR [194]. Some sites which TBC consider to be available are excluded or discounted by TTGDC. Nevertheless I consider that some unrealistic assumptions have been made about delivery, even to reach the supply position adopted in TTG 5, App 14 [48].

327. The Appellant produced an updated assessment of 5 year housing land supply dated January 2010 (COL 18, App 19). Of the total supply of 4810 identified by TTGDC (See Table INQ 27), there are sites for some 1822 dwellings with planning permission. TTGDC identify sites for a further 1775 dwellings without planning permission, and capacity for a further 1213 dwellings on sites which do not appear in the 2009 AMR.
328. I was not in a position to undertake a site by site analysis of all sites identified in the 2009 AMR or by TTGDC. I heard conflicting evidence on some of the major sites identified and relied on by TTGDC, on the basis of which I consider that there are significant questions over their deliverability.
329. Of sites with planning permission, Site 5 (Aveley By-pass) has a resolution to approve outline permission subject to the completion of a Section 106 Undertaking. While it is possible that some completions will be deferred beyond the end of the five year period, I do not perceive any insuperable obstacles to the delivery of this site. There is significant disagreement over the rate at which development will proceed at two major brownfield sites – Site 31 (former Coalyard Site at Purfleet) and Site 36 (Fiddler's Reach). Outline permission for 504 dwellings at the former Coalyard site was granted in 2005. The scheme has not been implemented and the site is now owned by the Development Corporation. The Appellant points to the low level of demand for apartments in this location, and suggests that in the current market redevelopment of the site for a lower number of family dwellings would be more viable. Similarly, the Appellant questions the viability of current proposals for Fiddler's Reach, which proposes a mixed use development including some 1,217 apartments, with blocks of up to 21 stories. This is a complex development, with very significant infrastructure costs. I accept that TTGDC has applied a discounted rate of completions to these sites, but even so I do not think that completions are sufficiently certain to count towards the five year supply.
330. Of sites without planning permission, the Appellant suggests that Site 45 (land at Argent Street/Thames Road, Grays – 140 dwellings) should be excluded as the site is in active use for industry, and the operator has been unable to find alternative premises. Site 65 (Botany Way Industrial Estate, Purfleet) is part of a large industrial estate. Although this site has been purchased by TTGDC, the delivery of 900 dwellings within 5 years appears highly optimistic. TBC assess the figure at 450, and though the Appellant's assessment at 100 dwellings may be considered pessimistic, there can be no certainty of delivery at the rate assumed by TTGDC.
331. Of the new sites identified by TTGDC and not included within the 2009 AMR, many of the sites do not meet the criteria for inclusion in the 5 year supply set out in PPS 3 and the DCLG Advice Note, for example, Site 75 (Vopak, Purfleet

- 59 dwellings), and Site 76 (Network Rail Land, Purfleet – 59 dwellings), neither of which have planning permission or are allocated sites [196].
332. It was accepted that Site 74, (land at Elizabeth Road, Grays – 64) was wrongly included in the schedule. Other large sites where potential delivery issues have been identified include: Site 68 (Manor Way Stanford-le-Hope – 180 dwellings) which is in the Green Belt. This site does not have planning permission and cannot be considered well advanced in the planning process; Site 70 (Former Ford factory, South Ockenden - 200 dwellings), where the developer is unlikely to achieve vacant possession before 2014; and Site 78 – (Grays Football Club – 156 dwellings), where the club is still in occupation and has not so far found alternative premises.
333. I understand that the development of these and other significant brownfield sites are essential to the regeneration of Thurrock Thames Gateway and to the housing objectives of the EEP, but I consider that delivery assumptions which have been made appear unduly optimistic. Without an early and radical revival of the housebuilding market, it seems reasonable to assume that their contribution to housing supply in the five-year period will be limited [194].
334. TTGDC accept that a five-year supply cannot be demonstrated on a straight-line basis (by which is meant a cumulative annualised residual basis) [188]. It was accepted on behalf of TTGDC in closing that earlier reliance on the potential for major sites to come forward in future years at a much faster rate, to eliminate the backlog, and to deliver the housing targets in the EEP, could not be relied on in the light of TBC's position [59, 189, 193]. While I acknowledge the delivery problems arising in the current economic climate, and from the heavy reliance on the delivery of high density urban development on complex brownfield sites, this approach appears to me to be wholly inconsistent with the emphasis in PPS 3 and the DCLG Advice Note on sites being available, suitable and achievable. I do not rule out some progress, including housing delivery, being made on these sites within the five year period. The simple point is they are not sufficiently certain to be relied on as contributing to the 5 year supply as required by PPS 3 and the DCLG note [39, 40, 46, 195].
335. The Ardale School Inspector concluded that the true land supply situation is likely to be much closer to the 2.6 years calculated by the Appellant in that case, than the 4.5 years posited by TTGDC at that time [41]. Notwithstanding the additional sites identified by TTGDC which I have considered above, the situation has changed little in the short period between the two Inquiries, and the additional sites identified do not undermine that conclusion [44]. TTGDC acknowledge that there is a shortfall. Their figure taken from INQ 27 of some 4 years compares with TBC's 2009 AMR figure of some 3.4 years. In the present appeal, the Appellant's estimate based on a rigorous application of the approach laid down in the DCLG advice note (INQ 4) suggests the identifiable supply may be as low as 1.9 years [49]. While this does not allow for the possibility of as yet unidentified sites making progress, no evidence has been put forward to justify the inclusion of windfalls in the analysis. In my judgment the true supply figure is likely to be somewhere between 2 years and 3 years, with the probability being that it is towards the lower end [61, 197]. This is consistent with the Ardale School Inspector's finding. The situation is fairly described as serious, and the requirement to consider planning applications favourably is clearly engaged.

336. I conclude that there is a serious shortfall in the 5 year supply of housing land, in Thurrock. This represents a failure to deliver a flexible and responsive supply of housing land in relation to the housing targets required by the EEP, as required by PPS 3 and the DCLG advice note [24, 25, 42, 59].

g) Flood risk

337. This matter, though identified as an earlier objection, was not pressed in closing by TTGDC [107]. It is not disputed that the site lies in Flood Zone 3a. Nevertheless the EA confirmed in a letter dated 12 January 2010 (COL 18, App 26) that the flood risk maps do not take account of defences, which exist in this area. A 2D hydrodynamic modelling report was commissioned by the Appellant (COL 18, App 27) to assess the residual flood risk to the site in the event of a breach or overtopping of the flood defences. The model results show that the Bata Field site would not experience flooding during either the 1 in 200 year or 1 in 1000 year return period flood event, taking account of climate change for the lifetime of the development. This was confirmed in a further letter from EA to TTGDC dated 27 January 2010 (TTG 5 App 13), confirming that the development would be acceptable with the attachment of an appropriately worded condition [108, 114].

338. With regard to the application of the PPS 25 sequential test there is considerable uncertainty over the availability and deliverability within 5 years of sites on which the Council relies upon as being in a lower flood risk category. This reflects the concerns I have explored in relation to the 5 year supply in section e) above. It is acknowledged that other sites within East Tilbury are unlikely to come forward within 5 years, and there are unresolved concerns about the deliverability of key brownfield sites elsewhere in Thurrock within the 5 year period. In the circumstances, I consider that the sequential test is met [112, 113].

339. On this basis I consider that flood risk has been satisfactorily addressed by the Appellant, and would not give rise to additional harm.

h) Whether there are material considerations amounting to very special circumstances which clearly outweigh the harm by reason of inappropriateness, and any other harm to justify granting permission for the development.

340. The development would be inappropriate development in the Green Belt, and it is common ground that it is necessary to demonstrate the existence of very special circumstances which clearly outweigh the harm by reason of inappropriateness and any other harm.

341. I have concluded above (paras 252 – 261) that in addition to harm by reason of inappropriateness, there would be some harm by reason of loss of openness and encroachment on what is presently countryside [93]. However, the degree of encroachment would be well contained by the existence of development to the north and the railway line, which I consider to be a firm physical boundary of the type referred to in PPG 2: Green Belts [100, 101]. I do not consider that the development would be harmful to the historic heritage of East Tilbury, including the archaeology, for reasons set out in paras 271 - 286 and 287 – 294 above, and therefore I do not consider that the Green Belt purpose of protecting the setting of historic towns and villages is engaged by this proposal. While there would be some consolidation of existing

development, in my opinion East Tilbury and the housing development around Halt Drive and Stenning Avenue already read as one settlement [103]. There is no risk of coalescence with any other settlement. Nevertheless, the Secretary of State's policy attaches very substantial weight to Green Belt harm [76].

342. Turning to consider other harm identified by TTGDC, I have concluded that the design of the development has taken into account its location adjacent to the East Tilbury Conservation Area, and the listed buildings of Bata Avenue and Thames Industrial Estate. In my judgment, the proposals achieve a very high standard of design which could be secured by conditions attached to the permission, notwithstanding that the application is made in outline with all matters of detail reserved. The DAS and amended design code sets out an architectural vision which adopts Bata principles. I have concluded above that the proposal would preserve the setting of the Conservation Area, and of the Listed Buildings. Though recognising that the view of Bata Avenue against the tall factory buildings from the north-west was a material consideration, EH did not object to the proposal. In my opinion the juxtaposition of low rise and high rise is appreciable from other locations, and the frisson of the unexpected experienced by visitors would not be lost.
343. I conclude at paras 295 – 306 that the access arrangements would be acceptable, both in respect of the principal access point and the effect on the level crossing. While there would be some addition to queues, additional delays would be small and would not amount to material harm to highway safety or the flow of traffic. As regards the sustainability of East Tilbury as a location for development of this scale, this is recognised both in non-statutory Masterplans and the draft submission LDF. I recognise the priority afforded in proposing these allocations to regeneration of the Listed Buildings and the Conservation Area, but these schemes are some way from realisation, and are not seen as contributing to housing supply within the next five years. The proximity of the site to a frequent rail service is a particular factor which contributes to the potential for the use of sustainable transport alternatives.
344. The lack of a demonstrable five-year supply of housing is a material consideration to which I attach substantial weight. The shortfall is not marginal. It is serious. In such circumstances, there are a number of actions open to planning authorities to address the shortfall, among them favourable consideration of planning applications. I have no doubt that TTGDC is taking what action it can to bring forward identified sites, but there is no clear evidence of this leading to a substantial upturn in delivery in the near future [56].
345. I do not underestimate the difficulties faced by TTGDC and TBC in meeting the housing targets set in the EEP, and recognise the problems inherent in bringing forward complex brownfield sites, on which the regeneration of Thurrock Thames Gateway and housing delivery is substantially reliant in present economic circumstances [149, 187]. However, while construction rates have been drastically affected by the lack of effective demand, the identified need for housing, and particularly affordable housing, remains pressing. Monitoring data shows that there has been a significant shortfall in housing completions in the last four years measured against EEP targets, and a severe shortfall in the provision of affordable housing. Only 13 affordable housing units were delivered in 2008/09. The opportunity to provide 30% affordable housing on

the appeal site is also a consideration to which substantial weight should be attached [65, 69]. Even if brownfield schemes do come forward elsewhere, there is evidence that viability considerations may require a reduction in the proportion of affordable housing, as at Fiddler's Reach [68].

346. I accept that the EEP does not envisage the release of Green Belt land to meet the housing targets. However, in my view there is very little prospect of delivering a five-year supply of housing in the immediate future without some greenfield releases. In Thurrock this effectively means that sites in the Green Belt will have to be considered [94]. This has been recognised both by TTGDC (in the Aveley By-pass decision), by TBC in the draft LDF submission document and by the Inspector in the Ardale School case.
347. Ideally, consideration of the release of Green Belt sites would be undertaken through the production of appropriate Development Plan Documents (DPDs). TBC has prepared a proposed submission draft of the Thurrock Core Strategy and Policies for Management of Development in January 2010 to cover the period to 2021. This is at an early stage and it seems likely that adoption remains some way off – December 2010 at the earliest. It is to be supported by a Site Specific Allocations and Policies DPD, but again any such document is some way from adoption. The forthcoming SHLAA was not available to the Inquiry, and I have no information as to whether the preparatory work has been subject to consultation or verification. In these circumstances, there is no reliable information setting out proposals for how the shortfall will be addressed [201].
348. The draft Core Strategy aims to focus regeneration and growth in existing urban areas (Purfleet, Lakeside/West Thurrock, Grays, Aveley/South Ockenden, Tilbury, Stanford-le-Hope, Corringham) with high quality mixed developments and higher density in locations accessible to existing and planned public transport and other non-car modes of travel. This is consistent with the aims of EEP for Essex Thames Gateway. Nevertheless it also sets out an intention to identify and allocate broadly defined locations for the release of land within the Green Belt to accommodate no more than 20% of new housing. No weight can be attached to the draft Core Strategy at present and no indication is given as to which locations might be identified. It is however a further indication of TBC's acknowledgement that Green Belt sites are likely to be needed to meet EEP housing targets [62].
349. I acknowledge that there has as yet been no systematic review of planning policy which would allow for the comparative merits of Green Belt sites in Thurrock to be examined, and that this exercise was not able to be undertaken at the present Inquiry [188]. While TTGDC has undertaken some assessment of the Aveley By-pass site and other Green Belt sites on which it relies, there is no evidence to show that this has been on a comprehensive comparative basis. However I have set out what I consider to be the locational advantages of the appeal site, amongst which the sustainability of the settlement, both in terms of the availability of local services and employment and the rail service, the contained nature of the site, the existence of a defensible boundary to the west, and the lack of landscape harm give it credibility as a potential development location. Further releases of Green Belt land would require a similar consideration of the merits of specific sites, in the context of the presumption against inappropriate development set out in PPG 2, as was undertaken at Aveley By-pass and very recently by the Ardale School

Inspector. It is possible that there are more suitable sites elsewhere in the Green Belt than Bata Field. TTGDC identified one site which it considered suitable, at Manor Way, Stanford-le-Hope, though this does not appear to have been undertaken as part of a systematic review, and on the Appellant's evidence is not available [57]. Clearly, not all sites would exhibit the distinct characteristics that I have considered in relation to Bata Field, and while I acknowledge that a decision to allow this appeal would have wider implications, I do not believe it would amount to an automatic precedent for development in the Green Belt [96, 149].

350. TTGDC argued that there was a further material consideration in addition to the housing shortfall and the provision of affordable housing which weighed heavily in the Aveley By-pass decision, namely a package of benefits including a contribution to provision of a community facility (COL 17, App 8, para 11.184). This was contested by the Appellant and an earlier passage in the Committee report (para 11.46) states that "the benefits package offered by the applicant is not considered to be a very special circumstance to justify a departure from normal Green Belt planning policies. However, the combination of housing land supply in the Borough and delivery of affordable homes are considered to be very special circumstances which could outweigh the harm to the Green Belt". It is clear from the report that TTGDC placed substantial weight on the ability to deliver both market and affordable housing in the absence of a five year supply, and that was the basis on which the Departure was notified to the Government Office. The provision of infrastructure and other facilities made necessary by a development would not usually be considered to be very special circumstances. I recognise that the site was included in TTGDC's Aveley and South Ockenden Masterplan, but this attracts little weight as a non-statutory document [77, 78, 79].
351. In the present case other material considerations are advanced by the Appellant as contributing to very special circumstances. These are listed in Para 5.29 of COL 16.
352. I agree that substantial weight should be given to the contribution to housing delivery [70]. Investment in housing is to be welcomed, and though there is no specific developer associated with the project at present, I accept that the site would prove attractive to housebuilders, and that the programme for development indicated by the Appellant's housing market witness is not unrealistic, even with the requirement for archaeological investigation [43, 71].
353. However I do not consider that the development would contribute significantly to maintaining the momentum of regeneration in the Thames Gateway. I acknowledge that a high quality development would give a lift to East Tilbury, as well as bringing some trade for local businesses [73, 217]. Evenso I do not see a direct connection with securing investment in the major vacant buildings on the Thames Industrial Estate, or the unlocking of brownfield sites elsewhere, which is an acknowledged aim of regeneration policy [202]. It would do little more in this respect than attract market attention to East Tilbury, and would have limited effect in helping to create the market conditions needed to stimulate focused investment in regeneration projects [89].

354. I agree that the lack of an up-to-date local development framework creates a lack of certainty in understanding how strategic housing targets will be achieved at the local level. I have discussed this at para 347 above.
355. In my view the site would be reasonably well located in relation to employment potential at Port Tilbury and London Gateway [203]. I accept that the development is intended to be completed before London Gateway comes on stream [216]. Nevertheless, East Tilbury is relatively well placed for residents to benefit from these major employment sites in the longer term. I attach moderate weight to this [91].
356. I have concluded that the design quality is of a very high order, which would reflect and carry forward East Tilbury's Modernist architectural heritage. I acknowledge that PPS 1 requires high quality design for any development proposal, but I consider that particular efforts have been made with this scheme to ensure that the development would integrate well with its setting [208]. The design approach was welcomed by EH and commended by TTGDC's urban design officer. I consider that as a material consideration this weighs in favour of the scheme [206].
357. The scheme would deliver contributions to infrastructure provision. However, in my view these are no more than would be likely to be required by any other development. There is no certainty relating to the provision of a footbridge, even though funding provision is made in the S.106 Undertaking. In any event, I do not consider that the benefit to the community would be of such significance as to attract so much weight as a material consideration as to contribute towards very special circumstances, for reasons set out in paras 303 - 306 above.

Overall conclusion on very special circumstances

358. The proposal engages two of the Secretary of States key policies: protection of the Green Belt and Housing Delivery. In the recent Ardale School decision (TTG 5, App 15), the Inspector did not treat the substantial shortfall in the five year supply, nor the potential to contribute towards affordable housing, as decisive factors outweighing green belt considerations. In addition to harm by reason of inappropriateness, he identified marked and extensive harm to the openness of the Green Belt and to the purposes of including land in Green Belts in that case which outweighed other considerations [145, 190].
359. This development would also be inappropriate development in the Green Belt, which is harmful by definition. There would be a loss of openness and some encroachment on the countryside [148]. I consider that the actual harm would be limited, but this is not a matter to which weight can be attached in assessing whether very special circumstances exist [222]. I do not find that there would be material harm to the heritage assets, the landscape surrounding East Tilbury, or to highway safety for reasons explained in full in the relevant sections above. The objection on grounds of flood risk was not pressed by TTGDC at the Inquiry, and in my view it should carry no weight.
360. Where a 5 year supply of housing land cannot be demonstrated PPS 3 requires decision makers to consider favourably planning applications for housing, having regard to the policies in the PPS and including the considerations in paragraph 69. These require regard to be had to achieving high quality housing, a good mix of housing, the suitability of the site for housing (including

its environmental sustainability) and using land efficiently and effectively. I consider that the development would provide high quality housing and a good mix of housing. Green Belt policy is clearly a major constraint as regards suitability, but in other respects I consider that the site is suitable for housing development, and the location reasonably sustainable. The site involves the use of greenfield land, but it is recognised that EEP housing delivery targets in Thurrock cannot be met without this. The density would be below 50 to the hectare, but in my view would be consistent with achieving a high quality development which respects the conservation area and listed buildings.

361. I conclude there is a serious shortfall in housing land supply in Thurrock, and an inability to deliver a flexible supply of housing land as required by PPS 3. This in an area where the East of England Plan sets ambitious targets and where there is a strong emphasis on delivery [42]. From the evidence given at the Inquiry I consider that that situation cannot be resolved without consideration being given to the release of Green Belt sites [190]. This has been recognised by TBC as the plan making authority and by TTGDC in a recent decision on development at the Aveley By-pass site. While I acknowledge the difficulties faced, and notwithstanding efforts being made by the planning authorities to bring identified sites forward, I do not consider that there is any clear alternative strategy in place for remedying the shortfall [97, 198, 199].
362. There is also a demonstrable shortfall in affordable housing completions measured against need which weighs substantially in favour of allowing the scheme [75]. The quality of design and sensitivity to its setting also weighs in favour of the scheme. Taken together I conclude that these amount to material considerations which clearly outweigh the harm to the Green Belt by reason of inappropriateness, and the harm by reason of loss of openness and encroachment on the countryside. I am therefore satisfied that the necessary very special circumstances exist in this case to warrant allowing the appeal.

Recommendation

363. Accordingly, I recommend that the appeal be allowed and planning permission granted for residential development of up to 299 dwellings on land at Bata Field, off Princess Margaret Road, East Tilbury, subject to the conditions set out in the Annex to this report.

David Richards

INSPECTOR

APPEARANCES

FOR THURROCK THAMES GATEWAY DEVELOPMENT CORPORATION:

Paul Shadarevian of Counsel

He called

Kirsty Towler MA (Hons), M Phil, Dip UD, MRTPI	Planning Development Officer, Thurrock Thames Gateway Development Corporation
James Ross Dip Arch, RIBA, IHBC	Heritage, Historic Building and Conservation Areas Adviser, TTGDC and TBC
Andrew Rawlingson MIHE	Senior Engineer, Thurrock Borough Council

FOR COLONNADE LAND LLP:

Russell Harris QC

Instructed by Ian Anderson of Icen Projects

He called

Chris Bearman BA(Hons) Dip Arch RIBA	Allies and Morrison Architects
Brita von Schoenaich Dip LA	Schoenaich landscape Architects
Paul Chadwick BA (Hons), FSA, MIFA	CgMs Consulting
Jonathan Edis BA (Hons), MA, PhD	CgMs Consulting
Clive Burbridge	Waterman Boreham
James Barnes BSc, MRICS	Chartered Surveyor
Ian Anderson MRTPI	Icen Projects

INTERESTED PERSONS:

Cllr Barry Palmer

Local Councillor, Thurrock Borough Council

DOCUMENTS

CD **Core Documents**

CD 1	South East Thurrock Master Plan November 2009
CD 2	Thurrock Site Specific Allocations DPD Preferred Options Consultation November 2007
CD 3	East Tilbury Essex Historic Area Appraisal: English Heritage Research Department Report Series No. 21/2007

- CD 4 Thurrock Core Strategy and Policies for Management of Development: Proposed Submission Draft DPD January 2010 (version 30)
- CD 5 Thurrock Landscape Capacity Study 2005: Chris Blandford Associates

TTG Thurrock Thames Gateway DC Documents

- TTG 1 Proof of evidence of Kirsty Towler
- TTG 2 Appendices to Kirsty Towler's proof
- TTG 3 Summary of Kirsty Towler's proof
- TTG 4 Rebuttal proof of Kirsty Towler
- TTG 5 Appendices to Kirsty Towler's rebuttal
- TTG 6 Proof of evidence of James Ross
- TTG 7 Appendices to James Ross' proof
- TTG 8 Proof of evidence of Andrew Rawlingson
- TTG 9 Appendices to Andrew Rawlingson's proof
- TTG 10 Rebuttal proof of Andrew Rawlingson
- TTG 11 Appendices to Andrew Rawlingson's rebuttal proof
- TTG 12 Rebuttal proof of James Ross

COL Colonnade Land LLP Documents

- COL 1 Proof of evidence and Appendices of Chris Bearman
- COL 2 Rebuttal proof of Chris Bearman
- COL 3 Presentation by Chris Bearman
- COL 4 Proof of evidence of Brita von Schoenaich
- COL 5 Appendices to Brita von Schoenaich's proof
- COL 6 Proof of evidence of Paul Chadwick
- COL 7 Appendices to Paul Chadwick's proof
- COL 8 Rebuttal proof of Paul Chadwick
- COL 9 Proof of evidence of Jonathan Edis
- COL 10 Appendices to Jonathan Edis' proof
- COL 11 Proof of evidence of Clive Burbridge
- COL 12 Appendices to Clive Burbridge's proof
- COL 13 Rebuttal proof of Clive Burbridge
- COL 14 Framework Travel Plan Revision 3 (25 Feb 2010)
- COL 15 Proof of evidence of James Barnes
- COL 16 Proof of evidence of Ian Anderson
- COL 17 Appendices Vol 1 (Apps 1 – 18) of Ian Anderson's proof
- COL 18 Appendices Vol 2 (Apps 19 – 27) of Ian Anderson's proof
- COL 19 Rebuttal proof of Ian Anderson
- COL 20 Appendices 1 – 14 to Ian Anderson's rebuttal

INQ Documents submitted during the Inquiry

- INQ 1 Position Statement of Thurrock Borough Council
- INQ 2 Potential Housing Sites as at 1.12.2009
- INQ 3 Thurrock Council Note on 5 Year Housing Supply (dated 4.2.10)
- INQ 4 DCLG Advice Note Demonstrating a 5 Year Supply of Deliverable Sites
- INQ 5 Comparative Assessment of 5 Year supply figures based on Thurrock 2009 Annual Monitoring Report

- INQ 6 Plan of Aveley Bypass Site
- INQ 7 Extract from Appendix 14 to Kirsty Towler's rebuttal (enlarged)
- INQ 8 TTGDC Planning Committee 13 July 2009 – Supplementary Report
- INQ 9 Letter form EA to TTGDC dated 2 Feb 2010 re Flood Risk
- INQ 10 PPS 25 Practice Guide – The Sequential Test (extract)
- INQ 11 Guidance on Transport Assessment March 2007 (extract)
- INQ 12 Manual for Streets (extract – pages 92 & 93)
- INQ 13 Drawings showing TBC visibility requirements for main access
- INQ 14 Draft notes of meeting re transport matters 20.08.09 and E-mail exchange
- INQ 15 Notes of meeting re Transport Assessment 8.06.08
- INQ 16 Plan showing proposed disposition of open space on Appeal Site
- INQ 17 Extract from Environmental Assessment Chapter 10 regarding trees
- INQ 18 Extract form EH Advice 'Conservation Principles Policies and Guidance'.
- INQ 19 Letter form Michael Munt of EH to Appellant dated 10 February 2010
- INQ 20 Enlarged plan of Bata Estate East Tilbury
- INQ 21 The Bata Plan 10.06.47
- INQ 22 1972 Plan from the Bata Estate Records
- INQ 23 Sketch by Chris Bearman showing Allies & Morrison masterplan incorporating area of archaeological excavation (8.10.08)
- INQ 24 Revised drawing showing proposed visibility (Ref. 207239/42 Rev A)
- INQ 25 Revised drawing showing achievable visibility (ref 207239/42 Rev B)
- INQ 26 Thurrock Unitary Authority Advice to East of England regional Assembly
- INQ 27 Comparative Assessment of 5 Year Supply based on Thurrock 2009 Annual Monitoring Report (revised)
- INQ 28 Letter from Thurrock Council to East of England Regional Assembly 24 November 2010 and response on scenarios for housing and economic growth
- INQ 29 List of draft conditions
- INQ 30 Statement of Common Ground
- INQ 31 E-mail to Kirsty Towler re Section 106 Undertaking
- INQ 32 Signed and dated Unilateral Undertaking
- INQ 33 Amended Design Code (February 2010)
- INQ 34 Closing submissions on behalf of TTGDC
- INQ 35 Closing submissions on behalf of Colonnade LLP
- INQ 36 Statement by Councillor Barry Palmer

CORR Correspondence received at Inquiry

- CORR 1 Letter from Angela Smith MP
- CORR 2 Letter from Jacqueline D'Arcy
- CORR 3 Letter from Mr D J Dawson

Abbreviations

AMR	Annual Monitoring Report
DAS	Design and Access Statement
DMRB	Design Manual for Roads and Bridges
DPD	Development Plan Document
EA	Environment Agency
ECC	Essex County Council
EEP	East of England Plan
EH	English Heritage
ES	Environmental Statement
LDD	Local Development Document
LDF	Local Development Framework
LP	Thurrock Local Plan 1997
MfS	Manual for Streets
RSL	Registered Social Landlord
RSS	Regional Spatial Strategy
SHLAA	Strategic Housing Land Availability Assessment
SFRA	Strategic Flood Risk Assessment
TA	Transport Assessment
SUDS	Sustainable Urban Drainage Systems
TBC	Thurrock Borough Council
TIE	Thames Industrial Estate
TLCS	Thurrock Landscape Capacity Study
TRICS	Trip generation database (trade mark)
TTGDC	Thurrock Thames Gateway Development Corporation

ANNEX: CONDITIONS

- 1) Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the submission of any reserved matters an amended Design Code shall be submitted to and approved in writing by the Local Planning Authority. The amended Design Code shall incorporate the contents of the updated Design Code dated February 2010 and shall in addition address and codify the following matters:
 - Spatial arrangement of dwellings and roads
 - Scale
 - Building form and height
 - Architectural composition
 - Private amenity space, arrangements for storage and collection of refuse and recyclables, and arrangements for cycle parking.
 - Public realm including public art
 - Privacy.Reserved matters applications and the implementation of the development shall thereafter accord with the approved Design Code details.
- 5) Notwithstanding the detail shown in Plan 589_07_003 PL-3 a revised Parameter Plan showing proposed finished ground levels shall be submitted to and approved in writing by the local planning authority prior to the submission of any reserved matters. Thereafter reserved matters applications shall accord with the revised levels. The development shall be constructed in accordance with the approved details.
- 6) Notwithstanding the detail shown in Plan 589_07_006 PL-3 a revised Parameter Plan showing proposed building height parameters across the site shall be submitted to and approved in writing by the local planning authority prior to the submission of any reserved matters. Thereafter reserved matters applications shall accord with the revised details and the development shall be implemented in accordance with the approved details.
- 7) Subject to compliance with the requirements of any of the foregoing Conditions 1 to 6, and any other condition requiring the submission and approval of further details, the development shall only be carried out in accordance with the following approved documents and plans:

Design and Access Statement

Design Code (revised) February 2010

589_07_001 PL-3	Planning Application Boundary Parameter Plan
589_07_002 PL-3	Existing Site Levels Parameter Plan
589_07_003 PL-3	Proposed Site Levels Parameter Plan
589_07_004 PL-3	Proposed Uses Parameter Plan
589_07_005 PL-3	Access Parameter Plan
589_07_006 PL-3	Building Heights Parameter Plan
589_07_007 PL-3	Demolition Parameter Plan

- 8) The development hereby permitted shall not exceed 299 residential units. The mix and type of residential units to be delivered shall accord with the schedule of accommodation identified in the signed Statement of Common Ground dated 25 February 2010 (INQ 30).
- 9) No development or preliminary groundworks of any kind shall take place (other than those undertaken in connection with the approved archaeological works) until the developer has secured and implemented a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 10) No development, including any demolition, shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement and the measures contained therein shall be adhered to throughout the construction period. The Statement shall provide for:
 - the means of access for demolition and construction traffic
 - parking provision for site operatives and visitors
 - the loading and unloading of plant and materials
 - the storage of plant and materials used in constructing the development
 - the erection and maintenance of security fencing
 - wheel washing facilities
 - measures to control the emission of dust and dirt during demolition and construction
 - a scheme for recycling / disposing of waste resulting from demolition and construction works.
- 11) All construction traffic, apart from the limited traffic associated with the demolition of No. 253 Princess Margaret Road, shall use only the southern

access to the site from Princess Margaret Road, located between No 201 Princess Margaret Road and No 2 Bata Avenue.

- 12) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:
- | | |
|--------------------|-----------------|
| Mondays to Fridays | 0800-1800 hours |
| Saturdays | 0800-1300 hours |
- 13) Prior to the commencement of development a scheme for the suppression and monitoring of dust during the construction of the development shall be submitted to and approved in writing by the local planning authority. The approved measures shall be employed throughout the period of construction.
- 14) No development shall take place until there has been submitted to, and approved in writing by, the local planning authority, details of the locations, heights, designs, materials and types of all boundary treatments, including acoustic and/or safety fencing or barriers, to be erected on site. The boundary treatments shall be completed in strict accordance with the approved details before the first occupation of any of the buildings to which they relate. The boundary treatment to be provided along the railway corridor boundary shall be of a type, construction and material appropriate to a railway location and shall be provided in its entirety prior to the occupation of any dwelling hereby approved.
- 15) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 16) No development shall take place, nor shall any plant, equipment or materials be brought onto the site until there has been submitted to, and approved in writing by, the local planning authority:
- an up-to-date tree survey including details of all trees and a plan showing which trees are to be retained, which are to be removed and which are to be lopped, topped or otherwise treated
 - details of the position and specification of fencing and other measures for the protection before and during the course of development of any tree to be retained.
- The development shall thereafter be carried out in accordance with the approved scheme.
- 17) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The development shall thereafter be carried out in accordance with the approved details.
- 18) The road layout shall incorporate the provision of a turning area for vehicles and shall retain vehicular access to existing garages at the western end of Bata Avenue.

- 19) Prior to the commencement of development a scheme for the enhancement of habitat suitable for invertebrates along the proposed linear open space adjoining the railway shall be submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be incorporated in reserved matters submissions, and the development implemented in accordance with the approved details.
- 20) Prior to the commencement of development, a scheme for the provision and implementation of water resource efficiency shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved scheme.
- 21) Prior to the commencement of development, a scheme for the provision and implementation of energy and resource efficiency during the construction and operational phases of the development shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved scheme.
- 22) The residential units hereby permitted shall be built to a minimum Code Level Three rating within the Government's 'Code for Sustainable Homes'. Prior to the occupation of any of the individual residential units hereby permitted a copy of the post-construction review certificate produced by the relevant assessor for that dwelling (or for the totality of the development or parts thereof) verifying that the minimum Code Level Three rating has been achieved for that residential unit, shall be submitted to the Local Planning Authority.
- 23) Prior to the commencement of development a scheme of measures to achieve a reduction in site wide carbon emissions of at least 10% through the use of renewable energy systems on-site in accordance with the Energy Feasibility Study by RPS dated February 2009 shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme.
- 24) Prior to the first residential occupation of each block of flats hereby permitted, the block shall be equipped with a communal TV and radio aerial and satellite dish. Details of the size, external appearance and the positions of the communal TV and radio aerial and satellite dish shall be submitted to, and agreed in writing by, the Local Planning Authority prior to the installation of such systems. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no satellite dishes or aerials shall be fixed to the blocks of flats without the prior written approval of the Local Planning Authority.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), any garages or parking spaces provided as part of the development hereby approved, shall be made permanently available for the parking of private motor vehicles and shall not be used for any other purpose including the extension of living accommodation or used in connection with any trade or business.
- 26) Prior to the commencement of development details of the means of providing secure weather protected cycle storage for the houses and flats

- hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter cycle storage shall be provided in accordance with the approved details, prior to the occupation of the associated house or flat and retained in use for cycle storage.
- 27) Prior to the commencement of development the detailed design of structures for the storage of refuse and recycling containers to serve all residential units shall be submitted to and approved in writing by the local planning authority. The refuse stores and containers shall be provided in strict accordance with the approved details prior to the first occupation of the residential unit served or in the case of flats prior to the first occupation of any of the flats that the refuse store and associated containers serve. Thereafter, refuse stores shall be permanently retained in the approved form.
- 28) Prior to the first residential occupation of any of the residential units hereby permitted a detailed lighting plan for the development including the road, car parking areas and footways shall be submitted to and approved in writing by the local planning authority. Such details shall include the siting and design of any lighting together with details of the spread and intensity of the lighting. The lighting shall be installed in strict accordance with the approved details prior to first occupation of the residential units hereby permitted or in accordance with an agreed phasing plan and thereafter retained and maintained in the agreed form without any further additions.
- 29) All affordable housing units and 10% of market housing units shall be constructed to accord with lifetime homes standards.
- 30) Prior to the commencement of development, a scheme detailing how the principles and practices of the 'Secured by Design' scheme are to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 31) Prior to the commencement of development a scheme for noise insulation of the residential units hereby approved shall be submitted to and approved in writing by the local planning authority. The scheme shall have regard to the conclusions and recommendations of the Noise Assessment accompanying the application. The scheme shall detail measures so that all habitable rooms will achieve 'good' internal levels as specified by BS8233:1999 and all useable amenity spaces shall be protected from excessive noise. The scheme shall identify and state the glazing specifications for all the affected windows, including acoustic ventilation, where appropriate. The approved measures shall be incorporated into the residential units in the manner detailed prior to their residential occupation and shall thereafter be permanently retained as approved.
- 32) No development shall take place until there has been approved in writing by the local planning authority a scheme of landscaping, which shall include details of hard and soft landscaping of the site together with a programme of maintenance and a timetable for implementation. The scheme for landscaping shall accord with the principles identified in the Design and Access Statement and the approved Design Code. All planting, seeding or turfing comprised in the approved scheme shall be carried out in accordance with the approved timetable and any trees or

plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 33) No trees, dense vegetation or other potential nesting sites shall be cleared from the site during the bird breeding season of 1 March to 30 September inclusive, except where a suitably qualified ecological consultant has confirmed that such clearance works should not affect any nesting birds.
- 34) No development shall take place until details of the location, layout, landscaping, equipment and associated items of the play areas and fitness stations and all other areas of public open space have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such.
- 35) No development shall take place until a management plan to describe the proposals for the management and maintenance of the play areas, areas of public open space and those shared areas not to be maintained by the Local Highway Authority including the emergency access route has been submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall be permanently managed and maintained in accordance with the approved details.
- 36) The development permitted by this planning permission shall be carried out in accordance with sections 8.2, 8.3 and 8.6 of the approved Flood Risk Assessment (WSP Development and Transportation), reference 11500850, in relation to surface water drainage and the following mitigation measures detailed within the FRA:

Surface Water Management

- (i) Provision of a Surface Water Management Scheme, to include drainage to public sewer for storm events up to and including the 1 in 30 year storm event (plus allowance for climate change).
- (ii) Provision of a Surface Water Management Scheme, to include an Infiltration Basin with minimum storage volume of 2900m³, for storm events in exceedence of the public sewer system, up to and including the 1 in 100 year storm event (plus allowance for climate change). Infiltration Basin to be located in a suitable place on site in relation to infiltration testing, and in accordance with Drawing Number 1150085-0850-D001-Revision A, see FRA paragraph 8.3.3-8.3.4.
- (iii) On site topography to be designed to ensure surface water flood flow routing to the designated infiltration basin, see FRA paragraph 8.6.1.
- (iv) Provision of an appropriate maintenance scheme in relation to the Infiltration Basin.

A scheme incorporating these measures shall be submitted to and approved in writing by the local planning authority before the development commences. The development shall thereafter be carried out in accordance with the approved scheme.