

pre-hearing statement for the examination in public of the epping forest district local plan submission copy 2018.

Hearing Statement for the Examination in Public.

Hearings 25th - 26th February 2019, (Matter 4) into the Epping Forest District Local Plan Submission Copy 2018 for Mr Mark Gregory and Family.

This Statement is essentially concerned with Matters in Question 4, the Spatial Strategy/Distribution of Development in the Plan.

There is considerable overlap with other related issues and matters so much of the statement addressing Issue 1 also covers other issues as well, and in passing some other Matters in Question. I consider this is the most relevant Matter in Question for attendance at the Examination in Public to assist the Inspector in relation to the Response already submitted on behalf of Mr Gregory and family.

I have prepared this Hearing Statement. My name is Alan Wipperman (BA MRICS MRTPI C Dip AF). A short summary of my qualifications and experience is in Appendix E with a signed RICS Statement of Truth.

Matters in Question 4. Issue 1.

Does the distribution of development in the Plan place too much reliance upon the Garden Community Sites around Harlow at the expense of testing the capacity of the other settlements in the District?

1. In particular, in my opinion, the evidence base and the analyses used in the preparation of this Plan fail to properly consider the scope and land available for sustainable development by way of:

- (i) infill to existing smaller settlements on previously developed land (PDL) or otherwise;
- (ii) development of land adjoining existing settlements; whether on previously PDL outside but close to existing small settlements in the Metropolitan Green Belt (MGB), but also PDL land within all settlements;
- (iii) and, this detailed exercise has not been fully applied to all settlements, with defined boundaries or otherwise.

2. Likewise, greenfield land, if developed at a smaller scale that would not impact on the openness or other purposes of the MGB, but falling within the physical and functional limits of existing smaller settlements in the MGB, has not been looked at in sufficient detail.

3. Consequently, in total across the District's smaller and larger settlements, defined or otherwise, there may be substantially more development potential for housing provision in and around smaller settlements in the District. This should not be left to windfall. It is possible that use of such land should substantially reduce the need for larger scale greenfield developments as proposed in the Plan.

4. A simple review of the amended MGB boundaries in the Local Plan makes the omissions clear. No small existing settlements have been taken out of the MGB. Only a few small sites have been taken out of the MGB where they adjoin existing small settlements but with defined boundaries. (See Appendix A for Map 2.5, page 50, extract).

5. Smaller settlements that had no defined boundaries in the last MGB review in 1998 are left very much the same as they were when previously settled in 1985.

6. All remain “colour washed through” and are proposed to remain so, despite the changes over time to their current populations, extent, and size.

7. These settlements have not been properly considered in detail and the evidence base does not appear to have regard, in my opinion, to their “common-sense” extent and function. Para. 2.138 of the Plan states:

“There have been no alterations to Green Belt boundaries since adoption of the 1998 Local Plan. The alterations made at this time were relatively minor and related only to four specific locations. Proposed development sites within the 1998 Local Plan were not removed from the Green Belt as part of the process of allocating them for development”.

8. This is important for plan-led development in the light of the court decision, *Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council*, 2015. [2015] EWCA Civ 195. (See Appendix B).

9. This decision suggests a common-sense approach is required when considering para. 89 of the National Planning Policy Framework 2012. (NPPF 2012). This paragraph is repeated verbatim in the NPPF 2018 as para. 140.

10. Both NPPFs advise a village remaining in the MGB is a matter of importance where its open character contributes to the openness of the green belt. This detail does not appear to have been assessed by the broad “land parcel” approach adopted for this Plan.

11. If a settlement’s character, in whole or part, does not make an important contribution to openness in the MGB, or where limited infilling of land within it its physical and functional extent does not harm the purposes of the MGB, following the *Julian Woods* case, permissions may be given.

12. Applications and appeal decisions may be given within the green belt for limited infill, and especially for PDL, notwithstanding the MGB and restrictive policies, on an ad hoc rather than plan-led basis.

13. There is a need for a careful and detailed review of all settlements defining boundaries that reflect physical and functional extent, and also have regard to the development needs for expansion for all settlements; i.e. where this identifies small open areas within or adjoining or where there are small pockets of PDL capable of infill.

14. If an effective and full review had been undertaken of all the colour washed existing settlements and the smaller defined settlements, having regard to their physical and functional extent, and to the PDL within them, (or even where adjoining them, or close by), then it is probable that much more land might have been found and allocated for small scale infill and development in the MGB and the District.

15. The example of Sewardstone as a settlement and the Farm Tyres site as PDL confirms this. It is primarily a linear village with functions, activities and services either side of the Sewardstone Road. There are development extensions, mainly westwards from the Road, with back-land development. There is scope for infill within the functional extent. This should have been considered in more detail.

16. There are exceptional circumstances allowing small amendments of the MGB boundaries in Sewardstone, and potentially across the District, rather than rely on ad hoc windfall for the Plan period.

17. Amending the boundaries for land outside an existing settlement or anywhere near one to reflect a grant of permission appears bizarre. (Residential allocation at Providence Nursery, Avey Lane - MGB boundary amendment referred to in the Written Response and further below. Site reference WAL.R7. Map 5.6).

18. This inconsistency is probably a consequence of the “parcel” based methodology adopted in the 2015 Green Belt Review Stage 1, based on large areas of the District, following the 2010 Landscape Appraisal. The broad brush approach misses local detail. Nevertheless the Sewardstone “Hamlet” with some others, were considered for further review.(Figure 15 Page 38 of the 2015 Green Belt Review Stage 1, below).

Figure 15: Settlements identified for further Green Belt Review

Category	Settlement
Town	Buckhurst Hill, Chipping Ongar, Epping, Loughton/Debden, Waltham Abbey
Large Village	Chigwell, North Weald, Roydon, Theydon Bois
Small Village	Abridge, Chigwell Row, Coopersale, Fyfield, High Ongar, Lower Nazeing, “Matching” (incorporating Matching Green, Matching Tye and Matching), Sheering, Stapleford Abbotts, Thornwood.
Hamlet	High Beach, Lower Sheering, Moreton, Sewardstone, Willingale.

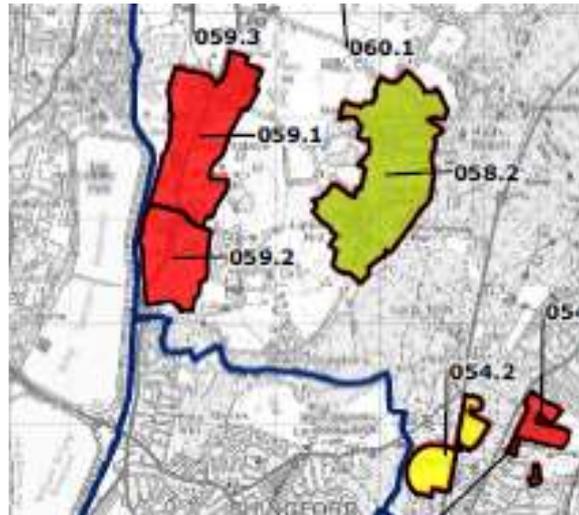
20. Unfortunately the Epping Forest Green Belt Assessment: Stage 2 Report 2016 by LUC again concentrated on larger parcels of land.

21. Two large parcels of land, references 0.591 and 0.592 were assessed for Sewardstone. Unsurprisingly these two large parcels if developed were found to give rise to “very high harm” to the green belt. It made little reference to the selected Hamlets.

22. This was far too high a grain of assessment for the detailed boundaries and uses that could have been considered. It fails to take account of the sites and status of land at the smaller scale, within and adjoining the “hamlets” identified or other colour washed settlements.

23. As with the Sewardstone case the existence of Farm Tyres and therefore other possible PDL is missed. There must be doubt that the full scope for infill and PDL site development and smaller site allocations has been missed and repeated District wide.

24. Figure 4.6 below in the 2016 Stage 2 Report shows the extent of the assessment parcels surrounding Sewardstone. These are large areas relative to a “common sense” physical and functional extent of the settlement:



25. **This approach renders the Plan unsound and ineffective and inconsistent with the NPPF 2012.**

26. This is compounded by the Authority concentrating on allocating larger site developments or urban extensions, and Garden Community development.

27. Greenfield land in the MGB is required but the allocations appear to be without clear or consistent correlation to size or wider functions of existing settlements.

28. **A more effective detailed settlement based review, in essence, “inside working out” together with the parcel approach adopted, from the outside “working in” should be undertaken District wide.**

29. Reliance on large scale provision by way of Garden Community development or large urban extensions and associated large infrastructure investment is likely to reduce small scale sites available for small builders etc.

30. A detailed review of the District’s smaller settlements could consider current settlement size and local needs for physical and social infrastructure and services, rather than assessing just existing, and the local threshold populations needed for continuity as household size falls. Expansion by small scale development could add population and provision of services. This does not appear to have been fully considered.

31. This would be positive and might provide quicker provision of housing than a Garden Community development which requires large physical infrastructures and services.

32. A review of small settlement/small sites may lead to significant dispersed provision. If 10-50 (or more) dwellings were added to the many smaller settlements District wide, cumulatively this might reduce the size of the Garden Community/Urban Extensions by hundreds of dwellings or more.

33. The Sewardstone example with the Farm Tyres site suggests the approach adopted renders the Plan unsound with regard to Issue 1. There is excessive reliance on large scale Garden Community and other extensions. **The plan is less than positively prepared and justified and fails to accord with the NPPF 2012.**

Issue 2.

34. Only 87 dwellings are allocated to Buckhurst Hill, a settlement of some considerable size and suburban character, with under-used PDL potential. Overall site potential in this and other larger existing defined settlements may also have been under-assessed.

35. There is also a large and disproportionate allocation to North Weald Basset, (current population stated as 4,487). This settlement has no public railway station unlike Buckhurst Hill. This approach does not appear proportionate to either settlement's scale, services or character, and may render other larger allocations excessive.

36. The Settlement Hierarchy adopted in Table 5.1 page 114 of the Plan appears unrelated to the allocation of development District-wide. It is based on a points assessment of settlements within arbitrary categories, defining towns, large villages, small villages, and hamlets, despite significantly different characteristics and population sizes, functions and extent.

37. Buckhurst Hill (population 11,380), in function is very much a suburban extension of Loughton, with ready access to the London Underground Central Line services. It is defined as a Town with a Town Centre. Policies for intensification and infill development as well as extension should follow. However little or no development potential has been found or allocated. These outcomes may arise from the Settlement Hierarchy Study Technical Paper 2015. (Extracts in Appendix C).

38. The points system weighs heavily on what settlements and in particular villages already have, rather than what they might need to make them more sustainable. (See Appendix C. Table 2 extract).

39. A significantly sized settlement, Sewardstone, having regard to a common-sense assessment of extent and function, and stated population in excess of 1000, is defined as a Hamlet and without defined boundaries. Smaller settlements such as Sheering, population 891, Fyfield, population of 796, and Matching Green 661 (Council's population figures), were all defined as Small Villages with defined settlement MGB boundaries. (See Appendix C. Table 3 extract).

40. This does not take account of the Julian Woods court decision. All Small Villages appear be those with previously defined settlement boundaries. The Technical Paper assumed the existing MGB boundaries (Para. 4.5 Page 26). This does not appear to be a positive or an effective approach. (See Appendix C. Table 4 extract and paragraph).

41. The assessment and the evidence base that has determined which settlements can be expanded and which cannot is unsound and lacking in justification. It accordingly fails to meet national policy.

Issue 4. Is the distribution of development justified in respect of the need for, and approach to, Green Belt release?

42. **Issue 4. MIQ (A).** The inherent tensions between the objectively assessed development needs of the District have not been satisfactorily addressed by the distribution of development in the Plan.

43. An adequate and balanced assessment of threshold populations needed to maintain existing local services, or what might be needed to bring forward and support, improved services for smaller settlements is not achieved. That which could be provided by small increases in dwellings and therefore population is not assessed. Important when household sizes fall but also small developments can add new services and infrastructure currently lacking in settlements.

44. These could be further exceptional circumstances justifying small MGB boundary changes where impacts are minimal and substantial local public and economic benefits arise as well as reducing the loss of greenfield MGB land elsewhere.

45. Such developments may be allowed in any event under para. 140 of the NPPF 2018 or the 2012 equivalent by application or appeal. A sound plan led approach should achieve more. Small boundary changes in the Plan are few in number and limited to settlements with defined boundaries, e.g. Chigwell. Settlements colour washed through have not been allocated development. This distribution is not fully justified.

46. **With regard to MIQ4. Issue 4.1c(i).** The failure to produce Part 1 of the Brownfield Register on time and before the Local Plan consultation suggests the Register has not been used to promote housing provision in the District quickly, nor with delivery in the Plan.

47. Part 2 of the Register has not been produced to assist and inform the EIP of progress in housing delivery. The on-going Call for Sites is not being used to update the Register or to inform the EIP with sites potentially available to develop during the Plan period.

48. The approach to the Farm Tyres site confirms that despite the site meeting criteria for the Register it remains excluded since the July 2017 submission.

49. A recent Call for Sites web page is produced in Appendix D. The Register will be updated at least yearly. The Part 1 Brownfield Register is not appended to this Statement. It confirms all sites were added 5th March 2018, long after the Farm Tyres site was submitted. It has not been added to or updated since.

50. **MIQ4. Issue 4. 1c(iv).** Has the contribution of windfall sites been underestimated? **In my opinion – yes.** If the Plan is not amended to take account of the potential for settlement infilling and PDL as set out above, there will be significant ad hoc windfall from MGB sites.

51. **MIQ4. Issue 4. 2.** From the reasoning above there has not been a robust review of the MGB boundaries, site allocation, or distribution. Identified from deficiencies in the Green Belt Reviews, especially, Stage 2, 2016. There has not been sufficient range of detail, material factors or considerations taken into account in the balance.

52. **MIQ4. Issue 4.3.** Again from above the scale and numbers allocated in particular to North Weald Basset, but also Thornwood and Waltham Abbey, and for that matter Buckhurst Hill, do not appear to be reasonably proportionate to existing size, extent or function, or characteristics of the settlements. There is insufficient regard to public transport availability (rail), to the potential for intensification of development, and a failure to make use of smaller MGB sites and settlements. This is not a sustainable approach.

53. **MIQ4. Issue 4.4.** For reasons above, insufficient detail in surveys and assessments of all MGB boundaries to identify anomalies or the potential of all settlements in the District, is achieved. A full objective assessment and review of settlement development needs relative to existing population, in more detail, should be undertaken before distribution is confirmed. Exceptional circumstances for boundary changes to settlements in the MGB could be missed.

54. Permission appears to justify a MGB boundary change. This is inappropriate for small groups of dwellings located at distance from services and social infrastructure, eg the Providence Nursery site. Ad hoc consent does not justify exceptional circumstances for change. Additional development pressure can arise. **This is unsound.**

55. Therefore how exceptional circumstances to amend MGB boundaries have been applied is unclear. It appears inconsistent and illogical. Settlements of significant size, e.g. Sewardstone are not looked at in detail, viewed within parcels of land, whereas a permission for a few houses appears to create a settlement and a change in the MGB boundary.

56 Policies and proposals maps are inconsistent, flawed, and unsound. The Plan will likely prove ineffective in controlling development in the MGB and within, or proximate to, green belt settlements.

57. More ad hoc decisions can be expected following the NPPF 2018 para. 140.

58. There has been a failure to secure a properly justified basis for the distribution of development, especially limited development for all settlements, especially those currently colour-washed over and within the MGB.

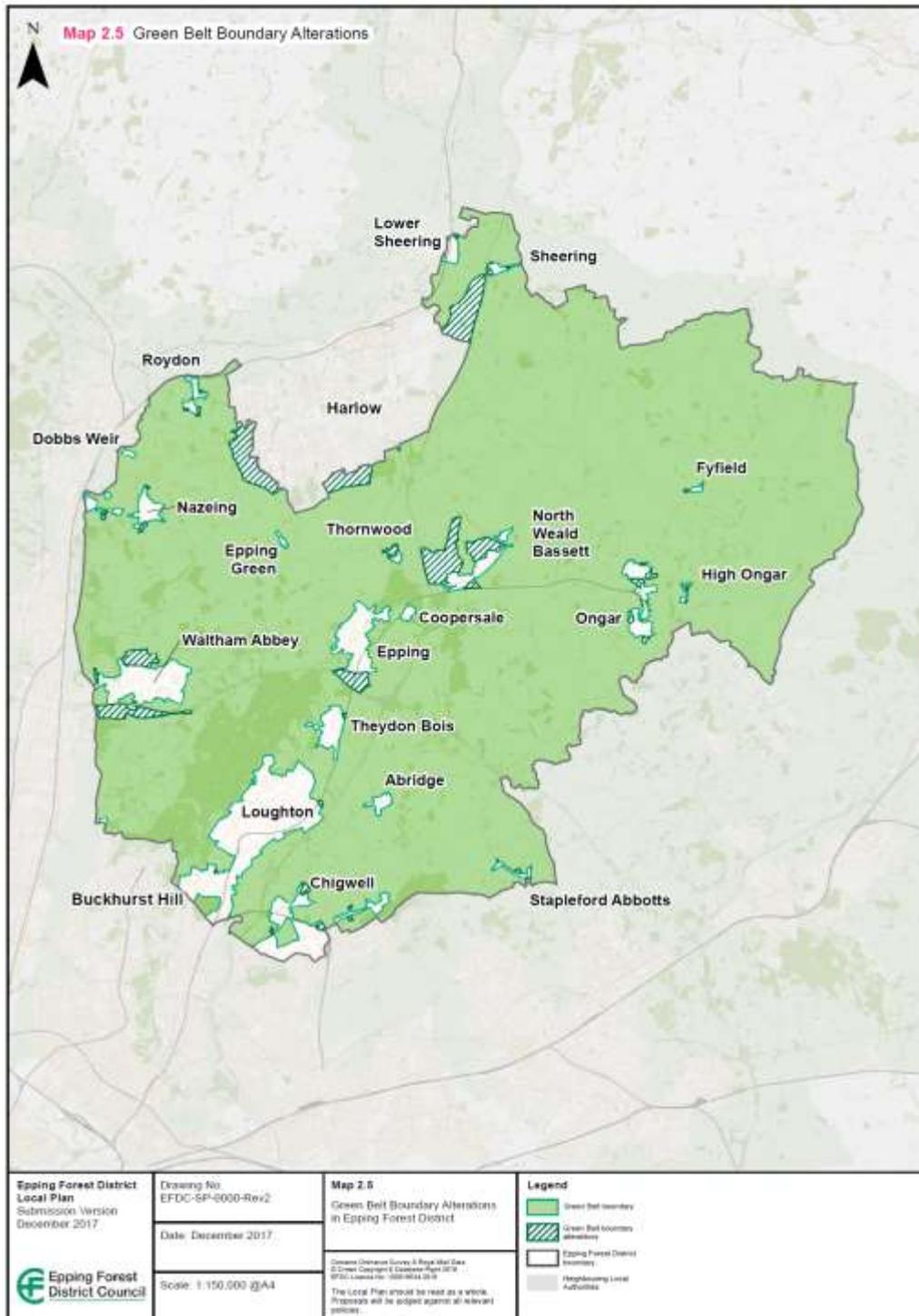
59. There is over-reliance on large scale development with insufficient regard to the possible development needs of existing settlements requiring expansion, and the capability of delivering dispersed development through smaller sites quickly. The Plan is unsound.

Alan Wipperman BA MRICS MRTPI C Dip AF

21 January 2019

(Microsoft Office Word - word count 2,907).

**APPENDIX A.
GREEN BELT ALTERATIONS MAP 2.5.**



C1/2014/1144

Neutral Citation Number: [2015] EWCA Civ 195
IN THE SUPREME COURT OF JUDICATURE
IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
(HIS HONOUR JUDGE MACKIE QC
(sitting as a deputy judge of the High Court))

Royal Courts of Justice
Strand
London, WC2A 2LL

Monday, 9 February 2015

BEFORE:

LORD JUSTICE SULLIVAN

LORD JUSTICE BEAN

LADY JUSTICE KING DBE

JULIAN WOOD

Claimant/Appellant

-v-

THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT

First Defendant

and

GRAVESHAM BOROUGH COUNCIL

Second Defendant/Respondent

(DAR Transcript of
Wordwave International Limited
A Merrill Communications Company
165 Fleet Street, London EC4A 2DY
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Official Shorthand Writers to the Court)

MR RICHARD TURNEY (instructed by Kingsley Smith Solicitors) appeared on behalf of
the Appellant

MR JUAN LOPEZ (instructed by Sharpe Pritchard) appeared on behalf of the Respondent

(Second Defendant)

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(As Approved by the Court)
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LORD JUSTICE SULLIVAN:

Introduction

1. This is an appeal against the order dated 21 February 2014 of HHJ Mackie QC, sitting as a deputy High Court judge, dismissing the appellant's application under section 288 of the Town and Country Planning Act 1990 ("the Act") to quash the decision dated 8 May 2013 of one of the first respondent's planning inspectors to dismiss the appellant's appeal under section 78 of the Act against the second respondent's decision to refuse to grant outline planning permission for the erection of a single dwelling on land adjoining the Sec-Ho Public House, Pear Tree Lane, Shome, Gravesend.
2. The application under section 288 was made on two grounds which the judge summarised in paragraph 3 of his judgment ([2014] EWHC 683 (Admin)).
3. In his first ground of appeal the appellant contended that the inspector had failed properly to apply the policy in paragraph 89 of the National Planning Policy Framework ("NPPF") relating to "limited infilling in villages" in the green belt.
4. The appellant's second ground of appeal, which had been conceded by the first respondent, who played no part in the proceedings before the judge or in the appeal to this court, contended that the inspector had failed properly to consider the shortfall in housing land supply.
5. The judge dismissed the first ground of appeal (see paragraphs 66-68 of his judgment). In respect of the second ground of appeal, the judge concluded that the inspector had failed to give adequate reasons because he had failed to deal with the extent of the housing shortfall (see paragraphs 88-90), and granted the appellant a declaration that the inspector had erred in that particular respect.
6. However, the judge declined to squash the inspector's decision on this ground because he was satisfied that, whatever the extent of the shortfall, the inspector would have reached the same decision given the very strong policy objection to inappropriate development in the green belt (see paragraphs 91-94).
7. In this appeal the appellant challenges the judge's conclusion that the inspector correctly applied the policy guidance in respect of infilling in villages in paragraph 89 of the NPPF, and the judge's decision not to quash the inspector's decision on ground 2.

The NPPF

8. Paragraphs 79 to 92 of the NPPF deal with "Protecting green belt land". Inappropriate development in the green belt should not be approved except in "very special circumstances" which will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (see paragraphs 87 and 88).
9. Paragraph 89 is the key paragraph of the NPPF for the purposes of this appeal. So far as relevant, that paragraph provides that:

"A local planning authority should regard the construction of new buildings as

inappropriate in Green Belt. Exceptions to this are:

- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan ..."

10. Before the judge it was submitted on behalf of the second respondent that the words "under policies set out in the Local Plan" governed both limited affordable housing for local community needs and limited infilling in villages.
11. In his oral submissions before us Mr Lopez did not pursue that submission, which had been foreshadowed in his written skeleton argument on behalf of the second respondent. In my view, he was right not to do so. The position of the comma in the description of the exception is important. The words at the end of the exception are part of and govern the second limb of the exception -- limited affordable housing for local community needs. It is readily understandable why that should be so. It may not be possible to accommodate such housing within a village that is in the green belt, so any expansion of the village to accommodate such housing must be dealt with by policies in the Local Plan. The same considerations do not apply to limited infilling in villages.
12. Before this court it was common ground that whether or not a proposed development constituted limited infilling in a village for the purpose of paragraph 89 was a question of planning judgment for the inspector and the inspector's answer to that question would depend upon his assessment of the position on the ground. It was also common ground that while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector's assessment of the extent of the village on the ground. Against that agreed background, I turn to the inspector's decision.

The inspector's decision

13. Having referred to paragraphs 79 to 92 of the NPPF, the inspector said in paragraphs 7 and 8:

"7. The appeal site is located on the south side of Pear Tree Lane and comprises a plot of open land adjacent to the car park of a public house. It is surrounded on all sides by housing, and is bounded by conifer hedges and timber fencing. To the west and south is a continuously built-up

area, while to the east it adjoins a line of detached properties extending out into the countryside. On the opposite side of the road is a row of similar bungalows (Ridgeway Bungalows) on deep plots behind which are open fields.

8. I have not been advised of the location of the village envelope or the Green Belt boundary, but the Council states that the site lies outside the village boundary and within the countryside and the Metropolitan Green Belt. Ridgeway Bungalows continue the built-up area further to the east on the north side of Pear Tree Lane."

14. In paragraph 9 the inspector referred to an earlier appeal for a development of two houses on the appeal site which had been dismissed in 1991. He continued in paragraphs 10 and 11:

"10. The 1991 appeal indicates that the built-up area boundary ran along the east side of Rose Cottage with the public house and other properties to the east of Bowesden Lane being in the countryside. However, at that time the Council was reviewing the Local Plan and proposed to include within the village envelope the public house, its car park and Ridgeway Bungalows. While the last named are now within the village envelope I have not been advised whether the public house and its car park are now within or without.

11. Whichever is the case the site appears to lie on or very close to the boundary between the village and the Green Belt."

15. The inspector dealt with the appeal under the written representations procedure. That explains why the information before him appears to have been less than complete.
16. We have been shown a copy of the application plan which was before the inspector. The appeal site is immediately to the east of the public house and its car park. If the public house and car park had been included in the village envelope under the review, then the western boundary of the appeal site would have been on the village boundary, as defined in the Local Plan. If on the other hand the public house and its car park had not been included in the village envelope when the Local Plan was reviewed, then the appeal site would still have been very close to the boundary between the village and the green belt as defined in the Local Plan. It would have been separated from the defined boundary by the public house and its car park.
17. I return to the inspector's decision. The inspector concluded in paragraphs 13 and 14 as follows:

"13. Since the 1991 appeal some developments have taken place in the area. Most notable at the time of my visit was work being undertaken on Shornebury, a detached house adjoining the site to the east. Third party evidence indicates that this is in fact two large extensions one on each side of the house. The resulting building is massive and highly prominent in the street scene. It extends the built environment out of the village into the Green Belt. Contrary to the appearance of the area in

1991, the built-up area now appears to start some distance to the east of the appeal site.

14. Paragraph 89 of the NPPF regards the construction of new buildings in the Green Belt as inappropriate, but indicates a number of exceptions. Among these is limited infilling in villages. Although the appeal site has the appearance of being an infill location in view of the existing development all around, it does not lie in a village, but outside the boundary. I therefore consider that the proposed development would be inappropriate and thus by definition harmful to the Green Belt."

18. Under the heading "Effect on village envelope and countryside" the inspector said in paragraphs 17 and 18:

"17. The proposed development would infill an open space on or close to the village envelope. However, the continuing development along Pear Tree Lane gives the appearance of the built-up area extending further to the east. There is already a difference between the defined village boundary and that which appears on the ground to be the logical end of the built-up area.

18. I do not consider that the proposed development would distort further the definition between village envelope and surrounding countryside."

The parties' submissions

19. Mr Turney submitted, on behalf of the appellant, that on a fair reading of the passages in the inspector's decision to which I have just referred the inspector had misdirected himself because he had wrongly treated the boundary of the village as defined in the Local Plan as being determinative of the issue whether the proposed development was in the village. If the appeal site was in the village, there was no suggestion that the proposal for one dwelling was not limited infilling (between the public house to the west and Shornebury to the east).
20. He pointed to paragraph 8 of the decision, in which the inspector referred to the village envelope and the green belt boundary. Although the inspector had said that he had not been advised of their location, he noted the second respondent's statement that the appeal site was outside the village boundary and within the countryside and the green belt. This, submitted Mr Turney, suggested that the inspector was considering a boundary that was defined on a development plan, rather than the boundary on the ground.
21. Mr Turney submitted that this conclusion was reinforced by the discussion in paragraph 10 of the inspector's decision of the review of the village envelope, which was clearly the village envelope as defined in the Local Plan. This was the boundary to which the inspector was referring in paragraph 11 of the decision. Whether the appeal site was on or close to that defined boundary depended on whether the defined boundary had been revised to include the public house and its car park to the west of the site.

22. Mr Turney submitted that in paragraph 13, by contrast, the inspector was there considering the position on the ground and had concluded that the built environment had extended into the green belt, so that the built-up area appeared to start some distance to the east of the site. Although the inspector recognised in paragraph 14 that this meant that the appeal site had the appearance of being an infill site because of the existing development all around it, the inspector's reason for concluding that it did not lie "in a village" was because it lay outside "the boundary", that is to say the boundary as defined in the Local Plan which the inspector had been discussing in the earlier paragraphs of his decision.
23. Mr Turney submitted at this conclusion was confirmed by paragraph 17 of the decision in which the inspector had returned to the concept of the village envelope (to which he had referred in paragraphs 8 and 10) and had noted the difference between the "defined village boundary" and the appearance of the village on the ground.
24. On behalf of the second respondent, Mr Lopez accepted that the inspector would have misdirected himself in paragraph 14 of the decision if he had treated the boundary of the village as defined in the local plan as determinative. However, he submitted that the inspector had not misdirected himself in that way. The inspector had recognised (see paragraph 13 of the decision) that the built-up area of the village had expanded since 1991, and had therefore gone on in paragraph 14 to form his own view of what was the boundary of the village in 2013 and had concluded, as a matter of planning judgment, that the appeal site did not fall within the village, notwithstanding the fact that there were, as Mr Lopez put it, "other pockets" of built-up development to the east of the appeal site.
25. I have to say that looking at the application plan and at the inspector's description of the position on the ground, Mr Lopez's description of the development to the east of the appeal site as "other pockets" of development does not seem to me to do full justice to the extent of the development to the east of the site.
26. Be that as it may, Mr Lopez submitted that the conclusion that the inspector in paragraph 14 had formed his own planning judgment as to where the boundary of the village lay and had not treated the boundary as defined in the Local Plan as being determinative was the only logical conclusion that could be drawn because the inspector had made it clear earlier in the decision (see paragraph 8) that he had not been advised of the village envelope boundary as defined in the Local Plan. Mr Lopez submitted that since the inspector did not know the position of the village boundary as defined in the Local Plan, he could not have relied upon it, much less could he have treated it as being determinative of the question whether the appeal site was in the village for the purpose of paragraph 89 of the NPPF.

Discussion

27. The submission that the inspector could not have treated the village boundary as defined in the Local Plan as determinative and had, of necessity, to form his own view as to what was the boundary of the village because he had not been told what was the position of the defined boundary has an obvious attraction, but it overlooks the fact that

the inspector was not left in complete ignorance as to the precise position of the defined boundary in the Local Plan.

28. The 1991 appeal decision, which the inspector referred to in paragraph 10 of the decision letter, had told the inspector what the defined boundary was in 1991. It told him that at that time it excluded the public house and its car park to the west of the appeal site. It also told the inspector that at that time the defined boundary was under review. The inspector knew that as a result of that review the Ridgeway Bungalows, which were on the north side of Pear Tree Lane opposite the appeal site, had been included in the defined village envelope. He did not know whether or not the public house and its car park had also been included, but whether they had been included or not under the review, that still left the appeal site either on or very close to the boundary between the village and the green belt as defined in the Local Plan (see paragraph 10 of the decision).
29. Once this is appreciated, it is clear that for all of the reasons advanced by Mr Turney in his submissions (see above) "the boundary" to which the inspector was referring in paragraph 14 was not his own assessment of the boundary of the village on the ground, but was the defined village boundary in the Local Plan, to which the inspector had been referring in paragraphs 10 and 11. Whether or not the public house and its car park were within the defined boundary as revised, the appeal site was outside that boundary. That is the sole reason why the inspector concluded in paragraph 14 that the appeal site did "not lie in a village, but outside the boundary", notwithstanding his earlier assessment in paragraph 13 of the extent of the built-up area on the ground. The contrast between the "village envelope" within the "defined village boundary" and the extent of the built-up area of the village on the ground is repeated in paragraph 17 of the decision.

Conclusions

30. For these reasons, I am satisfied that on a fair reading of this decision the inspector did misdirect himself in the manner alleged in ground 1 of this appeal. It follows that the inspector's decision must be quashed and in these circumstances it is unnecessary, in my view, to consider ground 2 of the appeal.
31. LORD JUSTICE BEAN: I agree.
32. LADY JUSTICE KING: I also agree.

ORDER: Appeal allowed; paragraph 4 of Judge Mackie's order set aside and an order is substituted that the second respondent shall pay the appellant's costs from 30 January 2014, to be the subject of a detailed assessment if not otherwise agreed; the second respondent to pay the appellant's costs of the appeal, to be the subject of a detailed assessment if not otherwise agreed; order for an interim payment on account of costs in the sum of £25,000.

(Order not part of approved judgment)

SETTLEMENT HIERARCHY 2015 EXTRACTS.

Table 2 - Points Based System.

Table 2 – Points for Settlement Assessment

Settlement Category	Combined facilities
<p><i>Town</i></p> <p>A built up area with a name, defined boundaries, and local government, that is larger than a large village and smaller than a city. There are a good range of services and facilities, including good public transport access.</p>	21+
<p><i>Large Village</i></p> <p>A settlement that is smaller than a town, containing moderate facilities including reasonable public transport access. Can meet most local demands for “everyday” services.</p>	14 - 20
<p><i>Small Village</i></p> <p>Smaller than a larger village, but larger than a hamlet. Few facilities and limited public transport access.</p>	7 - 13
<p><i>Hamlet</i></p> <p>The smallest of settlements with very limited services and facilities. There is usually no discernible centre.</p>	0 - 6

Table 3.

Table 3 – Settlement Assessment Summary

	Airbridge	Backburns Hill	Burdies Green	Chigwell	Chigwell Row	Chipping Ongar	Coopersale	Epping	Epping Green	Fyfield	High Beach	High Ongar	Loughton/Osborne	Lower Narsing	Lower Sheering	Matching Green	Merton	North Wood	Royston	Seventons	Sheering	Stephens Abbotts	Thryton Bois	Thornwood	Witham Abbey	Willgale	
Population (11+ Census)	201	1188	88	1287	2287	6251	88	1181	831	786	88	1288	2118	3014	2014	881	521	4477	2103	1118	881	1030	4002	889	8811	881	
Area (ha)	104	309	88	1180	376	902	88	773	1773	881	88	588	1512	889	333	1262	58	881	705	88	304	857	832	488	1888	1388	
# Dwellings	1.8	28.6	88	8.05	5.8	8.83	88	18.8	8.87	8.8	88	0.78	20.57	3.8	3.8	8.52	0.04	6.77	3.1	13.88	2.00	1.05	8.88	1.88	8.88	3.38	
Education																											
Nursery	Y	Y	N	Y	Y	Y	Y	Y	N	N	Y	N	Y	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Primary	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N	Y	N	
Secondary	N	N	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Higher	N	N	N	N	N	Y	N	N	N	N	Y	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	
Health																											
GP	Y	Y	N	N	N	Y	N	Y	N	N	N	N	Y	Y	N	N	N	Y	N	N	N	N	Y	N	Y	N	
Dental	N	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	Y	N	Y	N	
Optician	N	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	Y	N	
Pharmacy	N	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	Y	N	N	N	Y	Y	N	N	N	Y	N	Y	N	
Hospital	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	

Settlement Hierarchy Technical Paper
September 2015

	Airbridge	Backburns Hill	Burdies Green	Chigwell	Chigwell Row	Chipping Ongar	Coopersale	Epping	Epping Green	Fyfield	High Beach	High Ongar	Loughton/Osborne	Lower Narsing	Lower Sheering	Matching Green	Merton	North Wood	Royston	Seventons	Sheering	Stephens Abbotts	Thryton Bois	Thornwood	Witham Abbey	Willgale	
Transport																											
Bus Service (Level 1)	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Bus Service (Level 2)	Y	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	Y	N	N	N	N	Y	Y	Y	Y	N
Rail	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	Y	N	N	N	N	N	N	N	N
Underground (Loop)	N	Y	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Underground (Direct)	N	Y	N	N	N	N	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	Y	N	N	N	
Retail																											
Post Office	Y	Y	N	Y	Y	Y	N	Y	N	Y	N	Y	Y	N	N	Y	N	Y	Y	Y	Y	Y	N	Y	N	Y	N
Local Shop	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Supermarket (> 300sqm)	N	Y	N	N	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
ATM	Y	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	Y	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N
Bank	N	N	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Pub, Restaurant	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N
Community Facilities/Services																											
Place of Worship	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Community Hall	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y

	Abridge	Buckhurst Hill	Bumbles Green	Chigwell	Chigwell Row	Chipping Ongar	Coopersale	Epping	Epping Green	Fyfield	High Beach	High Ongar	Loughton/Debden	Lower Nazeing	Lower Sheering	Matching Green	Moreton	North Weald	Roydon	Sewardstone	Sheering	Stapleford Abbots	Theydon Bois	Thornwood	Waltham Abbey	Willingale
Fire Station	N	N	N	N	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	Y	N
Leisure/Sports Facility	N	Y	Y	Y	N	Y	N	Y	N	N	Y	N	Y	N	N	N	N	Y	Y	N	N	N	Y	Y	Y	Y
Recreational Amenity	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Library	N	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	Y	N	N	N	N	N	N	Y	N
Police Station	N	N	N	N	N	N	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N
Citizens Advice Bureau	N	N	N	N	N	N	N	Y	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	Y	N
Public Car Park	N	Y	N	Y	N	Y	N	Y	N	N	N	N	Y	Y	N	N	N	N	Y	N	N	N	N	N	Y	N
TOTAL	12	22	4	20	8	23	8	27	5	8	6	7	27	10	3	8	6	15	14	6	9	8	17	8	23	5

Table 4 and page extract.

4.4 The final settlement hierarchy for the District is as follows:

Table 4 – Epping Forest District Settlement Hierarchy

Category	Settlement
Town	Chipping Ongar, Epping, Loughton/Debden, Waltham Abbey
Large Village	Buckhurst Hill, Chigwell, North Weald, Theydon Bois
Small Village	Abridge, Chigwell Row, Coopersale, Fyfield, High Ongar, Lower Nazeing, "Matching" (incorporating Matching Green, Matching Tye and Matching), Roydon, Sheering, Stapleford Abbots, Thornwood.
Hamlet	Abess Roding, Beauchamp Roding, Berners Roding, Bobbingworth, Broadley Common, Bumbles Green, Dobb's Weir, Epping Green, Fiddlers Hamlet, Foster Street, Hare Street, Hastigwood, High Beach, High Laver, Jacks Hatch, Lambourne End, Little Laver, Long Green, Lower Sheering, Magdalen Laver, Moreton, Newmans End, Nine Ashes, Norton Heath, Norton Mandeville, Roydon Hamlet, Sewardstone, Sewardstonebury, Stanford Rivers, Stapleford Tawney, Theydon Gamon, Theydon Mount, Toot Hill, Upper Nazeing, Upshire, Willingale.

4.5 Determination of appropriate settlement boundaries is a matter for the emerging Local Plan. For the avoidance of doubt at this stage, boundaries created by the existing Green Belt policy boundaries will serve as settlement boundaries.

Brownfield Land Register

The Regulations place a duty on local authorities to maintain and publish a Brownfield Land Register. The Brownfield Register provides publicly available information on brownfield land in the District that the Council considers appropriate for residential development. The criteria that must be met for sites to be entered onto the **Brownfield Register** are:

- Previously Developed Land as defined by the [National Planning Policy Framework](#)
- A minimum of 0.25ha or be capable of supporting at least 5 dwellings
- Suitable - Sites must be appropriate for residential-led development, having regard to the National Planning Policy Framework and local planning policies
- Available - Owner or Developer must have expressed an intention to sell or develop the land
- Achievable - Development must be likely to take place within 15 years of entry onto the Register

For further information regarding Brownfield Registers see [Planning Practice Guidance published by GOV.UK](#). The Council has published Part 1 of the Register. This is a list of all the brownfield sites in the District that are considered appropriate for residential development. The Register includes sites proposed for allocation in the Local Plan Submission Version 2017 and sites that have been granted planning permission.

- [Brownfield Register](#)

The Council has not proposed any sites for permission in principle and therefore there are currently no sites on Part 2 of the Register.

Submitting a site for consideration

If you wish to submit a Brownfield site to the Council for consideration to be included on Part 1 of the Register, please complete the Call for Sites/Brownfield Land Register Form.

- [Call for Sites and Brownfield Register Application Form](#)

The register will be reviewed at least annually. Please note you must submit a separate form for each individual site. The submission of the form does not mean the site will be automatically added to the Brownfield Register. The Council will need to assess whether or not the site meets the criteria set out above.

STATEMENT OF TRUTH, EXPERIENCE AND QUALIFICATIONS.

As required by the Royal Institution of Chartered Surveyors Guidance as an Expert Witness I believe that the facts as I have stated in this Statement to be true, and the opinions I have expressed to be correct.

I am not being paid on any incentive or success related fee basis in this matter.

I am advising Mr Mark Gregory and the Gregory family on their short and long term development intentions for the property and no other matters and this Statement is part of those instructions.

Alan Wipperman BA MRICS MRTPI C Dip AF.

21st January 2019.

Experience and Qualifications.

1. I have been a Member of the Royal Town Planning Institute since election in 1979 and a Member of the Royal Institution of Chartered Surveyors since 1981.
2. I hold a CNAAB BA First Class Honours Degree in Town and Country Planning (1976) winning the RTPI Book Prize for that year. I have since graduation worked on planning, property and development matters throughout the UK and the Irish Republic. I am 64 years of age and resident in Little Bardfield in Essex.
3. In my wider experience I have worked, inter alia, as a Planning Officer at Thurrock Borough Council, including assessing housing land availability, and later as a Senior then Principal Executive Assistant at the London Transport Estates Department, with departmental responsibility for planning policy responses throughout London, as well as working on planning applications for the Executive.
4. I have been the Assistant Estate Manager, Port of London Authority during the docklands redevelopment period and have worked on property development and funding development as a development surveyor with Investors in Industry plc.
5. Since 1984 I have been either a partner or a principal in private practices based in Essex and Hertfordshire, or in London. From 1984-1987 I was a partner in Brian Dadd Commercial based in Buckhurst Hill with considerable local work in Epping Forest District. I now practice as a consultant and principal of Alan Wipperman & Company – Property and Planning – based in Essex which was established in 1987.
6. I have advised many clients on planning and property matters in the Epping Forest District area from time to time over many years since 1984. I know the Sewardstone area well. I have acted for the Gregory family for many years and know the Farm Tyres site well.