A note on the meaning of the words “general conformity” in section 24 of the Planning and Compulsory Purchase Act 2004.

1. Words used in an Act of Parliament may be defined, in which case they mean what Parliament has attributed to them by way of meaning. However, many words used in an Act of Parliament are not defined, in which case they may be defined in the Interpretation Act 1978 or left undefined. The object in construing an Act of Parliament is to ascertain the intention of Parliament as expressed in the Act, considering it as a whole and in its context and acting on behalf of the people.\(^1\)

2. The words “general conformity” are not defined in either the 2004 Act or the Interpretation Act 1978. Accordingly, they have their ordinary English meaning and, given that the ordinary English meaning of words takes colour from their context, the words “general conformity” are to be considered in the context\(^2\) of the Act. This, of course, reflects the last sentence of the preceding paragraph.

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\(^1\) This sentence is taken from Halsbury’s Laws of England, 4\(^{th}\) edition Reissue, at volume 44(1), paragraph 372. The sentence in Halsbury’s Laws is supported by numerous cases starting with Heydon’s Case (1584) 3 Co Rep 7a at 7b.

\(^2\) The importance of context in law was emphasised in R. v. Secretary of State ex p. Daly [2001] UKHL 26, [2001] 3 All ER 433, [2001] 2 WLR 1622. Lord Steyn said “In law context is everything”.

3. The meaning of an enactment which corresponds to the ascertained intention of Parliament is known as its legal meaning, which may or may not correspond to the grammatical or literal meaning.\(^3\)

4. There are various rules or interpretative criteria that the Courts have used in considering questions of construction of statutory terms. It is appropriate to mention the following:\(^4\)

(i) An enactment\(^5\) must be construed so that significance is given to each component of the Act containing the enactment according to its legislative function.

(ii) In construing any provision of an Act it is necessary to bear its framework in mind, since the Act is to be treated as a whole.

(iii) In interpreting legislative words, in the light of the facts to which the words are being applied, the context must be considered and discerned including all such matters as may illumine the text and make clear the meaning intended by the legislature, in the factual situation of the instant case.

\(^3\) These propositions are supported by Halsbury’s Laws of England, op. cit.

\(^4\) All are derived from Halsbury’s Laws of England, op. cit.

\(^5\) i.e. In this case section 24.
(iv) In considering, in relation to the facts of the instant case, which of opposing constructions is to be preferred, it should be presumed that Parliament intended to follow the principle that the law should follow the public interest.

(v) Preference is to be given to the ordinary and natural meaning of a word or phrase.

5. The Act of 2004 was one “to make provision relating to spatial development and town and country planning …” Part 2 of the Act, in which section 24 sits, is concerned with, as its heading says, “Local Development”. The sections within part 2 follow a sequence namely survey, development schemes and documents.

6. Section 15 demands that local planning authorities prepare and maintain a scheme to be known as the local development scheme. The scheme has to specify, amongst other things, the timetable for the preparation and revision of the development plan documents.

7. Section 17(6) demands that authorities keep under review their local development documents having regard to reviews carried out under sections 13 and 14. Section 13 demands that a local planning authority has to keep under review the matter which may be expected to affect the development of their area or the planning of its development.

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6 This is a quotation from the long title of the Act. A long title may be used in interpretation.
8. Subject to the inhibition on adopting development plan documents other than following recommendation, a development plan document may when adopted be as originally prepared or as modified to take account of any representation made or any other matter thought relevant by the local planning authority.

9. By section 24 local development documents must be in general conformity with the regional strategy. (In our circumstance this translates as a demand that the Core Strategy be in general conformity with the South East Plan).

10. The context created and recognised by Parliament and described in the Act is of:

   (i) review of planning matters;

   (ii) a sequence in which some documents are bound to be subsequent to others;

   (iii) an ability to modify to take account of anything thought relevant;

   (iv) a desire to create adopted development plan documents.

11. The obligation which arises in that context\(^7\) is one of general conformity. These words are to be construed in context bearing in mind that there are two words, one of which is an adjective whose purpose is to qualify the noun ‘conformity’.

\(^7\) This means, given the vital importance of economic circumstances to planning, that changing economic circumstances plainly constitute part of the context.
12. The context precludes the possibility that, if the word conformity stood by itself, it would signify a precise reflection of the earlier document. This would be inconsistent with the described sequence and the Parliamentary demand that matters be reviewed. Further, conformity as an ordinary English word suggests likeness or agreement in character.\(^8\) It does not suggest a reproduction or a copy. A battle plan may contain many ingredients which conform to a strategy although there will be difference between the ingredients\(^9\) and the strategy.

13. The qualifying adjective is general. As a matter of ordinary English this word emphasises or extends the breadth of that which follows.\(^10\) Accordingly, the context of the Act demands that the judgment, general conformity, be made in circumstances when there is a sequence of documents against a background of review of circumstances with the purpose of the review being that the documents can take such reviewed matters into account.

14. The words ‘general conformity’ have been considered in *Persimmon v. Stevenage B.C.* [2006] 1 WLR 334. The most useful paragraph is 28, which is within the judgment of Laws LJ.

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\(^8\) See the Shorter Oxford English Dictionary.

\(^9\) Soldiers might be a little disconcerted if their commanding officers told them their plans could not take account of new guns or their removal because they were not mentioned in the strategy considered at G.H.Q.

\(^10\) As a general rule, in a general way, general confession, the general reader etc.
15. The approach of Laws LJ reflected the approach vouchsafed by the principles set down in this note, which have been derived from a leading work\(^{11}\) on the topic. Thus, he referred to long lead times i.e. the context whereby there is (in consequence of the 2004 Act) a sequence of events. Further, he referred to the exigencies of planning policy presenting a changing picture i.e. the context whereby there is to be (in consequence of the 2004 Act) review.

16. The learned judge referred to the words themselves and said that on its true construction the requirement (i.e. general conformity) allowed considerable room for manoeuvre within the local plan (in our context the core strategy) in the measures taken to reflect (i.e. not mimic or repeat) structure plan policy (in our context the South East Plan), so as to meet the various and changing contingencies that can arise.

17. He referred, because it was relevant in the *Stevenage* case, to the fact that measures could properly be introduced to reflect the fact that some aspect of the structure plan is itself to be subject to review Laws LJ agreed with the judge at first instance who had said that the word *general* was likely to have been put in to make it clear that, to a degree the need for the local plan to take account of and explain the circumstances in which the strategic policy will be given effect.

18. The Court of Appeal in *Stevenage* also made clear (at paragraph 29) that the question there was general conformity was a matter of planning judgment which might admit

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\(^{11}\) Halsbury’s Laws. The relevant edition is written by Francis Bennion who is the leading authority on the topic.
of more than one reasonable answer. This approach was because the right interpretation of general conformity was a balanced one to allow what may be a considerable degree of movement within the local plan (in our case the Core Strategy) to meet the various and changing contingencies that can arise.

19. It is now possible to draw some threads together.

First, one cannot substitute for the words ‘general conformity’ another word or pair of words as if Parliament had specifically defined the words, which it has not.

Second, the words have in their context their ordinary English meaning.

Third, general conformity in context plainly allow a considerable degree of movement between the items to be contrasted.

Fourth, the movement is to meet various and changing contingencies.

Fifth, the contrast is between the South East Plan as a whole and the Core Strategy as a whole.

Sixth, the question whether there is general conformity is a matter of planning judgment.
CONCLUSION

20. In the context of town and country planning, a plan can still be in general conformity with an earlier plan even though there has been a considerable degree of movement. It, the requirement of general conformity, is relatively loose. The Core Strategy, bearing that in mind, can be seen as a working out of the South East Plan in the circumstances that now obtain. If a working out of an earlier plan through a later plan is taking place then in all likelihood there is general conformity. On the other hand if something other than a working out of an earlier plan through a later plan is taking place then there is likely not to be general conformity.

4-5 Gray’s Inn Square
Gray’s Inn
London WC1R 5AH

TIMOTHY STRAKER Q.C.

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12 Such, relatively tight or relatively loose, was identified as the issue in the appeal in the Stevenage case.