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## Appeal Decision

Inquiry held on 28 March 2017

Site visit made on 28 March 2017

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 05 May 2017**

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**Appeal Ref: APP/W0530/W/16/3150048**

**Land south of West Road and west of Mill Street, Gamlingay**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Endurance Estates Strategic Land Ltd (Mr Tim Holmes) against the decision of South Cambridgeshire District Council.
  - The application Ref S/1338/15/OL, dated 22 May 2015, was refused by notice dated 13 November 2015.
  - The development proposed is described as 'outline application for up to 29 dwellings with open space and access applied for in detail'.
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### Decision

1. The appeal is allowed and planning permission is granted for up to 29 dwellings with open space and access at land south of West Road and west of Mill Street, Gamlingay in accordance with the terms of the application, Ref S/1338/15/OL, dated 22 May 2015, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The description of development given in the application form refers to an outline application and access being applied for in detail. These are not acts of development and I have, therefore, omitted them in paragraph 1 above.
3. All matters except access were reserved for further approval. The application (the appeal application) was accompanied by supporting material, including a Development Framework Parameter Plan (drawing number SZ2580027-201 Rev A) and a Building Heights Parameter Plan (drawing number SZ2580027-202 Rev A). Following the refusal of the application, a further application, referenced S/2367/16/OL (the second application), was made for development of the same description. The second application was supported by revised Development Framework Parameter and Building Heights Parameter Plans (Rev B in both cases) and updated supporting information. In response to concerns that some of the drawings submitted were not accurate, revised illustrative sections<sup>1</sup> and a Supplementary Landscape and Visual Assessment<sup>2</sup> were submitted during the course of the determination of the second application. There is no substantive evidence to indicate that the revised information is not accurate.

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<sup>1</sup> Drawing numbers UDS30092-A1-0201 to 0207

<sup>2</sup> Dated August 2016

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4. The second application was subject to the statutory consultation procedures and a public consultation event was held in Gamlingay eco-hub on 18 October 2016. The application was presented to the Council's 1 February 2017 planning committee with a recommendation for approval. Interested parties had the opportunity to address the committee. The changes made to the second application were sufficient to overcome the Council's concerns regarding the appeal application and the committee resolved to approve it. Following the completion of a Planning Agreement, planning permission for the second application was granted on 6 February 2017.
5. The appellant's Statement of Case (dated May 2016) requested that the revised Development Framework Parameter and Building Heights Parameter Plans be taken into account in the determination of the appeal. The Statement of Common Ground (SofCG) confirms that, based on the revised information, the Council would not defend the reasons for refusal. Further, that the Council and the appellant considered that taking the revised information into account in the determination of the appeal would not prejudice the interests of any interested party.
6. A number of interested people who spoke in opposition to the proposal at the Inquiry expressed concern regarding the difficulty of keeping track of the updated information and the recent receipt of a large amount of information from the Council. The Council confirmed that, of the information it sent out recently, only version 2.0 of the SofCG was new. The changes to this version of the document do not materially affect the positions of the Council or the appellant. It was clarified at the Inquiry that the Council considers that the proposal would cause less than substantial harm to the Conservation Area and the listed buildings at 61 and 53-55 and 57 Mill Street.
7. I recognise that the submission of revised information has complicated matters in this case and that it has been challenging for local residents and other interested parties to follow the process. Nevertheless, the revised plans have been the subject of consultation through the second application and the intention to have them considered in the appeal has been known since May 2016. Therefore, I am satisfied that taking the revised information into account would not prejudice the interests of anyone concerned with the outcome of the appeal. For the avoidance of doubt, my decision is based on the drawings listed in condition 4 of the attached schedule. I have treated the remaining plans, including the revised cross-section drawings, as illustrative only.
8. Also for the avoidance of doubt, I confirm that my decision takes into account the objections to the scheme by the West Road Action Group, notwithstanding that one of its members withdrew the objections he made in a personal capacity<sup>3</sup>.
9. The grant of permission for the second application provides the developer with a realistic fall-back position to develop the land for 29 dwellings in the manner currently proposed, irrespective of the outcome of this appeal. The Council and the appellant disagree on the terms of two of the conditions imposed on this permission and I deal with that matter below.

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<sup>3</sup> Inquiry document 1

## Main Issues

10. Although the Council did not defend the reasons for refusal, they remain to be considered in the appeal. As such, the main issues are:
- whether the proposal would preserve or enhance the settings of the Gamlingay Conservation Area and the Grade II listed buildings at 61, 53-55 and 57 Mill Street;
  - the effect of the proposal on the character and appearance of the area with particular regard to the landscape setting of the site;
  - the effect of the proposal on the living conditions of the occupiers of neighbouring properties in West Road and Mill Street with particular regard to their outlook.

## Reasons

11. The Council accepts that it cannot demonstrate a five year supply of housing land. The SofCG puts the figure at 3.7 years which, according to the appellant's evidence, equates to a shortfall of 1614 units over the period 2015-20<sup>4</sup>. There is nothing to suggest that this deficit will be eradicated in the immediate future. Consequently, in accordance with National Planning Policy Framework (the Framework) paragraph 49, relevant policies for the supply of housing should be considered out of date. The SofCG considers that potentially relevant policies include ST/5 (Minor Rural Centres) of the Council's Core Strategy 2007 (CS) and Policies CH/4 (development within the setting of a listed building) and CH/5 (development affecting a conservation area) of the Council's Development Control Policies 2007 (DCP). The development plan remains the starting point for the determination of the appeal. Nevertheless, I consider the weight to be afforded to these policies below.

### *Settings of the Conservation Area and the Listed Buildings*

12. The eastern end of the appeal site has a frontage onto Mill Street. The listed buildings at Nos 53-55, 57 and 61 are located on the opposite (east) side of that road. Along with the appeal site, they sit at a higher level than the carriageway. Adjoining the appeal site, Mill Street and the buildings on its eastern side fall within the Gamlingay Conservation Area. The site itself, together with West Street and the buildings on the west side of Mill Street to the north, fall outside the designated Area. There is no statutory duty to pay special attention to the setting of a conservation area<sup>5</sup>, although decision makers are required to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses<sup>6</sup>.
13. Moreover, paragraph 137 advises that new development within the setting of a heritage asset should enhance or better reveal its significance. Further, proposals which preserve elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. Policy CH/4 of the DCP presumes against development which would adversely affect the curtilage or wider setting of a listed building and

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<sup>4</sup> Marcia Whitehead Proof - Appendix 9, Paragraph 16 of appeal ref APP/W0530/W/15/3131724

<sup>5</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) applies to buildings and land within a Conservation Area.

<sup>6</sup> Section 66(1) of the Act.

Policy CH/5 requires proposals affecting a conservation area to comply with legislative provisions and national policy. Paragraph 132 of the Framework states that, when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the conservation of the asset. Therefore, whilst Policies CH/4 and CH/5 are potentially relevant to the supply of housing, I consider that they are consistent with the aims of the Framework and can be afforded full weight.

### *Conservation Area*

14. The designation extends south and east from the historic core of the settlement to the edge of the built up area. Its significance lies in the medieval pattern of streets and vernacular buildings. Close to the centre, the buildings tend to be fairly closely spaced with frontages onto the pavement. In the vicinity of the appeal site buildings within the Conservation Area are somewhat more loosely spaced with intervening boundary walls creating variety and a sense of enclosure. This arrangement reflects the changing pattern of development from the core to the built up edge of the settlement and contributes to the significance of the heritage asset. The open and undeveloped countryside to the south of the built up area forms part of the setting of the heritage asset and contributes to its significance by placing the historic townscape in a countryside setting.
15. That relationship has already been weakened somewhat by the development at West Road, Chapel Field and Honey Hill south of its junction with Mill Street. Moreover, the 'raw edge' formed by the West Road development provides the backdrop for the appeal site in views from the south. The appeal proposal would have an urbanising effect on the site and, to that extent increase the separation between the historic townscape and its rural setting. However, the proposals would include the reinforcement of the hedge on the southern boundary of the site with a 7m wide planting belt, the retention of the existing hedge on the Mill Street boundary, setting the proposed buildings back from that boundary and limiting their height to one and a half storeys. These measures are shown on the application plans and could be secured by condition. With them in place, I consider that the proposed development would give the settlement a softer and greener edge than the West Road development. This would not entirely alleviate the urbanising effects of the proposal. However, the residual harm to the setting of the Conservation Area would be less than substantial.
16. Paragraph 134 advises that where, as in this case, a proposal would lead to less than substantial harm, that harm should be weighed against the public benefits of the proposal. I consider this matter and the relation of the proposal to DCP Policies CH/4 and CH/5 in the Planning Balance below.

### *61 Mill Street*

17. This two storey plus attic house dates from the 18<sup>th</sup> century. It is located at the junction of Mill Street and Honey Hill and has a formally composed principal elevation, presenting a prominent and attractive façade on the approach to the settlement from Potton Road to the south. This aspect of the building is an important contributor to its heritage significance. The gabled side elevation facing Mill Street sits behind planting and a boundary / fence. This side, and the rear elevation of the building are, therefore, less conspicuous in the street scene.

18. Both sides of Mill Street as it passes between No 61 and the appeal site are characterised by elevated ground levels and strong boundary vegetation. The road is, therefore, a strong component in views of the listed building from the south, falling within its setting and contributing to its significance as an important building at a gateway to the settlement. The openness of the appeal site behind the Mill Street boundary planting also helps to frame views of the heritage asset, although its contribution is less influential and, in longer range from the elevated section of Potton Road, is undermined by the West Road development which can be seen in the background.
19. The proposed retention of the planting on the Mill Street boundary of the site, the reinforcement of the planting on the southern boundary and the restrictions on the height and positioning of the dwellings on this part of the site would all help to curtail the effect of the proposal on the setting of No 61. Whilst there would still be a loss of openness, and the presence built development would likely be apparent, I consider that the impact of the proposal on the setting of No 61 would be limited, and certainly less than substantial.
20. Paragraph 134 advises that where, as in this case, a proposal would lead to less than substantial harm, that harm should be weighed against the public benefits of the proposal. I consider this matter and the relationship of the proposal to DCP Policy CH/4 and the Section 66(1) test in the Planning Balance below.
21. The listing entry for No 61 also includes 6 Honey Hill. This part of the property faces Honey Hill and does not have a direct visual relationship with the appeal site. There is no substantive evidence to suggest that the proposal would affect its setting.

*53-55 and 57 Mill Street*

22. These listed buildings front onto the east side of Mill Street. Their siting close to the road, traditional form and vernacular materials are typical of the historic buildings of Gamlingay. These characteristics give the heritage assets a large measure of their significance. It follows that Mill Street falls within their settings and the relationship between the buildings and the road contributes to their significance. In that regard, it is relevant the both buildings sit opposite more recent residential development which has been excluded from the Conservation Area and is readily distinguishable in form and appearance from the buildings which make up the historic core of the settlement.
23. No 57 is located opposite the pair of modern dwellings at 46/48 and, therefore, slightly to the north of the appeal site's Mill Street frontage. However, they are close enough for the northern corner of the site to fall within the setting of this listed building. Views are available from No 57, across the front garden of 48 and into the north east corner of the site.
24. The appeal proposals include a footpath and planting running west from Mill Street and parallel with the southern boundary of No 48. Having regard to the other features of the scheme described above, this footpath would be the element of the proposal closest to No 57 and would have the most direct effect on the part of Mill Street which contributes to its setting. With appropriate detailed design, which could be controlled through the reserved matters submissions, I consider that the footpath would not be harmful to the street scene or, therefore, to the setting of No 57. The remainder of the proposed

development would be set back sufficiently to avoid affecting the setting of the heritage asset.

25. The pair of cottages at Nos 53/55 sit to the north of No 57 and, therefore, at a greater distance from the appeal site. As such, whilst there is intervisibility between this building and the appeal site, the relationship is less strong than that between the site and No 57. Consequently, given my findings in respect of No 57, I consider that the proposal would not adversely affect the setting of Nos 53/55. Therefore, I find that, in respect of Nos 53/55 and 57 Mill Street, the proposal would not conflict with DCP Policy CH/4, Framework paragraph 137 or Section 66(1) of the Act.

#### *Character and Appearance*

26. The appeal site is located on the southern edge of the built up area, but is outside of the village framework defined in the Council's Core Strategy 2007 (CS). Policy ST/5 of the CS allows for the development of up to 30 dwellings within village frameworks. However, to the extent that this policy is concerned with the supply of housing, the engagement of Framework paragraph 49 means that it can be afforded limited weight.
27. The site is not covered by any landscape protection designations. It falls gently from east to west and is characterised by rough grassland enclosed by hedgerows of variable height and condition. It is therefore, an unexceptional example of the undulating countryside which the South Cambridgeshire Village Capacity Study 1998 identifies as providing the setting for Gamlingay. Moreover, it is closely associated with the settlement, being adjoined by built development on its northern, eastern and part of its western boundaries. Whilst the planting on the eastern, Mill Street, boundary is fairly substantial, the hedge marking the southern boundary of the site is rather more gappy. As such, the site's main contribution to the landscape character of the area is its openness.
28. Publicly accessible views of the site are limited. In essence they comprise sections of Mill Street and Potton Road to the east and south, West Road in the vicinity of Little Heath to the west and a short section of Wooton Field to the north. The Clopton Way Recreational Route runs along West Road and Mill Street/Potton Road. Views from some sections of Potton Road are slightly elevated.
29. The site is generally seen in the context of the adjoining built development. From the south in particular, development on the east side of Mill Street and Honey Hill extends further south, whilst the West Road development provides the backdrop to views of the site. The proposal would bring built development further south in these views, although it would not extend further than the existing development on the east side of Mill Street. Moreover, the reinforcement of the planting on the site's southern boundary, together with the proposed enhancement of the wetland area to the south west, would give this part of the settlement a softer edge than is currently provided by the West Road development.
30. I recognise that the eastern part of the site is some 2m above the level of Mill Street. Nevertheless, the retention of the hedge on the eastern boundary and the restrictions on the siting and height of new buildings on this part of the site would limit the visual impact of the proposal in short range views from Mill

Street. Viewed from Little Heath, the development would be fairly effectively screened by existing and proposed planting. Moreover, it would not extend built form further south than the existing development at Mill Street/Honey Hill. In close range views from the end of Wooton Field the existing open land would be replaced by built development, including an extension of the existing road. However, the trees to the north of the road would be retained and planting could be incorporated to filter views of the proposed dwellings.

31. Private views of the appeal site are available from the rear of adjoining dwellings in West Road and Mill Street. However, it is not a function of the planning system to protect general views from private property. I deal with the effect of the proposal on living conditions of neighbouring occupiers below.
32. Overall therefore, although the proposal would have an urbanising effect on the character of the site and result in a loss of openness, the new development would be well related to the existing built up area. It would also be visually contained in most views. When mature, the proposed planting would ensure that the development and, therefore this part of the settlement, would achieve a somewhat more sensitive transition to the countryside to the south than is currently the case. As such, I consider that the proposal would have a minor adverse impact on the character and appearance of the area. It would, therefore, result in a limited degree of conflict with DCP Policies DP/2(1a) and DP/3(2l and m) to the extent that they require proposals to preserve or enhance the character of villages and the landscape and similarly minor conflict with paragraph 5.47 of the Council's District Design Guide 2010 (DDG) insofar as it has similar aims.

#### *Living Conditions*

33. The rear gardens and rear windows of the dwellings on the south side of West Road have views over the appeal site. The Development Framework Parameters Plan shows a 'no build zone' along much of the boundary between the site and the West Road properties, with the remainder shown as a soft landscaped area. These requirements can be secured by condition. Moreover, the dwellings on this part of West Road have fairly long rear gardens<sup>7</sup>. Overall, therefore the separation between the existing and new dwellings would comfortably exceed the 25m 'rear to rear' distance set out in the DDG. I consider that this level of separation would be adequate to ensure that the proposal would not adversely affect the living conditions of the occupiers of dwellings on the south side of West Road by reason of loss of outlook, privacy, or sun or daylight.
34. No 48 Mill Street shares its rear and side boundaries with the appeal site. The dwelling is sited close to the side boundary. Although there are no windows in that elevation, there are solar panels on the facing roof slope. The dimensioned drawing at Figure 11 of Mr Clayton's proof puts the main rear wall of the dwelling some 15m off the rear boundary, although that figure does not take into a conservatory attached to the wall. A 1.5m wide soft landscape area is proposed along the common boundaries between the site and No 48, beyond which a footpath would run parallel to the side boundary. The footpath would increase the separation between the side of No 48 and the new dwellings to the south. In addition, the dwellings in this area would be restricted to one and a

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<sup>7</sup> At least 23m long based on the dimensioned drawing at Figure 11 of Mr Clayton's proof

half storeys in height and set back at least 10m from the Mill Street boundary. All of these measures could be secured by condition.

35. I recognise that the proposal would, nevertheless, curtail the open views currently available from No 48. However, I consider that the restrictions on the siting and height of the adjoining proposed dwellings would ensure that the proposal would not have an unduly overbearing effect on the outlook of occupiers or lead to a loss of sun or daylight to the house, garden or solar panels. The reserved matters submissions would include details of boundary planting and enclosures and the exact siting and window positions of the proposed dwellings. Careful consideration of these matters would ensure that the proposal would not lead to overlooking of No 48 and would comply with the separation distances set out in the DDG.
36. A condition could be imposed requiring the approval and implementation of an artificial lighting scheme for the development. Amongst other things, this would ensure that the lighting of the footpath adjoining No 48 could be designed to avoid light spillage into that property. The maintenance of the proposed hedge on the side boundary of No 48 would be covered by the maintenance arrangements for the site as a whole. Concern has been expressed regarding the effect of the proposal on maintenance access for the guttering and roof on the south side of No 48, which is close to the property boundary. However, it is necessary to go onto the appeal site to access that part of the property currently and the appeal proposal would not alter that situation.
37. Whilst the proposal would introduce public access close to the side of No 48, subject to the provision of appropriate boundary enclosures and lighting, I am not persuaded that it would materially reduce the security of the property.
38. The 'no build zone' on the West Road boundary of the site would also cover much of the rear boundary of No 46 and the 1.5m wide soft landscape area would also extend across the boundary. The rear wall of No 46 is set back some 17m from the boundary<sup>8</sup>. Having regard to these features, and with careful consideration at the reserved matters stage of the siting and orientation of the proposed dwelling closest to No 46, I consider that the proposal would not have an adverse effect on the outlook or privacy of the occupiers of that property.
39. Overall therefore, I find that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers by reason of loss of outlook, or in any other respect. As such, the proposal would comply with DCP Policy DP3 2(j) which presumes against development which would have an unacceptable adverse impact on residential amenity. The proposal would also accord with Framework paragraph 17 insofar as it has similar aims.

#### *Other Matters*

40. Concern has been expressed locally that the vehicle movements generated by the proposal would lead to highway safety problems, particularly having regard to existing parking on West Road, visibility at the junction of West Road and Mill Street and the unsuitability of 'Cow Lane' to accommodate additional traffic. The Transport Statement submitted with the application was updated<sup>9</sup>

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<sup>8</sup> Based on the dimensioned drawing at Figure 11 of Mr Clayton's proof

<sup>9</sup> EAS Transport Statement Update August 2015



to take into account the development of 10 units on land at 22a West Street. It finds that the proposal would generate around 18 two way vehicle movements in the peak morning and afternoon hours. Whilst I recognise that on street parking exists along West Road, I consider that the amount of additional traffic generated by the proposal (averaging less than one movement every three minutes at the busiest times) would not unduly interrupt the free flow of traffic on this road or lead to unsafe manoeuvres.

41. Having regard to the location of facilities in Gamlingay and the routes providing access to the wider highway network, it would be reasonable to expect the great majority of movements from the development to turn east out of Wooton Field, rather than west along 'Cow Lane'. The number of additional movements along that road would, therefore, likely to be minimal. Application drawing SK04 shows that visibility splays of 2.4m x 70m are available at the junction of West Road and Mill Street. The local highway authority is satisfied that this level of visibility is adequate for the road conditions. Nor is there any substantive evidence of personal injury accidents in the area.
42. Wooton Field is currently a cul de sac. It has been suggested that children from the nearby houses play in the road and, therefore, that the traffic from the development would pose a risk to their safety. I have already referred to the relatively small number of vehicle movements generated by the proposal in the peak hours. At the times children are likely to be playing, there would be fewer movements. Moreover, speed reduction features could be incorporated into the road design at the reserved matters stage. The proposal also includes areas of informal open space a short distance from the Wooton Field houses and a financial contribution toward the improvement of an off-site children's play area (see below). For these reasons, I find that the proposal would not lead to highway safety problems or disrupt the free flow of traffic on the local network.
43. Whilst some noise and disturbance during construction is inevitable, I will impose conditions requiring the approval and implementation of construction phase traffic and waste management plans and restrictions on the hours of construction activity in order to limit the effects of the construction works on the living conditions of neighbouring occupiers. With these measures in place I consider that the proposal would not lead to undue levels of noise or smell.
44. An Ecology Report<sup>10</sup> was submitted with the application. It found that the site does not contain habitats of principal biodiversity importance. It does, however support small populations of breeding bird and reptiles. The report recommends the creation of an ecological mitigation area in order to mitigate the effect of the proposal on birds and reptiles and compensation for the loss of the existing semi-natural habit. The details of the mitigation area, together with ecological enhancement measures can be secured by condition.
45. The site is not in an area of high flood risk and the Site Specific Flood Risk Assessment and Drainage Strategy<sup>11</sup> indicates that the surface water can be drained using ground infiltration over the majority of the site. The remainder of the site would drain to the adopted surface water system in Wooton Field. There is no substantive evidence to demonstrate that this approach would not satisfactorily serve the development or lead to flooding of adjoining properties.

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<sup>10</sup> Applied Ecology Ltd April 2015

<sup>11</sup> Richard Jackson Engineering Consultants April 2015

46. At the Inquiry reference was made to a Neighbourhood Plan for Gamlingay. However, it is at the early stages of preparation and no policies were presented in evidence. Therefore, I can give it no weight.
47. It has been suggested that the proposal raises issues which cannot be dealt with through an outline application. However, in this case, the application is accompanied by fairly extensive supporting information and the key considerations determining its effect on the settings of the heritage assets and the living conditions of neighbouring occupiers have been identified and defined on the Development Framework Parameter Plan and Building Heights Parameter Plan which form part of the application. Compliance with those plans, the other specific requirements identified above, as well as further approval of the layout of the site, the scale and appearance of buildings and landscaping can be secured by condition. As such, the proposal can be appropriately dealt with as an outline planning application.
48. Concern has been expressed regarding the developer's approach to public consultation on the proposal and the way in which the application was presented to the Council's planning committee. However, my decision is based purely on the planning merits of the appeal proposal.

#### *Planning Obligation*

49. A signed Planning Obligation Agreement was submitted at the Inquiry<sup>12</sup> which is intended to secure the provision of schemes of affordable housing and on-site open space and financial contributions towards social infrastructure. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.
50. Under the Agreement, 40% of the total number of dwellings would be affordable. This accords with DCP Policy HG/3. The Council's Housing Development Officer advises that there are approximately 1700 applicants on the Council's housing register with the greatest need being for 1 and 2 bedroom units. The Agreement provides for the Council to approve the affordable housing scheme, which would allow it to ensure that affordable housing mix responds to the identified need.
51. The Housing Development Officer also advised that the specific requirement for Gamlingay is for 50 affordable units<sup>13</sup>. A recently approved development at Green End, Gamlingay would provide a total of 34 affordable units<sup>14</sup>. Whilst that development would appear to take up a considerable portion of the Gamlingay need, there would still be a residual local need as well as a district-wide need. There is nothing to suggest that the district-wide need is being met by committed developments. Consequently, I find that the affordable housing obligation is necessary and complies with the requirements of Regulation 122. It would amount to a significant benefit of the proposal.
52. Policy SF/10 of the DCP requires all residential development to contribute towards outdoor playing space and informal open space in accordance with the

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<sup>12</sup> Inquiry Document 9

<sup>13</sup> Officers report to committee for application ref S/2367/16/OL at Ms Whiteheads proof appendix 4

<sup>14</sup> Inquiry document 7

standards in Policy SF/11 and the Council's Open Space in New Developments Supplementary Planning Document adopted. The proposal would provide around 0.25ha of on-site open space which would count towards the informal open space requirements set out in Policy SF/11. The Agreement would secure the provision and maintenance of that facility. However, the proposal would not make provision for on-site outdoor playing space. The Council's Recreation and Open Space Study 2013 has identified a deficit of outdoor sports provision and children's play space in Gamlingay. The development would create increased demand for such facilities. The Agreement would secure contributions of £30,000 towards the relocation of the tennis courts and bowling green in the settlement and £35,000 towards improvement of the Butts playground. I find that these contributions are necessary and reasonably related to the proposed development.

53. Policy DP/4 of the DCP requires residential development to contribute to education, infrastructure and other community facilities. The County Council has drawn my attention to the RECAP Waste Management Design Guide which requires financial contributions towards waste facilities. The proposed development would generate demand for such facilities.
54. The Agreement would secure financial contributions of £35,000 towards the repair and improvement of the Old Methodist Chapel to make it suitable for use as a pre-school facility and hireable meeting room, £10,000 towards a feasibility study for a cycle link which would pass the site and improve sustainable access, £5,248 towards waste infrastructure, £18,009 towards increasing the capacity of the local GP surgery and £297.84 towards libraries and lifelong learning facilities. The County Council's evidence indicates that insufficient capacity exists in Gamlingay First School to accommodate the additional early years and primary school age pupils who would live in the proposed development. The Agreement, therefore, provides contributions of £18,462 towards early years and £128,459 towards primary school education.
55. The District and County Councils have confirmed that suitable schemes to receive the contributions have been identified and none of the contributions would be subject to the pooling restrictions set out in Regulation 123. Therefore, I find that all of these contributions are necessary to make the proposal acceptable in planning terms, reasonably and fairly related to the development proposed and do not infringe the Regulation 123 pooling restrictions
56. In addition, the Agreement provides for a monitoring fee of £500. Normally monitoring would be part of the Council's role as a local planning authority. However, in view of the number and range of matters covered by the Agreement, the provisions for phased payments and further approval of the affordable housing and open space schemes, I consider that the fee is justified in this case. I have, therefore, taken all of the obligations in the Agreement into account.

### *Conditions*

57. The SofCG contains a list of 25 suggested conditions. Following consideration at the Inquiry of the consultation response (dated 11 September 2015) from the Council's Contamination Land officer it was agreed that suggested condition (e) (further ground investigation and remediation) could be replaced with one requiring the suspension of work and a risk assessment in the event that

contamination not previously identified is found during construction. Further, that suggested condition (j) (pollution control) is not necessary. It was also agreed that the suggested condition (f) (water conservation measures) is not necessary as this matter is covered by the Building Regulations. Suggested conditions (h) (surface water drainage maintenance) and (n) (traffic management plan) should be revised to include clauses requiring implementation of the approved schemes.

58. The suggested list of conditions does not include conditions setting time limits for the submission of the reserved matters or the commencement of development since the those time limits are in dispute. The appellant considers that the period should be 18 months in both cases, whereas the Council considers that it should be 12 months. Paragraph reference ID: 21a-028-20140306 of the Planning Practice Guidance advises that Councils must clearly justify imposing time periods shorter than those set out at Section 92 of the Town and Country Planning Act 1990<sup>15</sup>.
59. The Council considers that the shorter time period would provide local residents with greater certainty that the development would proceed promptly. It would also ensure that the scheme would make an early contribution to the housing land supply needs of the District, particularly in view of the large number of unimplemented permissions which exist. I recognise that these are appropriate planning aims. However, I am also mindful that the periods sought by the Council are significantly shorter than the usually applied statutory periods.
60. Whilst there is nothing to suggest that proposed development is particularly complicated, in practice, time will be required to prepare the reserved matters submission and to make preparations to commence works on site. I am concerned that 12 months would not be sufficient for these activities. In that case, it would be necessary to make another planning application, likely leading to further delay and uncertainty. Consequently, I consider that the shorter time periods would be likely not to have the effect desired by the Council. Therefore I will frame the relevant conditions with 18 month time limits.
61. I consider that the remaining suggested conditions meet the tests set out in the PPG. A condition specifying the approved plans is necessary in the interests of certainty. Conditions requiring the retention and maintenance of the Mill Street boundary hedge, preventing more than two dwellings being constructed adjoining that boundary and ensuring that they are set back 10m are required to safeguard the character and appearance of the area and the historic environment. Conditions requiring further approval of the finished floor levels of the proposed buildings and an updated arboricultural assessment and the implementation of tree protection measures and a landscaping scheme are necessary in the interests in the character and appearance of the area. A condition requiring an archaeological written scheme of investigation is required to safeguard below ground heritage assets.
62. A condition to secure a scheme of ecological mitigation and enhancement is required in the interests of bio-diversity and a condition to control the mix of proposed houses is necessary to ensure that the development responds to the housing needs of the area. Conditions dealing with previously unidentified contamination, surface water and foul drainage schemes and the maintenance

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<sup>15</sup> Submission of reserved matters within three years and commencement within two years of the approval of the last reserved matter.

of the surface water system are required in the interests of public health. A condition to secure fire hydrants is necessary in the interests of public safety.

63. Conditions to secure construction phase traffic management, site waste management schemes and restrictions on the hours of construction activity are required to safeguard the living conditions of neighbouring occupiers. A condition requiring the approval of an artificial lighting scheme is necessary for the same reason. A condition dealing with the provision of on-site renewable energy is required to help meet national and local sustainable energy use objectives. A condition to prevent surface water discharging onto the highway and requiring the use of a bound road surface is necessary in the interests of highway safety.

### **Planning Balance and Conclusion**

64. I have found that the proposal would result in minor harm to the settings of the Conservation Area and 61 Mill Street and that this consideration should be accorded great weight. However, since the harm would be less than substantial, it is also necessary to weigh this harm against the public benefits of the proposal. Such benefits could be anything that delivers social, economic or environmental progress as described in Framework paragraph 7.
65. The Council accepts that it can only demonstrate a 3.7 year supply of housing land; this amounts to a considerable shortfall. In respect of the presumption in favour of sustainable development, where there is not a five year supply of housing land, Framework paragraph 47 seeks to significantly boost the supply of housing and paragraph 50 seeks a wide choice of high quality homes.
66. The proposal would provide a total 29 units, of which 40% would be affordable. The mix of units is to be agreed and could respond to identified local need. I consider that the housing provided would bring very significant social benefits. The development would also deliver considerable social infrastructure in the form of on-site open space and financial contributions towards outdoor sports and children's playspace, community accommodation, education, healthcare, waste and sustainable transport which would benefit the wider community.
67. The proposal would also provide economic benefits through the provision of housing to support economic growth, the generation of funds through the New Homes Bonus and, in the short term, job creation and additional expenditure during the construction phase.
68. With regard to the environmental role, the appeal site is located within reasonable walking distance of a fairly good range of local services and facilities. It is also within walking distance of bus stops served by routes to larger centres offering a greater range of facilities. Therefore, I consider that the site is reasonably sustainably located. I have found that the proposal would have a minor adverse impact on the character and appearance of the area. However, it would also provide ecological enhancement of the site. Overall, therefore I consider that the proposal would have a neutral effect on the environmental role of sustainability (excepting the effects on the heritage assets).
69. Taken together therefore, I consider that the public benefits of the proposal clearly and demonstrably outweigh the minor harm to the settings of the heritage assets and would overcome the limited degree of conflict with DCP

Policies CH/4 and CH/5 and Framework paragraph 137. The benefits of the proposal would also outweigh the limited conflict with DCP Policies DP/2 and DP/3 with regard to the effect of the proposal on the character and appearance of the area.

70. As such, I conclude that the proposal amounts to sustainable development and benefits from the presumption of favour of sustainable development set out in Framework paragraph 14.

71. Finally, I am mindful that planning permission has been granted for a development of the same description under application reference S/2367/16/OL. This consent would provide the developer with a realistic fall-back position in the event that this appeal was dismissed.

72. For the reasons set out above, the appeal should be allowed.

*Simon Warder*

INSPECTOR

Richborough Estates

## **Appearances**

### FOR THE COUNCIL

Sarah Ballantyne-Way	SBW Planning on behalf of the Council
She called	
Lydia Pravin	Senior Planning Officer SCDC
James Fischer	Planning Officer SCDC
Anthony Proietti	Planning Officer Cambridgeshire County Council

### FOR THE APPELLANT

Rupert Warren of Queens Counsel, instructed by Bidwells Town Planning Consultants

He called

Johnny Clayton	Urban Design Director, Bidwells
Nigel Rockiff	Landscape Director, Bidwells
Jonathan Smith	Heritage Director, CGMS
Marcia Whitehead	Planning Director, Bidwells

### INTERESTED PERSONS

Captain WR Macleod	Mill Street resident
Sarah Groom	Mill Street resident
Kristin Rayner	Gamlingay Parish Council
Councillor Bridget Smith	SCDC Councillor and West Road Action Group
Councillor Sebastian Kindersley	SCDC and Cambridgeshire County Councillor
Martin Whybrow	West Road resident

## **Documents Submitted at the Inquiry**

- 1 Letter on behalf of Dr Jefferiss withdrawing his objections
- 2 Council's opening submissions
- 3 Appellant's opening submissions
- 4 Application plan reference SK04 (Mill Street/West Road junction)
- 5 Application plan reference 4397-D Rev B (Landscape Strategy)
- 6 Statement by Sarah Groom
- 7 Statement on behalf of Gamlingay Parish Council
- 8 Statement and attachments by Councillor Smith on behalf of West Road Action Group
- 9 Signed Planning Obligation Agreement

**Schedule of conditions attached to  
Appeal Ref: APP/W0530/W/16/3150048  
Land south of West Road and west of Mill Street, Gamlingay**

- 1) Approval of the details of the layout of the site, the scale and appearance of buildings and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than 18 months from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: A.46,721 (Site Location Plan), C.1,830 (Block Plan), SZ258000027-201 Rev B (Development Framework Parameters Plan), SZ258000027-202 Rev B (Building Height Parameters), A.46,721a (Ecological Mitigation Land Plan), SK03, SK04 (Access details) and 4397-D Rev B (Tree and Landscape Plan).
- 5) The existing hedgerow along the eastern boundary of the application land adjoining Mill Street shall be retained within the approved development. The submission of reserved matters in accordance with the details required in condition 1 shall include a scheme for:
  - i. the provision and maintenance of a maximum of two pedestrian access points into the existing Mill Street retained hedgerow; and
  - ii. the protection of the hedgerow during construction; and
  - iii. the on-going maintenance and management of the hedgerow (including provision for replacement of any parts which have or may become damaged or diseased)No development shall take place until this scheme has been approved in writing by the Council. The development shall thereafter take place in accordance with the approved scheme.
- 6) Notwithstanding the approved plans identified in condition 4, no development shall take place within that part of the site extending 10 metres from the western edge of the existing footway along Mill Street.
- 7) Notwithstanding the approved plans identified in condition 4 no more than two houses shall be permitted along the eastern edge of the site fronting Mill Street.
- 8) The submission of reserved matters in accordance with the details required in condition 1 shall include a plan showing the finished floor levels of the proposed buildings in relation to the existing and proposed ground levels of the surrounding land. No development shall take place until this submitted plan is approved by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved plan.
- 9) Prior to commencement, site preparation or the delivery of materials to site the applicant shall submit an updated arboricultural impact assessment including tree and hedge protection strategy to reflect the detailed layout in



accordance with British Standard BS5837 for the approval of the Local Planning Authority.

- 10) Prior to commencement, site preparation or the delivery of materials to site the tree protection measures recommended in the approved tree protection strategy shall be erected and remain in position until practical completion of the implementation of the development.
- 11) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 12) No development shall take place on the application site until the implementation of a programme of archaeological work has been secured in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the approved Written Scheme of Investigation
- 13) No development shall take place until a scheme of ecological enhancement has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the features to be enhanced, recreated and managed for species of local importance both in the course of development and in the future. The scheme shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.
- 14) As part of any reserved matter application details of the housing mix (including both market and affordable housing) shall be provided in accordance with local planning policy or demonstration that the housing mix meets local need shall be submitted to and approved in writing by the Local Planning Authority. Development shall commence in accordance with the approved details.
- 15) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 16) Prior to the commencement of any development, scheme for the provision and implementation of surface and foul water drainages shall be submitted to and approved in writing by the Local Planning Authority. The schemes shall be constructed and completed in accordance with the approved plans prior to the occupation of any part of the development or in accordance with the

- implementation programme agreed in writing with the Local Planning Authority.
- 17) Details for the long term maintenance arrangements for any parts of the surface water drainage system which will not be adopted (including all SuDS features) to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted. The submitted details should identify run-off sub-catchments, SuDS components, control structure, flow routes and outfalls. In addition the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full thereafter.
  - 18) No development shall take place until a scheme for the provision and location of fire hydrants to serve the development has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented.
  - 19) No demolition or construction works shall commence on site until a traffic management plan has been agreed with the Local Planning Authority. The principle areas of concern that should be addressed are:
    - i. movements and control of muck away lorries (all loading and unloading shall be undertaken off the adopted highway)
    - ii. contractor parking, for both phases all such parking shall be within the curtilage of the site and not on street
    - iii. movements and control of all deliveries (all loading and unloading shall be undertaken off the adopted public highway)
    - iv. control of dust, mud and debris, in relationship to the functioning of the adopted public highway.The works shall be carried out in accordance with the approved plan.
  - 20) No development including demolition or enabling works shall take place until a Site Waste Management Plan for the construction phases has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented in full.
  - 21) During the period of construction, no power operated machinery shall be operated on the site, and there shall be no construction related deliveries taken at or dispatched from the site, before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously agreed in writing with the Local Planning Authority.
  - 22) As part of any reserved matters application an artificial lighting scheme (to maximise energy efficiency and minimise lighting pollution) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of any external lighting of the site and a Lighting Spill Plan. The Artificial Lighting Scheme shall have regard for the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light – GN01:2011 (or as superseded). The lighting scheme will be implemented in accordance with the approved details.
  - 23) No development shall take place until a scheme for the provision of on-site renewable energy to meet 25% reduction in the projected carbon emissions
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from the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained in operation.

- 24) The proposed access hereby approved shall be constructed so that its falls and levels are such that no private water from the site drains across or onto the highway and shall be constructed from a bound material to prevent displacement of materials onto the highway. The development shall be retained as such thereafter.

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