



Appeal Decision

Inquiry Held on 11-13 December 2018

Site visit made on 13 December 2018

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2019

Appeal Ref: APP/V0510/W/18/3206908

Land South of Blackberry Lane, Soham, CB7 5DA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline and full planning permission.
 - The appeal is made by Orbit Homes (2020) Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 17/00893/FUM, dated 22 May 2017, was refused by notice dated 13 June 2018.
 - The development proposed is for full planning permission for the erection of 149 dwellings and associated access, parking and open space; and outline planning permission for 8 self-build dwellings.
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Decision

1. The appeal is allowed insofar as it relates to the erection of 149 dwellings and full planning permission is granted for the erection of 149 dwellings and associated access, parking and open space at Land South of Blackberry Lane, Soham CB7 5DA in accordance with the terms of the application, Ref 17/00893/FUM, dated 22 May 2017, subject to the conditions set out in Schedule 1 attached.
2. The appeal is also allowed insofar as it relates to the self-build dwellings and outline planning permission is granted for the erection of 8 self-build dwellings at Land South of Blackberry Lane, Soham CB7 5DA in accordance with the terms of the application, Ref 17/00893/FUM, dated 22 May 2017, subject to the conditions set out in Schedule 2 attached.

Preliminary Matters

3. The proposals have been submitted as a hybrid planning application. Full planning permission is sought for the erection of a 149 dwellings together with associated access, parking and open space. In addition, outline planning permission is sought for 8 self-build dwellings with all matters reserved (identified as plots 36-43 inclusive on drawing number 6867 SL01 Z). I have considered the proposal on that basis, treating the submitted plans as indicative insofar as they relate to the reserved matters in respect of the outline permission.
4. During the course of the appeal, the appellant submitted amended plans (Refs: 6867 SL01 Z and 6659.LS.04A ("the Amended Plans")) which sought to alter the layout of the scheme by reducing the number of dwellings from 152 to 149, adding a new landscape buffer along the boundary with Longmere Lane and altering the orientation of a small number of plots.

These changes were proposed in response to specific concerns raised by the Council as part of its ongoing dialogue with the appellant. The Council indicated at the start of the inquiry that it was not resisting the amendments and that, given the additional consultation exercise undertaken by the appellant, there was no real scope for prejudice to third parties. I made clear at the time that I agreed with that assessment and did not consider the amendments altered the nature of the scheme to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on that basis.

5. As a result of these amendments, the main parties agreed that the description of development set out in the statement of common ground should be amended to take account of the reduced number of dwellings proposed. I have used that amended description above.
6. The Council's third reason for refusal relates to surface water drainage. However, following the submission of further technical information, the Council has confirmed that it wishes to withdraw this refusal reason as it now considers the proposal would be acceptable from a flood risk and drainage perspective. On the basis of the submitted evidence, I have no reason to conclude otherwise and, as such, have not considered this matter further.
7. The emerging East Cambridgeshire Local Plan¹ ("the Emerging Plan") has been submitted for examination and is at a reasonably advanced stage. My attention has been drawn to a number of policies which the parties consider are relevant to the determination of this appeal. However, there are a number of unresolved objections, including to policies which relate directly to this allocated site and the Council has been asked to consult on a number of main modifications. Accordingly, while I have had regard to those policies, I afford them only moderate weight.

Main Issues

8. The main issues are:
 - (i) whether the proposal would result in a cramped and poorly designed scheme and an overdevelopment of the site;
 - (ii) the effect of the proposed development on the character and appearance of the surrounding area; and
 - (iii) the effect of the proposal on the living conditions of future occupiers with particular regard to privacy and outlook.

Reasons

Policy context

9. The 6.85 hectare appeal site is allocated in Policy SOH5 of the East Cambridgeshire Local Plan 2015 (LP) for up to 160 dwellings equating to

¹ Proposed submission (2017).

around 23 dwellings per hectare. That Policy sets out 14 criteria that proposals are expected to meet which includes, amongst other things, the provision of a significant green buffer zone between the built-up area and the A142 which is to be undeveloped and provide a soft landscape edge to Soham. They also seek the retention and enhancement of the existing rights of way² and green lanes³ and make clear that proposals will be expected to minimise the visual impact of development from the A142 as well as comply with other policies in the Local Plan. Many of these requirements are replicated in Policy Soham5 of the Emerging Plan, which while I have made clear above I only afford moderate weight, nevertheless seeks to reduce the indicative allocation from 160 to 130 dwellings.

10. LP Policy ENV1 aims to protect landscape and settlement character and requires proposals to be informed by, sympathetic to and respect the distinctive character areas defined in the Cambridgeshire Character Guidelines. It requires development proposals to demonstrate, amongst other things, that they protect, conserve, and where possible enhance, the settlement edge, the space between settlements and their wider landscape setting as well as key views into and out of settlements.
11. Similarly, LP Policy ENV2 requires all development to be of a high quality, which enhances and complements local distinctiveness by relating well to existing features and protecting important views into and out of settlements⁴. It makes clear that design which fails to have regard to local context and does not take advantage of opportunities to preserve, enhance or enrich the character, appearance and quality of an area will not be acceptable. Furthermore, it aims to ensure that parking is discreet, accessible and integrated so that it does not dominate existing and proposed new places and that occupiers and users of new buildings, especially dwellings, enjoy high standards of amenity. These requirements are replicated to a large extent in Policy LP22 of the Emerging Plan.
12. In addition, LP Policy SOH16 requires development schemes on sites which contain or adjoin green lanes to respect their integrity and not adversely affect their appearance or character. It requires proposals to demonstrate how routes will be improved and enhanced and for all public rights of way to remain in their original position – unless alternative locations would provide significant access benefits.

The Proposal

13. The scheme proposes the erection of 149 dwellings consisting of a mixture of 2, 3 and 4 bedroom houses of which 20% would be affordable. In addition, it would involve the erection of 8 self-build dwelling on Plots 36-43 inclusive (as shown on Drawing No: 6867 SL01 Z) a new vehicular access, and 1.1 hectares of accessible public open space as well as some additional landscaping along the boundaries. In order to address the noise impacts associated with the nearby A142, the appellant has proposed a 5m high noise attenuation barrier along the site's eastern boundary (consisting of a 2.5m high bund topped with a 2.5m living willow fence) (together hereinafter referred to as "the Bund").

² Both on the site and adjoining it.

³ Including the provision of new pedestrian links from the site to green lanes at key points (where appropriate).

⁴ including key views of landmark buildings.

Whether the proposal represents overdevelopment

14. The appeal site is located on the eastern edge of Soham between the A142 and the existing built form of the village. As a site allocated for up to 160 dwellings in LP Policy SOH5, there is no objection to the principle of residential development in this location. However, the Council is concerned that the layout proposed is cramped and poorly designed. It has identified a number of features which it considers are indicative of overdevelopment including (i) the impact of the proposed layout on the character and appearance of the historic green lanes which adjoin the site, (ii) the failure to enhance the public right of way through the site, (iii) the separation distances proposed between rear facing windows in a number of dwellings and (iv) the type of parking proposed and its visual impact. I will consider each of these in turn below.

(i) The green lanes

15. The site is bounded to the north by Blackberry Lane and to the west by Longmere Lane, historic lanes which form part of a network of green lanes providing access from the village to the wider countryside. On behalf of the Council, Mr Patel explained at the inquiry that while the introduction of the landscape buffer along Longmere Lane addressed some of the Council's concerns, there was still some disquiet about the introduction of fencing along the site boundary as well as the impact that the Bund would have on the character of the eastern sections of the lanes as a result of domestication of the rear garden areas.
16. Plots 1-5 and 26-33 back on to sections of Blackberry Lane and Longmere Lane respectively and are orientated so that they face into the site with their rear gardens extending towards the lanes. However, while I agree that close boarded fencing would be an urbanising feature, I see no reason that a more sensitive boundary treatment, such as the post and rail fencing suggested by the appellant⁵, would not provide an acceptable alternative.
17. Furthermore, in view of the fact that the land to either side of the lanes is allocated for a large number of residential dwellings, some visual impact on the more open areas of these lanes is to be expected. While I acknowledge this would fall short of the enhancement required by LP Policies SOH5 and SOH16, any resultant harm would be minimal and there is no evidence to indicate that the alternative suggested by the Council⁶ would result in any lesser impact. Indeed, I note that Mr Patel accepted in cross examination that some sort of discreet barrier or fence would still be required to provide sufficient protection for these lanes.
18. Accordingly, I am not persuaded that the introduction of fencing along the site boundary need materially erode the character or appearance of these green lanes and consider any harm in this respect can be sufficiently guarded against by means of an appropriately worded condition.
19. Turning then to the Council's concerns regarding the impact of the Bund on the eastern edge of the lanes, I observed on site that there is a large amount of existing vegetation along the eastern part of Longmere Lane

⁵ which I note is already in place along parts of Longmere Lane.

⁶ which would involve the continuation of the landscape buffer along the western part of the site and the reorientation of the dwellings so that they face the lanes.

which provides a considerable amount of screening between the lane and the appeal site. As a result, the Bund would not be readily apparent from this part of Longmere Lane and would have little impact on its character. Indeed, it would only become noticeable to most walkers when exiting the lane onto the A142 at which point it would be seen within the context of that busy main road. This would considerably limit its impact on Longmere Lane itself.

20. Similarly, although the vegetation along the eastern end of Blackberry Lane is less substantial and there are some more open views over the appeal site, the rural and tranquil character of this lane is already considerably compromised by the sound and visual impact of the busy A142. While I acknowledge the introduction of the Bund would block the existing views, these views are not extensive and the fenland landscape beyond is not readily apparent due to the large mature vegetation located along the western side of the road. Furthermore, while I acknowledge that a structure of this size would be a noticeable feature when passing along this part of the lane, I see no reason that, with some additional landscaping, it could not, over time, blend in with the existing vegetation and help enhance the lane's enclosed, verdant character.
21. Accordingly, I do not consider either erection of the Bund or appropriate fencing along the site boundaries would materially erode the character or appearance of either Blackberry Lane or Longmere Lane and that, with some appropriately worded conditions, the retention and enhancement of these green lanes can be secured. As such, I am not persuaded that there would be any material conflict with LP Policies SOH5, SOH16, ENV1 or ENV2 and do not consider there is any evidence of overdevelopment in this respect.

(ii) Public right of way

22. LP Policy SOH5 also explicitly seeks to retain and enhance the existing public right of way (PRoW) which crosses the site and provides access to the nearby A142. Although the Council accepts that it will be retained as part of the development, it argues that its incorporation into the shared footways and estate roads fails to enhance this public route.
23. At present the route is not visible on the ground, is obstructed at both ends and there is little evidence of use. While I acknowledge that whether or not this route is ultimately retained as a PRoW will be a matter for the local highway authority, the plans nevertheless indicate that it can be incorporated into the scheme in a way that would retain the route along its current alignment, improve its surface and open up access between the A142 and Longmere Lane.
24. Furthermore, while I note the Council's concerns regarding a loss of views from the eastern section of the route, including those towards the nearby Downfield Windmill, there is nothing in LP Policy SOH5 which would indicate that these should be preserved. In addition, I note that the Council's rights of way consultee is content for the matter to be dealt with by means of a condition and I have no reason to disagree with that approach. While I accept that Mr Flatman's proposal for a green corridor⁷ along this route would have provided some additional benefits, there is nothing in LP Policy SOH5 which requires such a solution.

⁷ As set out in his constraints and opportunities plan (POE, figure 10, APP 2A.3).

25. Accordingly, I consider the proposed layout would retain access along the existing PRow, enhance accessibility between Longmere Lane and the A142 and, as such, would comply with the expectations set out in bullet point 8 of LP Policy SOH5. Furthermore, I am not persuaded that the loss of views out of the site, including those of the Downfield Windmill, would fall foul of the requirements of LP Policy ENV1. Again, I find no indication of overdevelopment.

(iii) Separation distances

26. The Council has identified a number of plots where the separation distances fall below those set out in the Council's Residential Design Supplementary Planning Document⁸ ("the SPD"), which specifies minimum separation distances of 21m for rear facing windows. However, while I acknowledge the Framework indicates that local design standards or style guides should be taken into account, the 21m distance is intended to ensure that privacy is maintained between rear facing windows. In view of the limited shortfall identified⁹ and the fact that all of these properties are set at angles which limit direct views, I do not consider the limited shortfall identified would have any material impact on privacy levels. Indeed, I note that this is not an argument that was directly advanced by the Council as part of the appeal.
27. Accordingly, even though the proposal would result in a small number of instances where separation distances which fail to accord with the advice set out in the SPD, I do not consider they would be sufficiently prevalent or prejudicial to indicate that the site was being overdeveloped. As such, I find no conflict with LP Policies SOH5 or ENV2 or with policies Soham5 or LP22 of the Emerging Plan in this respect.

(vi) Tandem parking

28. In addition to the above, the Council has pointed to the presence of tandem parking as another indicator of overdevelopment. I heard evidence from Mr Patel and Councillor Goldsack on the difficulties that can arise with such parking including in terms of increased on-street parking and its impacts on the appearance of the site and its residents.
29. However, no robust evidence has been presented which would demonstrate that such arrangements are indicative of overdevelopment or would have any material impact on either visual or neighbouring amenity. Furthermore, no policy basis has been identified for restricting this type of parking in general and in the absence of evidence indicating there would be some harm, there is little support for doing so in either LP Policy ENV2 or Policy LP22 of the Emerging Plan. Accordingly, I do not consider the presence of tandem parking provides any evidence of overdevelopment.

Conclusions on overdevelopment

30. Consequently, for the reasons set out above, I do not consider the proposal would result in a cramped or poorly designed layout or would represent an overdevelopment of the site. As such, I find no conflict with Policies SOH5, SOH16, ENV1 or ENV2 which, taken together, seek to guard against such harm.

⁸ (2012).

⁹ around 2.5m between plots 49 & 52 and plots 60 & 67; and around 2m for plots 72-88.

Landscape impact of the Bund

31. It is clear from Policies SOH5, ENV1 and ENV2 that providing a soft landscaped edge to the village is an important factor in ensuring that any proposed scheme is visually acceptable. However, the Council's written evidence acknowledges that bunds are not unknown within the fenland landscape and their main concerns relate to the impact that it would have on views towards Soham from the A142 as well as those from within the appeal site itself towards the east.
32. I acknowledge the Bund would block out some eastward views. However, in view of the indicative number of dwellings proposed¹⁰, the erosion of such views as a result of the site's development is, to a large extent, to be expected. Furthermore, I observed on site that views over the wider fenland landscape are not extensive from this location due to the screening provided by the existing boundary vegetation surrounding the site and along the western edge of the A142. With this in mind, I do not consider the proposal would limit views to any material extent when seen from within the site than a scheme not involving the Bund.
33. Nevertheless, I do agree with the Council that it would fail to meet the expectations of the fifth bullet point of LP Policy SOH5 in that it would not deliver the significant green buffer zone intended to provide a soft settlement edge to the village. However, while I acknowledge the importance of providing this soft settlement edge, the evidence, which was unchallenged, indicates that an acoustic barrier of some kind would be needed to provide sufficient noise attenuation to mitigate the impacts of the nearby A142. I am not therefore persuaded that there would be any material policy conflict in this respect.
34. Furthermore, while I note the Council's suggestion that a lower bund located further into the site would be a more acceptable alternative, this solution would result in a significant reduction in the number of dwellings which could be accommodated on the site due to the increased noise impacts. This would mean a significantly smaller development to that indicated in both LP Policy SOH5 and Policy Soham5 of the Emerging Plan.
35. While I acknowledge the importance of ensuring a soft settlement edge, it seems to me that, in the absence of any evidence to show this could be achieved alongside the required levels of noise attenuation without significantly reducing housing numbers, I find that a relaxation of this criterion would be justified.
36. Consequently, I do not consider the Bund would have any material impact on the surrounding landscape and, as such, find no conflict with LP Policies ENV1 & ENV2 or Policy LP 22 of the Emerging Plan. Furthermore, for the reasons already given, I also find it would not be in conflict with the expectations of LP Policy SOH5 in so far as it relates to the effect of proposals on the surroundings.

Living conditions

37. I have made clear above that I do not consider the proposed scheme would result in any material harm to the appearance of the site in respect of back

¹⁰ both under the LP and the Emerging Plan.

to back separation distances and tandem parking. For similar reasons, I am satisfied these design features would not materially impact on the privacy of future occupiers. However, the Council has also raised concerns in relation to the effect of the Bund on the outlook of the proposed dwellings on plot Nos 64-67 and 117-132. Essentially, it argues that views from these properties will be dominated by the Bund resulting in a strong sense of enclosure and diminished outlook which would be detrimental to the living conditions of the occupiers of those dwellings.

38. I do not agree. While I acknowledge that, in view of its height, the Bund would be a noticeable structure, with separation distances from the houses of between 18.5m and 36m, there would be sufficient separation between the properties and the Bund to ensure an acceptable level of outlook was maintained. Furthermore, I note that, even at its closest point, the Bund would be considerably further away from the neighbouring dwellings than is the case for many front facing elevations. Indeed, Mr Patel accepted during cross examination that the proximity of these properties to the bund does not, in itself, provide sufficient grounds for refusal.
39. While I note the recent appeal decision in respect of another nearby site¹¹ where the Inspector considered a separation distance of 9m between the proposed dwellings and a 3.3m Bund to be unacceptably close, in the present case the distances involved are considerably greater, albeit that the Bund is 1.7m higher. As such, while I have had regard to it, I do not consider it would provide any meaningful support for withholding permission in the present case.
40. Consequently, I find the proposal would provide acceptable levels of privacy and outlook for future occupiers and, as such, do not consider the scheme would result in them having poor living conditions. Accordingly, I find no conflict with either LP Policy ENV2 or Policy LP22 of the emerging LP both of which seek to guard against such harm.

Other Matters

41. At the Inquiry, the Council referred to various parts of the Soham Masterplan Vision Document¹² which identifies key views of the Downfield Windmill from the neighbouring site (SOH4) as well as noting the potential for a cycleway adjacent to the A142. However, while I note that document formed part of the evidence base for the LP, I also note that neither LP Policy SOH5 nor SOH4 require the preservation of this view and nor do the cycleway ambitions appear to have been taken forward as part of the LP. As such, I do not consider a failure to protect such views or provide such a cycle link or would provide sufficient reason to withhold permission.
42. In respect of the Council's concerns regarding the proximity of some of the self-build plots, and in particular the relationship between plots 150 and 151, the application for that element is made in outline and matters of layout are not under consideration. While I am mindful that the shared roadway would be fixed, no robust evidence has been provided which would demonstrate that sufficient separation could not be achieved as part of any reserved matters application.

¹¹ APP/V0510/W/17/3178635.

¹² (2010).

43. While I note the appellant has identified the Council's acknowledged shortfall in housing land supply as one of the foundation stones of its case, given my findings above this has not had any material effect on my reasoning.

Planning Obligations

44. An executed section 106 agreement ("the Agreement") has been submitted which provides for 20% of the dwellings to be affordable. This is in response to identified needs and is supported by LP Policies HOU3 and SOH5 both of which requires 30% affordable housing to be delivered on this site. However, the Council has confirmed that they do not consider a 30% contribution to be viable in Soham and have concluded that a 20% contribution would be more appropriate. I have no reason to conclude otherwise and note that it accords with the figure set out in emerging policy LP6.
45. The Agreement also contains a number of obligations in relation to the self-build dwellings which are necessary to ensure that this element of the scheme is delivered as required by LP Policy HOU1. In addition, it secures financial contributions for improvements to the nearby roundabout at the A142/A1123/Fordham Road junctions which are necessary in view of the overcapacity indicated by the Transport Assessment. These are supported by LP Policies HOU1 and Growth 3 respectively. Similarly, those in relation to libraries and lifelong learning and waste receptacles are necessary to ensure that adequate facilities are available to meet the needs of the additional residents and are also supported by LP Policy Growth3.
46. The requirement for a scheme of ongoing management and maintenance for the areas of open space, noise barrier, living willow fence, sustainable drainage systems and the landscape buffer would ensure that these areas remained accessible, fit for purpose and would pose no risk to highway safety. These are supported by LP Policies COM7, ENV8 and Growth 3.
47. In view of the above, I consider the obligations set out in the Agreement are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Therefore, they meet the tests within CIL Regulation 122 and those set out in paragraph 56 of the Framework. As such, I have taken them into account in reaching my decision.

Planning Conditions

48. The necessary planning conditions are set out in the attached schedules and were discussed in detail at the Inquiry.

Conditions in respect of the full permission:

49. Conditions 1, 2 and 8 are required to provide certainty. Condition 3 is necessary to safeguard residential amenity and to ensure that any potential environmental impacts are minimised. Condition 4 is required in view of the site's archaeological potential while conditions 5, 6, 11, 12 and 15 are necessary in order to protect existing trees and to safeguard the character and appearance of the surroundings. Conditions 7 and 21 are necessary to guard against the risk of flooding. Conditions 9, 10, 18 and 19 are necessary in the interests of highway safety, although I have amended the wording of condition 19 for clarity.

50. In respect of condition 13, although the provision of fire hydrants for fire-fighting is covered by other legislation, the proposed condition is directed towards planning requirements and has been agreed by the appellant. Condition 14 is necessary in order to mitigate the impacts of climate change while condition 16 is necessary in order to protect the amenity of future occupiers. The Council explained at the Inquiry that condition 20 was intended to ensure that a ransom strip was not created and so that connectivity to the neighbouring site to the north is provided at an early stage. Condition 17 is necessary in furtherance of the Council's biodiversity objectives while condition 22 is necessary in order to guard against the risks of contamination.
51. Conditions 3-8 need to be discharged before work commences on site as they relate to matters which need to be resolved on a fully coordinated basis.

Conditions in respect of the outline permission:

52. Conditions 23 and 24 are required as the necessary conditions concerning the approval of reserved matters and implementation of the development. Condition 25 is necessary in furtherance of the Council's biodiversity objectives while condition 26 is required in order to provide certainty. Condition 27 is necessary in order to protect the amenity of neighbouring occupiers while Condition 28 is necessary to guard against the risk of flooding. A condition in requiring the submission of reserved matters within a specified timescale is not, however, necessary in view of the scheme's hybrid nature.

Conclusion

53. I have found above that the proposal would not result in a cramped or poorly designed layout and do not consider it would represent an overdevelopment of the site. Furthermore, I have found that it would not be harmful to the character and appearance of the surrounding landscape. In addition, even though I have found that it would not deliver the soft landscape edge envisaged by the fifth bullet point of LP Policy SOH5, a relaxation of this criterion is justified in view of the noise attenuation measures necessary to deliver a good quality living environment for future occupiers. I am also mindful that the development of this allocated site would make a considerable contribution towards both market and affordable housing in the area and that the proposed scheme would help facilitate its delivery.
54. Consequently, for the reasons set out above, and having had regard to all other matters raised, I find the proposed scheme would be in accordance with the development plan as a whole, and as such, conclude the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE 1 - CONDITIONS IN RESPECT OF THE FULL PLANNING PERMISSION

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 3 insofar as those plans relate to the elements of the scheme for which planning permission is granted.
- 3) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority and shall include:
 - a) mitigation measures for noise (including hours of construction work), dust and lighting during the construction phase;
 - b) access points for deliveries and site vehicles;
 - c) proposed phasing/timescales of construction;
 - d) construction waste management infrastructure including recycling facilities and protocols to ensure the maximum recycling of waste materials both for use within and outside the site including measures and protocols to ensure effective segregation of waste at source (such as waste sorting and storage);
 - e) proposed monitoring and timing of submission of monitoring reports;
 - f) a RECAP Waste Management Guide Toolkit with supporting reference material;
 - g) location and timing of provision of on-site waste facilities in pursuance of criterion d above;
 - h) proposals for the management of municipal waste generated by the occupation phase of the development, to include the design and provision of permanent facilities (eg. Internal and external segregation and storage of recyclables, non-recyclables and compostable material, access to storage and collection points by users and waste collection vehicles).

The approved CEMP shall be adhered to at all times during all phases of development.
- 4) No demolition/development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the provision to be made for analysis of the site investigation and recording;
 - iii) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 5) Prior to the commencement of development a scheme for the protection during construction of the trees on site, in accordance with British

Standard BS5837:2012 shall have been submitted to and approved in writing by the local planning authority. The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these. The protective measures contained in the scheme shall be implemented prior to the commencement of any development, site works or clearance in accordance with the approved details, and shall be maintained and retained until the development is completed. Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree routes encountered with a diameter of 25mm or more shall be left unsevered.

- 6) Prior to the commencement of development, a scheme for the provision of all hard landscaping works, including those relating to the areas of public open space, the Bund, living willow fence, landscape buffer, public rights of way and boundaries with the green lanes shall be submitted to and approved in writing by the local planning authority. These details shall include finished floor levels, means of enclosure, car parking layouts, hard surfacing materials, street furniture, signs and lighting. The works shall be carried out in accordance with the approved scheme prior to the occupation of any part of the development.
- 7) Prior to the commencement of development, a surface water drainage scheme for the entire site (including the self-build plots), based on sustainable drainage principles, shall be submitted to and approved in writing by the local planning authority. The scheme shall be based upon the principles within the Flood Risk Assessment (FRA) dated March 2107, ref 47066, and FRA Addendum Report dated November 2018, and shall also include:
 - a) Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers;
 - b) Details of the proposed attenuation and flow control measures;
 - c) Details of temporary water storage facilities;
 - d) Full details of the maintenance/adoption of the surface water drainage system;
 - e) Details of measures taken to prevent pollution of the receiving groundwater and/or surface water;
 - f) Details of the surface water drainage measures for access, highways and all hardstanding areas; and
 - g) A timetable for implementation.The approved scheme shall thereafter be implemented in accordance with the approved timetable.
- 8) Notwithstanding condition 3 above, prior to the commencement of development, a phasing programme shall be submitted to and approved in writing by the local planning authority to identify the sequence of the

- construction of the development hereby permitted and the development shall be carried out only in accordance with the approved programme.
- 9) Prior to the commencement of above ground works a scheme of highway works shall be submitted to and approved in writing by the local planning authority together with a timetable for its implementation. The approved works shall be carried out in accordance with the details and timetable as approved.
 - 10) Prior to the commencement of above ground works, details of the proposed arrangements for the future management and maintenance of the proposed streets within the development shall have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved details until such time as an agreement is entered into under section 38 of the Highways Act 1980.
 - 11) Prior to the commencement of above ground works, details of the external materials to be used on the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 12) Prior to the commencement of above ground works, details of the boundary treatments shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
 - 13) Prior to the commencement of above ground works, a scheme for the provision and location of fire hydrants to serve the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. The fire hydrants shall be installed and completed in accordance with the approved scheme prior to the occupation of any part of the development and thereafter retained.
 - 14) Prior to the commencement of above ground works, an energy efficiency and sustainability strategy for the development, in accordance with paragraph 5.41 of the Planning Statement, including details of any on site renewable technology and energy efficiency measures, together with a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved strategy and approved timetable.
 - 15) Prior to the commencement of any above ground works, a full schedule and plans of all soft landscape works, including those relating to the areas of public open space, the Bund, the living willow fence, landscape buffer and boundaries with Blackberry Lane and Longmere Lane shall be submitted to and approved in writing by the local planning authority. The schedule shall include planting plans, a written specification, schedules of plants noting species, plant sizes, proposed numbers/densities and a detailed timetable for its implementation. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the details and timetable so approved. 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 a variation.

- 16) Notwithstanding condition 15 above, prior to first occupation of plots 45-46, 54-57, 64-67, 110-135 and 153-160 (as defined by drawing number 6867 SL01 Z) the 2.5m acoustic bund and 2.5m high living willow fence hereby approved along the eastern boundary shall be completed with all landscaping located on the Bund having been planted in the previous planting season (November – February).
- 17) Prior to occupation of any part of the development hereby permitted, a scheme of biodiversity improvements, including the phasing of their provision, shall be submitted to and approved in writing by the local planning authority. The biodiversity improvements shall be carried out in accordance with the approved scheme and thereafter maintained in perpetuity in accordance with the programme agreed.
- 18) Prior to first occupation a scheme for changing the priority of the junction with Regal Lane and Brook Street shall be implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority.
- 19) The service road serving plots 36-43 (as defined by drawing number 6867 SL01 Z) shall be constructed in accordance with the details that shall have first been submitted to and approved in writing by the local planning authority. The service road as constructed shall be retained.
- 20) The road, footpath and verges of the highway between Plot 5 and FW PS to the south of Blackberry Lane, as shown on Drawing No. 6867 SL01 Z, shall be constructed up to the boundary with no intervening land between it and the boundary prior to the occupation of the 6th dwelling plot on the site (or as otherwise agreed as part of the Phasing Plan approved under condition 8).
- 21) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2017 Rev D, Ref 47066, and FRA addendum report dated November 2018, Ref 47066, compiled by Richard Jackson Engineering Consultants, and the following mitigations measures detailed in the FRA:
 - (i) Finished floor levels will be set no lower than 5.5m above Ordnance Datum (AOD); and
 - (ii) Provision of floodplain compensation within the public open space by lowering existing ground levels to 5.0m AOD, as detailed in drawing No 40766-PP-016 Rev A.
- 22) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported to the local planning authority within 48 hours of its discovery. 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. The approved schemes shall be carried out before the development on the part of the site affected (or any relevant phase of development) is resumed or continued.

END OF SCHEDULE 1

SCHEDULE 2 - CONDITIONS IN RESPECT OF THE OUTLINE PLANNING PERMISSION

- 23) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the local planning authority before any development on the individual self-build plots is commenced and shall be carried out as approved.
- 24) +The development of the self-build dwellings hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot.
- 25) Prior to the development of each of the individual self-build plots, a scheme of the biodiversity improvements for the plot to which the reserved matters details relate shall be submitted to and approved in writing by the local planning authority.
- 26) The self-build dwellings hereby permitted shall be developed as single unit plots only.
- 27) Demolition or construction works shall take place only between the hours of 0800 and 1800 hours Monday – Friday, 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 28) Surface water shall be disposed of in accordance with the surface water drainage scheme approved pursuant to Condition 18 above.

END OF SCHEDULE 2

SCHEDULE 3 – APPROVED PLANS

<u>Plan Reference</u>	<u>Version No.</u>
Site Location Plan	LOC01 Rev B
6867 SL01 Proposed Site Layout	Rev Z
6659/LS/ASP4 Planting Plan	Rev A
6867 G01 GARAGE TYPE	Rev B
6867 G02 GARAGE TYPE	Rev B
6867 G03 GARAGE TYPE	Rev B
6867 G04 GARAGE TYPE	
6867 PL01 SANDRINGHAM	Rev A
6867 PL02 STEVINGTON (TYPE A)	Rev A
6867 PL03 STEVINGTON (TYPE B)	Rev A
6867 PL04 STEVINGTON (TYPE A SID)	Rev B
6867 PL05 STEVINGTON (TYPE B)	Rev A
6867 PL06 CARDINGTON	Rev B
6867 PL07 CARDINGTON	Rev B
6867 PL08 SMARDEN	Rev A
6867 PL09 LANGFORD L	Rev B
6867 PL10 LANGFORD L	Rev A
6867 PL11 LANGFORD L	Rev A
6867 PL12 LANGFORD L	Rev A
6867 PL13 LANGFORD P	Rev A
6867 PL14 ASHLEY	Rev A
6867 PL15 ASHLEY	Rev B
6867 PL16 ASHLEY L	Rev A
6867 PL17 ASHLEY P	Rev B
6867 PL18 PENSHURST	Rev C
6867 PL19 WELNEY	Rev B
6867 PL20 MARSHAM	Rev B
6867 PL21 PENSHURST & WELNEY	Rev C
6867 PL22 PENSHURST & MARSHAM	Rev A

6867 PL23 PENSURST & MARSHAM	Rev A
6867 PL24 PENSURST, MARSHAM & PEN	Rev A
6867 PL25 PENSURST & MARSHAM	Rev A
6867 PL26 PENSURST & MARSHAM	Rev A
6867 PL27 2B	Rev A
6867 PL31 4B	Rev C
6867 PL32 2B & 3B	Rev A
6867 PL36 MAYFIELD	
6867 PL37 ALDNGTON	Rev A
6867 PL38 ALDNGTON	Rev A
6867 PL39 TENTERDEN	Rev A
6867 PL40 TENTERDEN	Rev A
6867 PL41 TENTERDEN	Rev A
6867 PL42 ALDNGTON	
6867 PL43 ALDNGTON	

END OF SCHEDULE 3

Richborough Estates

APPEARANCES

FOR THE COUNCIL

Dr Ashley Bowes of Counsel

Instructed by Tim Driver

He called

Mr Savreen Patel Strutt and Parker

Mr Mark Flatman BA (Hons) Dip LA CMLI Liz Lake Associates Landscape Architects

FOR THE APPELLANTS

Mr Mark Lowe of Queen's Counsel

Instructed by Armstrong Rigg Planning

He called

Mr Ben Wright BA (Hons) Dip LA CMLI Aspect Landscape Planning

Mr Geoff Armstrong Armstrong Rigg Planning

OTHER INTERESTED PARTIES

Mr Mark Goldsack District and County Councillor

PLANS AND DOCUMENTS SUBMITTED AT THE INQUIRY

BY THE APPELLANT

1. Additional documents file comprising draft section 106 agreement, schedule of policies and evidence base documents, appendices to GA Proof of Evidence, Emerging Local Plan Updates, details of Planning Permission Ref 16/01350/OUT, parking note, agreed distances from properties to Bund/road, schedule of plans for determination and Site Layout Rev U) (Exhibit LE1).
2. Response from archaeological consultee in respect of comments on proposed amendments (Exhibit LE3).
3. Tree Officer's Response to proposed amendments (Exhibit LE4).
4. Landscape Institute Advice Note 01/11. Photography and photomontage in landscape and visual impact assessment (Exhibit LE9).
5. Written agreement to wording of pre-commencement conditions proposed (Exhibit LE15).

6. Plan indicating the areas of public open space (Exhibit LE14).

BY THE COUNCIL

7. Copy of the Soham Master Plan Vision Document 2010 (Exhibit LE2).
8. CIL Compliance Statement and section 106 policy justification (Exhibit LE5).
9. Updated Appendix A to Mr Flatman's proof of evidence (Exhibit LE6).
10. Email setting out the Council's compliance with the Community Infrastructure Regulation pooling requirements (Exhibit LE10).
11. Email continuing details of the definitive statement for Footpath No. 93, Soham (Exhibit LE11).
12. Copy of Cambridgeshire County Council (the Shade to Fordham Road, Soham Classified Road) (Side Roads) Order 1979 and email summary (Exhibit LE12).

SUBMITTED JOINTLY

13. Suggested site visit itinerary (Exhibit LE7).
14. List of draft conditions for discussion (Exhibit LE8).
15. Updated draft section 106 Agreement for discussion (Exhibit LE13).

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

16. Section 106 Agreement dated 9 January 2019.

END