

Appeal Decision

Hearing held on 16 and 17 December 2014

Site visit made on 17 December 2014

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 13 January 2015

Appeal Ref: APP/X1545/A/14/2222389

Bridgemans Farm, Bridgemans Green/The Street, Latchingdon, Essex

- 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 Mr Gary Sharp and Mrs Julie Sharp, CCC Property, against the decision of Maldon District Council.
 - The application Ref OUT/MAL/13/00668, dated 12 July 2013, was refused by notice dated 20 March 2014.
 - The development proposed is "Erect 46 Detached, Semi-Detached and Terraced Dwellings and Flats, Community Hub/Coffee Shop/Flat, and Associated Garages, Lay Out Parking, Amenity Areas, Estate Roads, Footpaths and Landscaping".
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Decision

1. The appeal is allowed and outline planning permission is granted for "Erect 46 Detached, Semi-Detached and Terraced Dwellings and Flats, Community Hub/Coffee Shop/Flat, and Associated Garages, Lay Out Parking, Amenity Areas, Estate Roads, Footpaths and Landscaping" at Bridgemans Farm, Bridgemans Green/The Street, Latchingdon, Essex, in accordance with the terms of the application, Ref OUT/MAL/13/00668, dated 12 July 2013, subject to the conditions set out in Schedule A at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by Mr Gary Sharp and Mrs Julie Sharp, CCC Property, against Maldon District Council. This application is the subject of a separate decision.

Preliminary matters

3. The application for planning permission was submitted in outline with access and layout matters for consideration at this stage, and with appearance, landscaping and scale matters, hereinafter referred to as the reserved matters, reserved for future consideration. Plan numbered NC13.069/P201, which shows a landscape strategy for the development, was submitted for illustrative purposes only, so I shall deal with the appeal accordingly.
4. The Council wrote to The Planning Inspectorate on 15 September 2014 to confirm that it would not be defending reason for refusal 5, which was concerned with the high level of objection from the local community to the proposal. Whilst this is not, therefore, an issue between the parties, I shall nonetheless have regard to the views of local people in reaching my decision.

Main issues

5. From what I have said above, from my inspection of the site and its surroundings, and from the representations made at the hearing and in writing, I consider that the main issues in this appeal are the effect that the proposed development would have on:
- the character and appearance of the surrounding rural area,
 - the living conditions of nearby occupiers with regard to outlook,
 - highway safety and the free flow of traffic in Bridgemans Green, and
 - whether the proposed development would be at risk from flooding, or would increase the risk of flooding elsewhere, and whether adequate arrangements could be made for the disposal of foul and surface water from the proposed development.

Reasons

Planning policy

6. The Development Plan includes the saved policies of the *Maldon District Replacement Local Plan* (LP). In accordance with paragraph 215 of the *National Planning Policy Framework* (Framework), due weight should be given to relevant policies in the LP according to their degree of consistency with the Framework. The *Maldon District Pre-Submission Local Development Plan 2014-2029* (ELP), which was submitted to the Secretary of State for Examination-in-Public on 25 April 2014, has been adopted by the Council as a material consideration to be used in the determination of planning applications. The parish of Latchingdon has been designated a neighbourhood area. However, the Latchingdon Neighbourhood Plan (NP) is at a very early stage because the evidence base for it is still being gathered. The 1997 edition of *The Essex Design Guide for Residential and Mixed Use Areas* (EDG) has been adopted by the Council as Supplementary Planning Guidance. The *Technical Guidance to the National Planning Policy Framework* was cancelled when the Planning Practice Guidance (PPG) was launched in March 2014.

The location

7. The appeal site is mainly outside but next to the development boundary of Latchingdon which is defined in the LP. LP policy S1 directs new development to sites within the development boundaries of identified settlements, including Latchingdon. LP Policy S2 aims to protect the countryside for its own sake. LP Policy H1 states that new housing will not be allowed outside development boundaries unless it complies with other policies in the Local Plan. It is common ground between the main parties that the proposal would be contrary to LP Policies S2 and H1, and thus contrary to Development Plan policy.
8. However, Framework paragraph 47 aims to boost significantly the supply of housing. The Council has not objected to the countryside location in principle because, in line with the *Maldon District Council Five-Year Housing Land Supply Statement 2013/14* (HLS), it can only demonstrate 1.8 years housing supply. As the Council cannot demonstrate a 5-year supply of deliverable housing sites, in accordance with paragraph 49 of the Framework, relevant policies for the supply of housing, including LP Policy H1, should not be considered up-to-date.

9. Framework paragraph 14 explains that where relevant policies are out-of-date, this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
10. Beyond the 3 main settlements, which include Maldon roughly 6 miles away, the settlement pattern in the District is somewhat dispersed. However, Latchingdon has a range of local facilities and services, including shops, a takeaway, pub, petrol station, primary school, church, and a village hall. The proposal would be close to some of them. Moreover, the future occupiers would help to support the viability of local facilities and services, which would be a benefit for existing occupiers in the village and the surrounding area.
11. There are bus stops nearby in The Street, with reasonable services to Maldon and the locality, and rail stations roughly 3 miles away, including Althorne, which provide services that connect to Chelmsford and London. Whilst future occupiers may use private motor vehicles to reach the stations rather than cycle, the Government recognises that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. So, I agree with the main parties that the site is in a sustainable location. It would satisfy the Framework, which aims to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Character and appearance

12. Turning to the first main issue, the appeal site includes an irregularly-shaped piece of land formerly used for keeping horses which is reached from Bridgemans Green. It also includes a track to The Street (the B1018) towards its western end. The main part is roughly north of the back gardens of nearby dwellings and other buildings in The Street, roughly east of the telephone exchange and its grounds, roughly west of the house at 1 Bridgemans Green and the thick hedge bordering the paddock beyond its back garden, and roughly south-east of Sharps Hall Farm Brook (the river). On the opposite side of the river is mainly open broadly level farmland which contributes positively to the rural character and appearance of the countryside in the coastal zone.
13. Due to the nearby existing landscape features, including the dense woodland block to roughly west of the grounds of the telephone exchange, and the existing development, including the buildings in Bridgemans Green and along The Street, the main part of the site is fairly well-contained on 3 sides by the northern edge of the village of Latchingdon. The fourth more open side is contained by the river, which is presently partly edged by scrubby vegetation.
14. The village may have once developed in a linear manner along the main roads through it. However, the more recent developments reached from those main roads, including Bridgemans Green, Ramsey Chase, and St Michael's Close, are now part of its form and character, and the proposal would reflect this. The layout would include a straight road parallel to The Street, with short culs-de-sac off it. It would also include informally arranged dwellings near the boundary by the river. Most of these would face, rather than back onto, the open countryside, so their back gardens and the associated domestic paraphernalia in them would be partly screened. These dwellings would also

be well separated from one another to safeguard the rural openness, and they could be partly screened by the potential landscape buffer by the river. Whilst scale and appearance are reserved matters, there is sufficient scope for the proposal to respect the mainly 2-storey or less pitched-roofed buildings nearby.

15. Thus, the largely informal layout of the relatively low density scheme would integrate well with, and would be sympathetic to, its village context. Moreover, as the proposal would be seen against the existing nearby development, and there would be room for soft landscaping to reinforce local distinctiveness, it would have little visual impact in views from the surrounding countryside. As the scheme would be partly enclosed by existing development, and it would be partly screened by the woodland to the west and the thick hedge to the paddock to the east, and as its layout would respect the alignment of the river, it would harmonise with the landscape character of its rural surroundings.
16. The appellants' Landscape and Visual Impact Assessment shows that the landscape and visual impacts of the proposal would be very minor. There would be little change to the views of the site from Maldon Road, south of the Mayfair Industrial Area, and barely any change in the more distant views from the public rights of way to the east. So, although the scheme would cause the loss of a relatively small area of countryside, the contribution of the village to the rural character of the surrounding landscape would not be harmed.
17. Whilst interested parties raised concerns about the character and appearance of the development in relation to the village, this was not a concern of the Council in its reasons for refusal. As the existing field is not very visible in public views from within the village, and the well-designed scheme has the potential to make a positive contribution to its character and appearance, I agree. Landscaping is reserved for future consideration so the detailed design of features such as the wetland stilling ponds is not before me.
18. I consider that the proposal would not harm the character and appearance of the surrounding rural area. It would satisfy the aims of LP Policy BE1 for proposals to be compatible with their surroundings, LP Policy CC6 to protect the traditional quality of the landscape, and LP policy CC11 for development to not adversely affect the open and rural character of the Coastal Zone. It would also satisfy ELP Policy D1 which seeks respect for character and local context, ELP Policy S8 which aims to protect the countryside for its landscape value, and the Framework which aims to always seek to secure high quality design, and to take account of the character of different areas, recognising the intrinsic character and beauty of the countryside.

Living conditions

19. The occupiers who would be most affected by the proposal include those of the dwellings on the north side of The Street, the back gardens of which adjoin the site, and the occupiers of the house at 1 Bridgemans Green, which is at an angle to it. Some of these existing dwellings have back gardens which are not enclosed by tall boundary fencing. Fences or similar features up to 2 m high by the boundaries would protect the privacy of the existing and future occupiers in the side or rear-facing ground floor rooms of their homes and in their back gardens. Due to the topography at the site and nearby, and the relationship of the existing dwellings to those features, they would not be so overbearing or so oppressive that they would harm the existing occupiers' outlook.

20. The dwelling on Plot 1 would be close to the southern boundary of the site. Whilst scale and appearance are reserved matters, that dwelling could be single storey, to safeguard the outlook of the occupiers of 48 The Street. Even so, due to the other relationships and distances between the existing dwellings and those proposed, there is ample scope for 2-storey pitched-roofed buildings on the other plots without causing unacceptable harm to the outlook of nearby occupiers. As the first floor window in the side of the dwelling at 1 Bridgemans Green is obscure-glazed, there would be no unacceptable loss of outlook from that window. So, the proposal would not have an unacceptable detrimental effect on the outlook of those occupiers. There is a first floor clear-glazed window in the side of the dwelling at 10 Bridgemans Green which faces the site. However, its angled relationship to the dwelling on Plot 1 and its distance from it would be sufficient to safeguard the occupiers' outlook.
21. The fronts of some proposed dwellings would be closer to one another than the back to back distances recommended in EDG. However, EDG recognises that such relationships are traditional and common in many settlements. So, the future occupiers would reasonably expect a more enclosed outlook and lower standards of privacy in the rooms at the front of their homes, on the public sides of their dwellings. There is almost nothing to suggest that the proposed dwellings would cause detrimental overlooking or loss of privacy, or an unacceptable perception of the loss of privacy, to the occupiers of nearby dwellings. Moreover, the back to back and side to back relationships between the existing and proposed dwellings other than that on Plot 1 would meet or exceed the guidance in EDG for 2-storey dwellings.
22. The outlook of nearby occupiers would change, and it is appreciated that for some change can be difficult to accept. However, the fairly low density layout, which is below the range sought by LP Policy H6, would be in keeping with the rural character of the village.
23. I consider that the proposal would not harm the living conditions of the nearby occupiers with regard to outlook. It would satisfy LP Policy BE1 which aims for proposals to be compatible with their surroundings, and/or to improve the surrounding location in terms of effect on the amenity of neighbouring occupiers, and ELP Policy D1 which aims to protect the amenity of surrounding areas taking into account privacy, overlooking and outlook. It would also satisfy the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Highway safety

24. The vehicular access to the proposal would be from Bridgemans Green, which is a Type 4 Minor Access Road with a roughly 1.8 m footpath on one side and a roughly 0.5 m maintenance strip on the other. The Council considers the access to be substandard because the guidance in EDG is that the roughly 40 m length of Bridgemans Green between the access to the site and The Street, which presently serves the existing dwellings in Bridgemans Green, would only be sufficient for less than 25 dwellings. Instead, the advice in EDG is that 1.5 m footpaths should be provided on each side of the existing road.
25. However, 2 editions of *Manual for Streets* (MfS) have been published since EDG, and MfS provides more up-to-date guidance on the design of highway layouts for residential schemes. Its recommendations include moving away from hierarchies of standard road types based on traffic flows and/or the

- numbers of buildings served, and encouraging innovation with a flexible approach to street layouts.
26. Moreover, the existing track towards the western end of the site would provide an alternative route for pedestrians and cyclists from the development to The Street. So, there would be 2 footway routes to The Street, towards each end of the site. This would offer the future occupiers greater choice, and potentially shorter journeys to some local services, than 2 footways in Bridgemans Green.
27. A fairly short section of the track, closest to The Street, also gives vehicular access to the telephone exchange. The proposal would not increase those vehicle movements, and the appellants' witness's evidence is that the vehicle movements associated with the telephone exchange would be very low in number. Drivers waiting for footway users and cyclists on the shared surface to leave it would not be likely to cause congestion in The Street because these events would be very few, and similar to the wait for footway users in The Street to pass the access. Whilst there is a tall hedge by the access, drivers would be likely to exercise caution because another vehicle could be coming in the opposite direction. Moreover, the advice in MfS is that in lightly-trafficked streets carriageways may be narrowed over short lengths to a single lane as a traffic calming measure. So, its shared use with footpath users and cyclists from the development, who could safely wait further along the track or in The Street for vehicles to pass, would not be likely to cause unacceptable conflicts on the fairly short length of shared surface.
28. Also, the existing single footway in Bridgemans Green has been assessed in accordance with The Institution of Highways & Transportation's *Guidelines for Providing for Journeys on Foot*. It would meet all of the necessary criteria, including width, directness, lack of obstructions, reasonable surfacing, and suitability for all users. The footway would have more than sufficient capacity to retain the highest level of service for the number of pedestrian movements anticipated in the development and from the dwellings in Bridgemans Green. Because there would be ample room on the pavement for footway users, there would be no reason for conflicts with vehicles using the road.
29. Furthermore, the Highway Authority says that Bridgemans Green could safely accommodate up to 100 dwellings, emergency vehicles could enter and egress the site without restriction, and no issues other than tactile paving were raised in the independent Stage 1 Road Safety Audit. As the Highway Authority has found the scheme to be acceptable, subject to the imposition of conditions, a second footway in Bridgemans Green would not be necessary.
30. Visibility at the existing junction of Bridgemans Green with The Street was not a concern of the Council in its reason for refusal. Because the vegetation in the eastern arm of the visibility splay could be trimmed as required by the Highway Authority, I agree. Other concerns raised by local people included the nearby zebra crossing, on-street parking, highway safety and congestion in and around Bridgemans Green and The Street, and pollution from waiting vehicles, but these were also not concerns of in the Council's reasons for refusal. From the evidence put to me and from what I saw, I see no reason to disagree.
31. For these reasons, I consider that the proposal would not be likely to endanger highway safety or unacceptably impede the free flow of traffic in Bridgemans Green. It would satisfy LP Policy T2 which seeks appropriate layout for new development and to promote accessibility, and ELP Policy T2 which seeks to

create an accessible environment for everyone. It would also satisfy Framework paragraph 32 which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Flood risk, and foul and surface water drainage

32. At the hearing the appellants' witness explained that the site is not at risk from tidal flooding. With regard to fluvial flooding, from his assessment of the existing levels, although a thin slither of land very close to the river is within Flood Zone 2, the rest of the site is within Flood Zone 1. From the evidence put to me at the hearing, I see no reason to disagree. As almost all of the site including the dwellings would be within Flood Zone 1, where there is a low probability of flooding, the sequential test in the Framework would be satisfied, and there would be no need to apply the exception test. Because the finished ground floor levels of the dwellings would be no lower than 5.54 m above Ordnance Datum, they would be 600 mm above the 1 in 100 year plus Climate Change anticipated flood water level identified in the appellants' site-specific Flood Risk Assessment (FRA), and this could be controlled by condition.
33. The main parties' witnesses agreed that provided that the surface water drainage scheme were to achieve the same run-off rate as the existing green-field site, the proposal would not increase flood risk elsewhere. The Council's witness also accepted that, although he had concerns about the surface water drainage scheme submitted with the application, an alternative scheme could be acceptable. So, whilst the ponds could enhance biodiversity, they would not need to be part the surface water drainage strategy.
34. Interested parties raised concerns about flooding in the area, including in The Street west of the garage, and in the area around Deadaway Bridge by the Mayfair Industrial Area. However, the Environment Agency Flood Map for Surface Water in the FRA and Figure 3 in Bingham Hall Associates' Surface Water Drainage Strategy show that these areas are more likely to be affected by surface water and fluvial flooding respectively than the site.
35. Whilst foul sewers had surcharged previously, the FRA says that, due to the topography, if the sewers adjacent to the site were to surcharge and flood, it is likely that any floodwaters would be shallow, relatively slow moving, and constrained within Bridgemans Green. Regarding the photographs of water in nearby back gardens, the appellants' witness also explained that the existing site levels generally slope gently down towards the river, and away from the ends of the back gardens of dwellings in The Street, so the development should not contribute to flooding in them. He also explained that there is scope for a foul drainage pumping station to be located on-site, say, in the parking area by Plot 37, or for a gravity operated scheme to be piped over the river. So, the layout would not need to change. Moreover, the Environment Agency, Essex County Council and Anglian Water have not objected to the scheme subject to the imposition of planning conditions, and I see no reason to disagree.
36. Therefore, I consider that, subject to the imposition of planning conditions, the proposal would not be likely to be at risk from flooding, or to increase the risk of flooding elsewhere, and that adequate provision could be made for the disposal of foul and surface water from the development. It would satisfy LP Policy BE1, LP Policy CON5 which aims to prevent pollution, ELP Policy D2 which seeks to mitigate against existing and potential flood risks, ELP Policy D5

which aims to minimise the risk of flooding, ELP Policy I1 which aims to ensure that appropriate infrastructure is provided for new development, and the Framework which seeks to take full account of flood risk.

Other matters

37. The obligation for affordable housing would be necessary to help to meet the acute housing need in the District, in accordance with LP Policy H9 which seeks up to 30% affordable housing on any appropriate site. The affordable housing would be provided at the site, so it would be directly related to the proposal. It would be fairly and reasonably related in scale and kind to the development proposed because the maximum amount sought by LP Policy H9 would be provided. The highway works to the westbound Red Lion bus stop and the residential travel information packs would be necessary to encourage the use of sustainable transport modes and to promote social inclusion and accessibility in accordance with LP Policy T1. The works would be at a nearby bus stop, which future occupiers and their visitors would be likely to use, and the packs would provide site specific travel information for every dwelling, so they would be directly related to the development. As the first occupiers of each dwelling would have a travel pack, and because the highway works would be at a stop where accessibility improvements are needed, the obligations would be fairly and reasonably related in scale and kind to the development proposed.
38. The financial contribution for education would be necessary to fund early years and childcare provision, because the future occupiers of all of the dwellings, except for the potential one-bedroom flat (which would arise if the community hub were not to be taken on) would be likely to have children who would increase the demand for places, and the evidence shows that in Spring 2013 all 3 pre-school providers in the locality were at full capacity. The contribution would be directly related to the development, and fairly and reasonably related in scale and kind to the development proposed because it has been calculated on the basis of the relevant dwellings in accordance with the adopted Essex County Council formula. It would satisfy LP Policy PU1, which aims for new housing to contribute towards the provision of education facilities. The obligation for open space would be necessary to ensure that the public open space and local area for play (LAP) would be provided at the site, appropriately landscaped, and equipped and maintained in the long term, in accordance with the thrust of LP Policy REC3. In view of the site specific circumstances and the layout I consider that the obligation would be fairly and reasonably related in scale and kind to the development proposed. The public open space and LAP would be part of the development and would be used by its occupiers and the local community, so it would be directly related to the development.
39. A financial contribution would be necessary to fund additional capacity at the Trinity Medical Centre, Maylandsea, to help to meet the healthcare needs of the future occupiers. It would be directly related to the development because the Trinity Medical Centre is within 5 minutes drive time of the development. As it has been calculated in accordance with the NHS Property Services Ltd updated Healthcare Impact Assessment I consider that it would be fairly and reasonably related in scale and kind to the development. It would satisfy the Framework which aims to support local strategies to improve health and wellbeing for all, and to deliver sufficient services to meet local needs. The obligation for the community hub with provision for alternative use as an affordable flat has resulted from the appellants' public consultation exercise, so it would be fairly

and reasonably related in scale and kind to the development proposed. It would be necessary to help to deliver sufficient community facilities and services, or affordable housing, to meet local needs in accordance with the Framework. Because the community hub would be provided on the site and it would be used by occupiers of the scheme it would be directly related to the development. As all of the obligations would satisfy all 3 statutory tests in Regulation 122 of *The Community Infrastructure Levy Regulations 2010*, and in Framework paragraph 204, I shall take the planning obligation into account.

40. Whilst there are other sites where housing would be preferred by some local people there was little information about them, and because the NP is at a very early stage, it can only be afforded little weight. The site suggested for housing at the southern end of the village, which was referred to at the hearing, is allocated as Site REC1/1 for formal public open space in LP Policy REC1 to help to meet the existing shortfall in Latchingdon. Furthermore, the Council confirmed that no planning application has been submitted for housing there, so little weight can be afforded to its potential availability.
41. As the community hub would provide a facility for the local community, it would not be likely to contribute to anti-social behaviour or crime. The route between 18 and 20 The Street would be to and from a residential development, so its use by footpath users and cyclists would not be likely to cause noise and disturbance that would harm the living conditions of the adjoining occupiers. Moreover, with appropriate design the western access would provide an attractive well-lit route for future users by day and after dark, and its use should improve security for the adjoining occupiers.
42. The appellants' Extended Phase 1 Habitat Survey found the site to be of low ecological value and to represent poor quality habitat for protected species. It concluded that no further specific surveys to determine presence or absence of protected species would be necessary or appropriate. Moreover, no tangible evidence of protected or Biodiversity Action Plan species at the site was put to me, and measures are proposed to improve biodiversity interests. Consents required under other legislation are not matters before me in this appeal.

Sustainability

43. As no unacceptable harm has been identified, in accordance with paragraph 14 of the Framework, the proposal should be considered in the context of the presumption in favour of sustainable development.
44. The Framework advises that there are 3 mutually dependent dimensions to sustainable development which should be sought jointly and simultaneously. The proposal would provide jobs during detailed design and construction, and when occupied it would help to support shops and services in the village and the wider locality, which would achieve economic gains. The new dwellings, including their mix, would help to meet identified local needs, the affordable housing would contribute towards meeting the existing acute need in the District, and the community hub would provide a facility requested by the local community. These would be significant social benefits. There is ample scope for the scheme to contribute positively to the sense of place in Latchingdon, to provide a well-designed environment for its future occupiers, to enhance biodiversity, and for the future occupiers and their visitors to be encouraged to use, and thus support, sustainable transport modes, which would be environmental gains. Therefore, the proposal would amount to sustainable

development, and the appeal should be allowed subject to the imposition of planning conditions.

Conditions

45. The Council's suggested conditions and those suggested at the hearing have been considered in the light of Framework paragraph 206 and the guidance in the PPG. The condition identifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. The condition to control the number and size of dwellings is necessary to meet identified local need, but the suggested wording has been amended to comply with the submitted details. Conditions for external materials, boundary treatment, and hard and soft landscaping, for a survey of existing trees, shrubs and hedges, for the protection of trees, shrubs and hedges to be retained, and for finished levels, are necessary to protect the character and appearance of the area. The condition for boundary treatment is also necessary to safeguard the privacy of existing and future occupiers.
46. Conditions for details of the car parking layouts and vehicle and pedestrian access and circulation areas, for details of the access, for garages and car parking spaces to be kept available for parking, for details of estate roads and footways, for carriageways and footways to be constructed up to base course surfacing until the final surfacing is completed, and for details of independent footpaths, are necessary in the interests of highway safety. The tailpieces in the landscaping and the existing tree, shrub and hedges protection conditions are reasonable to give the Council the discretion to approve alternative sizes and species for replacement plants should those specified be unsuited to conditions at the site, and to ensure the viability of replacements for retained existing trees, shrubs or hedges. In the light of the findings of the t4 ecology Extended Phase 1 Habitat Survey dated February 2013, as agreed by the main parties at the hearing, the condition for an ecological survey is not necessary, so the Council's suggested condition has not been imposed. The survey of existing trees, shrubs and hedges, and the protection of those to be retained are also necessary in the interests of biodiversity. The conditions to protect the river, to control the timing of demolition and scrub clearance as recommended by the Council's ecology officer, for details of ecological enhancements, and for bird and bat boxes, are necessary in the interests of biodiversity.
47. The condition for details of the public open space and LAP are reasonable in the interests of the health and wellbeing of the future occupiers. The condition for a construction method statement is necessary in the interests of highway safety and to safeguard the living conditions of nearby occupiers during demolition and development. Conditions for schemes of surface water drainage, flood mitigation measures, and for finished ground floor levels as agreed at the hearing, are necessary to avoid flooding and resulting damage. The condition for a foul water strategy is necessary in the interests of public health. Conditions for an archaeological assessment and archaeological works are necessary as the route of the main road through Latchingdon has been identified as a possible Roman road, so the proposal could affect archaeological remains. The condition for an external lighting strategy is necessary to protect the character and appearance of the area and the living conditions of nearby occupiers, and in the interests of biodiversity and highway safety. The condition for travel packs is reasonable to encourage the use of sustainable transport modes. Conditions to assess and deal with contamination are

necessary as the site is within 50 m of a petrol filling station and there is evidence that leakage may have occurred from the above ground tank at the site. The condition suggested by the parties at the hearing is reasonable to control the use of the community hub, but use Class D2 has been omitted to protect nearby occupiers from possible associated noise and disturbance.

Conclusions

48. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

Joanna Reid

INSPECTOR

Schedule A

- 1) Details of the appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 13/01/01B, 13/03/02, 13/03/14A, 13/03/15A and 1314/04C unless otherwise superseded through the approval of details from the discharge of planning conditions and the reserved matters.
- 5) The dwellings hereby permitted shall comprise 29 two-bedroom units, 7 three-bedroom units, and 10 four-bedroom units (and 1 one-bedroom flat if the community hub is not taken on).
- 6) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details, and the boundary treatment shall be retained as approved thereafter.
- 8) No development shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include car parking layouts and

vehicle and pedestrian access and circulation areas, and hard surfacing materials. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, and an implementation and maintenance programme. All hard and soft landscape works shall be carried out in accordance with the approved details, before the occupation of any part of the development or in accordance with a programme submitted to and approved in writing by the local planning authority. If within a period of 5 years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub 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 approval to any variation.

- 9) The landscaping details to be submitted pursuant to the reserved matters shall include a detailed survey showing the location, species, height, canopy spread and girth of all existing trees (those with a girth of more than 75 mm measured at 1.5 m above ground level), shrubs and hedges.
- 10) No existing trees, shrubs and hedges shall be removed, cut back, or pruned, except as shown on the approved plans pursuant to the reserved matters. No site clearance, demolition or development shall take place until ground protection has been laid and protective fencing has been erected to protect the trees, hedges and shrubs to be retained and to protect Sharps Hall Farm Brook in accordance with details which have been submitted to and approved in writing by the local planning authority. Those details shall be in accordance with BS 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*, and shall include an Arboricultural Method Statement in accordance with BS 5837:2012. The ground protection and protective fencing shall be retained as approved until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone nothing shall be stored or placed, no fires lit, no vehicle shall gain access, ground levels shall not be altered, no excavation shall be made and no structure shall be erected, unless otherwise approved in writing by the local planning authority. If within a period of 5 years from the completion of the development any tree, hedge or shrub to be retained, or any tree, hedge or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree, hedge or shrub of the same species and size shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 11) No demolition or scrub clearance shall take place during the bird nesting season (March to September inclusive) unless it is carried out under the direct supervision of an ecologist who has been approved in writing by the local planning authority. Details of the ecological enhancements in accordance with the t4 ecology Ecological Enhancement Summary dated May 2013 including the provision of bird and bat boxes shall be submitted to and approved in writing by the local planning authority. No dwelling

- shall be occupied until the ecological enhancements and the provision of bird and bat boxes have been implemented as approved.
- 12) The details to be submitted as part of the landscaping reserved matters shall include details of the public open space and local area for play (LAP), including play equipment, ground surfacing, means of enclosure, self-closing gates, seating, refuse facilities and safety notices. No dwelling shall be occupied until the LAP has been constructed, completed and made available for use and a scheme for the maintenance of the public open space and LAP has been submitted to and approved in writing by the local planning authority. The approved public open space and LAP shall be retained for use as such thereafter.
- 13) No dwelling shall be occupied until details of the access in accordance with plan 13/03/14A have been submitted to and approved in writing by the local planning authority, and the access has been constructed and implemented in accordance with the approved details.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding
 - v) wheel washing facilities
 - vi) measures to control the emission of noise, dust and dirt during construction
 - vii) phasing of the development
 - viii) times during which all construction activities will take place
- 15) No dwelling shall be occupied unless a Residential Travel Pack for sustainable transport, which shall include 6 one day travel vouchers for use with the relevant local public transport operator for each dwelling, has been provided in accordance with details submitted to and approved in writing by the local planning authority.
- 16) The garages and car parking spaces hereby permitted shall be laid out in accordance with the adopted Maldon Vehicle Parking Standards and shall be kept available for the parking of motor vehicles at all times.
- 17) No development shall take place until details of the estate roads and footways (including layout, levels, gradients, surfacing, street lighting, overhang strips, and means of surface water drainage) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 18) The carriageways of the estate roads shall be constructed up to and including road base level before the erection of any dwelling intended to take access from there. No dwelling shall be occupied until the carriageways and footways giving access to that dwelling have been constructed up to and including base course surfacing to provide a

properly consolidated and surfaced carriageway and footway between that dwelling and the existing highway. Until the final surfacing is completed, the footway base course shall be provided such that upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway are avoided. The final surfacing of carriageways, footways and paths commensurate with the frontage of each dwelling shall be complete within 12 months of the occupation of that dwelling.

- 19) Details of the lighting and drainage of all independent footpaths, which shall be a minimum of 2 m wide, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 20) Notwithstanding the details submitted with the application, no development shall take place until a scheme of surface water drainage including details of its maintenance thereafter has been submitted to and approved in writing by the local planning authority. No dwelling hereby approved shall be occupied until the surface water drainage scheme has been carried out in accordance with the approved details, and the surface water drainage scheme shall be maintained as approved thereafter.
- 21) Notwithstanding the details submitted with the application, no development shall take place until a scheme of mitigation measures in accordance with the Flood Risk Assessment submitted with the application has been submitted to and approved in writing by the local planning authority. No dwelling hereby approved shall be occupied until development has been carried out in accordance with the approved scheme of mitigation measures.
- 22) No development shall take place until the foul water strategy has been submitted to and approved in writing by the local planning authority, and no dwelling shall be occupied until the works have been carried out in accordance with the approved foul water strategy.
- 23) No development shall take place until details of the finished ground, finished floor and finished ridge levels of the development above Ordnance Datum have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 24) Notwithstanding condition 23) above, no dwelling hereby approved shall be occupied unless its finished ground floor level is at least 5.54 m above Ordnance Datum.
- 25) No development including any site clearance or ground works of any kind shall take place until an archaeological consultant who has been approved in writing by the local planning authority has carried out an archaeological assessment to establish the archaeological significance of the site which has been submitted to and approved in writing by the local planning authority.
- 26) No site clearance, ground works of any kind or development shall take place until an archaeological contractor who has been approved in writing by the local planning authority has implemented a programme of archaeological work, in accordance with a written scheme of investigation and in accordance with the approved archaeological assessment required by condition 25), which has been submitted to and approved in writing by

- the local planning authority. Development shall be carried out in a way which accommodates the approved programme of archaeological work.
- 27) No development shall take place until an external lighting strategy for the development including details of street lights has been submitted to and approved in writing by the local planning authority. The approved external lighting strategy shall be implemented before the development is occupied and shall be retained as approved thereafter.
 - 28) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.
 - 29) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
 - 30) Notwithstanding *The Town and Country Planning (General Permitted Development) Order 1995* as amended the property designated as either a community hub or a flat shall only be used for use Class D1 of *The Town & Country Planning (Use Classes) Order 1987* or as a residential flat and for no other purpose.

End of Schedule A

APPEARANCES

FOR THE APPELLANTS:

Gary Sharp	Appellant
David W G Whipps LLB Solicitor LARTPI	Appellants' agent, Holmes & Hills LLP
Matthew Elliott MSc CEng FICE CWEM FCIWEM FCI Arb CEnv	Flood risk and drainage consultant, WYG Engineering Ltd
Gordon Kruse BSc MICE	Transport consultant, Cottee Transport Planning
Stewart Rowe DipTP MRTPI	Appellants' planner, The Planning and Design Bureau Ltd
Nigel Cowlin BA(Hons) DipLA CMLI	Landscape planning consultant, Nigel Cowlin Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ross Leal DipTP MRTPI	Senior planning officer, Maldon District Council
Martin Doughty BEng(Hons) CEng FICE FCIHT MAPM	Director, Richard Jackson Ltd engineering consultants

INTERESTED PERSONS:

Eric Telford BA BSc	Principal, Telford Planning Associates
Cllr Robert Boyce	representing the Community Action Group
	County Councillor and Divisional Member for
	Southminster, and District Councillor and Ward
	Member for Althorne, Latchingdon, Maylandsea
	and Mundon
Cllr Dale Symons	Parish Councillor, representing Latchingdon
	Parish Council and members of the parish
David Gent	Local resident
Robert Brown	Local resident
Paul Galpin	Local resident
Peter Lock	Local resident
Janet Pannell	Local resident
Victoria McMurdo	Local resident
Peter McMurdo	Local resident
Barry Maynard	Local resident
Anne Maynard	Local resident

DOCUMENTS PUT IN AT THE HEARING

- 1 A1 plans 13/03/02, 13/03/14A and 13/03/15A, put in by the appellants.
- 2 Bingham Hall Associates Surface Water Drainage Strategy, put in by the appellants.
- 3 Cottee Transport Planning Transport Statement Appendices A to J, put in by the appellants.
- 4 Appeal decision and costs decision ref APP/X1545/A/14/2223566, put in by the appellants.
- 5 A3 plan NC13.069/P201, put in by the appellants.
- 6 LP *proposals maps* cover, key and Inset 11 Latchingdon (*sic*), put in by the Council.
- 7 LP extracts, put in by the Council.
- 8 FRA appendices, put in by the appellants.
- 9 Parish Cllr Dale Symons' statement.
- 10 The Council's letter dated 23 April 2014 to the Parish Clerk, Latchingdon Parish Council.
- 11 Bus timetables, put in by the appellants.
- 12 Extract from Essex County Council *Sustainable Drainage Systems Design and Adoption Guide*, put in by the appellants.
- 13 A3 plan 1314/04C and A2 plan NC13.069/P201, put in by the appellants.
- 14 LP Policy REC1, put in by the Council.
- 15 HLS put in by the Council.
- 16 Appellants' suggested condition for housing mix.
- 17 Main parties' suggested condition for the community hub.