



# Appeal Decision

Inquiry held on 26 and 27 November 2014 and 11 and 12 February 2015

Site visit made on 28 November 2014

**by Karen L Baker DipTP MA DipMP MRTPI**

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

**Decision date: 15 May 2015**

**Appeal Ref: APP/C1570/A/14/2223280**

**Land east of St Edmunds Lane, Great Dunmow, 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 St Edmunds Lane Partnership against the decision of Uttlesford District Council.
- The application Ref. UTT/14/0472/OP, dated 18 February 2014, was refused by notice dated 23 May 2014.
- The development proposed is the development of land for the provision of 22 custom/self build dwellings with associated access, parking provision and amenity space.

## Procedural Matters

1. The planning application was made in outline with all matters reserved for subsequent approval.
2. Two drafts of a Unilateral Undertaking were submitted by the appellants at the Inquiry<sup>1</sup>. A discussion on the obligations within it was carried out prior to the Inquiry being adjourned, and a further version<sup>2</sup> was submitted at the resumed Inquiry. Following further discussions relating to the obligations at the resumed Inquiry, a final version<sup>3</sup> of the Unilateral Undertaking was submitted after the close of the Inquiry for consideration by the Council. This Unilateral Undertaking includes obligations to provide 9 affordable housing plots on the appeal site and financial contributions towards early years' childcare, primary and secondary education, along with a commitment to the provision of custom/self build housing on all plots. I have had regard to this Unilateral Undertaking and the Council's comments on it, both given orally at the Inquiry and in writing<sup>4</sup>, during my consideration of this appeal.

## Decision

3. The appeal is allowed and planning permission is granted for the development of land for the provision of 22 custom/self build dwellings with associated access, parking provision and amenity space on land east of St Edmunds Lane, Great Dunmow, Essex in accordance with the terms of the application, Ref. UTT/14/0472/OP, dated 18 February 2014, subject to the conditions in Appendix 1.

<sup>1</sup> Documents 10 and 12

<sup>2</sup> Document 31

<sup>3</sup> Document 37

<sup>4</sup> Documents 21 and 38

## **Application for Costs**

4. At the Inquiry an application for costs was made by St Edmunds Lane Partnership against Uttlesford District Council. This application is the subject of a separate Decision.

## **Main Issues**

5. The main issues in this appeal are:
  - a) whether or not a 5 year supply of deliverable housing land can be demonstrated;
  - b) the effect of the proposed development on the character and appearance of the local area;
  - c) whether or not the proposed development would represent a sustainable form of development; and,
  - d) the effect of the proposed development on community infrastructure, including schools and affordable housing.

## **Planning Policy**

6. The development plan for the area is the Uttlesford Local Plan, adopted in January 2005. Policy S7 of the Local Plan defines the countryside, to which this policy relates, as all those parts of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries. It goes on to say that, in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. This will include infilling in accordance with paragraph 6.13 of the Housing Chapter of the Plan. Furthermore, it says that there will be strict control on new building, with development only being permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. Policy ENV3 says that the loss of traditional open spaces, other visually important spaces, groups of trees and fine individual tree specimens through development proposals will not be permitted unless the need for the development outweighs their amenity value.
7. Local Plan Policy GEN6 says that development will not be permitted unless it makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development. In localities where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision by the relevant statutory authority. Policy H9 says that the Council will seek to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites, having regard to the up to date Housing Needs Survey, market and site considerations.
8. The settlement boundaries within the Local Plan were defined in order to allow for sufficient growth to meet future land use needs for the Plan period, which was up to 2011. As such, post 2011, these settlement boundaries would have the effect of constraining development, including housing, within these

settlements. The restrictions imposed upon development within the open countryside, outside the settlement boundaries, within Policy S7 of the Local Plan, are therefore clearly time expired and should be considered out of date. Indeed, I note the Council's acceptance at the Inquiry that some greenfield land within the open countryside, outside the currently defined settlement boundaries, will be required for future development. I also acknowledge the appellants' assessment<sup>5</sup> of land identified as falling within Policy S7 that is included within the Council's 5 year housing land supply calculations.

9. It is apparent, however, that Policy S7 of the Local Plan has a dual purpose. As well as containing built development within existing settlements, it also seeks to protect the open countryside from development in order to safeguard its character and amenity. One of the 12 core planning principles set out in Paragraph 17 of the National Planning Policy Framework (The Framework) includes recognising the intrinsic character and beauty of the countryside and thriving communities within it. I note the Council's Compatibility Assessment<sup>6</sup> which concludes that this policy is partly consistent with The Framework, as The Framework takes a positive approach, rather than a protective one, to appropriate development in rural areas. Furthermore, it says that Policy S7 strictly controls new building, whereas The Framework supports well designed new buildings to support sustainable growth and expansion of all types of business and enterprise in rural areas. I concur with this assessment and, as such, have afforded some weight to the aspect of Policy S7 which seeks to safeguard the character and amenity of the open countryside.
10. I note the legal advice<sup>7</sup> provided by the Council in respect of the interpretation of Policy S7, along with the appellants' proposition put to the Council's planning witness at the Inquiry in respect of the need for custom/self build housing and that this would satisfy the 2 limbs of the policy. From the evidence before me, I concur with the interpretation of Policy S7 put forward by the Council and consider that, apart from the exceptions referred to in the policy, housing development, which includes custom/self build housing, would not be in accordance with Policy S7 in this location. However, I have afforded this policy some weight, given that it is only partly consistent with The Framework. Furthermore, in assessing development proposals, Paragraph 11 of The Framework states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
11. The Council submitted its new plan, the Uttlesford Local Plan, to the Secretary of State for Communities and Local Government on 4 July 2014 for independent examination. Hearing sessions took place in the weeks commencing 17 November 2014 and 1 December 2014. At the Hearing session on 3 December 2014, the Local Plan Inspector summarised the conclusions<sup>8</sup> that he had reached about the soundness of the emerging Local Plan and cancelled further Hearings. On 19 December 2014 the Local Plan Inspector published his fuller conclusions<sup>9</sup>. Following consideration of these conclusions, the Council officially withdrew the emerging Local Plan on 21 January 2015 and work has commenced on a revised plan which will be submitted in due course.

---

<sup>5</sup> Document 34

<sup>6</sup> Appendix 14 to Mr Anderson's Proof of Evidence

<sup>7</sup> Document 35

<sup>8</sup> Document 18

<sup>9</sup> Appended to Document 19

## Reasons

### **Housing Land Supply**

12. Government guidance in paragraph 47 of The Framework says that local authorities should boost significantly the supply of housing and should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of either 5% or 20% depending on previous delivery.
13. Following the withdrawal of the emerging Local Plan, and in preparation for the resumed Inquiry, both the Council and the appellants updated their respective positions in relation to housing land supply<sup>10</sup>. The Council's position is that it can demonstrate a 5.4 year supply (applying a 5% buffer), whereas the appellants' position is that only a 3.79 year supply can be demonstrated (with a 20% buffer).
14. Although both the Council and the appellants agree that the Sedgefield approach is the most appropriate method for dealing with any backlog, there are disagreements between the parties relating to the housing requirement, the appropriate buffer and the housing supply. I therefore consider each of these matters below.

#### *Housing Requirement*

15. There is a dispute between the Council and the appellants as to the appropriate figure to use to determine the housing requirement within the District. Government guidance in paragraph 47 of The Framework says that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. The Planning Practice Guidance (The Planning Guidance) sets out the standard methodology for assessing housing need. It states, in Paragraph 015, that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need, which may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. Furthermore, Paragraphs 018 and 019 say that other issues should be taken into account, including employment trends, such as likely changes to job numbers, the growth of the working age population in the housing market area and any cross boundary migration assumptions; and, market signals, such as land prices, house prices, rents, affordability, rate of development and overcrowding.
16. The Council, having commissioned a firm of consultants to deliver demographic forecasts, considered that the scenario derived from the 2010-based Sub National Population Projections (SNPP-2010) best reflected the objectively assessed housing needs of its area. This indicated an average housing requirement of 523 dwellings per annum (dpa). The Council then rescaled the SNPP-2010 data to ensure consistency with the SNPP-2012 mid year population estimates, which therefore updates the SNPP-2010 data to take account of the 2011 census. The Council considers that its reliance on the SNPP-2010 based projection of need for 523dpa falls comfortably within the range of scenarios developed by its consultants, including projections based upon the 2012-SNPP.

<sup>10</sup> Documents 17 and 19

This was the requirement that was therefore included within the, now withdrawn, emerging Local Plan. The Local Plan Inspector, however, in his fuller conclusions, having considered the evidence presented by the Council and other interested parties, who separately advanced cases for an increase in provision of around one third, which would bring provision to around 700dpa, found that it would be appropriate to examine an overall increase of around 10% to about 580dpa. As a result, the Council has now included the figure of 580dpa in its housing land supply calculations.

17. The appellants, on the other hand, question the use of this figure given that the Local Plan Inspector has suggested only that it would be appropriate to examine an overall increase of around 10% to about 580dpa. This, they say could mean that the ultimate figure found to be the objectively assessed need could be higher or lower than 580dpa. Furthermore, this figure has not been tested at a Local Plan Examination.
18. As the development plan does not contain an up to date housing requirement, the starting point in this appeal is the full objectively assessed need. At the time the Inquiry was resumed, the emerging Local Plan had been withdrawn and, as such, I have afforded it no weight in my consideration of this appeal. However, it is apparent from the Local Plan Inspector's fuller conclusions that he had before him evidence from the Council and other interested parties on objectively assessed need. This included the Council's consultants' demographic work using the SNPP-2012 data. He concluded that, having regard to this work, 529dpa would represent an appropriately modelled demographic projection. However, he acknowledged that when taking into account a number of market signals, including housing costs and affordability, an upward adjustment of the objectively assessed need should be made. He noted that a number of participants at the examination separately advanced cases for an increase in provision of about one third on this basis, which would bring provision to about 700dpa, but the Local Plan Inspector found no evidence to support an increase on that substantial scale, concluding instead that it would be appropriate to examine an overall increase of around 10% to about 580dpa.
19. Although the figure of 580dpa has not been tested at a Local Plan Examination and further work needs to be undertaken by the Council in respect of the appropriate increase to be applied, the Local Plan Inspector had before him evidence from the Council and other interested parties on objectively assessed need, on which he was able to base his conclusions on this matter. Furthermore, his conclusions were based on an assessment of household projections, which provided the starting point estimate of overall housing need (529dpa), and an upward adjustment to reflect local factors including housing costs and affordability. As such, despite the appellants' concerns, I consider that the figure of 580dpa is representative of the objectively assessed housing needs in the District at the present time and I have afforded it significant weight in my consideration of this appeal.

#### *Appropriate Buffer*

20. The appellants and the Council also differ on the appropriate buffer to be used in the housing land supply calculations. The Council considers that a buffer of 5% should be applied, whereas the appellants are of the view that the Council

- has a record of persistent under delivery of housing and, as such, a buffer of 20% would be more appropriate.
21. Table 3 of Mrs Nicholas' Proof of Evidence sets out the housing targets and delivery from 2001/02 to 2013/14. It indicates that the Council has failed to meet its target in 6 of the last 13 years, but with a cumulative under supply of only 28 dwellings. However, if the requirement of 580dpa is included for the last 3 years, this table would change to show that the Council has failed to meet its target in 7 of the last 13 years, with a cumulative undersupply of 199 dwellings.
22. The appellants consider that the appropriate target figure to use for the period 2001/02 to 2010/11 would be 400dpa, rather than a target of 320dpa for years 2001/02 to 2005/06 and a target of 430dpa for the remaining years up to and including 2010/11. This, they say, would be the relevant requirement figure for the years in question, given that the minimum to build figure<sup>11</sup> for Uttlesford in the East of England Plan: The Revision to the Regional Spatial Strategy for the East of England<sup>12</sup>, published in May 2008, was 8,000 dwellings between April 2001 and March 2021, which would equate to 400dpa ( $8,000 \div 20$ ). This Plan indicated that the target of 320dpa used by the Council for years 2001/02 to 2005/06 was the average of what was actually built (1,610 dwellings) during this time and not what was actually required. The target of 430dpa for the period 2006/07 to 2010/11 was based on the minimum still to build up to 2020/21 (6,390 dwellings). If these requirement figures are used, the appellants say that the Council has under delivered in 9 out of the last 13 years.
23. Paragraph 47 of The Framework advises that where there has been a record of persistent under delivery of housing, the 5 year target for housing land supply should be increased by the addition of a 20% buffer. I acknowledge the findings of the Local Plan Inspector in his fuller conclusions that housing delivery performance over the past 13 years has not fallen significantly below appropriate targets for the years in question and therefore the buffer discussed in The Framework does not need to be increased beyond the 'standard' 5%. However, I am concerned that, when the revised objectively assessed need figure of 580dpa is applied retrospectively from 2011/12, the Council has failed to meet its target in 4 of the last 5 years, with a total under supply during that time of 324 dwellings ( $93 - 128 - 59 - 40 - 190$ ) or around 12% ( $324 \div 2600 \times 100$ ) at a time when the Government is seeking to boost significantly the supply of housing.
24. In my opinion, although I note the Local Plan Inspector's comments in this regard, I consider that this would represent a record of persistent under delivery of housing. As such, the requirement for a 20% buffer applies in this District. Furthermore, I am concerned that the estimated number of completions in years 2014/15 and 2015/16 is likely to be significantly lower than the target<sup>13</sup>. Although estimated completions in the following 3 years would be substantially greater, I consider that applying a 20% buffer would reflect Government guidance in The Framework which seeks to boost significantly the supply of housing, by providing a realistic prospect of

<sup>11</sup> Table below Policy H1

<sup>12</sup> Core Document 4

<sup>13</sup> Table 1 in Appendix B to Mrs Nicholas' Proof of Evidence

achieving the planned supply and ensuring choice and competition in the market for land.

### *Supply*

25. Following the adjournment of the Inquiry a combined note<sup>14</sup> on disputed sites was prepared by the Council and the appellants. This indicated that 5 sites remain in dispute between the main parties, with the Council considering that 515 dwellings on these sites should be included within the 5 year housing land supply, compared to the appellants' view that only 80 dwellings should be included. I consider each of these sites below.
26. *West of Woodside Way, Great Dunmow (Site Ref. GD1)*: This site is not allocated in an adopted plan and does not benefit from planning permission. I note the Council's statement that it resolved to approve an application for outline planning permission (Ref. UTT/13/2107/OP) on 12 February 2014 subject to a Section 106 Agreement, negotiations on which are proceeding and nearing completion. The Council includes 50dpa on this site in years 3, 4 and 5 of its 5 year housing land supply calculations and states that a Hearing Statement submitted as part of the Local Plan Examination process does not disagree with the Council's trajectory and suggests that the remaining section of the site for 60 dwellings would come forward in years 4 and 5. The appellants comment that, although Barratt Homes was the applicant, local agents have confirmed that the site is shortly to be marketed as Barratt Homes no longer intends to 'draw down' and develop the site, so delivery is not presently in the control of a housebuilder.
27. Footnote 11 of The Framework says that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Given that a Section 106 Agreement has yet to be signed and outline planning permission has not yet been granted for this site, along with the need to then submit an application for reserved matters, I have some concerns about the timescale for the delivery of this site. However, given that the site is in the control of a housebuilder who has stated that the whole of the site would come forward in the 5 year period, I am satisfied that the site should be considered deliverable. As such, I concur with the Council's view that 150 dwellings should be included in the supply.
28. *Hillside and Land to the Rear (retirement village) (Site Ref: NEW2)*: Outline planning permission (Ref. UTT/13/1817/OP) was granted on 30 October 2014 for a care village. The Council confirmed that reserved matters have been submitted for the 5 market houses and discussions with 2 potential developers are continuing for the retirement village. The Council has included 43 units within year 5 of its housing land supply calculations. I acknowledge the appellants' comments that the site has been on the market for 9 months and that the developers' representations to the now withdrawn Local Plan stated that there had been very little interest shown from any care provider/operator. As such, an application for outline planning permission for the construction of 35+ houses on the site was submitted to the Council, but subsequently withdrawn as the Council felt that more time should be given for marketing the site for the care village use.

<sup>14</sup> Document 16

29. Although the Council stated at the Inquiry that it has had recent discussions with a care home operator about the site, given the uncertainty surrounding the development of the care village, in particular the comments of the developer to the Local Plan Examination that it cannot say with any certainty that the site will be delivered for the care village within the time frame as indicated at all, I am not satisfied that the site should be considered deliverable. As such, I concur with the appellants' view that 43 units should be removed from the supply.
30. *Land South of Radwinter Road, Saffron Walden (Site Ref. SAF1)*: This site is not allocated in an adopted plan and does not benefit from planning permission. I note the Council's statement that it resolved to approve an application for outline planning permission (Ref. UTT/13/3467/OP) on 30 April 2014, subject to a Section 106 Agreement, negotiations on which are continuing and expected to be completed shortly. The Council includes 50dpa on this site in years 3, 4 and 5 of its 5 year housing land supply calculations and says that the developer has confirmed delivery in accordance with the timescale. Furthermore, the Council refers to a Hearing Statement submitted as part of the Local Plan Examination which says that the Section 106 Agreement would be completed in November 2014 and reserved matters submitted in 2014/15, with work beginning on site in 2016/17. I acknowledge the other issues relating to this site referred to by the appellants including the procurement of improvement works to the foul sewerage system and the delivery of the section of the eastern relief road which crosses the land, along with the relationship between this site and neighbouring developments.
31. Although a Section 106 Agreement has yet to be signed and outline planning permission has not yet been granted for this site, along with the need to then submit an application for reserved matters, as well as the concerns raised by the appellants in respect of the procurement and delivery of infrastructure, I have some concerns about the timescale for the delivery of this site. However, given that the site is in the control of a developer who stated at the Local Plan Examination that delivery would occur in accordance with the projected timescales, as well as the units being capable of being delivered without the 2 linked schemes coming forward, I am satisfied that the site should be considered deliverable. As such, I concur with the Council's view that 150 dwellings should be included in the supply.
32. *Land South of Radwinter Road, Saffron Walden (care home) (Site Ref. SAF1)*: This site is not allocated in an adopted plan and does not benefit from planning permission. I note the Council's statement that it resolved to approve an application for outline planning permission (Ref. UTT/13/3467/OP) on 30 April 2014, subject to a Section 106 Agreement, which the Council says is nearing completion. The Council includes 60dpa and 12dpa in years 4 and 5 respectively of its 5 year housing land supply calculations. The Council says that completion within 5 years is anticipated. The appellants again refer to the matters raised above in relation to this site.
33. Although a Section 106 Agreement has yet to be signed and outline planning permission has not yet been granted for this site, along with the need to then submit an application for reserved matters, as well as the concerns raised by the appellants in respect of the procurement and delivery of infrastructure, I have some concerns about the timescale for the delivery of this site. However, given that the site is in the control of a developer who stated at the Local Plan

Examination that delivery would occur in accordance with the projected timescales, as well as the units being capable of being delivered without the 2 linked schemes coming forward, I am satisfied that the site could be considered deliverable. As such, I concur with the Council's view that 72 units should be included in the supply.

34. *Land at Ashdon Road, Commercial Centre, Saffron Walden (Site Ref. SAF6):* The Council resolved to approve an application for outline planning permission on this site on 30 April 2014 (Ref. UTT/13/2423/OP), with the Decision Notice being issued on 26 November 2014. The Council includes 50dpa in years 4 and 5 of its 5 year housing land supply calculations. However, the appellants consider that the build rates are too high and, as the site requires the relocation of an existing employer, there is some risk in the phasing and deliverability of the scheme. As such, they consider that a more appropriate figure would be 40dpa in years 4 and 5.
35. Outline planning permission has now been granted on this site and I note that the developer gave evidence to the Local Plan Examination that the site would be completed within 5 years. Given this, along with the lack of evidence to support a lower build rate on this site, I am satisfied that 100 dwellings should be included within the supply.
36. The Council considers that it has 3,592 dwellings within its 5 year housing land supply. This includes a windfall supply of 250 dwellings. At the Inquiry, the appellants confirmed that they do not now dispute this windfall allowance, given the evidence presented by the Council to the resumed Inquiry which identified that at least 208 dwellings now have planning permission which would count towards the windfall supply. I acknowledge that of the 3,342 dwellings identified in the 5 year supply by the Council, excluding windfalls (3,592 – 250), all bar 372 have an issued planning permission. I also note that the remainder benefit from a resolution to grant planning permission subject to a Section 106 Agreement. Nevertheless, for the reasons given above, I consider that the supply should be reduced by 43 dwellings, to give a total supply, including a windfall allowance, of 3,549 dwellings (3,592 – 43).
37. The appellants consider that a lapse rate of 10% should be applied to outstanding residential planning permissions. The Local Plan Inspector concluded in his fuller conclusions that there is no local or contemporary evidence which would justify the application of a standard lapse rate. There is no evidence before me that persuades me that I should take a different approach in this appeal. As such, I have not applied a lapse rate to the outstanding residential planning permissions within the housing land supply.
38. In summary, with regards to the 5 year housing land supply calculation I consider that the target of 2,900 dwellings should be used ( $580 \times 5$ ). The shortfall for the period 2011/12 – 2013/14 against this target is 289 ( $1,740 - 1,451$ ). Therefore the requirement added to the shortfall would equate to 3,189 dwellings. A buffer of 20% would amount to a further 638 dwellings, giving a total requirement, including the buffer, of 3,827 dwellings. From the evidence before me I consider, therefore, that the total supply in the District is 4.64 years ( $3,549 \div 3,827 \times 5$ ).
39. I conclude, therefore, that the Council cannot demonstrate a 5 year supply of deliverable housing land. As such, having regard to the guidance in Paragraph 49 of The Framework, the relevant policies for the supply of housing should not

be considered up to date. I have afforded this matter substantial weight in my consideration of this appeal.

### **Character and Appearance**

40. The appeal site is located to the east of St Edmunds Lane, adjacent to the eastern edge of the settlement of Great Dunmow, within open countryside. To the west of the appeal site, on the other side of St Edmunds Lane, is residential development along St Edmunds Lane, Riverside, Windmill Close and Millers Croft. A single residential property, known as Hill View, is located immediately to the north. The dwellings in the vicinity of the appeal site are mostly one or 2 storey properties.
41. Further to the north is Tower House, a Grade II Listed Building, which incorporates the 2 storey Mill House and 5 storey Tower Windmill. It is separated from the appeal site and Hill View by a strip of open countryside. Outline planning permission<sup>15</sup> (Ref. UTT/13/2121/OP) has been granted for the change of use of agricultural land to residential and the erection of 5 dwellings and associated garages on land adjacent to Tower House. An application (Ref. UTT/14/3280/FUL) for an alternative scheme<sup>16</sup> for the development of 7 dwellings was being considered by the Council at the time of the Inquiry. The approved scheme would retain an area of open countryside between the Tower House development and the northern boundaries of the appeal site and Hill View. However, the amended scheme for 7 dwellings would extend to these boundaries, with no area of open countryside retained between the proposed developments at Tower House and the appeal site.
42. To the south of the appeal site is Dunmow Bowling Club, which includes a bowling green, a large single storey building and car parking. Beyond which is a linear cluster of dwellings along St Edmunds Lane and around its junction with Braintree Road. To the east, north east and south east of the appeal site is predominantly open countryside. The appeal site, which slopes gently down from north to south, is around 1.8ha in size and is currently in agricultural use. A dense hedgerow exists along the western boundary of the appeal site, adjacent to St Edmunds Lane.
43. The Council and local residents are concerned about the impact of the proposed development on the character and appearance of the area. In particular, the Council is concerned that the proposal would result in the urbanisation of an important gap between the low key dwellings to the north and the bowls club to the south which would have a detrimental impact on the open and rural character of the surrounding countryside and the openness of the river valley. Furthermore, the Council says that the proposed development would be highly visible from St Edmunds Lane and the local public rights of way network.
44. The appeal site is located in the A6 Upper Chelmer River Valley Character Area as defined in the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments<sup>17</sup>, published in September 2006. This document sets out the overall character of this area, which stretches from the southern edge of the historic town of Thaxted southwards to the point at which the river meets the urban edge of Chelmsford. It says that the majority of

<sup>15</sup> Appendix 30 to Mr Anderson's Proof of Evidence

<sup>16</sup> Document 33 and Appendix 1 to Mr Anderson's Proof of Evidence

<sup>17</sup> Appendix 5 to Mrs Denmark's Proof of Evidence

settlements, excluding Great Dunmow, are situated high on the valley sides with very limited modern development. Great Dunmow is located within the western side of the river valley with the urban edge crossing the river and forming a finger of new development on the east side of the valley to the south of the main town, with this new development dominating views across the valley south of the town. This document also sets out the sensitivities to change within this Character Area as including the skyline of the valley slopes, which is visually sensitive, with open and framed cross-valley views and long views along the river corridor potentially affected by new tall or non-screened new development and notes that, overall, this Character Area has relatively high sensitivity to change.

45. The Great Dunmow Town Design Statement: Design Guidance for Enhancing and Protecting the Character of Dunmow<sup>18</sup>, prepared by the Dunmow Town Design Statement Group and the Community of Dunmow 2007-2008, describes the edge of the town, to the south of Stebbing Road, as being marked by St Edmunds Lane, with its ribbon of development on the east side. It goes on to say that immediately to the east of St Edmunds Lane, the fringe of agricultural land is bordered by tall trees with denser woodland beyond. Footpaths lead out into this rolling countryside which, it states, is a distinct contrast with the view to the west over the Chelmer again to buildings and woodland in the town, with the views from the east side of St Edmunds Lane being extensive.
46. As part of the planning application, the appellants submitted a Landscape and Visual Appraisal (LVA), dated February 2014, which considers the potential effects of the proposed development on landscape character and on visual receptors from 6 viewpoints. The LVA recognised that the fields on the eastern valley sides are a distinctive feature of the landscape character of the Upper Chelmer Valley. Furthermore, it stated that, through the development of the appeal site, this feature would be partially lost. Because of the small scale nature, location and design of the proposed development, the LVA considers that its impact would be limited to local scale only, namely within 1km of the appeal site, with direct effects on landscape character being the change from arable land to urban area. However, it acknowledges that vegetation within the appeal site boundary would be largely retained and enhanced, the watercourse to the south of the appeal site would not be affected, but would be enhanced in terms of biodiversity and water management. Furthermore, the LVA assessed the Sensitivity of the Landscape Character at the Local Level as Low, given that the proposal would not affect protected landscapes, Green Belt designations, special habitats or similar, and is currently intensively farmed arable land.
47. In terms of the Magnitude of Effects during construction and upon completion, the LVA concludes that, within and up to 500m from the appeal site, this would be High and Temporary, decreasing with distance to Medium and Low Magnitude within 0.5 to 1km from the appeal site, with the nature of the Effect being Adverse. Effects after completion would be of Medium (Year 1) and Low Magnitude (Year 15) with the vegetation proposed along the boundaries and within the appeal site increasingly maturing. The LVA therefore considers that the resulting Significance would decrease from Moderate (during construction and in Year 1, both within 500m and 1km of the appeal site) to Slight (Year 15 after completion).

---

<sup>18</sup> Document 27 and Appendix 6 to Mrs Denmark's Proof of Evidence

48. The 6 viewpoints assessed in the LVA are View 1 (footpath 23 leading from the appeal site towards Merks Hall); View 2 (the junction of Braintree Road/St Edmunds Lane); View 3 (Tenterfield); View 4 (east end of Chelmer Drive, where it meets footpath 28); View 5 (Library, off White Street); and View 6 (second floor window of a private office on High Street). The LVA concludes that in 2 of these views (3 and 4) the appeal site would not be visible. Furthermore, given the nature of View 6 it was not considered further in the evaluation.
49. With regards to View 1, the LVA assesses the Sensitivity of this viewpoint as High, with the Magnitude of Effect ranging from High (during construction and in Year 1) decreasing to Medium at Year 15 with the vegetation matured. The Significance would therefore be Major to Major-Moderate and the changes would be Adverse during construction and Neutral upon Year 15. The LVA identifies the Sensitivity at View 2 as Medium-High, with the Magnitude being Medium, because of the reduced visibility from this point. It states, therefore, that the resulting Significance would thus be Major-Moderate to Moderate, with the changes being Adverse. Finally, with regards to View 5 the LVA says that the Sensitivity of this viewpoint with important views towards the open countryside is High. The Magnitude is expected to be Medium-Low during construction and, since only some roofs would be visible upon completion, Low-Negligible from Year 1 onwards. The LVA says that the Significance would thus be Moderate to Slight and changes would be Adverse during construction and Neutral upon completion.
50. The LVA also included a cumulative assessment of the appeal proposal, along with the approved scheme on land adjacent to Tower House and the proposed development at Brick Kiln Farm<sup>19</sup> (Ref. UTT/13/0847/OP) for up to 68 dwellings. This found that the cumulative effects at Views 1, 2 and 5 would be the same as those for the appeal proposal only, for a number of reasons.
51. The Council is concerned that the LVA did not include a copy of the Zone of Theoretical Visibility (ZTV) and stated that it had not agreed the viewpoints used in the LVA. As part of the appeal process, the appellants submitted a ZTV analysis<sup>20</sup>, Visually Verified Montages (VVMs)<sup>21</sup> for Views 1, 2 and 5, along with an additional viewpoint (View 12), and a Figure Ground Analysis<sup>22</sup>. Furthermore, following the consideration of the Council's evidence, the appellants have prepared additional VVMs<sup>23</sup> which were submitted at the Inquiry. These include the following viewpoints: View 100 (footpath 12 to the north of the appeal site, along a track leading to Merks Hall); View 101 (junction of Windmill Close and St Edmunds Lane); View 102 (footpath 23 to the east of the Dunmow Bowling Club); and, View 103A and B (land to the east of the appeal site). At the Inquiry, the Council confirmed that these viewpoints corresponded with its own viewpoints<sup>24</sup> at Points A (View 1); Point B (View 103); Point C (View 102); Point D (View 100); and Point E (View 101).
52. The Council confirmed at the Inquiry that Views 100, 101 and 102 (Points D, E and C) are the most sensitive viewpoints of concern to the Council. During my site visit I was able to view the appeal site from each of the viewpoints

<sup>19</sup> Appendix 31 to Mr Anderson's Proof of Evidence

<sup>20</sup> Section 6 of Mr Tully's Proof of Evidence

<sup>21</sup> Verified View Methodology appended to Mr Crawley's Proof of Evidence

<sup>22</sup> Section 6 of Mr Tully's Proof of Evidence

<sup>23</sup> Document 11

<sup>24</sup> Appendix 8 to Mrs Denmark's Proof of Evidence

assessed by both the Council and the appellants. My findings in respect of each of these viewpoints are set out below.

53. *Views 1A and 1B (Point A):* This viewpoint is set at a higher level than the appeal site, on Public Right of Way (PROW) 18\_24. The land slopes down towards a tree lined watercourse, beyond which the appeal site is located. It is apparent from the VVMs that the proposed dwellings would be visible in this view. Although I concur with the appellants' assessment that the proposed development would appear prominent in this view, I consider that the development would be softened by the existing and proposed planting, along with glimpsed views of the proposed central communal green. Furthermore, given the backdrop of the existing urban form of this part of Great Dunmow I am satisfied that the proposed dwellings would not appear visually obtrusive or out of keeping with nearby buildings, when viewed from this point.
54. *View 2:* This viewpoint is located at the St Edmunds Lane/Braintree Road junction. From this viewpoint the front boundary fences/hedges of existing dwellings and the Bowling Club along the eastern side of St Edmunds Lane and the Grade II Listed Ford Cottages are dominant. The proposed dwellings would be sited beyond, with a backdrop of further hedgerows and woodland. Although visible in this view, I consider that the proposed dwellings would not appear prominent or visually obtrusive in the streetscene from the St Edmunds Lane/Braintree Road junction.
55. *Views 5 and 12:* These viewpoints are from the Library, off White Street, within the centre of the settlement of Great Dunmow. From these viewpoints the public car park clearly dominates the foreground, with dwellings to the east of the settlement centre also highly visible. Views of the open countryside are available beyond the built up area of the settlement. However, it is apparent from the VVMs and from my site visit that only very limited views of the proposed development would be available from these viewpoints, given the local topography. As such, the proposed development would not appear visually intrusive or restrict existing views of the open countryside from the town centre.
56. *View 100 (Point D):* This viewpoint is located to the north of the appeal site along PROW 18\_12. This viewpoint is located in an elevated position, with the land sloping down towards the appeal site. A belt of trees currently runs along the eastern boundary of the land to the south of Tower House and I note the proposal to extend this planting along the eastern boundary of the appeal site. At present, long distance partial views of the Bowling Club and other structures are available, but these are seen against a backdrop of trees and other planting. Although the eastern extent of the proposed development would initially appear prominent in this view, it is apparent from the VVMs that, once mature, the proposed landscaping would ameliorate the visual impact of the proposed dwellings, with only limited views of some rooftops available in the intervening years. I am satisfied, therefore, that the proposed development would assimilate into the landscape from this viewpoint and would not appear visually intrusive once the landscaping has fully matured.
57. *View 101 (Point E):* This viewpoint is located at the junction of Windmill Close with St Edmunds Lane. At present, views across the site to the countryside beyond are available at this junction through a gap in the existing hedgerow, along the western boundary of the appeal site. Given the proximity of the

proposed development to St Edmunds Lane, it would appear prominent from this viewpoint. I acknowledge that the proposed planting would provide some screening of the proposed dwellings, however, the proposed development would prevent views at this point across the appeal site to the open countryside beyond. This would, therefore, reduce the open aspect along this part of St Edmunds Lane to the detriment of the character and appearance of the area.

58. *View 102 (Point C):* This viewpoint is located on PROW 18\_23, which runs from St Edmunds Lane, to the south and east of the Bowling Club, at the point where it turns to the east across farmland before meeting PROW 18\_24. Given the close proximity of the footpath to the appeal site at this point, the proposed dwellings would appear dominant and visually obtrusive to users of this public right of way. However, I note the Illustrative Masterplan which shows the area adjacent to this public footpath as including waterside planting and drainage attenuation, along with a pedestrian link from the proposed development to the public footpath. The VVMs indicate how the proposed landscaping could ameliorate views of the proposed dwellings from the public footpath. However, I am concerned that allowing the landscaping to mature to such an extent in this location would prevent the use of the footpath link, by rendering it unattractive to future users. Nevertheless, I consider that landscaping could be used successfully in this location to soften the views of the proposed development from this public footpath in order to reduce its prominence.
59. *Views 103A and 103B (Point B):* This viewpoint is located roughly halfway up the slope between View 102 to the south west and View 1 to the north east. Although the proposed development would be seen in the context of the existing Bowling Club, to the south, and its impact would be lessened in this view by the proposed landscaping shown on the VVMs, it would appear dominant and visually intrusive from this viewpoint, given the topography of the area.
60. I note the concerns of local residents about the impact of the proposed development on their outlook and in views from St Edmunds Lane. Dwellings along the western side of St Edmunds Lane are set back from the highway, with gardens to the front. The occupiers of these dwellings currently benefit from glimpsed views through the existing boundary planting, across the appeal site to the open countryside beyond. In addition, the occupiers of Hill View, currently have unrestricted views across the appeal site. Furthermore, users of St Edmunds Lane benefit from glimpsed views across the open countryside through the existing trees and boundary planting along the western side of the appeal site. Although existing and proposed planting would provide some screening of the proposed dwellings, given their proximity to the highway, the opening up of an access point and the extent of the development proposed, it would result in a change to the outlook of neighbouring residents and to users of St Edmunds Lane.
61. It is apparent from the evidence before me, and from my site visit that, given the nature of the development proposed, namely the use of a greenfield site on the edge of a settlement, it would be likely that some degree of landscape harm would occur. Indeed, given the extent of the proposed development, it would lead to the loss of the gap between Hill View and the Bowling Club, which the Council and local residents consider to be important to the character and appearance of the area. However, although the residents of neighbouring

properties would experience a change in their outlook and the proposed development would be visible to users of the public rights of way network in the local area and from St Edmunds Lane, I do not consider that the proposal would represent a significant visual intrusion, as it would not introduce features that would be completely uncharacteristic of, or incompatible with, the immediate area. Furthermore, I consider that, given the outline nature of the proposal, along with the provision of a substantial area of amenity space within the proposed development and landscaping around the site shown on the VVMs, further opportunities exist to secure an appropriate design and landscaping at the reserved matters stage which would lessen the impact of the proposed development on the surrounding area.

62. I conclude, therefore, that the proposed development would cause some harm to the character and appearance of the area, in particular in views from the public footpath network, St Edmunds Lane and neighbouring residential properties. Given the nature of these impacts, I consider that some weight should be afforded to the landscape changes that would result from the proposed development.

### ***Sustainable Development***

63. Paragraph 7 of The Framework sets out the 3 dimensions to sustainable development: economic, social and environmental and Paragraph 8 says that the roles performed by the planning system in this regard should not be undertaken in isolation, because they are mutually dependent. It goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions.
64. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
65. The Council says that the proposal could deliver economic benefits through the delivery of self-build plots on a small estate, by offering an innovative response to housing requirements in the District. Furthermore, the Council considers that limited social benefits would be provided by the proposed development, given that it would support the supply of low density housing set around a landscaped green, around 800m from the town centre. However, the Council is concerned that accessibility to the town centre would be limited as the footpaths between it and the site are across a river valley and are not hard surfaced or lit. Furthermore, the Council points out that schools are in excess of 1km from the appeal site, which would lead to people accessing them using the private car, and bus stops are around 300m away, which would provide limited accessibility to public transport. However, the Council does not consider that these benefits would outweigh the harm to the character and appearance of the area or the loss of an important gap between the low key dwellings to the north and the Bowling Club to the south.

66. The appellants, on the other hand, refer to a number of elements of the proposed development which they say fulfil the sustainability objectives of The Framework. In terms of the economic dimension, the appellants refer to the demand for custom/self build plots within the District and consider that the proposed development would provide the right type of development, in the right place, at the right time. Furthermore, the development would provide an innovative response by co-ordinating development requirements and infrastructure. With regards to the social role, the appellants say that the proposal would aid the delivery of custom/self build housing which would clearly help to support a strong, vibrant community by empowering people to build their own property, with appropriate latitude to impose their own design ideas and values, where no existing or emerging development plan provides the structured means to do so. Furthermore, the proposed development would provide the ability to deliver 40% of the plots as affordable custom/self build, which is unique within the District.
67. In terms of the environmental role, the appellants say that the proposed development would protect and enhance the natural and built environment, principally by presenting an opportunity to deliver a high quality development, in an accessible location, thereby minimising the need for the Council to consider less sustainable options elsewhere. Furthermore, and especially by virtue of being a bespoke residential development, the opportunity exists to ensure that those custom/self build units delivered accord with the principles of sustainable construction, as introduced in the Design Code. Finally, the appellants consider that the appeal site is in a sustainable location and say that the judgement reached by the Council in this respect is not consistent with its assessment of the approved development on land adjacent to Tower House, immediately to the north of the appeal site.
68. The proposed development would provide 22 custom/self build dwellings. It is apparent from the evidence before me, including the feedback from the appellants' consultation exercise and the Council's new register of self build interest, that significant demand for this type of development exists within the District, with only limited opportunities currently available for custom/self builders. I am satisfied, therefore, that the proposed development would go some way towards meeting the needs for such housing in this area and would widen the choice of high quality homes in the District. I note the concerns raised by the Council in respect of the locational sustainability of the appeal site. However, in my opinion, given its close proximity to the town centre, along with the location of bus stops providing public transport to Stansted Airport, Braintree and Colchester, local services would be accessible to future occupiers of the proposed dwellings. The proposal would involve the loss of an area of open countryside. Although, I have afforded the loss of this open countryside and the landscape changes that would result from the proposed development some weight in my determination of this appeal, I consider that the design quality of the proposed development, which would accord with the principles of sustainable construction, along with the inclusion of significant areas of open space and landscaping, would, in addition to the social and economic gains detailed above, result in a sustainable form of development.
69. I conclude, therefore, that the proposed development would represent a sustainable form of development, having regard to local and national policy.

## **Community Infrastructure**

### *Schools*

70. In refusing the planning application, the Council referred to there being insufficient primary and secondary school places in Great Dunmow to accommodate the level of development proposed on the appeal site and that it did not provide the mechanism for addressing or mitigating the shortfall in the provision in the locality. Local Plan Policy GEN6 says that development will not be permitted unless it makes provision at the appropriate time for school capacity, amongst other things. The Education Authority says that there is currently no capacity at the only day-care nursery in Great Dunmow. Furthermore, the Education Authority confirms that in the Dunmow group of primary schools, overall demand is set to exceed supply by September 2015, even without any new housing, and, while the secondary school in the area currently has a net capacity, it is forecast that by September 2019 overall demand will exceed supply. In Year 7 this will occur by September 2015. The Education Authority would therefore require a financial contribution towards early years' childcare, primary and secondary education.
71. The Unilateral Undertaking<sup>25</sup> includes obligations which would provide financial contributions towards early years' childcare, primary and secondary education in accordance with a formula for calculating such contributions which is consistent with that set out in the Education Authority's 'Development Guide to Infrastructure Contributions 2010', which takes account of the likely child yield for early years, primary and secondary, as well as the cost of providing such places in Essex. The Council confirmed at the Inquiry that these obligations would satisfy its concerns in this regard. Furthermore, given the lack of capacity in the local day-care nursery, primary and secondary schools, along with the likely pupil yield from the proposed development, I consider that these obligations would pass the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010.

### *Affordable Housing*

72. The Council's Decision Notice also referred to the development generating the need for the provision of 40% affordable housing and noted that the planning application provided no mechanism for addressing this need. Government guidance in Paragraph 50 of The Framework says that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should, amongst other things, where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
73. As part of the proposed development the Council is seeking 9 affordable units to be provided on the site (1 x 1 bed, 7 x 2 bed and 1 x 3 bed units), in accordance with Local Plan Policy H9. The Council's approach is supported by its Corporate Plan 2014-2019 which says that the provision of affordable housing is a corporate priority, with a target of 100dpa included in the Council's

---

<sup>25</sup> Document 37

Housing Strategy 2012-2015. The Council considers that there are 2 methods for the delivery of affordable housing on the appeal site. Firstly, the main contractor, in agreement with a Registered Provider, could build the affordable housing and sell the properties to the registered provider at an agreed price, that reflects the build cost to the developer. Alternatively, the developer would sell the fully serviced plots to a Registered Provider, who would then use contractors to build the homes.

74. The submitted Unilateral Undertaking does not contain an obligation which would enable the provision of affordable housing using either of the methods put forward by the Council. Instead, the Unilateral Undertaking includes obligations which provide 9 affordable housing plots on the site, which could only be sold, at no more than the discounted value, to a nominated person for the construction of custom/self build houses. Upon the subsequent first sale of these developed plots, a sum equal to 10% of the sale value would be paid to the Council and the dwelling would no longer be available as an affordable home. If any of the affordable housing plots remain unsold after a period of 12 months, they may be sold at market value for the development of custom/self build housing. If this occurs, for each affordable housing plot which is sold, an affordable housing commuted payment, equivalent to the discounted value of an affordable housing plot, namely 30% of the market value, would be made to the Council. The Council disputes this approach to affordable housing provision, as it considers that it would not meet the definition of affordable housing within The Framework and therefore could not be considered compliant with Policy H9 of the Local Plan.
75. Affordable housing is defined in Annex 2: Glossary of The Framework as social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. It goes on to say that affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
76. The Council and the appellants agreed at the Inquiry that the affordable housing proposed as part of this development would be intermediate housing, which The Framework defines as homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the affordable housing definition. It goes on to say that these can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.
77. The proposed development would provide custom build housing, which includes self build. This is housing commissioned and built by individuals or groups of individuals for their own use, either by building the home on their own (self build) or working with builders. I acknowledge the evidence submitted by the appellants which indicates that custom and self build housing can be 20-55% cheaper than ordinary housing and even cheaper than new housing. As such, the market element of the scheme before me would promote greater affordability. The appellants, therefore, say that the affordable element of the proposed development would, in effect, be subject to a double discount, given the savings associated with custom/self build generally, plus the additional 30% discount on the affordable housing plots.

78. With regards to the criteria in the affordable housing definition in The Framework, firstly the intermediate housing must be provided to eligible households whose needs are not met by the market. The Unilateral Undertaking would ensure that the affordable housing plots would only be sold to a nominated person, which is defined as a person or persons nominated by the Council from their housing register or the HomeBuy Agent, being the zone agent keeping a register of persons seeking shared ownership dwellings for Essex.
79. The definition in The Framework says that eligibility is determined with regard to local incomes and local house prices. Other than average prices for houses, new build homes, custom and self build houses in England and Wales, I have not been provided with any evidence in relation to the prices of land and property within the local area in respect of market and custom built housing. Furthermore, no evidence is before me to indicate the likely market value of the custom build plots on the appeal site and subsequently the cost of the affordable housing plots, once the 30% discount has been applied, or the build costs associated with custom/self build houses on the appeal site. I note the evidence given at the Inquiry by the Council that 40% of the population in Uttlesford earn less than £21,000 per annum, with 30% earning less than £17,000 per annum. Furthermore the Council explained to the Inquiry that the average income for those on the relevant waiting lists was £12,000 per annum. I also acknowledge the appellants' evidence at the Inquiry that custom build schemes offer the ability to start with a small home and then bolt on subsequent phases at a later date when finances allow. Nevertheless, from the evidence before me, I am unable to determine whether or not the affordable housing plots and the associated build costs would be affordable for eligible households.
80. With regards to the final criterion within the affordable housing definition in The Framework, it requires that either the affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. The submitted Unilateral Undertaking does not include a provision to ensure that the developed affordable housing plots would remain at an affordable price for future eligible households. Rather it would provide a subsidy to the Council of 10% of the sale price of the first sale of the developed affordable housing plot. This, the appellants anticipate, would be likely to at least match the 30% discount on plot value.
81. Although I am unable to determine, on the evidence before me, whether or not the affordable housing plots would provide a realistic proposition for eligible households, the inclusion of a commuted payment in respect of each affordable housing plot which remains unsold after 12 months, would ensure that a contribution to off site affordable housing would be made. Furthermore, if the affordable housing plots are developed as envisaged, not only would they contribute to permanently removing households from the housing register, but on the first sale of each of the developed affordable housing plots, a subsidy of 10% of the sale price would be provided to the Council for the provision of off site affordable housing. I acknowledge the concerns of the Council in relation to the likely level of these financial contributions. However, in my opinion, given the specific nature of the development proposed for this site, the opportunity for everyone, including those in need of affordable housing, to build their own home would accord with Government guidance in paragraph 50

of The Framework to widen opportunities for home ownership and would ensure community and design cohesion within the development. As such, I am satisfied that the innovative approach to the provision of affordable housing in relation to this site of custom/self build properties would be acceptable. Furthermore, I consider that the obligations included within the Unilateral Undertaking would pass the statutory tests.

82. I conclude, therefore, that the proposed development would not harm community infrastructure, including schools and affordable housing. As such it would not be contrary to Local Plan Policies H9 and GEN6 and would accord with the guidance in The Framework.

### **Other Matters**

#### *Custom/Self Build Housing*

83. The proposed development would include the provision of 22 custom/self build dwellings on the appeal site. The Unilateral Undertaking would ensure that all housing plots would only be constructed as Custom/Self Build houses. The Local Plan does not make any provision for meeting the needs of people wishing to build their own homes, contrary to the guidance in Paragraph 50 of The Framework. Indeed, the Council accepted at the Inquiry that the Local Plan is absent or silent on this issue. Furthermore, I note the Local Plan Inspector's comments in his fuller conclusions relating to Major Modifications to address the need to encourage site availability for self-builders, amongst other things.
84. During the adjournment of the Inquiry the Council prepared a note in respect of custom/self build schemes<sup>26</sup> developed in the District since September 2012. The appellants also prepared a response<sup>27</sup> to this note. The Schedule provided by the Council indicates that 38 custom/self build dwellinghouses have commenced construction since September 2012, which would equate to a rate of around 16dpa. The appellants' assessment of these sites, however, finds that only one site could be considered to be partially reflective of the custom build philosophy, albeit that this was a developer led project. Indeed, I note that there were 12 replacement dwellings, with a net increase of one dwelling in the housing stock; 6 garden plots, mainly where the existing owner moved into the new dwelling on completion; 7 agricultural building or stable block conversions; 5 developer led schemes; 3 errors or misclassifications; and one commercial conversion.
85. From the evidence before me it is apparent that there has been little opportunity for self builders in recent years within the District. The Government has made a commitment to the provision of 100,000 custom/self build homes over the next 10 years. The appellants consider that this would equate to around 214 custom build homes per local authority in England, with around 107 dwellings to be constructed in the next 5 years. It was clear, from the views expressed by third parties at the Inquiry and the responses to the appellants' public consultation exercise, that a latent demand exists for custom/self build development opportunities within the District. Indeed, I acknowledge the responses already received to the custom/self build housing register set up by the Council recently.

---

<sup>26</sup> Document 20

<sup>27</sup> Document 22

86. I note the 2 possible approaches put forward by the Council to the Local Plan Inspector in terms of amendments to Policy SP6 and paragraph 11.35 of the emerging Local Plan in order to encourage people to build their own homes. However, these modifications will not now be made, given that the emerging Local Plan has been withdrawn, and the existing Local Plan does not make provision for custom/self build development within the District. Although I acknowledge that some windfall sites may come forward for custom/self build housing in the next 5 years, given the current local policy vacuum in relation to custom/self build developments within the District, it is unlikely that such provision alone would be sufficient to satisfy the existing demand. The proposed development would provide the opportunity for 22 custom/self builders in the District to build their own home, which would go some way towards meeting the needs of this sector within the area. I have, therefore, afforded the provision of custom/self build housing significant weight in my consideration of this appeal.
87. Furthermore, given the lack of provision for custom/self build housing within the Local Plan, the promotion of this site for this particular type of residential development and having regard to the guidance in Paragraph 50 of The Framework, I consider that the obligations included within the Unilateral Undertaking which set out the commitment to such development would pass the statutory tests.

### **Planning Balance and Overall Conclusions**

88. From the evidence before me, it is apparent that the development plan only makes provision for housing up to 2011. Furthermore, the Council cannot demonstrate a 5 year supply of deliverable housing land. As such, the relevant policies for the supply of housing should not be considered up to date. In addition, I have found that the development plan is silent and absent in respect of the provision of custom/self build housing. Given these factors, having regard to Paragraph 14 of The Framework, planning permission should be granted 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.
89. Having regard to Paragraph 49 of The Framework, I consider that policies for the supply of housing should include the elements of Local Plan Policy S7 which seek to contain built development within the defined settlement boundaries. However, although it would be inappropriate to rigidly apply Policy S7 to the open countryside and refuse planning permission for all proposals within this area because they do not meet the criteria set out within this policy, it would be necessary to assess any proposed development in terms of its impact on the character and appearance of the countryside and the settlement, when considering whether or not it would be appropriate for the development proposed.
90. I have found that the proposal would represent a sustainable form of development. I am also satisfied that the proposed development would not harm community infrastructure, including schools and affordable housing, given the obligations included within the Unilateral Undertaking. However, the proposed development would lead to the loss of some open countryside and some harm to the character and appearance of the area has been identified in terms of the localised impacts in association with private views from

neighbouring residential properties and public views from the public rights of way network and St Edmunds Lane, and I have afforded some weight to the landscape changes that would result from the proposed development.

91. In my opinion, the lack of a 5 year supply of deliverable housing land and the provision of custom/self build housing are material considerations of substantial and significant weight, respectively, in this appeal. I have considered all the other matters raised by the Council and third parties including the impact of the proposed development on the living conditions of neighbouring residents; highway safety concerns; flooding; and local wildlife. However, given that the proposal would represent a sustainable form of development, along with the need to boost significantly the supply of housing in Uttlesford and the provision of custom/self build housing in particular, I do not consider that the loss of this open countryside and the limited harm identified to the character and appearance of the area and the other matters raised would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, I conclude that the appeal should be allowed.

### **Conditions**

92. In addition to the standard time limit and reserved matters conditions, the Council has suggested a further 3 conditions. I have had regard to the advice in The Planning Guidance during my consideration of these conditions. A condition requiring the submission and approval of details of the Sustainable Urban Drainage Scheme (SUDS) would be reasonable to ensure that the proposal would not increase the bird hazard risk, in order to safeguard the movement of aircraft and the operation of Stansted Airport. A condition requiring the investigation and mitigation of any archaeological deposits would be reasonable in the interests of archaeological protection. Finally, a requirement for a surface water management strategy would be necessary to safeguard the local area from flooding.

*Karen L Baker*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|                                                                                      |                                       |
|--------------------------------------------------------------------------------------|---------------------------------------|
| Mr Robert Williams <i>of Counsel</i><br>He called<br>Mrs Sarah Nicholas BSc<br>MRTPI | Instructed by the Council's Solicitor |
| Mrs Stephanie Baxter                                                                 | Housing Enabling Officer              |
| Mrs Karen Denmark<br>MRTPI                                                           | Development Management Team Leader    |

### FOR THE APPELLANTS:

|                                                                                         |                                              |
|-----------------------------------------------------------------------------------------|----------------------------------------------|
| Mr Charles Banner <i>of Counsel</i><br>He called<br>Mr Paul Crawley<br>BA(Hons) DipArch | Instructed by Iceni Projects Limited         |
| Mr Neil Tully MA DipUD<br>CMLI AoU                                                      | Principal of Neil Tully Associates           |
| Mr Ian Anderson DipTP<br>MRTPI                                                          | Executive Director of Iceni Projects Limited |

### INTERESTED PERSONS:

|                       |                                         |
|-----------------------|-----------------------------------------|
| Mrs Rebecca King      | Local Resident, opposing the proposal   |
| Mrs Josephine Pettett | Local Resident, opposing the proposal   |
| Mrs Susie White       | Local Resident, supporting the proposal |
| Miss Vashti Hodge     | Local Resident, supporting the proposal |
| Mr Alan White         | Local Resident, supporting the proposal |

### DOCUMENTS SUBMITTED AT THE INQUIRY (26 and 27 November 2014)

- 1 Core Documents submitted by the appellants
- 2 Opening Statement on behalf of the appellants
- 3 Opening Statement on behalf of the Council
- 4 Closing Submissions on behalf of the Council in respect of an appeal against the refusal of outline planning permission on land west of Great Dunmow, Stortford Road, Little Easton, presented on 24 November 2014, submitted by the appellants
- 5 Sarah Nicholas Speaking Note: Response to Ian Anderson's Appendix 28, submitted by the Council
- 6 Responses to Matter 7I Encouragement to Self Builders in the emerging Local Plan, submitted by the Council
- 7 Minutes of Planning Committee held on 9 April 2014, submitted by the Council
- 8 Statement by Essex County Council relating to the financial contributions sought towards education provision, submitted by the Council
- 9 Draft planning conditions, submitted by the Council
- 10 Draft Unilateral Undertaking (First Version), submitted by the appellants
- 11 Additional Visually Verified Montages, submitted by the appellants
- 12 Draft Unilateral Undertaking (Second Version), submitted by the appellants

- 13 Representation made on behalf of the St Edmunds Lane Partnership in respect of the soundness of the emerging Local Plan, along with a written legal opinion, dated 27 November 2014, submitted by the appellants.
- 14 Plan showing the extent of the Brick Kiln Farm Site, land at Tower House and the appeal site, submitted by the appellants
- 15 Officer report in relation to an application for outline planning permission for up to 790 homes, including primary school, community buildings, open space including playing fields and allotments and associated infrastructure on land west of Woodside Way, Great Dunmow (Ref. UTT/13/2107/OP), submitted by the Council

## **DOCUMENTS SUBMITTED DURING THE ADJOURNMENT OF THE INQUIRY**

- 16 Combined Note from UDC and Iceni Projects on Disputed Sites, dated 5 December 2014, submitted by the appellants
- 17 5 Year Housing Land Supply Analysis Update, dated 5 December 2014, submitted by the appellants
- 18 Examination of the Uttlesford Local Plan: Summarised Conclusions of the Inspector after the Hearing Session on 3 December 2014, submitted by the appellants
- 19 Supplementary Proof of Evidence of Mrs Nicholas, including Appendix M (Examination of the Uttlesford Local Plan: Inspector's Conclusions), submitted by the Council
- 20 Self Build Note, submitted by the Council
- 21 CIL Regulation 122 Compliance Note, submitted by the Council
- 22 Appellants' comments on the Council's Self Build Note, submitted by the appellants
- 23 Costs Application, submitted by the appellants

## **DOCUMENTS SUBMITTED AT THE INQUIRY (11 and 12 February 2015)**

- 24 Appeal Decision Ref. APP/C1570/A/14/2226257, submitted by the Council
- 25 Update to Tables 1 and 3 of Statement of local planning authority provided to the Inspector in the appeal Ref: APP/C1570/A/14/2226257 following the summarised conclusions of the Local Plan Inspector after the Hearing sessions on 3 December 2014, submitted by the Council
- 26 Appeal Decision Ref: APP/K2420/A/13/2208318, submitted by the Council
- 27 Great Dunmow Town Design Statement, submitted by the Council
- 28 Appeal Decision Ref: APP/C1570/A/14/2218212, submitted by the appellants
- 29 Appeal Decision Ref: APP/C1570/A/14/2226179, submitted by the appellants
- 30 Response to the Application for Costs, submitted by the Council
- 31 Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990, submitted by the appellants
- 32 5 Year Housing Land Supply – Considered Alongside Policy S7, submitted by the appellants
- 33 Location Plan, Block Plan and Streetscene Elevations (Drawing No. 76314.01 Rev A) for the proposed residential development of 7 dwellings on land at Tower House, St Edmunds Lane, Great Dunmow, submitted by the appellants
- 34 Revised 5 Year Housing Land Supply – Considered Alongside Policy S7, submitted by the appellants

- 35 Closing Submissions on behalf of the Council, including legal advice on Policy S7 of the Uttlesford Local Plan, submitted by the Council
- 36 Appellants' Closing Submissions, submitted by the appellants

### **DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY**

- 37 Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990, submitted by the appellants
- 38 Uttlesford District Council's Submissions on the appellants' Unilateral Undertaking, submitted by the Council
- 39 Appellants' Response to Uttlesford District Council's Submissions on the appellants' Unilateral Undertaking, submitted by the appellants
- 40 Certified Copy of the Land Registry Transfer for the appeal site, submitted by the appellants
- 41 Official Copy of Register of Title Number EX916168, submitted by the appellants
- 42 Completion of Registration for Title Number EX916168, submitted by the appellants

### **APPLICATION PLANS**

- A1/1 Site Application Plan (Drawing No. 100/002)
- A1/2 Illustrative Masterplan (Drawing No. 100/001 Rev. C)

## Appendix 1 – Conditions

- 1) 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 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 permission.
- 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 not commence until details of the Sustainable Urban Drainage Schemes (SUDS) have been submitted to and approved in writing by the local planning authority. The submitted details must comply with Advice Note 6 'Potential Bird Hazards from SUDS'. The details shall include:
  - a) Attenuation times;
  - b) Profiles and dimensions of water bodies; and,
  - c) Details of marginal planting.No subsequent alterations to the approved SUDS shall take place unless first submitted to and approved in writing by the local planning authority. The SUDS shall be implemented as approved.
- 5) No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been first submitted to and approved in writing by the local planning authority. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing by the local planning authority following the completion of this work.  
No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the completion of fieldwork in accordance with the approved mitigation strategy and following the written agreement of the local planning authority through its historic environment advisors.  
Within 6 months of the completion of fieldwork, unless otherwise agreed in writing with the local planning authority, a post-excavation assessment shall be submitted to the local planning authority. This will include the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
- 6) No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the local planning authority. No hardstanding areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved, unless otherwise agreed in writing by the local planning authority.