



Appeal Decision

Inquiry held on 4-6 November 2015

Accompanied site visit made on 5 November 2015

by Hywel Wyn Jones BA (Hons) BTP MRTPI

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

Decision date: 7 December 2015

Appeal Ref: APP/X1545/W/15/3003529

Land to the east of Pippins Road, Burnham on Crouch, Essex, CM0 8DH

- 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 Strutt and Parker Farms Ltd against the decision of Maldon District Council.
 - The application (ref: OUT/MAL/14/00108), dated 7 February 2014, was refused by notice dated 27 August 2014.
 - The development proposed is the provision of up to 75 dwellings, provision of public open space, a pavilion building, a new vehicular access from Pippins Road and a temporary haul road access from Marsh Road.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of up to 75 dwellings, provision of public open space, a pavilion building, a new vehicular access from Pippins Road and a temporary haul road access from Marsh Road at Land to the east of Pippins Road, Burnham on Crouch, Essex, CM0 8DH in accordance with the terms of the application, (ref: OUT/MAL/14/00108), dated 7 February 2014, subject to the conditions set out in the attached Schedule.

Application for costs

2. At the Inquiry an application for costs was made by Strutt and Parker Farms Ltd against Maldon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. At the request of local residents I carried out my accompanied site visit at a time that coincided with the end of the school day. During the week of the inquiry I also carried out several other visits to the vicinity at various times of the day.
4. The application is made in outline with all matters save for the means of access reserved for future consideration. I have determined the appeal accordingly. The appellant has confirmed that the layout plan which has been submitted is intended to be illustrative of how it envisages the development could be undertaken. I have treated the plan on that basis.

5. The description of the development on the planning application form omitted reference to the proposed pavilion. It was confirmed to be an oversight which was corrected in the Council's application publicity, and I have adopted the revised wording in my formal decision above. During the course of the application the scheme was amended to reposition the haul road. This effectively moved the temporary road away from the closest residential properties and would provide better visibility for emerging drivers onto the public highway. The Council took this amendment into account in its determination of the application and I have assessed the appeal on the same basis, satisfied that to do so would not cause injustice to any party.
6. At the start of the inquiry the Council explained that its urban design witness was unable to attend. I was asked to take into account the witness's written Proof of Evidence though it was acknowledged that the weight it could be afforded was less because it would not be tested by cross-examination.
7. During the course of the appeal the Council revised its stance in relation to the scheme from that set out in its decision notice. At the inquiry it confirmed that it was no longer pursuing concerns relating to residential amenity or the capacity of the highway network to safely accommodate the volume of traffic that would arise from the occupation of the proposed dwellings. It introduced a new objection which related to the highway capacity and safety implications of using Marsh Road as the route for construction traffic.
8. At the inquiry the appellant accepted that the Unilateral Undertaking under section 106 of the Act which it had presented was not properly signed. In accordance with a timescale agreed at the event, the appellant subsequently provided a copy of a duly signed undertaking to me and to the Council. The duly signed version omitted a contribution towards primary school transport proposed in an earlier draft. This reflected an acknowledgement by the Council that its reference to this in its committee report¹ had been made in error. I shall return to these obligations later in this decision.
9. On the final day of the inquiry an appeal decision² relating to a site at Heybridge Basin was issued. As it considered the issue of housing land supply within the District, it was relevant to the case before me. A copy of the decision was produced by the Council and the main parties were given an opportunity to read its content before I heard submissions on its significance to this appeal.

Planning Policy

10. The development plan for the area comprises the saved policies of the Maldon District Replacement Local Plan (RLP), adopted in 2005. The Plan's housing strategy makes provision to meet housing needs only until 2011. The Council relies on 3 'saved' policies of the Plan: policies BE1, T1 and T2. The first has been found to be mainly compliant with the Framework, the others fully compliant.
11. The Maldon District Local Development Plan is at an advanced stage of preparation. However, on 8 May 2015 the examining Inspector issued his interim findings which explained that he considered policy H6 (provision for Travellers), and thus the Plan, was unsound. In a subsequent letter dated 3

¹ The appellant confirmed that this reference had led to it including this contribution in its Undertaking

² APP/X1545/W/15/3003795

- June 2015, the Inspector explained that he considered that all of the plan's housing policies, taken together, were unsound because the plan does not identify and meet objectively assessed housing needs and is not based on adequate, up-to-date and relevant evidence as required in national policy.
12. In response to a request from the Council, the Secretary of State exercised his power to call-in the emerging Local Development Plan (ELDP) for his approval on 8 June 2015. I understand that work on this is on-going and no indication of findings has been issued. In the circumstances the weight that I afford to the housing policies of this ELDP is limited. The Council rely on 2 policies of the plan: D1 and T2, which deal with design quality and accessibility respectively. They broadly align with the aforementioned policies of the RLP. As they also reflect latest national policy I afford them appreciable weight, in accord with paragraph 216 of the National Planning Policy Framework (NPPF).
 13. Reflecting its status as the second largest settlement in Maldon District, the emerging Plan identifies Burnham as suitable to accommodate much of its housing growth. To this end the Plan proposes the allocation of 3 strategic housing sites in Burnham which would provide 450 dwellings. These sites are located on the north and north western periphery of the built up area of the town.
 14. The appeal site forms part of a site that was identified in the submitted Local Development Plan as a 'reserve' site for up to 100 dwellings. This was one of 3 reserve sites for housing in the Plan which were identified as potential housing sites to be brought forward in the event that the allocated sites failed to deliver the quantum of housing anticipated. In response to the Inspector's criticisms of this concept, the Council proposed modifications to the Plan to omit such sites.
 15. I have considered whether approval of the scheme would prejudice the ELDP, and have noted an objection raised on this point by a promoter of one of the allocated sites in Burnham who is concerned that it will undermine delivery of such sites. Reflecting the advice in Planning Practice Guidance³ (PPG) a technical paper⁴ produced by the Council identifies the particular situations where concerns over prematurity may arise. This includes where it would take up limited infrastructure capacity, and in the case of Burnham, specific reference is made to the primary school capacity. The scheme proposes a planning obligation that would address this matter in accord with that sought by the Local Education Authority. Thus I concur with the Council that concerns over prematurity do not arise in this case.
 16. The 'draft for consultation' version of the Burnham Neighbourhood Plan (NP) has been produced. I heard evidence from the Chairman of its Steering Group, as well as contributions from other members of the Group. The Plan has been subject to one consultation exercise which was used to inform the latest version (October 2015) which is subject to a formal consultation exercise until 27 November 2015. I was advised that the extent of community involvement undertaken already means that the group anticipates that there will be few objections raised and little need to make changes to the Plan⁵. Nonetheless, in

³ 21b-014-20140306

⁴ Section 6 of Planning Policy Advice Note V4 (PPAN)

⁵ In response the appellant expressed concern that it, as an owner of land on the periphery of the town had not been aware of the previous consultation

response to discussion on the detailed content of the housing policies I was also told that the document was in draft form and that there may well be changes to its content before it is formally submitted for examination.

17. The Council, referring to the extent of local engagement in the preparation of the NP and the numbers of local residents opposed to this scheme, suggested that considerable weight ought to be given to the Plan. However, the present consultation is an important part of the Plan's preparation and until the Steering Group has had the opportunity to consider whether to make changes to the Plan the weight to afford it is limited.

Main Issues

18. The main issues are:

- (i) Whether the Council can demonstrate a 5 year supply of deliverable housing land;
- (ii) Whether the scheme represents a sustainable form of development in terms of encouraging a reduction in the reliance on the car and facilitating sustainable communities; and
- (iii) Whether the scheme would prejudice highway safety or would unacceptably affect the free flow of traffic.

Reasons

Housing Land Supply

19. The Framework emphasises the need to significantly boost the supply of housing, both market and affordable housing. It seeks to ensure that local planning authorities identify a 5 year supply of deliverable sites, plus a suitable additional buffer to provide choice and competition in the market. This buffer should be 5% except where there has been a record of persistent under-delivery in the past, when a 20% buffer should be provided.
20. The demonstration of a 5 year supply of housing land needs to consider the housing requirement, any previous shortfall in delivery, the buffer and the available supply of deliverable housing land.

Five-year requirement

21. Given that the development plan is out dated in relation to housing requirement, PPG advises that the requirement for new housing should be assessed against the full objectively assessed need for the area. The Council relies on its assessment for the LDP, which was revised upwards during the course of the examination to a figure of 310 dwellings per annum (dpa). The appellant points out that the examining Inspector has not made a finding on the acceptability of this requirement and that there are unresolved objections. Whilst the appellant suggested that a requirement of 310 dpa may be too low, no alternative figure was presented to me. In the Heybridge Basin case, the Inspector noted that the ELDP's housing requirement cannot be afforded full weight at present before concluding that, in the absence of an alternative, it was the appropriate requirement against which to assess the housing land supply.

22. The Inspector explained why the Council's previous oversupply of housing should not be factored in to the assessment of housing need. She also explained the basis for finding that a 5% buffer is appropriate and that the buffer should be applied to the entire 5 year housing requirement, which should include the previous shortfall in delivery. In practice the shortfall is so modest that it does not materially alter the requirement, which changes from 1869 to 1881 dwellings. The parties accepted that there was no evidence before me that differed from the considerations before my colleague Inspector. I adopt her findings on all these matters.

Specific Sites

23. I now turn to consider the deliverability of the identified supply of housing land. At the time of the Council's determination of the application, it calculated its supply of housing land to equate to 1.8 years. Since then, and in recognition of the importance placed by national policy on providing a 5 year supply of housing, it has sought to improve the supply primarily by bringing forward the strategic sites identified in the ELDP. Its approach to increasing supply was established by a Council resolution in July 2014, and is set out in its Planning Policy Advice Note (PPAN).
24. On the basis of this approach it produced an update of its 5 year housing land supply in July 2015⁶, which indicated a supply of 7 years. In preparation for the Heybridge Basin appeal it revisited its position, in particular its estimated timescale of delivery of certain sites. The latest PPAN, V4 produced in October 2015, calculates supply at 6 years.
25. The Council's source of housing supply comprises 944 dwellings with planning permission, a further 1195 dwellings from strategic allocations in the ELDP (excluding those which have planning permission) and a windfall allowance of 100 dwellings. To allow for 5% slippage and non-implementation the total supply is reduced by 112. This provides a total of 2127 dwellings.
26. The disagreement between the parties on the delivery of sites centres on the timescale for developing some of the strategic sites. An assessment of the likely deliverability of sites, including the trajectory of development, is not an exact science. In several cases the disagreement is whether development would commence in the year anticipated by the Council or the following year, as suggested by the appellant.
27. Most of the sites were considered in the Heybridge Basin decision, and the main parties accepted that there was more detailed evidence presented to that inquiry than was before me, and that I would need good reason not to accept the findings in that case.
28. At my request the parties provided a position statement in advance of the hearing which included comments on the deliverability of each strategic site. In terms of numbers of houses the most significant disagreement related to strategic site S2(h), Heybridge Swifts Football Club. The Council had revised its original expectation of 100 dwellings to 67 to allow for a year's slippage. It seems to me that this is the most difficult site to bring forward in a timely fashion given the requirement for the football club to secure an alternative ground before any development can commence. I note that in the Heybridge

⁶ MDC Five Year Housing Land Supply Statement

Basin appeal the Inspector found that the difficulties regarding securing an alternative football ground provision, including uncertainties on cost and the potential impact on development viability, meant that she was not persuaded that the site is deliverable within the next 5 years. Notwithstanding that the Council advised me that it was expecting the submission applications to redevelop the site and to secure replacement facilities for the club, the evidence before me does not lead me away from finding that delivery within 5 years is overly optimistic.

29. With regard to the 2 other sites where the Inspector at Heybridge Basin reduced the Council's figure, one site S2(i) West of Burnham, was reduced by 30 which corresponds to the revised figure the Council presented to me. At site S2(k), North of Burnham (East), she found that the site was likely to commence a year later than the Council's expectation and thus reduced its figure by 30. At my inquiry the appellant contended that delivery on both sites would be slower than the Council anticipated. It was suggested that a commonality of ownership of these 2 sites may delay delivery on one of these sites for commercial reasons. However, I find that there is no compelling evidence before me to justify departing from the figures identified in the Heybridge Basin decision.
30. In relation to the other 5 sites considered by the Inspector, she endorsed the Council's figures. On one of these sites, S2(b) South of Maldon (Wycke Hill North), the appellant explained to me why it considered that no dwellings will be delivered within 5 years. This is on the basis of the complexity of the scheme and the time taken to obtain the outline and reserved matters application. The Council figure is 150. It explained that the site is one of the 3 Garden Suburb sites that are allocated and that it had invested significant effort in assisting to bring this site forward and had approved an outline permission. Its timetable for delivery had been directly influenced by the prospective developer. Mindful of the evidence presented to me, I find that there is no reason for me to take a different view from my colleague in relation to any of these 5 sites.
31. Of the 3 sites not specifically considered in that appeal decision, 2 of the sites, S2(c) at South of Maldon (Wycke Hill South) and S2(g), South of Maldon (Park Drive) have been granted planning permission. The remaining strategic site is S2(f) West of Broad Street Green Road. It is estimated by the Council to provide 100 dwellings over the period, with delivery commencing in 2017/18. The appellant suggested that work would not commence until 2019/20 because of outstanding work in relation to the planning process, include ecological scoping and mitigation and the delivery of infrastructure. The Council has confirmed that there is a detailed planning application currently being assessed and I consider its expectation on the rate of delivery to be achievable.
32. I also note that the Inspector at Heybridge Basin found that one of the sites with planning permission, Sadds Wharf, was unlikely to commence until 2016/17 and therefore the number of houses delivered should be reduced by 23. No evidence was presented to me on this, but I have no reason to disagree.
33. When compared against the Council's revised figures the adjustments in the number of dwellings by the Heybridge Basin Inspector represents a reduction of 67 on site S2(h), and 30 on site S2(k). When these reductions and the 23

for Sadds Wharf are subtracted from the Council's total potential supply figure (as revised), together with the 5% slippage allowance, this provides housing land supply sufficient to deliver 2013 dwellings⁷. Set against a requirement of 1881 dwellings I find that the Council has demonstrated a 5 year supply of housing land.

Sustainability

34. The Council's concern regarding sustainability relates to the limited opportunities to access services and facilities by means other than the car, and to the limited opportunities to integrate the new development with the host community because of a lack of permeability caused by a single point of access.
35. In terms of accessibility to local services and facilities the main parties were in agreement on the walking distances involved⁸. The site is some 780m from the nearest bus stop, which is on the main bus service within the town, and some 1030m from the nearest primary school. Both these distances are further than the preferred walking distance figure recommended in the Essex Design Guide. However, at 1300m the site is within the preferred distance for the secondary school. The site is within some 820m of the railway station which provides direct connection to Liverpool Street, London, and is 800m from the Co-op store, which is the largest supermarket in the town and which has a small cluster of other shops around it. There is also a local convenience store which is closer.
36. Assessed against local and national guidelines⁹ the site does not perform strongly in terms of encouraging pedestrian access to some services that many residents would access daily. However, this must be balanced against its proximity to other significant facilities. Moreover, the walking/cycling routes are along residential streets for the most part which provides a pleasant environment on mostly relatively flat terrain. The scheme also proposes the provision of a zebra crossing along Station Road, which would address concerns expressed by local residents regarding the inadequacy of the present pedestrian island refuge. This has the potential to encourage existing residents to walk to these facilities.
37. The scheme seeks to encourage pedestrian activity by proposing a footway connection to an existing pedestrian link at Pippins Road. I acknowledge that during hours of darkness the limited natural surveillance of this route may dissuade some from using it, but I observed that it is lit by street lamps at both ends and that there is a clear line of sight along its length. The unilateral undertaking provides contributions towards a travel plan which would further encourage residents to use non-car modes of transport.
38. I have borne in mind the findings of Inspectors in relation to this issue in the bundle of appeal decisions which are set out in the appendix to Mr Last's proof. Inevitably the details of those cases, insofar as they are known, differ from the scheme before me. Taken in the round I consider that the site performs

⁷ In the Heybridge Basin the Inspector calculated the reductions against the Council's original figures, whereas I have used the Council's updated figures. This accounts for the immaterial difference in the total figures identified

⁸ These are set out in table 3.1 of Mr Woolisroft proof. I have referred to the distances measured from the centre of the site

⁹ : Essex Design Guide, and the IHT 'Providing Journeys on Foot' and 'Providing for Public Transport in Developments'

acceptably in terms of sustainable transport and is similar to much of the existing housing estates within the town and the 3 strategic sites identified in the ELDP. In reaching this view I have noted that the site's suitability for housing has been identified in Council's Strategic Housing Land Availability Assessment (2012) and its initial identification as a reserve housing site in the version of the LDP submitted for examination. The assessment by both the Highway Authority¹⁰ and planning officer found the scheme acceptable in this respect. I concur.

39. I turn now to whether the proposed single access point for pedestrians and vehicles would prejudice the integration of future residents with the existing community. As the Council points out, the NPPF explains that new development should address the connections between people and places. The Essex Design Guide suggests that cul-de-sacs inhibit permeability for pedestrians and cyclists. Paragraph 4.5.7 of Manual for Streets suggests that cul-de-sacs can offer the best solution for developing awkward sites where through routes are not practical.
40. It is evident that the proposed arrangement is the consequence of constraints, including land ownership, which prevents the creation of additional access routes into the site from the adjacent residential estate. In terms of permeability for residents I agree with the Council that this is not an ideal arrangement. However the illustrative layout shows a scheme that, in terms of its loop road design, would be similar to that of the adjacent Pippins estate and would avoid the need to terminate the road at a single hammer head.
41. The proposed single point of access represents one aspect in the assessment of the scheme's design quality. Other aspects identified in the relevant local planning policies include respecting local context and landscape setting, providing public open space, and protecting the amenity of surrounding areas. Taking all these factors into account, and the scope to control detailed aspects of the development at reserved matters stage, I consider that the proposed development would align with the aim of promoting sustainable communities.
42. On this main issue I find that the scheme accords with RLP policies BE1 and T1, and ELDP policies D1 and T1.

Highway Matters

43. Satisfied that the Transport Assessment that accompanied the scheme is comprehensive and robust, the Highway Authority has offered no objection to the proposal subject to the imposition of planning conditions and obligations. In relation to this main issue the Council's concern is limited to the implications of using Marsh Road by construction vehicles¹¹. The scheme proposes the construction of a temporary haul road that would traverse the same field as the remainder of the appeal site. It would connect the site to Marsh Road, a minor road leading eastwards from Burnham. From the proposed access the first part of the road is narrow with few passing places. It crosses the railway line on a bridge before it meets the built up area of the town where the highway widens and provides a footway along the southern side.

¹⁰ It was confirmed at the hearing that County Council consultation responses on planning applications extended to matters of sustainable transport as well as highway safety

¹¹ This was confirmed at the inquiry by its highway witness, notwithstanding the description of the matters in dispute in the Statement of Common Ground signed by the Council

44. The width of sections of the road would be inadequate to allow construction vehicles to pass other vehicles. However, such sections are relatively short and there are passing opportunities with good visibility that would allow drivers to make allowances for on-coming traffic. Within the built up area where there is more traffic flows the road widens such that there would be sections where approaching lorries would be able to pass, albeit that they would need to do so with care.
45. Whilst the road is generally lightly trafficked there is a significant increase along the built up section of the road at the start and end of the school day. Cars associated with pupils of St Mary's Primary School are parked along the southern side of the road and within cul-de-sac spur roads at these times. This was particularly the case at Glendale Road where there is a direct pedestrian link to the school campus. My observations confirmed that through traffic at these times was light and that there were sufficient passing opportunities afforded by entrances to the spur roads and the extended parking prohibition along the school frontage. Whilst motorists were required to exercise particular caution at these busy times, based on my experience I concur with the appellant's witness that the situation was typical of that commonly observed outside schools at such times.
46. I concur with the Inspector dealing with a wind farm development at Turncole Farm¹², who considered that concerns over construction traffic using Marsh Road is a matter that could be adequately addressed through a planning condition to require traffic management details to be agreed and followed. In the case before me such details would need to be cognisant of the potential traffic flows to the Turncole Farm site, to minimise disruption to traffic flows to an acceptable level. At the inquiry local residents produced a short statement explaining that since the granting of the wind farm permission the developer has obtained planning permission that would enable marine delivery of the turbines. Although the details are not before me, this does not alter my findings that the relevant section of Marsh Road is suitable to accommodate construction traffic.
47. Although the Council's highways witness takes no issue with the scheme in terms of the ability of the local road network to accommodate the additional traffic flows that would be generated from the occupation of the proposed dwellings, the inquiry heard evidence from several local residents who held a contrary view.
48. Although the neighbouring streets that run parallel to Alexandra Road offer alternative routes from Station Road/Church Road to the Pippins estate, the preferred route is along Alexandra Road. During my visits I observed that there was a significant incidence of parking along both sides of the street. I also noted that there were several properties with off-street parking provision. Whilst I observed the situation on several occasions at around 08.00-09.00 hrs and between 17-18.30 hrs I did not observe any significant incidents of motorists being hindered by oncoming vehicles. Approaching drivers exercised awareness and courtesy to ensure effective use of the passing spaces provided by the gaps available between parked cars. The additional traffic from the proposed development would not create any capacity issues along this road.

¹² APP/X1545/A/12/2174982, 2179484 and 2179225

49. Concerns have been expressed that the single route via Pippins Road which presently serves 100 dwellings is inadequate to cope with the additional flows that would arise. However, the Highway Authority has confirmed that it is a 5.5m wide 'Type 3 Feeder Road' which the Essex Design Guide identifies as suitable to serve up to 200 dwellings. Mindful of the findings of Inspectors in the appeal decisions referred to by the appellant's highway witness, I acknowledge that the volume of car journeys associated with the proposed houses would represent an increase in flow that would be readily noticeable to existing residents, but would not exceed the estate road's capacity.
50. Agreed planning conditions and the submitted unilateral undertaking provide opportunities for modest improvements to the present highway conditions. These include the provision of additional parking restrictions along Alexandra Road, including along its middle section, to ensure gaps for approaching vehicles to pass. Such restrictions has the potential to address the problem described at the inquiry of train commuters using the street for parking to avoid paying the charges at the station car park. The scheme would also enable the realignment of the junction of Alexandra Road onto Station Road to improve the existing limitation to the northward visibility splay. Another benefit that would be secured would be to improve the nearby pedestrian crossing arrangement, which also has the potential to act as a traffic calming measure on this main approach road into the town centre. Several local residents expressed their concern over the inadequacy of the present pedestrian refuge arrangement, especially because of the speed of traffic.
51. Subject to the imposition of controls through conditions and obligations, I find that the scheme would be acceptable in terms of this main issue. The scheme would accord with paragraph 32 of NPPF and local policy, specifically policy T2 of the RLP and policy T2 of the ELDP.

Other Matters

52. The NPPF emphasises the importance of neighbourhood planning in ensuring that local people 'get the right types of development for their community'. It was suggested at the inquiry that the scheme was in conflict with the Neighbourhood Plan. Notwithstanding the limited weight that the draft Plan carries at this stage of its preparation, I do not agree that there is any conflict. The Plan does not include a policy that can reasonably be interpreted as restricting the provision of new housing in its area. Policy Suggestion S1 acknowledges the ELDP strategic growth target of 450 dwellings 'with any development above this figure needing to resolve capacity issues'. Its suggested housing policies effectively seek to influence the details of the housing that would take place.
53. Ms Stamp for the Steering Group suggested that it may be necessary to amend the Plan to include a restriction on the size of windfall developments that they should only be of modest scale. I readily acknowledge the challenge faced by those drafting the Plan, who emphasised that they were not planning professionals, and I do not seek to forensically analyse its content. However, I must determine the scheme in the light of the present wording of the Plan even if what was intended may be different¹³. The Council drew my attention to the Crane judgement¹⁴ in which weight to be given to a Neighbourhood Plan was

¹³ Tesco Stores Ltd v Dundee City Council [2012] 2 PTSR 983

¹⁴ Crane v SoS and Hardborough DC [2015] EWHC 425 (Admin)

greater because it contained specific housing allocations. However, that case is distinguishable in that the plan in that instance contained specific policy support for small windfall developments. This meant that, by implication, the significantly large scheme that was proposed was found to conflict with the plan.

54. As the application is in outline, I am satisfied that any detailed concerns raised by neighbouring residents in relation to their privacy can be properly dealt with at reserved matters stage. I have taken into account all the other concerns raised by, or on behalf of, local residents. However, given the scope to address or mitigate most of these matters by the imposition of conditions, none would warrant withholding permission for the scheme.

Overall Planning Balance

55. Whilst I have found that the Council can demonstrate a 5 year supply of housing, this does not count against the scheme. Rather, I attach significant weight to its contribution to housing even though it would provide additional supply over the minimum sought by national policy. In doing so I have noted that Inspectors in 2 appeal decisions brought to my attention by the appellant, at Hill Top Farm and Chinnor¹⁵, adopted a similar approach in broadly comparable circumstances.

56. The presumption in favour of sustainable development is at the heart of the Framework. Paragraph 7 identifies 3 dimensions to sustainable development: economic, social and environmental.

Environmental

57. The site is visually well-related to the edge of Burnham, a town with a range of local services and facilities which the Council has identified as being suitable to accommodate housing growth.
58. The site is presently part of a large, flat field which abuts the rear gardens of Russet Way on one side and the allotment gardens on another. The northern boundary of the main site is separated from an adjoining field by a hedgerow and mature trees. The eastern boundary follows an arbitrary line across the field which is some distance from the eastern field boundary which takes the form of a dense, tall row of trees, alongside which the proposed haul road would lie.
59. The main vantage points of the site would be from Marsh Road, including from an elevated section crossing the railway line. The development would be seen against the exposed urban edge at the rear of Russet Way and the roof tops of the row of houses to the south of the allotment gardens. Against this backdrop the scheme would be seen as rounding-off the built form and would provide the opportunity to soften the boundary between the built and natural environment. In the wider landscape to the east the site would be effectively screened by the tall row of trees that form a prominent feature along the eastern boundary of the field.
60. In visual terms the loss of part of a large field would result in the erosion of the countryside. However, the loss of this visually unremarkable field would be compensated by the opportunity for extensive landscaping that is shown on the

¹⁵ APP/A0665/W/14/3000528 & APP/Q3115/A/14/2229389

illustrative layout plan. In the short term the construction of the haul road would be noticeable, though a condition to require its removal on completion of construction would ensure that this effect is short lived. Mindful of the Landscape and Visual Appraisal commissioned by the appellant, I consider that the impacts would be minor.

61. Local residents are concerned over flooding in the area. The available evidence, including the photographs, suggests that this is localised pooling on the estate road during periods of heavy rain which is an issue of maintenance of the highway drainage network. The Environment Agency offers no objection subject to the implementation of the measures detailed in the appellant's Flood Risk Assessment. I am satisfied that this is a matter that can be adequately addressed by a condition to require approval of details of the means of surface water disposal. Concerns have also been expressed over foul water. Although residents referred to localised problems in some parts of the town there is no technical evidence to counter the consultation response of Anglian Water indicating that there is adequate capacity in the treatment works and the sewer system. Similarly, Essex and Suffolk Water raises no concerns in relation to connection to the water main.
62. In relation to ecological interests the scheme is supported by an Extended Phase 1 Habitat Survey. Neither Natural England or the Council's Countryside Officer raise concerns and I am satisfied that the scheme is acceptable in this respect, subject to the imposition of a condition to protect the identified interests.
63. The Council considers that the extension of development into the countryside is not objectionable in its efforts to secure adequate housing land opportunities. In this respect it is reliant on the development of greenfield sites. For reasons that I have already explained, I am satisfied that the scheme is acceptable in terms of sustainable transport. Through the s106 financial contributions the scheme provides an opportunity for modest improvements to pedestrian and highway traffic that would benefit present users and may encourage less car dependency. Taking all these environmental considerations into account I consider the scheme to accord with this dimension of sustainability.

Economic

64. The construction phase of the scheme would provide a boost to the local economy, including construction jobs. The site comprises high quality agricultural land. The NPPF at paragraph 112 requires the economic and other benefits of the best and most versatile agricultural land to be taken into account. The Council raises no objection to its loss in this case acknowledging that there is no less valuable land locally that would be suitable to accommodate new housing. It confirmed that the 3 strategic housing sites it has allocated in the ELDP are also of high agricultural quality. I consider that overall the scheme would comply with the economic dimension of sustainability.

Social

65. I have already explained why I consider that in terms of promoting sustainable communities the scheme is acceptable. It would also align with NPPF's objective of increasing housing supply, including affordable housing. As

identified by the Inspector in the recent Southminster case¹⁶ there is a pressing local need for affordable housing following a decade of under provision measured against that anticipated in the RLP. In this case the level of provision of 30% would be at the rate sought by the RLP and ELDP. This contribution of up to 23 homes is a significant. I have also noted that as there is no farm tenant, the development is capable of coming forward quickly. The scheme would provide open space areas which would benefit the well-being of the public.

66. For the above reasons I conclude that the scheme represents sustainable development. Given the development plan context, and in line with the Framework, permission should be granted unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits. In this case the limited harm that I have identified is clearly outweighed by the development's benefits, in particular its contribution to the delivery of market and affordable housing in a sustainable location.

Conditions and Obligations

Conditions

67. The parties agreed a list of suggested conditions in advance of the inquiry. These formed the basis of discussion at the event. As agreed, I have reworded some of the suggested conditions in the interests of clarity and to ensure consistency with national policy and guidance¹⁷. Also as agreed, and for reasons I shall explain, I have omitted others.
68. I have already explained why conditions are required to deal with surface water, ecology and the route for construction traffic. In the interests of highway safety and to promote sustainable modes of transport a condition to require details of the proposed means of access to the site including the pedestrian link is necessary. For the same reasons, I shall impose a condition to require the off-site highway improvements to the junction at Alexandra Road and the pedestrian crossing at Station Road.
69. To minimise disruption to neighbouring residents it is reasonable to require a construction management scheme. To safeguard any artefacts of archaeological value that may be revealed, an archaeological assessment is necessary. A lighting strategy is required to ensure adequate illumination of roads and paths and to avoid unnecessary light pollution.
70. Details of external materials, landscaping and car parking can be addressed at reserved matters stage. The parties agreed that no further details of foul water disposal are required. Thus the suggested conditions relating to these matters are not necessary.

Unilateral Undertaking

71. In advance of the hearing the Council confirmed that none of the infrastructure contributions that form part of the undertaking would breach the 5 project limit set out in regulation 123 of the Community Infrastructure Levy Regulations 2010 (CIL). It also confirmed its satisfaction with the content of the obligations.

¹⁶ APP/X1545/A/14/2224678, APP/X1545/A/14/3004973

¹⁷ Paragraphs 203 and 206 of NPPF and PPG paragraphs 21a-004-20140306

72. The appellant's Section 106 Planning Obligations Statement summarises the local policy context and the comments of the relevant organisations to demonstrate the basis for the obligations. There is no dispute in relation to 6 of the 7 schedules of obligations that they relate fairly and reasonably to the proposed development and are necessary to make it acceptable. These obligations provide for: a residential travel plan and pack; a highway contribution; a healthcare contribution; contributions towards early years and primary school education; open space; and affordable housing.
73. The remaining obligation relates to the proposed pavilion. It contains several clauses, including a financial contribution, to enable the Council or its nominee to construct the pavilion. The appellant indicated that whilst it did not consider that the provision of the pavilion was necessary to make the scheme acceptable, it had been included in recognition that it formed part of the package of benefits that were contained within the scheme. In response to my questioning it was clear that there was no evidence that this offer would be taken up by the Council or any nominee. Accordingly I have not taken into account the potential benefits of providing a pavilion in my assessment of the scheme's merits. I conclude that this obligation is not necessary to make the scheme acceptable and, thus, having regard to national policy and guidance, and the tests in regulation 122 of CIL, I attach no weight to it.

Overall Conclusion

74. For the reasons set out above I conclude that the appeal should be allowed.

Hywel Wyn Jones

INSPECTOR

Richborough Estates

Schedule of Conditions

- 1) Details of the 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) No development shall take place until details of a sustainable drainage scheme and an assessment of the hydrological and hydro-geological context of the development have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 5) 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; and
 - iv) wheel and underbody washing facilities.
- 6) No development shall commence a construction traffic management plan to include details of the proposed haul road has been submitted to, and approved in writing by, the local planning authority. The plan shall include details of arrangements to ensure that the road is used as the sole route to the site by construction traffic. Details shall also be provided of a detailed timetable for the closure and the removal of the haul road and associated access point to Marsh Road and the reinstatement of the land to its original state. The development shall be undertaken in accordance with the approved details.
- 7) Prior to the commencement of the development details of the junction improvements to Alexandra Road/Station Road and the pedestrian crossing, as shown on drawing no L620-006 Rev A, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of any dwelling.
- 8) Prior to the commencement of the development details of the vehicular and pedestrian access into the site from Pippins Road, to also include a 2m wide pedestrian link along the south of Pippins Road from the site to the footpath adjacent to The Pippins, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of any dwelling.

- 9) No development shall commence until an ecological method statement has been submitted to and approved in writing by the local planning authority. The statement shall provide details of measures for the protection and translocation of reptiles on the site and the protection of the badger sett on the site, and details of the location and number of bird boxes and bat roosts to be provided on the site as part of the development. The works shall be undertaken in accordance with the approved details.
- 10) Details of street lighting and a timetable for its implementation shall be submitted to and approved in writing by the local planning authority before the first dwelling is occupied. Development shall be carried out in accordance with the approved details.
- 11) No development including site clearance or groundworks shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss A Williams, of Counsel She called	Instructed by Mr Addae-Bosompra
Mr E Addae-Bosompra BA (Hons) MA MRTPI	Senior Appeals Planner, Maldon District Council
Mr P Wooliscroft MSc	Director, Croft Transport Solutions
Mr T Parton BA (Hons) MPLAN MRTPI	Spatial Planning Team Leader, Maldon District Council

FOR THE APPELLANT:

Mr J Dagg, of Counsel He called	Instructed by Strutt and Parker (Farms) Ltd
Mr A Butcher DipTP MRTPI	Associate Partner, Strutt and Parker Planning Consultancy
Mr M Last BEng (Hons) MCIHT	Director, Ardent Consulting Engineers

INTERESTED PERSONS:

Mr Melton	Local resident
Mr Joyce	Local resident
Mr McDonald	Local resident
Cllr Pratt	Chair, Neighbourhood Plan Steering Group
Mr Sisterson	Member, Neighbourhood Plan Steering Group
Ms Stamp	Member, Neighbourhood Plan Steering Group
Cllr Norman	Burnham Town Council
Mr Hughes	Local resident
Mr Hitcham	Local resident
Mrs Cannings	Local resident

DOCUMENTS

- 1 Mr Last's Rebuttal Proof
- 2 Mr Melton's Written Submission on behalf of local residents
- 3 Signed Statement of Common Ground (Planning), 30 October 2015

- 4 Burnham-on-Crouch Neighbourhood Plan, Draft for Consultation, and Implementation Strategy, October 2015,
- 5 Council's Planning Policy Advice Note V4, October 2015
- 6 Policy H9, Affordable Housing, Replacement Local Plan
- 7 Policy H1, Affordable Housing, Emerging LDP
- 8 Press Article, i Newspaper on Arctic Warming
- 9 Email letter from Mr Crump, dated 1 November 2015
- 10 Turncole appeal – Inspector's report and SoS decision
- 11 Agricultural land classification map
- 12 List of plans of appeal scheme and copies of same
- 13 Council's publicity and consultation at application stage
- 14 Mr Joyce's Statement on Marine Delivery at Turncole Wind Farm
- 15 Letter from RES to Council on Traffic Management for Turncole
- 16 Email from appellant's solicitor on s106 UU
- 17 Appellant suggested changes to planning conditions
- 18 Appellant Statement regarding the s106 Obligations
- 19 Heybridge Basin appeal decision
- 20 Council's Closing submission
- 21 Phides v SoS and Shepway DC [2015] EWHC 827 (Admin)
- 22 Woodcock Holdings Ltd v SoS and Mid-Sussex DC [2015] EWHC 1173 (Admin)
- 23 Crane v SoS and Hardborough DC [2015] EWHC 425 (Admin)
- 24 Appellant's Closing submission
- 25 Appellant's costs application notes

DOCUMENT SUBMITTED POST INQUIRY

- 26 Unilateral Undertaking, 13 November 2015