



Appeal Decision

Hearing held on 8-9 August 2023

Site visit made on 9 August 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2023

Appeal Ref: APP/J1535/W/23/3318699

Land at Greensted Road, Chipping Ongar, Essex CM5 9LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Heaney against the decision of Epping Forest District Council.
 - The application Ref EPF/2627/20, dated 12 November 2020, was refused by notice dated 23 September 2022.
 - The development proposed is construction of a residential development comprising of 95 units, together with open space, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the planning application form was given as 'construction of a residential development, comprising 93 units, together with open space, car parking and landscaping'. However, amendments were made to the scheme including an increase in the number of dwellings proposed to 95. The Council considered the application on the basis of the amended scheme which was the subject of consultation with interested parties. I have determined the appeal on the same basis, and I have used the revised description of development set out in the agreed Statement of Common Ground and stated on the Council's decision notice which accurately reflects the amended scheme in the banner heading above.
3. In October 2022, subsequent to the determination of the planning application, the Ongar Neighbourhood Plan ('the NP') was 'made', and in March 2023, the Council adopted the Epping Forest District Local Plan 2011-2033 ('the LP'). I have considered the appeal against policies of the NP and LP which now form part of the development plan for the area, and make no further reference to policies of the Local Plan 1998 and Alterations 2006 which were referred to in the Council's reasons for refusal but which have now been superseded by the LP. On adoption of the LP, the site was also removed from the Green Belt, and I have considered the appeal accordingly.
4. Prior to the opening of the Hearing, the appellants submitted a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990, and a completed agreement dated 16 August 2023 ('the UU') was submitted shortly after the Hearing closed.

Main Issues

5. The main issues are:

- i) the character and appearance of the development and whether or not it would comprise high quality design, including with regard to:
 - a) the density, height, scale and layout of the development having regard to its context;
 - b) the visual effects of provision for parking;
 - c) provision for amenity space and landscaping; and
 - d) effects on the quality of living conditions for future occupiers of the site;
- ii) whether or not the proposal would make adequate provision for parking; and
- iii) whether or not the proposal would provide an appropriate mix of housing types having regard to the requirements of the development plan and any other considerations.

Reasons

Character, Appearance and Design

6. The appeal site includes an irregularly shaped parcel of land comprising paddocks bound by mature hedgerows and trees. The southern part of the parcel is wider and sits within a bend in Greensted Road, while a narrower section to the north extends along the rear of dwellings on Fairfield Road. The site also includes a small area to the opposite side of Greensted Road, close to the entrance of Chipping Ongar Primary School. To the south and east of the site are predominantly residential areas within the town of Chipping Ongar, while land to the north and west is within the Green Belt. There are a few detached dwellings to the west along Greensted Road, but these are typically set within spacious plots, and the surrounding open fields result in a distinctly open and rural character to the land providing the setting around this part of the town. The site is currently part of this setting, and in my view occupies an important location marking the transition between the town and the surrounding rural area.
7. The LP allocates the main part of the site for residential development, and this allocation is acknowledged in the NP. The proposal for 95 dwellings would be below the approximate capacity of 107 dwellings identified in the allocation, but the difference is relatively small, and I agree with the appellants that the quantum would be broadly consistent with the allocated capacity which is in any event expressed as an approximate figure.
8. The allocation also identifies an indicative net density of 36 dwellings per hectare ('dph'), and an indicative development area of 3.32ha which is equal to the area of the whole allocated site. The Council and appellants have calculated the density of the development on the basis of the whole site area, albeit that the appellants' figure is slightly lower at approximately 27.5dph which it seems to me reflects the inclusion of the parcel of land to the opposite side of Greensted Road. This approach is disputed by a number of interested parties who argue that the calculation of density should not include areas of the site subject to constraints restricting development.

9. In this case, the allocation does refer to two protected trees as well as to an intermediate pressure gas pipeline which is identified as an on-site constraint. However, it makes no mention of surface water flood risk which affects a reasonably significant area of the site. Notwithstanding definitions in the LP glossary including of indicative net density and indicative development area in the context of site allocations, it is unclear from the information before me to what extent the indicative development area in the allocation takes account of flood risk as a possible constraint. I also note comments by interested parties referring to sewers and a further gas main as other potential constraints.
10. Nevertheless, the density in the allocation is expressed as indicative. Even if I were to consider overall density on the basis of a reduced developable area of around two thirds of the size of the allocated site as has been suggested by interested parties, it seems to me that the resulting density would not be so significantly in excess of the indicative figure suggested by the allocation as to conflict with it in purely numerical terms.
11. That being said, there would be variations in the density of development on different parts of the site. The lowest densities would be around the boundaries of the site with Greensted Road where there would be detached houses on reasonably generous plots providing for spacing around the buildings.
12. Densities on the rest of the site would be significantly higher with groups of flats, and predominantly semi-detached or terraced house types with a few detached properties. These houses would be positioned fairly close to one another and to the boundaries at their sides, in many cases with relatively short rear gardens and often with only modest set backs from the street.
13. The plots and gardens would be considerably shorter than those of most adjacent dwellings on Fairfield Road, but these are atypically long, and the contrast with other dwellings nearby including on the opposite side of Fairfield Road and on Fairbank Close would not be so pronounced. However, the modest depth of the gardens and frontages in combination with the close proximity of the buildings would result in a tight knit pattern of development that would be unusual. The appellants have commented that the orientation of buildings and roof forms would allow views between houses out towards surrounding open land. While that may be the case at roof level, the gaps between buildings beneath roof height would still be slight, and the proximity of the buildings further means that any such views between buildings would only be likely to be appreciable from small areas closely aligned to the gaps. There would be little visual relief between buildings in views along streets where I consider the impression would largely be of unbroken runs of built form, particularly to the northern part of the site.
14. Moreover, the depth and narrow width of the frontages means that a substantial proportion of many, although I accept not all, would be given over to parking. The modest areas remaining to many of the frontages would leave little scope for meaningful landscaping to the front of dwellings sufficient to balance the visual impact of the built form. Irrespective of the detail of surfacing material which could differentiate parking from the street, I consider that the extent of hardsurfacing would appear prominent in the street scene.
15. The proposal also includes 4 blocks of three-storey flats around what the appellants describe as the heart of the site. The residential areas closest to the appeal site fall within the Marden Ash Character Area ('CA') of Ongar as

identified within the Ongar Design Guide 2019 ('the ODG'). I was not directed to any examples of true three-storey buildings within the Marden Ash CA, although I did see some two-storey buildings with roof level accommodation, and I note that there are some three-storey buildings present in the wider Chipping Ongar area. Nevertheless, the width and depth of the blocks would not be substantially greater than some of the semi-detached and terraced buildings that I observed near to the site within the Marden Ash CA. There is also considerable variety in the form and architecture of existing development nearby, and the blocks would be on lower ground relative to many of the other dwellings on the site. Notwithstanding that there may be no three-storey buildings in the Marden Ash CA currently, I am satisfied in this context that the scale and height of the flats would not in itself be inappropriate.

16. Even so, separation between the blocks would not be large, and they would be positioned very close to the street. A significant proportion of the area around the buildings would also be hardsurfacing providing for parking. The parking would be to the rear of the buildings which I acknowledge would help to screen it from the street, and there would be some soft landscaping. However, these landscaped areas would be modest in size, particularly relative to the scale of the buildings. In my view, these factors would result in an impression of concentrated built form that would enclose the street and give this part of the site an urban character.
17. My concerns do not extend to the fringes of the site with Greensted Road where I am satisfied that the development would be broadly sympathetic to its setting. I also acknowledge that there would be larger areas of open space and landscaping within the development. These would include spaces around the protected tree in the northern part of the site, around a surface water attenuation storage area close to Greensted Road, and in a corridor across the site that would accommodate bio enhancement and play areas. There would also be a landscaped buffer around the perimeter of the site. However, these would be discrete areas. Despite their overall size, I consider that they would not offer effective visual relief from within the built up parts of the site sufficient to balance the tight knit arrangement of the buildings and the prevalence of hardsurfacing in the street scenes. In my assessment, the landscaped areas would have limited bearing on how the higher density parts of the development would be experienced, and would not mitigate or offset the adverse effects I have identified above.
18. While the development on the fringes of the site with Greensted Road would be closest to the main route approaching or leaving this part of Chipping Ongar, the remainder of the site is also part of the transition between the town and the rural surroundings within the Green Belt. For the reasons above, I consider that views along many of the streets within the remainder of the site would be dominated by parking and built form. I find that the density, scale and layout of development and parking on these areas would result in an excessive and over intense form of development that would appear cramped and incongruous in this edge of settlement location and that would fail to provide an appropriate transition between the town and its rural setting.
19. I also note comments in the April 2020 report of the Epping Forest District Quality Review Panel ('QRP') on an earlier iteration of the scheme supporting density reductions that had been made to the south, but expressing concern that this had not been carried through to the north. That scheme proposed

fewer dwellings than are now before me and no flats, and while I appreciate that the QRP comments do not relate directly to the appeal scheme, I have similar concerns about the density of development away from the southern fringes of the site with Greensted Road.

20. The Council has not referred to any quantitative standards for amenity space provision that would not be met within the development. Amenity spaces for the flats would be modest, but each flat would have a balcony or area at ground floor level, and from the information before me I consider these would be reasonably adequate to meet the needs of future occupiers of what I note would be one-bedroom flats. Notwithstanding my view that the dominance of parking and hardstanding on much of the site would be detrimental to the quality of the overall place, I am also satisfied that it would not cause meaningful harm to the overall quality of life of future occupiers of the site. I therefore find that living conditions for future occupiers of the site would be generally suitable, but this does not outweigh or negate my wider concerns about the character, appearance and design of the development.
21. To ensure the best and most efficient use of land, Policy SP2 of the LP advises that the Council will normally expect densities of between 30 and 50dph in areas outside of town centres, albeit that there seems to me to be some tension in this respect with comments in the NP suggesting that density must equate with the prevailing density of approximately 24dph in the built up parts of Ongar. However, the general expectation in Policy SP2 is in any event balanced and qualified by an expectation that the distinctive character and identity of the area is enhanced. Similarly, the National Planning Policy Framework ('the Framework') stresses the need to make effective use of land while also placing great emphasis on the importance of good design as a key aspect of sustainable development. It also includes requirements for developments to add to the overall quality of the area, to be sympathetic to local character and to establish or maintain a strong sense of place. In my assessment, for the reasons given above, the proposal would not achieve those aims.
22. The appellants accepted at the Hearing that the allocation of the site in the LP did not take account of all constraints. Notwithstanding that the Council did not amend the allocation in the LP following the submission of the appeal application, the LP also comments that the identified housing supply to 2033 exceeds the requirement, providing a contingency to allow for eventualities including factors relating to specific sites. In that context, the fact that the number of dwellings would be below that suggested in the allocation is not compelling evidence that the scheme now before me would be acceptable, and even if I were to agree the appellant's calculation of scheme density which would be below that suggested in the allocation and Policy SP2 I consider this would not justify the harm that would be caused.
23. I conclude for these reasons that the development would not respond appropriately to its context, and that it would not amount to high quality design overall causing harm to the character and appearance of the area and resulting in conflict with Policies DM9, T1 and SP2 of the LP. Collectively and amongst other things, these policies broadly seek high quality design, development that contributes to and enhances distinctive local character, that relates positively to context and that provides appropriate parking in terms of design and layout. There would be further conflict with Policies ONG-ED1, ONG-RR3 and ONG-ED4

of the NP insofar as they include requirements broadly for well-designed development that complements local context, the existing rural townscape character and lower densities at edge of settlement locations. The proposal would also be contrary to the Framework requirements noted above.

Provision for Parking

24. The proposal includes one allocated parking space for each 1-bedroom dwelling and two allocated parking spaces for each dwelling with 2- or more bedrooms. This would accord with the minimum parking standards indicated by the Essex County Council Parking Standards Design and Good Practice 2009 ('the Parking Standards'). However, the 16 visitor spaces proposed would be below the requirement for 24 visitor/unallocated parking spaces which the Parking Standards indicate would additionally be required. The appellants referred at the Hearing to garages to some of the house types, but it is not clear that these would meet the minimum internal dimensions outlined by the Parking Standards to provide for parking, and they would in any event only serve the individual dwelling concerned. On that basis, there would be a shortfall of 8 visitor/unallocated spaces.
25. The Parking Standards indicate that reductions in provision may be considered where development is within an urban area that has good links to sustainable transport. LP Policy T1 also advises that reduced parking will be supported in sustainable locations. The site is close to Chipping Ongar Primary School, and within reasonable distance of the primary shopping area of Ongar town centre. It is also within walking distance of bus stops served by a number of routes. Interested parties have raised concern about the frequency and reliability of the services, but the information before me indicates that the 420 route which serves Harlow and Epping is a fairly frequent service on weekdays and operates into the evening and at weekends. The appellants have also proposed improvements to bus stops to include real time information which I agree could help to improve confidence in bus services and consequently increase usage.
26. That said, buses to other destinations are less frequent. Travel by bus would be unlikely to be suitable for all occupiers or journeys, and interested parties have highlighted that journey times by bus to destinations would in many cases be notably longer than by private vehicle which would be likely to reduce the attractiveness of buses as an option. The NP also refers to the relatively isolated rural location of Ongar, with little local employment and inadequate public transport, and comments that Ongar residents have a high dependence on cars. There is no compelling evidence before me to the contrary, and the reasoned justification to LP Policy T1 includes local vehicle ownership levels as a factor that will inform the consideration of parking provision.
27. The shortfall of 8 visitor/unallocated spaces would be relatively small in numerical terms, particularly against the total of 177 spaces that would be provided. Even so, the Parking Standards are expressed as the minimum level of parking to be provided, and the small shortfall proportionally does not mean that it is of no significance.
28. I appreciate that the QRP suggested the level of parking provision be reduced, and that Essex County Council ('ECC') as the Highways Authority has not objected to the proposal. I am also mindful that the Framework seeks to promote travel by means other than private vehicle. However, while I do not dispute that measures to reduce use of private vehicles should be supported, I

consider that it is also important to ensure that practical needs are met. On balance, I consider that the shortfall in visitor/unallocated spaces would in reality be likely to lead to some unmet demand for parking, albeit that this would be limited.

29. I saw that opportunities for on-street parking on Fairfield Road and Greensted Road closest to the site are fairly limited, and while there were some spaces available on streets in the vicinity of the site when I visited, these were only snapshots and may not reflect conditions overnight when more residents may be at home. Indeed, interested parties have referred to existing parking pressure in the area, and I have not been provided with substantive information to demonstrate that this would not be harmfully increased by even a small amount of overspill parking from the site.
30. The appellants suggest that there would be scope for additional on-street visitor parking within the site at the kerb-side. The Council did not dispute that this could accommodate sufficient parking to adhere to the Parking Standards, and I have no firm reason to disagree. Be that as it may, I have already found that parking would be an overly dominant element within the development, and this would be exacerbated by the presence of additional on-street parking to the detriment of the design and quality of the place.
31. Although the shortfall in parking would be small, I conclude on balance that the development would not make adequate provision for parking. I find that the proposal would be contrary to Policy T1 of the LP insofar as it requires appropriate parking provision in terms of amount, design and layout. It would also be contrary to Policy ONG-CT3 of the NP which includes a requirement for sufficient off-street parking facilities to support higher levels of car ownership in Ongar as a primarily rural area by using the Parking Standards or successor standards.

Housing Mix

32. To the extent that the proposal would include 1-, 2-, 3- and 4-bedroom dwellings, flats and houses, and affordable and market housing, it would accord with the requirement in Policy SP2 of the LP for mixed tenure homes and a range of housing types and sizes.
33. However, while Policy H1 of the LP also seeks a mix of new homes including a range of types, tenures and sizes, it contains an additional stipulation for the mix to address local need. It also includes a requirement for evidence to justify the mix of new homes to be provided, advising that this evidence must reflect the latest housing needs evidence published by the Council. Policy ONG-RR3 of the NP similarly sets out that the mix of accommodation in residential development must reflect the latest evidence of local need in Ongar to meet the requirements of all parts of the community.
34. The Council's latest published housing needs evidence is within the Strategic Housing Market Assessment 2015 ('SHMA') and updates undertaken in 2017. A number of interested parties have referred to further detail on housing mix included in the Housing Mix Guidance Note 04 2021 ('HMGN'), and the Council also provided a copy of an associated Scope of Work note. However, the HMGN is marked as draft. Furthermore, the Council indicated that the HMGN and Scope of Work are internal documents which have not been published. While

they may be based on other data sources, I therefore give limited weight to these documents themselves.

35. The appellants suggest that the information in the SHMA is dated, but I have not been directed to any more up to date assessment of need. Nor have I been provided with firm evidence demonstrating that the suggested mix of homes required is no longer fair or representative such that it would be inappropriate to rely on it. Noting also that the reasoned justification to Policy H1 in the recently adopted LP refers specifically to the SHMA as providing the latest published housing needs evidence, I find that it is reasonable to have regard to the SHMA in considering local need and objectives for housing delivery.
36. At the more local level, the NP notes in the rationale to Policy ONG-RR3 that the district housing mix is approximately the same as the existing housing mix in Ongar parish according to the 2011 Census. The NP seeks to maintain this mix as important for sustainability and to support predicted demographic changes. It also highlights high demand for family homes in Ongar, especially 3-bedroom homes with gardens and parking, and comments that as edge of settlement sites, allocated sites including the appeal site are ideal for such homes. The 2011 Census data is some years old, but interested party representations detail 2021 Census figures which show a broadly similar mix to the position in 2011, albeit with a slight increase in 1-, 2- and 4-bedroom dwellings and a slight reduction in 3-bedroom dwellings.
37. The appellants have not disputed that the development includes a higher proportion of 1- and 2-bedroom dwellings and a lower proportion of 3- and 4-bedroom dwellings than the mix suggested by the SHMA and the NP to address needs in the District and Ongar respectively. I was informed at the Hearing that the Council's Housing Officer had supported the mix and tenure of homes proposed. I also accept that there is an identified need for smaller 1- and 2-bedroom dwellings which the proposal would help to meet. The 45 proposed 3- and 4-bedroom dwellings would also make a contribution to the supply of family housing locally. Nevertheless, it would be some way from the overall mix suggested by the SHMA and NP, and there is little firm evidence before me to explain factors that have informed the mix proposed in light of local need or to demonstrate that the proposed scheme as a whole would suitably reflect local need so as to justify the deviation.
38. The appeal site is one of the closest of the allocated sites around Ongar to the town centre, and the appellants suggest it is therefore more suitable for smaller dwellings. However, it is also one of the largest of the allocated sites. From the information before me, I cannot be sure that any shortfall in provision of larger homes here would be adequately compensated for by development coming forward on other sites, whether allocated or not, over the plan periods so as to achieve an overall mix to meet needs and sustain the balanced community as sought by the LP and NP.
39. I do not dispute that the development would include homes of a range of types, tenures and sizes including both smaller and larger dwellings in accordance with requirements within Policies SP2 and H1 of the LP and ONG-RR3 of the NP. However, I am not satisfied that there is sufficient evidence before me to adequately justify the proposed mix of housing and demonstrate that it would suitably address local need in light of the needs suggested in the SHMA and NP. As a consequence, I am unable to find that the development would comply with

Policies H1 of the LP and ONG-RR3 of the NP in all respects, and I conclude that the proposal would not provide an appropriate mix of housing types.

Other Matters

40. The appellants engaged in pre application discussions with the Council as well as reviews by the QRP, and the planning application was recommended for approval by Council officers. However, I must come to my own view on the basis of the evidence before me, and these are not matters which lead me to alter my findings on the main issues.

Epping Forest Special Area of Conservation

41. The Epping Forest Special Area of Conservation ('SAC') is a European Site designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'). From the information before me, the SAC is vulnerable to threats in relation to recreational pressure and changes to air quality.
42. The main parties agree that the proposal would not result in a likely significant effect on the SAC through recreational pressure. However, it would be likely to result in a net increase in traffic using routes through the SAC, and I agree with the parties that the proposal, either alone or in combination with other plans and projects, is likely to have a significant effect on the SAC in respect of air quality.
43. To mitigate these effects, the UU secures a financial contribution towards mitigation and monitoring of air pollution effects on the SAC in accordance with the Council's Interim Air Pollution Mitigation Strategy 2020 ('the IAPMS'). Planning conditions have also been suggested to require electric vehicle charging points and high-speed broadband connections in line with further measures outlined in the IAPMS. Having regard to the information before me including comments made by Natural England, I consider that these measures would be necessary to make the development acceptable in planning terms.
44. Had I found the proposal to be otherwise acceptable overall, I would need to consider the effectiveness of these mitigation measures and the effect of the proposal on the integrity of the SAC within the framework of an Appropriate Assessment in accordance with the requirements of the Habitats Regulations. However, given the harm identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter any further as it could not alter my decision.

Drainage and Flood Risk

45. The appellants propose that surface water runoff from the development would be collected before being discharged to one of two existing ditches, with approximately 40% of the site draining to a ditch that runs along the northern boundary, and around 60% draining to a ditch which crosses near to the centre of the site.
46. The proposal would result in hardstanding on the site that could increase levels of surface water runoff in comparison to the existing situation. However, the Flood Risk Assessment and Drainage Strategy May 2021 ('the FRA') indicates that the proposed drainage systems would include measures designed to collect and store surface water within the site in order to attenuate flows from the site

to the receiving ditches to no more than the 1 in 1 year event (a storm event with a 100% chance of occurrence in any given year) greenfield runoff rate. Despite the increase in hardstanding, there would on that basis be no increase in runoff flows from the site under a 1 in 1 year event. Under more extreme events up to a 1 in 100 year (a storm event with a 1% chance of occurrence in any given year) plus a 40% climate change allowance, flows from the site would be reduced from the existing situation with around an 81% reduction suggested for a 1 in 100 year plus 40% climate change event. The proposal also includes areas of natural flood management separate from the surface water drainage system that would provide for new flood storage within the site.

47. Interested parties have raised concerns about some of the assumptions and calculations in the FRA. However, the FRA was reviewed by ECC as the Lead Local Flood Authority ('the LLFA') as well as the Council's Environmental Protection and Drainage ('EPD') team. The LLFA's stated position on the first page of their August 2021 representation is that having reviewed the FRA and associated documents which accompanied the planning application, they do not object to the granting of planning permission, and they suggest planning conditions. Although I note a comment under the 'reasons' heading of the representation that if more information was supplied then they may be in a position to withdraw the objection, this appears to have been carried forward from earlier representations when the LLFA issued a holding objection and is contrary to the stated position and suggested conditions. The EPD team also made representations advising that they agreed with the findings of the FRA, and suggesting conditions to require further details of the drainage design and surveys of watercourses. I give significant weight to the position of the LLFA as the relevant statutory consultee for surface water and to the position of the EPD team given their role in the Council, and from the evidence before me find no compelling reason to disagree with their views having considered the FRA.
48. I acknowledge that the FRA was based on an earlier iteration of the proposal. At the Hearing, the appellants indicated that the scheme now before me would result in a slight increase in the area of hardstanding from that considered in the FRA, mostly in the northern catchment and as a result of hardstanding around the now proposed flats. The increase in hardstanding would result in a corresponding need for increased surface water attenuation within the site. However, I heard that additional attenuation to that relied on by the FRA could be provided by measures such as tanks or increased pipe diameters which would not necessitate changes to the layout of the development. The EPD team confirmed during the Hearing that they were satisfied that changes to the scheme since the FRA would not materially change the position from that previously considered. Although the LLFA has not specifically commented, I am satisfied from the information before me that changes to the scheme since the FRA do not undermine its conclusions or the position of drainage consultees that appropriate drainage can be provided with detailed designs coming forward through planning conditions.
49. I do not doubt the evidence provided by interested parties highlighting existing flooding that occurs around the site and flows that affect nearby roads and properties. However, the introduction of the drainage system and measures to attenuate surface water means that runoff from the site and risk of surface water flooding would not be increased by the proposal, and would actually be reduced. Given that runoff from the site would not be increased from the existing situation, I also have no firm reason to find that the capacity of the

receiving ditches and watercourses beyond would be adversely affected by the proposal, even without enhancement measures as part of the detailed design stage. The proposed drainage would result in an improvement over the current situation, and together with provision of new flood storage areas would reduce the risk of flooding downstream of the site which I find would be a benefit of the proposal.

50. The appellants adopted a sequential approach to the layout of development within the site with dwellings located to avoid areas at flood risk. Policy DM15 of the LP further states that the Sequential Test does not need to be applied to development which accords with the site allocation policies in the Plan, and the Framework includes similar provision that the sequential test need not be applied where applications come forward on sites allocated in the development plan through the sequential test. Interested parties have raised concern that the sequential test as part of the LP did not take account of surface water flooding. However, the Statement on Flood Risk Sequential Test agreed between the appellants and the Council and submitted during the Hearing identifies that the Strategic Flood Risk Assessment – Site Assessments 2018 which was an evidence base document to the LP did refer to maps identifying risk of flooding from surface water flow around ordinary watercourses on sites including the appeal site. There is no firm information before me to indicate that there has been any significant change to the known level of flood risk to the site since it was allocated as part of the LP, and the main parties agree that the sequential test does not need to be reapplied in respect to surface water. Nevertheless, because I am dismissing the appeal for other reasons and it could not alter my decision, it is not necessary for me to consider this matter further.

Highway and Pedestrian Connections and Safety

51. The proposal includes a new vehicular access from Greensted Road as well as a pedestrian access with a crossing connecting to a new footway to Chipping Ongar Primary School. At my visit, I saw that visibility from these accesses along Greensted Road is currently restricted by a fairly dense hedgerow. However, the proposal includes the removal of hedgerows with replacement planting further into the site that would afford improved visibility from both the pedestrian and vehicular accesses. The proposal also includes relocation of the 30mph speed limit further north along Greensted Road which should reduce vehicle speeds passing the site. ECC as the Highway Authority are satisfied that the proposal would not be detrimental to highway safety, capacity or efficiency, and I have no firm reason to take a different view.
52. In addition to serving occupiers of the development, the proposed pedestrian crossing and footway to Chipping Ongar Primary School would connect to a pedestrian/cycle route through the site linking to Fairfield Road. The route through the site would not be flat or totally straight, but changes in gradient would not be large and the distance is not significantly greater than a direct line so as to be likely to discourage use. There is no current pedestrian crossing on Greensted Road between Fairfield Road and the school. In my view, the provision of a new crossing would be a benefit of the proposal, albeit one that I accept would be likely to be limited to people travelling from the site, Fairfield Road and connecting streets given the location of the site and existing pedestrian routes to the wider area.

Additional Matters Raised in Representations

53. I have had regard to representations made by interested parties which raise additional concerns including regarding traffic levels, harm to biodiversity, pressure on local infrastructure, impacts on neighbouring living conditions and the proximity of development to gas pipelines and their buffer zones. However, while I note the strength of feeling, none of the matters raised alter my conclusions on the main issues.

Planning Obligation

54. The UU includes a range of obligations made to the Council and to ECC providing for affordable housing; a residential travel plan and travel information packs; and financial contributions towards community facilities, health facilities, play and open space, highway improvements, libraries, education and monitoring as well as towards mitigating and monitoring air pollution effects on the Epping Forest SAC. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations') outlines tests to be met by obligations. These tests are also reflected within the Framework, and require that obligations must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
55. The evidence before me includes a Note which sets out how the main parties consider that most of the obligations within the UU would meet the tests within the CIL Regulations, as well as representations from ECC and the NHS Clinical Commissioning Group offering further justification for some of the contributions sought.
56. Schedule 3 of the UU includes obligations that would secure financial contributions in the form of a 'Primary School Transport Contribution' and a 'Secondary School Transport Contribution'. ECC requested these contributions initially, but later advised that they would not be required where access would be improved as part of the development. At the Hearing, the Council and appellants agreed that the School Transport Contributions would not be necessary, and I have no firm reason to find differently. These contributions would not therefore meet the tests in the CIL Regulations, and I have attached no weight to these obligations in determining the appeal.
57. From the information before me, I am satisfied that other obligations in the UU would be necessary to make the development acceptable in planning terms, that they would be directly related to the development, and that they would be fairly and reasonably related in scale and kind to the development. Accordingly, these obligations would meet the tests set out in the CIL Regulations and the Framework, and can be given weight. I have taken the obligations other than the Primary School Transport Contribution and Secondary School Transport Contribution into account as material considerations.

Benefits of the Proposal

58. While they highlight alternative more pessimistic calculations and that slippage on major sites could see the supply fall below 5 years, the appellants have not argued that the Council is currently unable to demonstrate a 5 year supply of housing. Nevertheless, the Framework includes an imperative to significantly

boost the supply of housing which does not cease in circumstances where the supply position exceeds 5 years.

59. The proposal would provide 95 dwellings on a site allocated for residential development in the LP. The site is in single ownership and the appellants advised that it could be delivered quickly. Not only would this contribute to the supply of housing, but it could also reduce pressure on other unallocated sites that may be less suitable for development in a district with large areas subject to constraints on development including Green Belt and Epping Forest itself. These are important benefits of the proposal that would attract significant weight. However, the extent of the benefit associated with the provision of the dwellings would be moderated somewhat in light of the absence of compelling evidence to demonstrate that the mix of housing proposed would adequately address identified local need.
60. The scheme also includes provision of 39 affordable dwellings on the site with a mix of rented and shared ownership tenures in accordance with policy requirements. Notwithstanding that such provision is an expectation of the development plan, the contribution towards identified needs for affordable housing is also an important public benefit of the proposal which carries significant weight.
61. The appellants' Health Impact Assessment identifies that there would be job creation during construction. Spending by future residents would also result in economic benefits on occupation of the development. However, construction effects would be temporary, and I give these benefits moderate weight.
62. I have already identified the provision of drainage and flood storage which would reduce flood risk elsewhere as a benefit of the proposal. This carries significant weight. The provision of new routes through the site and the pedestrian crossing of Greensted Road to Chipping Ongar Primary School would also be a benefit, although the effect would be localised to a relatively small part of the town, and I give the benefit moderate weight.
63. The appellants identify that there would be a net gain in hedgerow biodiversity of around 14%. However, I have no firm details or calculations to demonstrate the extent of any overall biodiversity net gain (not just hedgerow) as part of the development, and I give this benefit moderate weight.
64. Through the UU, there would be financial contributions towards provision of education and other infrastructure, but these contributions would be necessary to mitigate the effects of the development proposed. Insofar as they could support improvements that would be available to the existing and future community, including in combination with other sites around Ongar, there would be some benefit, but I consider this would be minor, and it attracts limited weight.

Planning Balance and Conclusion

65. Cumulatively, I consider that the benefits of the proposal would be significant. However, these benefits would be achieved at the expense of a development that would not respond appropriately to its context to the detriment of its character, appearance and the quality of the place. It is also unclear that the housing being delivered would appropriately address identified local need. I accept that there may be some delay to the delivery of housing on the site if

the current appeal were dismissed, but for the most part, I have no firm reason to conclude that similar benefits could not be achieved, albeit in the slightly longer term, by a development more sympathetic to its context and local housing needs.

66. Against this background, I find that the harm in relation to the design and the character and appearance of the development which would be exacerbated by the shortfall in parking provision would be overriding. The failure to demonstrate that the proposal would appropriately meet local need in respect of the mix of housing is a further shortcoming. In my judgement, the benefits of the proposal would not be sufficient to outweigh the harm that I have identified and the resulting conflict with the development plan.
67. I acknowledge that the site is allocated for residential development in the recently adopted LP and NP, but the proposal would be contrary to policies that broadly seek high quality design and sympathetic development that provides a mix of new homes reflecting housing needs. In my assessment, the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.
68. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Richard Wald KC	Counsel for the appellants
Danny Simmonds	RPS Group
Charlie Biss	Charles Biss Architects
Aled Williams	Waterco
Peter Heaney	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

James Rogers	Epping Forest District Council, Development Management
Muhammad Rahman	Epping Forest District Council, Development Management
Trevor Baker	Epping Forest District Council, Environmental Protection and Drainage
Melisa Laycock	Epping Forest District Council, Environmental Protection and Drainage

INTERESTED PARTIES:

Mary Dadd	Ongar Neighbourhood Plan Community Group and Ongar Town Council
Patrick Dear	Local resident
Councillor Paul Keska	Ward Councillor
Tricia Moxey	Local resident

DOCUMENTS SUBMITTED AND ACCEPTED AT AND AFTER THE HEARING

- HD1 Copies of letter dated 26 June 2023 from Danny Simmonds to Mary Dadd and response dated 30 June 2023 from Mary Dadd to Danny Simmonds, submitted by Mary Dadd.
- HD2 Epping Forest District Council Authority Monitoring Report 2021-2022, submitted by Mary Dadd.
- HD3 Epping Forest District Council Infrastructure Delivery Plan Part B Report: Infrastructure Delivery Schedule 2020 Update, submitted by the Council.
- HD4 Essex County Council Developers' Guide to Infrastructure Contributions 2019, submitted by the Council.
- HD5 Statement on Flood Risk Sequential Test agreed between the appellants and the Council, submitted by the appellants.
- HD6 Report on the Examination of the Epping Forest District Local Plan 2011-2033, submitted by the appellants.
- HD7 Agreed list of suggested planning conditions with track changes, submitted by the appellants.
- HD8 Email comments on justification and proposed wording of suggested conditions 3 and 7, submitted by the Council.
- HD9 Schedule of plans, submitted by the appellants.
- HD10 Signed and executed Unilateral Undertaking planning obligation dated 16 August 2023 with details of title, submitted by the appellants.
- HD11 Email of 18 August 2023 agreeing to pre commencement conditions, submitted by the appellants.