



Appeal Decision

Inquiry held on 14 - 21 November 2023

Site visit made on 17 November 2023

by **C Masters MA (Hons) FRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

Appeal Ref: APP/V1505/W/23/3325933

Land South of Dunton Road, Basildon, Essex, SS15 4DB

- 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 Bloor Homes Ltd and Paul & Linda Buckenham against the decision of Basildon Borough Council.
- The application Ref 20/00911/FULL, dated 1 July 2020, was refused by notice dated 8 June 2023.
- The development proposed is full application for residential development of 269 dwellings (Use Class C3), 2 x vehicular access points off Dunton Road, formal and informal open space, hard and soft landscaping including acoustic barrier, and associated infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for full application for residential development of 269 dwellings (Use Class C3), 2 x vehicular access points off Dunton Road, formal and informal open space, hard and soft landscaping including acoustic barrier, and associated infrastructure at Land South of Dunton Road, Basildon, SS15 4DB in accordance with the terms of the application, Ref 20/00911/FULL, dated 1 July 2020, and the plans submitted with it, subject to the conditions as set out on the attached schedule.

Preliminary Matters

2. The Council confirmed within their statement of case that they would not be defending the fourth reason for refusal in relation to air quality.
3. Mr James Stacey provided a proof of evidence in relation to affordable housing matters but did not appear at the inquiry.
4. The third reason for refusal states that the site is not in a sustainable location, being located in a remote position off a narrow rural lane. Notwithstanding the above position, Essex County Council (ECC), as lead Local Highway Authority (LHA) consider that the site is in a sustainable location, being accessible by non-car modes of transport and that a range of local facilities, services and transport interchanges can be reached by walking, cycling and public transport. This position was confirmed through a Statement of Common Ground (SoCG) between the LHA and the appellant. I shall return to this matter below.
5. A draft Section 106 Agreement was provided in advance of the inquiry to address the second reason for refusal. I allowed a short amount of time following the close of the inquiry for a signed copy of the document to be provided. This document provides for the following:

- Secure 108 of the units as affordable housing (70% to be affordable rented units and 30% shall be shared ownership units) including an affordable housing management and marketing strategy;
 - Primary Education and Secondary Education Contributions as calculated within the agreement;
 - Contribution of £448,761 towards open space, culture and play space improvements at Steeple View Open Space, Noak Bridge Open Space, Victoria Park Open Space and Willowfield's Open Space. In addition, the provision of open space and an associated management plan on the site;
 - Provision of a travel voucher scheme as specified in Schedule 6 of the agreement;
 - NHS Healthcare Contribution of £133,300 towards increased healthcare floorspace capacity to support the population arising from the development;
 - Associated off site highways works as specified within Schedule 6 of the agreement;
 - Sustainable bus contribution (£1,042,000.00) towards funding bus service enhancements from the site towards key services, facilities and areas of employment;
 - The provision of a management plan for the land defined within Schedule 10 along the western boundary of the site to secure the ongoing landscaping and maintenance of this area;
 - The provision of a Residential Travel Plan, Management Plan and associated monitoring fee (£1596);
 - Employment and skills contribution of £80,700 towards securing job opportunities from the development;
 - Associated monitoring fees payable to both Basildon Borough Council (£26,900) and Essex County Council (£2200).
6. The Council and Essex County Council provided a joint CIL Compliance Statement which sets out the detailed justification for each of the obligations sought. I have had regard to the tests set out in Regulation 122 of the CIL Regulations 2010 as well as the tests at paragraph 57 of the National Planning Policy Framework (the Framework). I am satisfied that the provisions of the Agreement would meet these tests. I will return to the matter below and the weight to be attached to these various provisions.
7. The first reason for refusal referred to policies BAS GB1 and BAS BE12 of the Basildon District Local Plan Saved Policies, 2007. The Council's witnesses accepted during the course of the inquiry that there was no conflict with these policies. I shall return to this matter below where necessary.
8. It was also agreed within the Statement of Common Ground (SoCG) that the Council cannot demonstrate a five year housing supply. The SoCG sets out that the figure is 1.85 years although the appellant also stated the figure could be lower than this at 1.46 years. It was agreed that this variation is not a matter which is material to this appeal decision.

Main Issues

9. The appeal site is located within an area of Green Belt. It was agreed between the appellant and the Council that in the context of the Framework, the proposal would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposal. I agree with this view. As a result, and against the background I have set out above, the main issues are:
- whether the site is in an accessible location with regards to local services and facilities;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the site is in an accessible location with regards to local services and facilities

10. Notwithstanding the SoCG between ECC and the appellant on sustainability matters, the Council contend that the appeal site is located in a remote position off a narrow country lane, served by infrequent bus services and not readily accessible to local shops, amenities or services.
11. Evidence presented to the inquiry confirmed that the Council consider the site would provide acceptable cycle and car access to facilities, services and places of employment. Based on the evidence presented, I can see no reason to disagree with these conclusions. As such, the focus has been on access to facilities and services through walking and public transport.
12. The existing public transport provision is limited. However, the appeal proposal would deliver new public transport in the form of funding for a new bus service which would provide hourly connections to a number of key transport, leisure, employment and shopping destinations within Basildon and Billericay. It is envisaged that this service would operate between 0700-1900 6 days a week. The bus stops which would provide this service are located approximately 250m from the central part of the appeal site. This service would be procured through Essex County Council Passenger Transport Department and secured through the planning obligation. Associated bus stop improvements would also occur to the stops on Dunton Road allowing for step free access. The witness for the Council agreed that the service would provide a substantial improvement to the existing situation although questioned the deliverability and longevity of the service, as well as the lack of an evening and Sunday service.
13. I have no doubt that this service would improve the existing poor bus service along Dunton Road. Given the intended frequency and route proposed, it is my view that this would provide a suitable alternative to the private car for both the future residents of the appeal site as well as those already living within the area and beyond.

14. I have no substantive evidence before me to suggest that the approach taken by Essex County Council to the procurement of this service is nothing other than their standard approach and can see no merit in the criticisms levelled in this regard. Similarly in terms of the lack of evening and Sunday service, it is my view that the suggested hours and days of service would provide a realistic alternative to the private car as envisaged by the Framework. The expectation that a bus service in an edge of settlement location could replace the use of the private car in its entirety is not a realistic scenario and is indeed not one envisaged by the Framework in any event. In terms of the longevity of the service, it would be unreasonable to expect the funding to continue in perpetuity and Essex County Council have explained how the intention is for the service to become commercially viable. Given the scale of development proposed, I am of the view that this represents a realistic and proportionate approach.
15. Looking at journeys on foot, the appeal proposal would provide direct access to Dunton Road as well as a new pedestrian access along the southern boundary of the site to the A127. The SoCG sets out agreed walking distances and possible routes to a range of local services and facilities such as schools, community facilities and shops. 3 possible start locations within the site have been included to measure these distances which provides a fair representation. There is no maximum guidance for walking distances identified within the Framework and both parties referred to published guidance on this issue to suit the arguments being advanced. The references to the Essex Design Guide (2005) which is some 18 years old predates the Framework by some margin and provides general guidance in relation to preferred walking distances and does not set statutory targets. Similarly, the distances quoted by the Education Department are directly related to qualification for school transport and are not supported by any planning guidance. The weight I attach to these documents is therefore limited.
16. Notwithstanding the above, there was broad agreement that some of the journeys identified within the SoCG would be at the upper limits of the preferred maximum distances of 25 minutes and equally there are also some services and facilities which would be readily accessible and sit somewhat below these preferred maximum distances. To my mind, taking into account the site location on the edge of the main settlement of the borough, the direct pedestrian access to be provided to the A127 as well as the location of key services and facilities, the site would provide a sustainable location and would provide the opportunity for some journeys to be undertaken by foot.
17. Much has been made of the fact that in order to access facilities and services to the south and within Basildon, the walk would necessitate the use of the overbridge over the A127. Whilst I agree to some extent that this route might not be the most attractive and would not be suitable for wheelchair users, it is nevertheless a well-used route and forms an important part of the existing and established pedestrian infrastructure of the area. I witnessed many parents with young children and pushchairs using the route for the school drop off.
18. To conclude, the appeal proposal would in my view represent a sustainable location for new residential development. It would therefore accord with the Framework and in particular paragraph 104 (c), 105 and 110 (a). I note the reason for refusal refers specifically to paragraphs 11, 126 and 130 (a) and (f)

of the Framework and I see no conflict with the Framework in relation to these paragraphs.

The effect of the proposal on the openness of the Green Belt and the purposes of including land within it

Openness

19. The appeal site comprises an open area of agricultural land. It is abutted by residential built development to the east (Steeple View) which comprises part of the urban edge of Basildon and the A127 to the south. To the west, the site is bounded by Steeple View Farm with its associated outbuildings, agricultural buildings and some commercial uses. Dunton Road forms the northern boundary of the site where intermediate ribbon development exists and there is open countryside beyond this boundary to the north where the land gently rises.
20. As a result of the sites position and topography, it is in my view that the site represents a relatively self-contained parcel of land within the wider Green Belt context. The proposed layout of the development would include clearly defined areas of publicly accessible open space and the housing would be set back from Dunton Road with an extensive landscaping scheme along the perimeters of the site which would provide appropriate mitigation and further emphasise the sites containment. In this way, the development would present a well designed extension to the existing urban edge. All of these factors in my mind contribute to the urban edge character of the site and the appeal proposal would have a very localised impact in this regard.
21. Notwithstanding the above, whilst the layout and form of the development would be interspersed with areas of publicly accessible open space, the appeal proposal would result in substantial built development across a significant proportion of the site. The introduction of 269 dwellings, associated hardstanding and domestic gardens which would be likely to be accompanied by residential paraphernalia would all have an impact on the spatial openness of the site. In this way, there would be a reduction in the spatial openness of the site.
22. In reaching the above view, I have paid particular attention to the impact of the proposed development when viewed from footpath 49 which runs parallel to the appeal site. The route of this footpath runs up the driveway and access gate to Steeple View Farm and through the Farmyard itself with its associated agricultural, commercial and domestic structures as well as significant areas of hardstanding. As a result, these are not clear uninterrupted views of the site from this footpath as has been suggested. Where views across the appeal site are possible, these are either from the driveway itself towards the junction with Dunton Road or glimpsed views through vegetation where the footpath joins the A127, an audible feature of this part of the footpath. Whilst these views are of the existing site in its undeveloped form, the existing built form of Steeple View with domestic gardens and associated boundary treatment is a clear feature as part of this view and forms an important part of the backdrop to this view as does the route which the footpath takes.
23. From the same footpath as it continues on the northside of Dunton Road, the openness of the appeal site is more apparent. However, even from this part of the footpath, the appeal site is set within the context of the existing Steeple

View housing and existing vegetation. This is a clear element of built form which forms an important and established feature of the skyline in this part of Basildon. The impact of the appeal scheme further diminishes as one travels further along the public footpath as the site becomes a less visible feature within the wider vista.

24. I am of the view that this proposal would amount to a moderate level of harm to the openness of the Green Belt. Whilst the decision notice referred to an alleged conflict with policies BAS GB1 and BAS BE12 of the Local Plan, the Council's witness accepted during the inquiry that there was no direct conflict with these policies as a result of the appeal proposal. Given that other parties have also raised the issue of conflict with these development plan policies, I have assessed the proposal against these policies in any event.
25. Policy BAS GB1 refers to the boundaries of the Green Belt being drawn with reference to the long-term expansion of the built up areas acceptable in the context of the stated purposes of the Green Belt. The policy goes on to note that the boundaries are shown on the proposals map. As a result, the policy does no more than define these boundaries and does not provide any provision for assessment of proposals within these boundaries. I therefore concur with the main parties that there would be no conflict with this policy.
26. In the context of policy BAS BE12, this is a 5 part criteria based policy. Part (i) of the policy addresses harm to the character of the surrounding area, including the street scene. This part of the policy is in my view primarily concerned with impacts on character and appearance. It is not directly related to Green Belt matters. I therefore also concur with the main parties that there would be no conflict with this policy.

Purposes

27. Paragraph 138 of the Framework identifies that the Green Belt serves 5 purposes. In the case of this appeal, there was broad agreement that the proposal would not impact purpose (b) to prevent neighbouring towns merging into one another, (d) to preserve the setting and special character of historic towns (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. I concur with this view.
28. In light of this, I set out below my assessment of the proposal against the two remaining purposes of the Green Belt (a) to check the unrestricted sprawl of large built-up areas and (c) to assist in safeguarding the countryside from encroachment.
29. In terms of part (a) to check the unrestricted sprawl of large built-up areas, it is my view that the appeal site does little to contribute to this function. The site is bounded by road infrastructure on two sides and built development to the east. It is a relatively self-contained parcel within the overall Green Belt in this locality, with Steeple View Farm providing an edge to the development which would be enhanced and reinforced through the landscaping strategy proposed. In addition, Dunton Road provides a clear separation to the open countryside to the north.
30. In terms of (c) to assist in safeguarding the countryside from encroachment, the appeal proposal would involve limited harm in this regard. This is because the site is well contained by the existing residential properties to the east and

is bounded to the north and south by the existing road infrastructure. The role and function of the Green Belt in this locality and to the north would still continue even with development of the appeal site. On the basis of the evidence presented, I am also of the view that development here with the associated mitigation proposed could form an appropriate extension to Steeple View and a stronger edge to this part of the Green Belt.

31. In making this assessment, I am aware that much of the evidence presented to the inquiry comprised parts of the evidence base to the now withdrawn Local Plan (2014-2034), which was withdrawn in March 2022. Whilst the appeal site formed a draft allocation to that Plan, its policies have no weight. However, it was common ground that the evidence base which underpinned that Plan is a material consideration to the assessment of this appeal. This was also the view set out within the Officers reports to committee, consistent with the approach of other Inspectors at both Maitland Lodge¹ and Kennel Lane. I concur with this view.
32. In my view, one of the most relevant parts of this evidence base comprises The Basildon Borough Green Belt Topic Paper (October 2018) which assessed the appeal site as site H9. The report concluded that although there would be some localised harm to the countryside arising from the development of the site, this would not be significant when viewed in the wider context of the Green Belt in this location. From my assessment of the evidence presented, I concur with the conclusions reached in this regard, namely that the evidence base weights very heavily in favour of the appeal proposal.
33. To conclude, the proposal would result in a moderate level of harm to the openness of the Green Belt in this location and limited harm to purpose (c) to assist in safeguarding the countryside from encroachment. This harm, in addition to the harm by inappropriateness, carries substantial weight against the proposal. The proposal would not result in the unrestricted sprawl of a large built up area.

Other Matters

34. A number of representations have been submitted covering issues such as air quality, highways matters including the quality of the existing infrastructure, residential amenity, flood risk, impact on wildlife, impact on views and the loss of agricultural land. In terms of highways matters, the proposal is supported by a detailed transport assessment which sets out in a comprehensive manner the proposed means of access to the site, off site highways works and mitigation measures. On the basis of the evidence before me, I can see no reason to disagree with the conclusions drawn by Essex County Council as the relevant highway authority who have concluded the proposal would have an acceptable effect in this regard. The matter of air quality has been addressed through relevant technical report and a subsequent technical update note issued in 2023. In this regard, I concur with the conclusions drawn by the Council's Environmental Health Service that the air quality should not present a constraint to development coming forward on the site. The proposal would result in the loss of agricultural land which is classified as subgrade 3a (good quality) with some subgrade 3b (moderate quality). In light of this, I attached moderate weight to this factor against the proposal.

¹ APP/V1505/W/22/3296116 and APP/V1505/W/22/3298599

35. The concerns regarding impact on wildlife and biodiversity are suitably addressed through appropriately worded conditions. The design and layout of the proposal includes a mix of housing types and styles with a central green area as a central feature. The layout and design provides an appropriate design response to the sites boundaries and I am unable to conclude that the layout and design of the scheme would give rise to any adverse impacts in terms of residential amenity.
36. In terms of landscape impacts, the appeal is supported by a Landscape and Visual Impact Assessment (LVIA) which considers the likely effect of the proposed development from a number of representative and specific viewpoints (identified at figure 5, 20 in all) within the immediate vicinity and beyond. It then evaluates the effects of the proposed development on the associated viewpoints. The report concludes that the development can be accommodated without any substantially adverse effects on landscape features, with only moderate to minor adverse effects predicted on completion, with moderate benefits to minor adverse effects by year 15.
37. I have also had regard to the review of the LVIA prepared by Place Services in March 2023. This report includes a review of a number of evidence base documents prepared from the now withdrawn emerging local plan and draws on the conclusions set out in relation to site 16 of the Basildon Outline Landscape Appraisal of Potential Strategic Development Sites (2017) as well as site 20 of the Basildon Landscape Study Volume 2 Landscape Capacity Study (2014). Both of these sites and the associated assessments extend well beyond the appeal site boundary. The report concludes that whilst it does not necessarily agree with the LVIA judgement and findings, there is capacity to accommodate development subject to appropriate mitigation commensurate with the scale of development proposed.
38. The proposal includes the retention of existing planting along both the southern and eastern boundaries as well as the retention of the existing tree belt which sits centrally within the appeal site. The setting back of the building line from Dunton Road would permit the creation of a suitable landscape buffer. To the southern boundary of the site which runs parallel with the A127, an acoustic barrier with associated tree and hedgerow planting would be also created.
39. On balance and based of the evidence before me as well as what I saw on site as well, I find the evidence of the appellants landscape witness provides a robust and comprehensive assessment in this regard. I therefore conclude the proposal would not result in any material harm to the landscape character of the area.
40. In terms of character and appearance, the area within the immediate vicinity of the appeal site comprises residential development along with open fields. It has a strong edge of settlement feel. The LVIA provides a comprehensive assessment from a number of viewpoints identified at figure 4. Whilst these include 2 views from within the appeal site itself, the primary focus is views along Dunton Road along the entire frontage of the appeal site. I concur that this, coupled with the LVIA evidence and viewpoints I have considered above, is a reasonable approach to take. Approaching the appeal site from the eastern end of Dunton Road, the road is defined by residential properties on the southside and from the appeal site itself, the Farm and associated structures at Steeple View Farm are clearly evident, some of which are significant in scale.

In comparison, there is open countryside to the north, with the village of Little Burstead in the far distance. Intermediate ribbon development does however exist along this northern boundary. Beyond the appeal site travelling west, the area has a clearly more rural countryside feel although the fields abutting Dunton Road are interspersed with standalone dwellings fronting Dunton Road.

41. When viewed from Dunton Road, the proposed layout would maximise the open aspect of the site through the positioning of publicly accessibly green space on both the north western and north eastern corners of the appeal site. The residential development would be set back from Dunton Road thereby minimising the visual impact of the built development along Dunton Road. Overall, I am of the view that the proposed residential development would provide an appropriate development set within the sites immediate surroundings and would not result in harm to the character and appearance of the area.
42. To conclude, I find additional moderate harm in relation to the loss of good quality agricultural land in this location to add to the Green Belt harm I have already identified.

Whether very special circumstances exist

43. The Framework is clear that substantial weight is attached to any harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I set out below the factors which I have taken into account in making this assessment.

Market housing

44. The Council and appellant agreed that the housing land supply for the purposes of this inquiry was 1.85 years although the appellant contends the figure could be as low as 1.46 years. Either way, this represents a significant shortfall of housing supply and one which the parties agreed is unlikely to be addressed through brownfield sites only. As a result, the release of Green Belts sites such as the appeal site is necessary to address this persistent shortfall, a fact recognised by the witness for the Council. In purely numerical terms and taking the agreed position between the parties, the shortfall in housing over the next 5 years would be in the order of 3936 homes. The last Housing Delivery Test score here was the 7th worst in the country. Detailed evidence was presented and uncontested by the Council in terms of the implications for this shortfall on overall housing delivery across the borough.
45. The fact that this situation is evident within other authorities across England does not dilute the severity of the situation in Basildon. I am also aware that the Rule 6 Party have expressed specific concerns regarding the number of extant permissions within the Borough, however I have no substantive evidence to support these claims and have therefore placed little weight on this argument. In view of this very bleak position on market housing, and the fact that it is unlikely to be addressed in the short to medium term, I afford the delivery of 161 units of market housing very substantial weight in the context of this appeal.

Affordable housing

46. The uncontested evidence in relation to affordable housing is compelling and presents a very stark picture for the borough. It sets out that during the last eight years, the Council has delivered an average of only 22 affordable homes per year, or 6% of total completions. This represents a continuously poor position in terms of affordable housing delivery across the borough and as with market housing, one which I cannot see being addressed in the short to medium term. The shortfall stands at 2640 dwellings when compared to a need identified at 2819 dwellings. To my mind, the delivery of 108 affordable dwellings through the appeal proposal would present a comparatively weighty contribution towards addressing the shortfall of affordable housing here. It would be some way above the affordable housing requirements set out at policy S5 of the Basildon District Local Plan Saved Policies 2007 which requires between 15-30% affordable housing on sites of 25 dwellings or more. Accordingly, I give the delivery of affordable housing very significant weight.
47. The Framework seeks to significantly boost the supply of homes. Taking into account this very poor housing supply position within Basildon, and the fact that there is no realistic prospect that there will be any marked change in this position in the short to medium term, I afford the provision of both market housing and affordable housing very significant weight in the case of this appeal.

Other Benefits

48. The proposal will provide the opportunity for public transport accessibility to be improved through the provision of an enhanced bus service. This would be secured by way of the Section 106 Agreement. Whilst this would principally be targeted to the residents of the appeal scheme, there can be no doubt that the service will also provide a sustainable transport option for existing residents along the route, many of whom expressed concerns about the existing lack of public transport connectivity in the area. As a result, I afford moderate weight to these public transport enhancements.
49. The proposal would deliver over 10% biodiversity net gain (BNG), this would be beyond that envisaged by the Framework. I attach moderate weight to this factor in the overall planning balance.
50. The proposal would deliver economic benefits in both the short and medium term through the delivery of training opportunities as well as in terms of job creation and I also attach moderate weight to this benefit. Finally, the proposal would deliver publicly accessible green space within the development which would be a benefit to existing and future residents. I afford moderate weight to this in the overall planning balance.
51. Although the appellant has referred to a number of sustainable building measures to be incorporated into the design of the development, there are no relevant development plan policies to support securing such initiatives, so these measures have not been addressed by a condition. As a result, I have not attached weight to these in the overall planning balance.

Other Appeal Decisions

52. I have been referred to a number of other appeal decisions and indeed those provided by the Rule 6 Party are located within the same Borough. I have had

due regard to these decisions in reaching my conclusion above although it is very rare for another appeal decision to provide a comparable exact set of circumstances. In the case of these appeal decisions², a majority of these decisions were in relation to much smaller scale development, were outline schemes, effect European designated sites, had different main issues and importantly do not include any associated infrastructure improvements or deliver benefits comparable to the appeal before me. As such, the weight I have attached to these decisions is limited.

Conditions

53. An agreed schedule of suggested conditions was submitted to the inquiry and was the subject of discussion at a round table session. Where necessary, I have amended the wording of a number of the conditions in the interest of enforceability and precision. I have also not included suggested conditions where these are not supported by relevant development plan policies or where they would result in duplication with other conditions or the provision of the Section 106 Agreement. A suggested condition was put forward to restrict the opening of the first floor windows in relation to plots 84-89 and 232-237. However, given the separation distances involved between the properties concerned, I do not consider such a condition would be either necessary or reasonable.
54. Conditions specifying the time limit and approved plans are necessary for certainty (conditions 1 and 2). Conditions to cover the possibility of land contamination and necessary actions are necessary in order to ensure the risks in relation to land contamination are addressed (conditions 3 and 4). Condition 5 requires the submission of a Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP). This is necessary in the interests of highways safety and to protect the amenity of existing residents. Condition 28 restricts the demolition and construction work hours and condition 15 requires a scheme for noise insulation to be submitted and approved by the Local Planning Authority. These conditions are necessary in the interest of the living conditions of existing and future residents. Condition 6 deals with the protection of existing trees on the site and is necessary to ensure that appropriate protection is put in place.
55. I have attached conditions 7 and 8 to address the protection of badgers on the site in the interests of the protection of these species. Conditions 9 and 10 require the submission of the external materials to be used as well as details of existing and proposed ground levels. Condition 21 requires details of the refuse storage areas to be submitted and approved. All of these are necessary in the interests of the character and appearance of the area. Condition 27 relates to the development achieving a Gold Award in Secure by Design is reasonable in the interest of crime prevention. In order to address the satisfactory storage and disposal of surface water from the site, conditions requiring the submission of a scheme relating to surface water drainage (condition 11) as well as the maintenance of surface water drainage system (condition 17) are necessary and reasonable.

² APP/V1505/W/21/3272280, APP/V1505/W/22/3290768, APP/V1505/W/23/3314714, APP/V1505/W/21/3288917, APP/V1505/W/22/3304796, APP/V1505/W/23/3314619, APP/V1505/W/22/3292777, APP/V1505/W/22/3294531, APP/V1505/W/22/3304975, APP/V1505/W/22/3292206

56. Conditions covering landscaping details (conditions 18, 19 and 20) and a Landscaping and Ecological Management Plan (condition 16) are necessary to ensure that the appearance of the development is satisfactory. Biodiversity impacts of the development are addressed through a number of conditions. All works to be completed in accordance with the Ecological reports submitted (condition 12), a Farmland Bird Mitigation strategy to be submitted (condition 13) the submission of a biodiversity enhancement layout (condition 14), the requirements for the installation of bird and bat nesting boxes (condition 25) and restrictions on clearance of suitable nesting habitats (conditions 30 and 31). All of these are necessary in the interest of the biodiversity at the site.
57. In order to ensure satisfactory access can be obtained from Dunton Road in the interest of highways safety, condition 26 addresses the provision of the access arrangements. Furthermore, condition 23 covers the car parking layout and condition 24 requires the submission of a scheme for cycle parking, these are both necessary and reasonable in the interest of highways safety and sustainable transport.
58. Condition 29 requires the development to be completed in accordance with the recommendation of the submitted Air Quality Impact Assessment and condition 22 requires the development to be completed in accordance with the Acoustic Design Statement. These conditions are necessary to ensure the living conditions of the future residents.

Planning Balance

59. Both the Council and Appellant agree that the schemes benefits outweigh its harms. The difference of opinion falls in relation to whether these benefits 'clearly' outweigh its harms, with reference to paragraph 148 of the Framework.
60. The proposal would cause harm by reason of inappropriateness and harm to openness as well as purpose (c) to assist in safeguarding the countryside from encroachment. These individually attract substantial weight. The proposal would also result in the loss of agricultural land. I attach moderate weight to this factor against the proposal.
61. On the other hand, the proposal would deliver both market and affordable housing. In an authority with shortfalls in both the delivery of market housing as well as affordable housing, I have attached very significant weight to both of these factors. The proposal would provide suitable mitigation in terms of the impacts on local infrastructure. This is a neutral factor in the planning balance save for the sustainable transport contribution which would deliver wider benefits to the existing community and as a result, I attach moderate weight to this in the planning balance. The proposal would deliver economic benefits, publicly accessibly open space as well as delivering above 10% biodiversity net gain. I attach moderate weight to each of these factors in favour of the appeal proposal.
62. The proposal would not conflict with the development plan when read as a whole. It is my view that all the other considerations clearly outweigh the harm I have identified above. As a result, very special circumstances do exist to justify the development.

Conclusion

63. For the reasons set out, the appeal should be allowed.

C Masters

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

A-P10-000 Revision P1, A-P10-001 Revision P2 , A-P10-002 Revision P2 , A-P10-003 Revision P2 , A-P10-004 Revision P2 , A-P10-005 Revision P3 , A-P10-006 Revision P2 , A-P10-007 Revision P2 , A-P10-008 Revision P4 , A-P10-010 Revision P2 , A-P10-011 Revision P2 , A-P10-012 Revision P2 , A-P13-001 and 002 Revision P1 , A-P13-005 and 006 Revision P1 , RG-M-42 Revision E , 184770-001 Revision G , EA000-LS-001 to 006 , EA000-LS-007 , 40-12-NAD-191106-CD-LI-D Revision D , 40-12-S38-191106-CD-LI-D Revision D , NSS.CL476.PL-04 , NSS.CL476.PL-01 , NSS.CL476.PL-02 , NSS.CL476.PL-04 , NSS.CL383_383-1 , NSS.CL383_383-1 , NSS.CL489.PL-01A , NSS.CL489.PL-02 , NSS.CL489.PL-02A , NSS.CL489.PL-04 , NSS.CL807.PL-01 , NSS.CL807.PL-02 , NSS.CL807.PL-03 , NSS.CL807.PL-04 , NSS.CL808.PL-01 , NSS.CL808.PL-04 , NSS.CL809.PL-01 , NSS.CL809.PL-04 , NSS.CL806.PL-01 , NSS.CL806.PL-02 , NSS.CL806.PL-03 , NSS.CL806.PL-04 , NSS.CL272-1.PL01 , NSS.CL851.PL-01 , NSS.CL851.PL-01 , NSS.CL1BF01.PL-02 , NSS.CL851.PL-03 , NSS.CL861.PL-01 , NSS.CL861.PL-02 , NSS.CL2B4P_2B4P-1.PL-01 , NSS.CL861.PL-03 , NSS.CL862.PL-01A , NSS.CL862.PL-02A , NSS.CL864.PL-01A , NSS.CL864.PL-02A , NSS.CL3B5P_3B5P-1.PL-01 , NSS.CL3B5P_3B5P-1.PL-02 , NSS.CL865.PL-01 , NSS.CL865.PL-02 , NSSCL.903.PL-01 , NSSCL.903.PL-03 , NSSCL.903.PL-04 , NSSCL.903.PL-05 , NSS.CL490.PL-03 , NSS.CL490.PL-04 , NSS.CL477.PL-02 , NSS.CL481.PL-01A , NSS.CL481.PL-02 , NSS.CL481.PL-03 , NSS.CL481.PL-04 , NSS.CL486.PL-01 , NSS.CL277_277-1.PL-01 , NSS.CL277_277-1.PL-02 , NSS.CL372_372-1.PL-01 , NSS.CL372_372-1.PL-02 , NSS.CL375.PL-01 , NSS.CL375.PL-02 , NSS.CL375.PL-03 , NSS.CL378_378-1.PL-01 , NSS.CL378_378-1.PL-03 , NSS.CL384_384-1.PL-01 , NSS.CL384_384-1.PL-02 , NSS.CL384_384-1.PL-04 , GL01.PL-01 , GL02.PL-01 , GR02.PL-01 , SH02.PL-01 Preliminary Ecological Appraisal (V7 February 2023) and Addendum Flood Risk Assessment and Addendum

3. A written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority. If during redevelopment contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and approved in writing by the Local Planning Authority.
4. Following completion of measures identified in the remediation scheme, a full closure report shall be submitted to and approved in writing by the Local

Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met. The closure report shall include a completed certificate, signed by the developer, confirming that the required works regarding contamination have been carried out in accordance with the approved written method statement. A sample of the certificate to be completed is available in Appendix 2 of Land Affected by Contamination: Technical Guidance for Applicants and Developers.

5. No development shall commence, including any works of demolition, until a Construction Environmental Management Plan (CEMP) and Site Waste Management Plan (SWMP) have been submitted to and approved in writing by the Local Planning Authority. The approved Plans shall be adhered to throughout the construction period. The Plans shall provide for: i. construction traffic management; ii. the parking of vehicles of site operatives and visitors; iii. details of access to the site; iv. loading and unloading and the storage of plant and materials used in constructing the development; v. the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate; vi. wheel washing facilities; vii. measures to control the emission of noise, dust and dirt during construction, the works are to be carried out in accordance with the recommendations contained within British Standard 5228:2009 'Code of Practice for noise and vibration control on construction and open sites'; viii. a scheme for recycling/disposing of waste resulting from demolition and construction works; and ix. details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development. x. construction phasing plan. xi. a scheme specifying the provisions to be made to control noise emanating from the site during construction works.

The approved CEMP, SWMP and CLP shall be implemented in full for the entire period of the construction works. No materials produced as a result of the site development or clearance shall be burned on site.

6. No development shall commence, including any works of demolition, until:
 - a) all trees to be retained have been protected by secure, stout exclusion fencing erected at a minimum distance equivalent to the branch spread of the trees and in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations; and
 - b) any works connected with the approved scheme within the branch spread of the trees shall be by hand only. No materials, supplies, plant or machinery shall be stored, parked or allowed access beneath the branch spread or within the exclusion fencing. Any trees that are damaged or felled during construction work must be replaced with semi-mature trees of the same or similar species.

7. No works including ground works within 30 metres of any badger setts on site or including the creation of trenches or culverts or the presence of pipes shall commence until a licence to interfere with a badger sett for the purpose of development has been obtained from Natural England and a copy of the licence has been provided to the Local Planning Authority. No sett entrances on the application site to be closed until a licence is obtained from Natural England and for a copy of this licence to be provided to the Local Planning Authority by way of confirmation/verification. Any badger setts identified on site shall be protected during construction in accordance with the licence.
8. Prior to commencement of any development including ground works at the site, measures to protect badgers from being trapped in open excavations and/or pipe and culverts must be implemented and retained throughout the construction works. The measures to be covered shall be submitted and approved by the Local Planning Authority.
9. No development comprising external elevational treatments shall take place until full details, including samples, specifications, annotated plans and fire safety ratings, of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and to the satisfaction of the Local Planning Authority.
10. No above ground new development shall commence, until details of existing and finished site levels, finished floor and ridge levels of the building to be erected, and finished external surface levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
11. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
12. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Practical Ecology, V7 February 2023), Construction Ecological Management Plan (CEcMP) Practical Ecology, June 2020 and appendix 2 (Badgers) and Lighting Design (It Does Lighting, June 2020), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.
13. A Farmland Bird Mitigation Strategy shall be submitted to and approved by the local planning authority to compensate the loss of any farmland bird territories e.g. Skylarks. The content of the Farmland Bird Mitigation Strategy shall include the following: Purpose and conservation objectives for the proposed compensation measures eg Skylark nest plots; b) detailed

methodology for the compensation measures eg Skylark nest plots following Agri-Environment Scheme option: 'AB4 Skylark Plots'; c) locations of the offsite compensation eg Skylark plots, by appropriate maps and/or plans; d) persons responsible for implementing the compensation measures.

The Farmland Bird Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained for a minimum period of 10 years.

14. No works shall take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Practical Ecology, V7 February 2023), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
15. No above ground development shall commence until a scheme of noise insulation for the residential units has been submitted to and approved in writing by the Local Planning Authority. The insulation provided shall ensure that the noise levels within the residential units does not exceed: 35 dB LAeq for living rooms (07.00 hours - 23.00 hours); 30 dB LAeq for bedrooms (23.00 hours – 07.00 hours); 45 dB LAmax for individual noise events in bedrooms (23.00 hours – 07.00 hours); 55 dB LAeq for outdoor living area (private amenity areas) (07.00 hours – 23.00 hours). The approved scheme shall be fully implemented before the first occupation of the residential unit to which it relates and shall be maintained at all times thereafter.
16. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority. The approved LEMP will then be implemented in accordance with the approved details.
17. Prior to occupation of the development a Maintenance Plan detailing the maintenance arrangements, including who is responsible for different elements of the surface water drainage system, and the maintenance activities / frequencies, shall be submitted to and approved writing by the Local Planning Authority. Drainage maintenance shall be carried out thereafter in accordance with the approved details.
18. Prior to occupation of the development full details of the hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include, but not be limited to, details of the following: a) surface materials; b) communal amenity spaces and play spaces and any related play equipment; c) boundary treatment; and d) management and maintenance. The hard landscaping scheme shall be implemented prior to occupation of the development in accordance with the approved details and thereafter permanently maintained, to the satisfaction of the Local Planning Authority.
19. Prior to occupation of the development full details of the boundary landscaping along the A127 frontage of the site, building upon the details provided within the Boundary Landscaping Concept Study document, shall be submitted to and approved in writing by the Local Planning Authority. The A127 boundary

landscaping scheme shall be implemented prior to occupation of the development in accordance with the approved details and to be thereafter permanently maintained, to the satisfaction of the Local Planning Authority.

20. Prior to occupation of the development a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme, which shall incorporate local sourced and drought tolerant plants, shall be designed with the aim of improving and increasing biodiversity and demonstrating a net gain for pollinators in line with the Council's Pollinator Action Plan. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation or completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
21. Prior to occupation of the development a detailed residential refuse and recycling strategy, including the design and location of the refuse and recycling stores, shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling stores shall be provided before the occupation of the development and thereafter permanently retained.
22. The development hereby approved shall not be occupied until the proposed noise mitigation measures outlined in MLM Acoustic Design Statement – Land west of Steeple View, Dunton Road, Basildon (report ref 102960-MLM-ZZ-XX-RP-YA-0003 dated 20th May 2020) have been implemented in full, inclusive of the provision of an Acoustic fence and associated measures. The development shall be carried out in accordance with the approved details.
23. The car parking areas shown on Drawing A-P10-005 Revision P3 – Site Layout Parking Strategy Plan shall be constructed and marked out, and thereafter retained permanently for the accommodation of vehicles of occupiers and visitors to the premises and not used for any other purpose. Active electric vehicle charging points shall be provided within the dedicated and communal car parking spaces, exact details to be submitted to and approved in writing by the Local Planning Authority. These shall be constructed and marked out and the charging points installed, and thereafter retained permanently for the accommodation of vehicles of occupiers and visitors to the premises and not used for any other purpose.
24. A scheme for the provision of cycle parking facilities shall be submitted and approved by the Local Planning Authority and thereafter provided prior to the first occupation of the development and permanently retained thereafter.
25. Prior to occupation, bird and bat nesting boxes shall be installed on the buildings or in any trees on the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The details shall accord with the advice set out in "Biodiversity for Low and Zero Carbon Buildings: A Technical Guide for New Build" (Published by RIBA, March 2010) or similar advice from the RSPB and the Bat Conservation Trust.

26. Prior to first occupation of the development, the access points a Dunton Road shall be provided as shown in principle on Ardent Consulting Engineers drawing 184770-001G. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway with 6m radii into a 5.5m carriageway and with clear to ground visibility splay. Such vehicular visibility splays in both directions shall be provided before the road junction is first used by vehicular traffic and always retained free of any obstruction thereafter.
27. The development hereby permitted shall use reasonable endeavours to achieve a Gold award of the Secure by Design for Homes (2023 Guide) or any equivalent document superseding the 2023 Guide. A certificated Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided upon completion of the development, confirming that the agreed standards have been met.
28. Demolition and construction work and associated activities are only to be carried out between the hours of 08:00 and 18:00 Monday to Friday and 08:00-13:00 Saturday with no work on Sundays or Public Holidays
29. The development shall be carried out in accordance with the recommendations in the submitted Air Quality Impact Assessment by MLM/Sweco UK Limited 2020 and Air Quality Technical Update Note by Sweco Ltd 2023. The construction phase methodology and mitigation should be employed accordingly.
30. There shall be no clearance of suitable nesting habitat or tree works during the bird breeding season (March to August inclusive). If this is not possible the vegetation should be surveyed immediately prior to removal by a suitably qualified ecologist. If active nests/ nesting birds are present, the relevant works must be delayed until the chicks have left the nest.
31. There shall be no tree works during December to March, in the relevant phase until a physical examination of on-site trees with potential for roosting bats has been undertaken to ensure they are not occupied by roosting bats. If roosting bats are present, the relevant works must be delayed until a strategy to protect or relocate any roosting bats has been submitted to and approved in writing by the Local Planning Authority. Any such strategy shall detail areas of the site where there are to be no further works until relocation or mitigation has taken place. The development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Zack Simons & Edward Arash Abedian	Instructed by Andrew Fisher of Stantec
Andrew Fisher BA Hons Dip TP MRTPI	Planning Director, Stantec
Matthew Chard BA (Hons) Dip (Hons)	Director of Landscape Planning & Design, Stantec
MAUD CMLI	
Ian Wharton BA (Hons) MCIHT	Associate Director at Ardent Consulting Engineers
Nick Harding	Senior Associate, Gowling WLG*

FOR THE LOCAL PLANNING AUTHORITY:

Kate Olley	Instructed by Michelle Hoque, Senior Planning Lawyer, Basildon Borough Council
Keith Hargest MRTPI MCIHT MRICS	Independent Planning Witness, Basildon Borough Council
Lewis Reynolds BA (Hons) PGCert MA MIAgrM MCIHort	Principal Landscape Consultant at Place Services
Michelle Hoque	Senior Planning Lawyer, Basildon Borough Council*
Mark Lawrence	Strategic Development Engineer, Essex County Council*
Anne Cook	Principal Infrastructure Planning Officer, Essex County Council*

**Denotes attended planning obligation round table session only*

RULE 6:

David Dadds	Instructed by Steeple View Residents Association
Joanne Gibson	Steeple View Residents Association

INTERESTED PARTIES:

Councillor Terri Sargent
Councillor Stuart Allen

Lorraine McLennan	Local Resident
Sandra Moore	Local Resident
Sally Mnylders	Local Resident
Scott Gibson	Local Resident
Annalaysse Gibson	Local Resident
Sue Tissiman	Local Resident
Elizabeth Baker	Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

Opening Statement on behalf of Rule 6 Party
Opening Statement on behalf of the Appellant
List of appearances on behalf of the Appellant
Opening Statement on behalf of the LPA
Photographs of site and surroundings submitted by local resident
Inset overplay plan of site 16, site H9 and Area 20
Site layout location plan and general arrangement
Draft Section 106 Agreement and associated plans
Updated CIL Compliance schedule
Note on red line approach for the application site
Closing Statement on behalf of the LPA
Closing Statement on behalf of the Rule 6 Party
Closing Statement on behalf of the Appellant

ENDS