
Appeal Decision

Inquiry held on 8, 9, 10 and 11 November 2016

Site visits made on 11 November 2016

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/W0530/W/16/3148949

Land to the west of Mill Road, Over, Cambridge, Cambridgeshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Bloor Homes (Eastern) and Cambridgeshire County Council against South Cambridgeshire District Council.
 - The application Ref S/2870/15/OL, is dated 6 November 2015.
 - The development proposed is described as the 'construction of up to 55 dwellings with associated access, infrastructure and open space (all matters reserved apart from access)'.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the construction of up to 55 dwellings with associated access, infrastructure and open space (all matters reserved apart from access) at Land to the west of Mill Road, Over, Cambridge, Cambridgeshire in accordance with the terms of the application, Ref S/2870/15/OL, dated 6 November 2015, subject to the conditions contained in the schedule at the end of this decision.

Application for costs

2. At the Inquiry an application for costs was made by Bloor Homes (Eastern) and Cambridgeshire County Council against South Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was submitted in outline with only the matter of access to be determined at this stage. Matters of appearance, landscaping, scale and layout were all reserved for future determination. The application was also supported by an illustrative masterplan, which was updated at the time of the appeal¹. All parties had an opportunity to comment on the updated masterplan and therefore there has been no prejudice occasioned as a result of the changes; I have therefore had regard to that plan. However, the plan is submitted for illustrative purposes only and in this regard only identifies one way in which the scheme may eventually come forward. I have therefore only considered it insofar as it is indicative and it is not a determinative layout. I have dealt with the appeal on this basis.

¹ B.0400_02 rev G attached to the appellant's supplementary statement of case CD-J6

4. The Council failed to determine the application within the prescribed period. However, following the submission of the appeal putative reasons for refusal have been provided, following a report to the Planning Committee² on 11th May 2016 and confirmed in the minutes of that meeting³. At the heart of the Council's concern were two matters. Firstly, the scale of development in this group village, which it considered to be a less sustainable rural settlement with a limited range of services. In particular, the Council identified the lack of employment, the distance to the nearest secondary school, Swavesey college, and that anything other than the most basic shopping trip would not be able to be fulfilled other than by use of the private car.
5. The second area of concern raised by the Council related to the site's location in the countryside, at a gateway to the village, where the Council were concerned that it had not been demonstrated that the site could accommodate the quantum of development proposed without materially detracting from the rural character of the site and the setting of the village, whilst achieving the minimum separation distances between dwellings sought by the District Design Guide Supplementary Planning Document. The concern about the achievement of the minimum separation distances was dropped, as the agreed Statement of Common Ground makes clear⁴, with the provision of the updated illustrative master plan that demonstrated that such separation distances could be achieved.
6. The Inquiry sat for four days from the 8 – 11 November inclusive. On the morning of the 11th I undertook an unaccompanied site visit to the Cambridge Guided Bus stop at Swavesey at the request of the appellant. I conducted a further unaccompanied site visit to the site and surrounding area, after the Inquiry finished sitting, on the 11th, and was guided by a plan⁵, provided by the appellant and added to by the Council, which identified suggested locations from which to view the site.
7. The Council and appellant provided their closing submissions⁶ in writing, within the timetable agreed at the end of the Inquiry, and I also received the appellant's costs application⁷ and Council response⁸ within the agreed timings. Furthermore, I received a certified copy of an executed legal agreement⁹, dated 18 November 2016, on 22 November 2016. I closed the Inquiry in writing on 25 November 2016, as agreed at the Inquiry.

Main Issues

8. Following on from the above I have identified the main issues in this case as:
 - Whether the occupants of the proposed development would have reasonable access to shops, employment and services, including community and social facilities;

² CD-B3

³ CD-B5

⁴ CD-J8 paragraph 4.15

⁵ Document 21

⁶ Council Closing – Document 22; Appellant's Closing Document 24

⁷ Document 25

⁸ Document 26

⁹ Document 23

- The effect of the proposed development on the rural character of the area and the setting of the village.

Reasons

Approach to decision making

9. The Statement of Common Ground makes clear that the Council cannot demonstrate a five-year supply of housing land¹⁰. The basis on which the calculation is undertaken is also agreed, using the Sedgefield method, and includes a 20% Buffer requirement, applied to both the annual requirement and the shortfall. The level of supply, and therefore the extent of shortfall, is identified as being 3.9 years (shortfall 1614 dwellings¹¹) for April 2015 to March 2020. This changes to 4.1 years (shortfall 1364 dwellings¹²) for the period April 2016 to March 2021 using the estimated supply for 15/16 in the latest Annual Monitoring Report.
10. This has consequences for my decision making in that I am required to determine the appeal in accordance with the Development Plan unless material considerations indicate otherwise¹³. A significant material consideration is the National Planning Policy Framework (the Framework). Paragraph 47 of the Framework advocates that to boost significantly the supply of housing local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five-years' worth of housing against their housing requirement, amongst other matters. Paragraph 49 goes on to advise that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 14 of the Framework further advises, in terms of decision making, that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
11. The Council cannot demonstrate a five-year housing land supply and therefore the policies for the supply of housing are out of date. Consequently, in accordance with Paragraph 14 of the Framework, I have considered this appeal on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The policies for the supply of housing in terms of this appeal are, ST/6, in the South Cambridgeshire Core Strategy 2007 (Core Strategy)¹⁴, and policies DP/1(a) and DP/7, in the South Cambridgeshire Development Control Policies (DCP)¹⁵. These are the policies identified in the Council's first putative reason for refusal. The parties agree they are out of date, but differ on the weight that should be afforded to them; they accept it is for the decision maker to identify the appropriate weight to give to any conflict¹⁶. I will address the

¹⁰ Section 4.2 CD- J8

¹¹ Proof of Evidence of Ms Ballantyne –Way Para 7.28 CD –K12

¹² Proof of Evidence of Ms Parsons paragraph 5.1 1) CD-K1

¹³ Sec 38(6) of the Planning and Compulsory Purchase Act 2004

¹⁴ CD-C1

¹⁵ CD-C2

¹⁶ Paragraph 4.10 Statement of Common Ground CD-J8

matter of weight attributable to these policies in my reasoning below related to the relevant main issue.

12. The Council's second reason for refusal relates predominantly to character arguments and policies DP/2 and DP/3 from the DCP are cited. These are character or design-led policies and are not policies for the supply of housing and are consistent with the Framework and I therefore afford them full weight.

Access to Employment, shops and services

13. The development plan includes policies that identify a settlement hierarchy based on sustainable location and proximity to other development that would encourage use by other means of transport than the private car, amongst other matters. As such development is directed towards the largest settlements where existing housing, shopping, employment, services and transport are concentrated, reducing the level and concentration of development as one moves down the hierarchical scale. In this regard the key settlements are at the top of the hierarchy. Policy ST/2 of the Core strategy sets the context for housing provision indicating that a sequential hierarchy will be adopted with development being located 1) on the edge of Cambridge, then 2) at the new town of Northstowe and then 3) in the Rural area in Rural Centres and other villages. The Rural Settlement Policy is then clarified in Policies ST/4 to ST/7, which create a further hierarchy within the Rural Area in descending order from Rural Centres, Minor Rural Centres, Group Villages and lastly Infill villages. Over, the settlement where the development the subject of this appeal is proposed, is identified as a Group Village, in the list in Policy ST/6.
14. Policy ST/6 also then defines the acceptable scale of development within Group villages, within the 'Village Framework'. However, the appeal site lies outside the Village Framework boundary and therefore by construction parts 2 and 3 of the policy are not directly applicable to the appeal scheme. Its only relevance as such is in that it identifies those settlements that are selected as Group Villages. The proposals do not therefore conflict with the policy
15. The DCP provides development control policies to be applied at the local level and Policy DP/1 advises that development will only be acceptable where it is demonstrated that it is consistent with the principles of sustainable development, as appropriate to its location, scale and form. In this context part (a) indicates that it should be consistent with the sequential approach in the Core Strategy. Policy DP/7 then provides advice in respect of those areas of the district that are outside Village Framework boundaries and advises that only development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside will be permitted. The parties agree that a housing development would be in conflict with this policy.
16. These policies together are policies which restrain the provision of housing in the district. However, since I have concluded that policies for the supply of housing are out of date, the weight to be given to any conflict with the policies should be reduced.
17. In considering the weight to be attached to the policies I have noted the examples of recent permissions included in Ms Ballantyne –Way's evidence, which indicate the flexible way in which the Council now approaches the application of the hierarchy.

18. Be that as it may, the strict application of the existing settlement hierarchy and blanket restriction on development outside those areas would significantly restrain housing delivery. Given the agreed undersupply of housing land, this would frustrate the aim of boosting the supply of housing. Accordingly, I attach only limited weight to policies DP/1a and DP/7. In reaching that view I have noted the references to the emerging development plan. However, that is currently going through examination and, because of its draft status, can have little bearing on this matter.
19. As the current policies are out of date this necessarily reduces the weight I give to them. Given the circumstances before me I attach limited weight to the conflict with those policies.
20. The appeal site is located adjacent to but outside the Village Framework boundary for Over, a Group village. Accordingly, the location is generally consistent with the settlement hierarchy. Indeed the Council's concerns appear to focus on the question of the quantum of development.
21. The Council consider the development in the context of factors affecting locational sustainability including the shops, employment and services, including community and social facilities, that Over has to support such a quantum of development.
22. The first putative reason for refusal¹⁷ included reference to access to the nearest secondary school, Swavesey Village College. The Council did not however seek to support this concern in any significant detail. It was rather put to me that the secondary school also made provision for other social and community uses in the evening and that those social and community activities would not be accessible by means of transport other than the private car at such times. It was suggested this would add to the lack of facilities available to the new residents.
23. To address firstly the issue of access to the school for its primary purpose; it has cycle storage facilities. There is a dedicated bus service for the school in morning and afternoons running between the school and Over, amongst other locations¹⁸. The evidence before me also demonstrates that the distance to the school from the appeal site compares favourably with access to other educational establishments in urban areas and rural areas nationally¹⁹. In this regard the school is only 4.5 km distance from the appeal site, whereas the average trip length to secondary schools for urban cities in the National Travel Survey is 5.2 km, 7.3 km for rural or fringe locations and 12.2 km for rural villages. On this basis I am satisfied that the site is within an accessible distance of the secondary school, such that there are available means of transport that could be utilised other than the private car. The route appeared well-used by schoolchildren during my site visit, although such an observation can only be a snapshot in time.
24. I turn next to consider the accessibility to shops and services. The parties agree on the facilities and services that are available at Over and these are recorded in the Village Classification Report (VCR)²⁰ which was further updated

¹⁷ See Officer report to Committee at CD-B3

¹⁸ Mr Parfitt's evidence paragraph 5.2.82.

¹⁹ Mr Parfitt's evidence paragraph 5.2.85

²⁰ CD-E1

by an errata sheet²¹. In general terms they include a convenience shop, a hairdressers', a car repair garage, a doctors surgery, at which there is also a pharmacy, a mobile post office, a mobile library, a public house, a primary school, a village hall and various sports and recreational facilities including children's play areas, multi-use games areas and large sports pitches. The Council accept that this compares reasonably with other group villages with the exception of shops and services, as there is only one small convenience store and a hairdressers.

25. In general, for more than the very basic everyday shopping items that may be available at the convenience store, residents would have to travel outside the village. The closest large convenience store is that at Bar Hill and this also has some comparison goods shopping. Otherwise residents would have to travel to Cambridge or St Ives as the closest major centres. Access to Bar Hill can be achieved by bus but this is by no means convenient and is limited by the bus timetable. In this regard the normal weekly food shop would be most likely undertaken by the private car and reliance on the private car would be a strong likelihood.
26. Whilst this may be no different in the general population, where strong reliance on the private car for this activity is still the norm, the site is located some distance from such facilities thereby adding to the distance travelled to access such facilities. On this basis given the quantum of development, with the Framework seeking to ensure that development is located where the need to travel will be minimised and the use of sustainable transport modes maximised, the appeal scheme is not well placed in respect of shopping. This is consistent with the conclusions of the Inspector in a recent appeal in Over²², the Weston Homes Appeal decision.
27. In that decision the Inspector also noted that the village was well served by local community and social facilities²³.
28. In terms of employment opportunities, there is a complex of industrial units at Norman Way, in Over. There is further development being undertaken here, which will add to the available level of employment opportunities albeit by a small amount (approximately an additional 1,500 sq m of floor space). Ms Ballantyne-Way presented survey work²⁴ that demonstrated that there were some 18 employers at the industrial park and that the majority of these were small businesses employing fewer than 5 people. It was also pointed out that at another close by employment site, Highgate, there was a similar picture of small businesses employing small numbers. The scale of employment opportunities would therefore likely be limited, given the quantum of the proposed development, which would provide some 73 economically active residents²⁵. It therefore appears that the majority of the economically active residents of the development would have to travel outside Over for employment. This is compounded by the low ratio of jobs to the working age population of Over, as identified in the VCR and as referred to in the Weston Homes Appeal decision.

²¹ CD-E2

²² APP/W0530/A/12/2180704

²³ Paragraph 11 - APP/W0530/A/12/2180704

²⁴ Ms Ballantyne-Way revised appendix 3 – Document 5.

²⁵ Economic Benefits Statement – Pegasus group – Appendix 6 to Ms Nicola Parsons Proof of Evidence

29. The Council rely heavily on the Weston Homes Appeal decision and the conclusions of that Inspector in respect of the locational sustainability of Over. In that decision the Inspector did not place significant weight on the proximity to the Cambridge Guided Bus (CGB) and he relied, in part, on the Core Strategy Inspectors, who did not view the stop as especially convenient. There he identified the CGB as being 1.5 Km distant and concluded that the cumulative journey time would be significant.
30. The distance from the appeal site to the CGB stop at Swavesey is greater, at 2.5 Km. I do not have the evidence that the other inspector had before him but, in terms of this appeal, Ms Ballantyne-Way provided evidence on Journey times²⁶ to other employment sites and to Cambridge City Centre, St Ives, Huntingdon and Cambridge Science Park. Mr Parfitt also provided evidence on cost of commuting by car, including parking charges²⁷. From the evidence before me I am satisfied that the CGB is an extremely well-used public transport facility that has very good connectivity to the close by major centres of Cambridge and St Ives, amongst others. The CGB stop at Swavesey is accessible via a route that includes a dedicated cycle way and there are a number of cycle stands at the stop. During my visit to the stop I noticed these were well used. Accessibility to the CGB stop by Bus is restricted to an extent by the timetable of the Citi5 bus, the stop for which is just outside the appeal site. However, the more limited service is primarily in the evening and therefore would have a greater effect on social activity. Whilst there are some limitations to the times when journeys can be made, for the most part the buses do operate during the working day and, given the frequency of the CGB, it would not be difficult to plan a commute by this route.
31. As noted by Mr Parfitt in cross examination, even if the CGB were accessed by a drop-off with a private car, the majority of the trip would be by the CGB and this would be a sustainable transport mode.
32. When this accessibility to the CGB is added to the comparable, if not lower, overall cost of the commute (when undertaken by private car) and the similar or better journey times, I am satisfied, on the basis of the evidence before me, that significant weight can be given to the proximity to the CGB and the likely reliance on it as a mode of transport for future residents of the development wishing to make journeys to the major centres.
33. The conclusions of the VCR in terms of the impact of the CGB conclude that it does not warrant the villages of Oakington, Longstanton and Over having a higher status. However, it appears to me that this is on the basis that the proximity of the CGB does not outweigh the poor performance of those villages on other features that affect their rating within the settlement hierarchy. The conclusions do, however, in my view, acknowledge that those villages lie relatively close to, and would be within cycling distance of, the CGB.
34. To draw these matters together, I have concluded that in terms of shopping and employment there would be likely to be a need to travel outside the village. This is consistent with the view of the Inspector on the Weston Homes appeal decision. The Closest secondary school is at Swavesey which is also outside the village

²⁶ Pages 36-40 Ms Ballantyne -Way Proof of Evidence

²⁷ Pages 32 and 33 Proof Of Evidence of Mr Parfitt.

35. The school would be accessible by modes of transport other than the private car, including by cycle, walking and bus. Whilst there are not significant employment opportunities available within the village, there are some and with the close proximity of the CGB, which is accessible by cycle and bus (during the working day) I am satisfied this provides a realistic and reasonable opportunity for the use of transport other than the private car. Even if the CGB were accessed by drop off the major part of the journey would be by the guided bus which would make the journey reasonably sustainable and be in line with the aspiration to provide access to alternatives to the private car. When added to the travel times and costs of the car to access major centres and employment locations I am satisfied this is a reasonable option. Where I am not convinced and see that there is still a reasonable prospect for the reliance on the private car is for shopping, to which future residents' would not have reasonable access. For these reasons, and on the basis of the evidence before me, I conclude that there is limited harm arising from access to facilities, due to the limited access to shops. Although limited, this would give rise to conflict with policy DP/1a.

Rural Character and village setting

36. By the close of the inquiry it was clear that the Council's concerns in relation to this matter has a narrow focus and is that a scheme comprising the maximum number of units proposed (55) pursuant to the appellants' application could not be acceptably accommodated on the site in landscape and Townscape terms. It is further recognised that the landscape and townscape effects that would arise from such would be localised²⁸.
37. In my view given that the application seeks consent for up to a maximum number of units it is perfectly reasonable to test whether that maximum level is acceptable. However, the application is in outline, with only matters of access to be considered at this time; the matters of appearance, layout, scale and landscaping being reserved for future consideration. The assessment of the proposal should not therefore fall in to the trap of considering and assessing the detail of the illustrative layout, as such material is only one way in which the scheme may come forward, and is not determinative of a future scheme.
38. It is common ground that the scale and nature of the proposal would not result in unacceptable adverse impacts on the National Landscape Character Area, the regional or county level Landscape Character Types or the district level Landscape Character Area. The general character is of a village set in a fenland landscape and whilst this has consequences in terms of its Fen edge location (the district level landscape character type) and the Fen Island of which it is a part, given the scale and nature of the proposal the parties agree that there is no unacceptable adverse impacts on these characterisations. I agree with that opinion and moreover, given the limited longer-range views of the site, which is well screened, there is little point in further exploration of these wider matters. It is further common ground that that there is no breach of Policy NE4 of the Core Strategy which seeks the preservation or enhancement of local character and distinctiveness of the Landscape Character Area within which the development is located.²⁹ It is at the more localised area and finer grain that the effects of development become more noticeable and

²⁸ Paragraph 78 of the Council's Closing Statement.

²⁹ Closing Statement of Council paragraph 81.

the concern should therefore focus on these effects and whether they include aspects that may harm characteristics which are reflective of the broader character areas.

39. Turning to the more localised impact of the development, the eastern edge of the village has an exposed edge along much of Mill Road, where linear housing and more recent housing development behind has taken place. For much of this edge this is readily visible and it is this edge and Mill Road that form the abrupt change from the village to the open fenland countryside on the other side of Mill Road.
40. Towards the top end of Mill Road the appeal site is enclosed by a thick, mature, high hedge which, in combination with other hedging and landscaping of surrounding land, softens this part of the village edge. The large plots, mature landscaping and deep setbacks of properties on Willingham Road add to this softer edge. However I formed the view that the built up part of the village started at the end of the properties fronting Willingham Road before its junction with Mill Road. The properties to the south of the appeal site on Mill Road were definitely within and part of the village, and whilst the site may be an undeveloped area of land it read to me to be more associated with the development on Mill Road and Willingham Road rather than the open countryside beyond and therefore formed part of the settlement. This is consistent with the gateway to the village at this location identified on the plan of the 'Village Character – Settlement' for Over in the South Cambridgeshire Village Capacity Study (VCS). The gateway is located at the eastern end of the housing fronting Willingham Road. To my mind the gateways on that plan identify the locations where you enter the village after which you are in the village and do not identify the start of a transitional zone entering the village.
41. The Council were concerned that the site had the characteristics of a paddock enclosed by hedges which, in the VCS, are one of the key characteristics of the surrounding landscape. However, with reference to that same plan, areas of enclosed paddocks providing a transition between countryside and village are specifically highlighted, as at area 1, to the north of the village, and area 8, to the south of the village, where they provide a soft village edge. Such a feature is not highlighted in this location on the plan and indeed the plan highlights this as an exposed edge with frontage housing facing onto Mill Road and arable fields.
42. The immediately surrounding housing on Willingham Road is characterised by low rise properties on relatively spacious plots with mature landscaping including a good degree of hedge planting. To the south, however, the housing is more compact and exhibits characteristics described, by the Council, as 'anywhere housing', and which both parties agreed did not positively contribute to the character of the area.
43. The illustrative scheme would retain the high hedge around the site, as was demonstrated by the appellants' tree survey, which was not significantly challenged by any evidence by the Council. It is also a matter which could be the subject of a planning condition. Although there was some concern about encroachment of the root protection zone expressed by the Council, this strayed into criticism of matters that would more properly be addressed at the reserved matters stage and it would only take minor adjustments to the

illustrative scheme to take any of the developed area outside this protection zone. The Council did not provide robust evidence to demonstrate that the hedge could not be retained or that there would be significant harm that could not be addressed by condition or subsequent consideration of the reserved matters. I am satisfied that the hedge could be retained and would provide a significant degree of screening for the site and would help integrate the development into the area.

44. The scale of development and the amount of development to be located on the site could, the Council argued, result in a significantly more intense form of development towards the middle and rear of the site if the lower density and large plot sizes of the properties on Willingham Road were to be reflected on the appeal site, as would need to be the case to avoid harm to the character and appearance of the area. I am not convinced this would be the case for a number of reasons. Firstly, despite the Council's criticisms of the appellants' illustrative layout, it seems to me that it provides a clear indication that the site could be satisfactorily developed for the maximum number of units proposed. In my view a scheme along the lines suggested would enable a satisfactory proportion of open space to be provided on Willingham Road, providing for housing set back from the retained hedge and provide a degree of spacing and separation that would comply with the Council's standards and meet those aspirations to reflect the character of the area. In this regard I am satisfied this illustrates that the quantum of development can be acceptably accommodated on the site. Secondly, height, appearance, detailed layout etc are matters that would be the subject of a future reserved matters application, allowing for detailed consideration of the finer grain effects of any development. Thirdly the proposed scheme would be retained within a site where the high, thick hedge, an important contributor to the local character, was retained. And fourthly the overall site density would be consistent with planning policy requirements, as set out in HG1, which requires net densities to be 'at least (my underlining) 30 dwellings per hectare', the appeal scheme resulting in approximately 35 dwellings per hectare.
45. Whilst I accept that at close quarters the roof scape and upper parts of buildings would most likely be visible from outside the site, given the height of the hedge. The effect of this would be to a certain extent mitigated by the hedge. Whilst I accept there would be less screening in winter months the hedge is reasonably tall and thick and would maintain a good degree of screening. The maintenance of the hedge is proposed to be secured through a planning obligation. The upper levels and roof scape being visible above landscaping is not dissimilar to other surrounding development.
46. Policy DP2 in the DCP requires all new development to be of a high quality that should preserve and enhance the character of the local area, and Policy DP3 at part 2 indicates that planning permission would not be granted where the proposed development would have an adverse impact on the countryside and landscape character and on the village character, amongst other matters. Given my conclusions above on density, the retention of the hedge, and the potential to accommodate development that would reflect local characteristics, I am satisfied that the proposals would not conflict with these policies. I therefore conclude that the proposed development would not result in material harm to the rural character of the area or the setting of the village.

Other matters

47. The development will make provision for up to 55 dwellings at a Group village in a district where there is not a 5 year supply of affordable housing. Given the necessity to achieve development in a dispersed nature and to bring forward housing it is likely that development will have to take place at the Group Village level. In this context this development would make a significant contribution to housing supply in the absence of a five year supply. The Scheme also makes provision for affordable housing, secured through a planning obligation (which I consider below), which would meet a significant element of need within the village.
48. The Council cannot provide a five year housing land supply. That has been the case persistently and there is no evidence to demonstrate that there is a realistic prospect that that position will be changed in the short term. Even with the Council seeking to apply a more flexible approach, as it has put it, there is still a significant shortfall and there is no indication of when that would be addressed. The Council accept that it will need to approve housing schemes in Group village locations, Ms Ballantyne-Way cross examination, and indeed Ms Ballantyne-Way's new appendix 5 shows they are approving such. However, the level of approvals are not at such a scale or rate that they are making significant in-roads into the shortfall. Therefore in this context it is likely that further approvals will need to come forward in Group Village locations to meet the Council's housing needs. I have no reason to suppose, on the evidence before me, that other sites likely to come forward under the flexible approach the Council is adopting would have better access to services. A concern that the location of this development would lead to journeys for shopping trips is therefore something that is potentially to be repeated at other such locations and therefore does not make this site significantly less sustainable than any other sites in terms of travel and transport issues.
49. The scheme has economic benefits, including employment during construction, contribution to economic output during construction, additional household expenditure and support for existing services and facilities. Whilst the Council question the weight to be given to these matters, it accepts that they do carry some weight. In the context of this scheme I afford these limited weight, given the level of benefit that would arise given the number of units proposed, the limited duration for some elements, related to construction times, and that much would be provided by any housing development.
50. The scheme also includes enhancements to the landscaping and biodiversity of the site, details of which would come forward through the reserved matters application. These matters are again accepted by the Council as being positive contributions, although of limited weight in its view. I accept that these could be seen as positive benefits of the scheme, although I afford these limited weight, given the limited benefits that would arise.

Planning Obligation

51. I have received an executed planning obligation agreement that secures affordable housing, 40% of the dwellings to be affordable, a hedge row retention scheme and on-site open space and /or play facilities. These are matters that ensure the development complies with policy, including NG/3, SF/10 and NE/6 of the DCP regarding affordable housing

landscaping/biodiversity and play facilities and will integrate with the character of the surrounding area and make provision for future residents. As such they are necessary and reasonable. The requirements are directly related to the quantum of development and nature of the development. I am therefore satisfied they meet the tests of the Community Infrastructure Levy Regulations, Regulation 122, and paragraph 204 of the Framework.

52. The agreement also secures financial contributions towards the maintenance of the award drain, the maintenance of bus shelters, community facilities, health care delivery, secondary education and off-site sports and household waste receptacles provision. These contributions are based on formula and are related to the scale and nature of the development. They are required to address additional pressure that would be put on these resources by the future occupants of the development. I am therefore satisfied that they meet the 122 Regulation and paragraph 204 Framework tests as required for me to take them into account in granting this consent.
53. The Council has confirmed that none of the obligations would conflict with Regulation 123 requiring that no more than 5 contributions are pooled towards any one specific infrastructure scheme.

Overall Conclusions and conditions

54. It is agreed that there is conflict with Policy DP/7. I have also concluded that the proposal would be contrary to policy DP/1a. Nevertheless, because of the housing land supply position policies ST/6 (which I have concluded is not strictly applicable anyway) in the Core Strategy and policies DP/1 and DP/7 should be regarded as out of date. Their strict application would prevent improvements to the large shortfall in the supply of housing. Because of this I attribute limited weight to them. Moreover, the Council accepts that these policies will need to be applied flexibly if the housing land shortage is to be addressed.
55. There is reasonable access to most services and facilities. However, I have found that there is likely to be reliance on the private car to access shops. The harm arising from this is limited.
56. Set against this harm are the social benefits of addressing the under supply of housing in the District and I attach significant weight to the new housing (including affordable housing) that would be provided.
57. I have further found that the development is acceptable in visual terms and have found no conflict with policies DP/2 and DP/3 in the DCP. I have also found some limited economic, landscaping and biodiversity benefits of the scheme.
58. When taken in the round (and having considered the economic, social and environmental dimensions of the development) I am satisfied that any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. On this basis the scheme amounts to sustainable development and should be allowed.
59. The parties provided a list of some 31 conditions which were for the most part agreed. I have considered these conditions in the light of the advice in the

Planning Practice Guidance and having regard to the list of suggested conditions in annex A of Circular 11/95 – the use of conditions in planning permissions, which remains extant.

60. Conditions 1 to 3 define the reserved matters and time limits and are required given the outline nature of the application. The normal time limits are varied to bring forward development as early as possible, this is agreed by the parties and who both agreed this would bring the contribution this site would make to the five year housing land supply position forward quickly. Given the supply position it was suggested by the appellants this would add to the positive benefits of the scheme. Condition 4 on the approved plans is needed to provide certainty and is good practice. To ensure the development provides for an appropriate mix of housing, including tenure, such details should come forward with any reserved matters application, as suggested under the terms of condition 5.
61. Condition 6 requires details of tree and hedge protection and is required given the reliance on the enclosing hedge as mitigation for the impact of the development. Condition 7 requires details of surface water drainage for the site as no such details are provided. Condition 8 is required to protect the site from flood risk, albeit I have adjusted the suggested wording to ensure it is lawful. Condition 9 is required to ensure the award drain can be adequately maintained.
62. Whilst the site has not previously been developed it is necessary to have a contamination condition, in case any unknown contamination is discovered during construction works.
63. Conditions 11 through to 14 address further details of landscaping and ecology and are required in the interests of the appearance of the site and the fauna on the site. Condition 15 requires details of a fire hydrant and is required to ensure an adequate supply of water is available for emergency use. Conditions 16 and 17 require the submission of a construction environmental management plan and a waste management plan and are required to address the environmental impact of the construction of the development. Condition 18 is required to address the impact of external lighting.
64. Condition 19 requires the submission of a Traffic Management Plan and is required in the interests of highway safety. Conditions 20 through to 28 deal with highway matters. A travel plan is required, through condition 20, to promote alternative modes of travel. Condition 21 secures parking provision, in accordance with the appropriate standards. Conditions 22 to 24 require detailed matters related to the site access to ensure highway safety; and conditions 25 and 26 require details of footways through and around the site to ensure highway safety and improve the connectivity of the site. Additional cycle parking stands at or near Swavesey CGB stop are required given the reliance on this as a method of mitigation and to encourage alternative modes of transport to the private car and are addressed in condition 27. In terms of a condition requiring details of the design and location of bus shelters the planning obligation secures the provision of a financial contribution for the maintenance of the shelters but does not directly require their provision. It does however restrict occupation of the development until such time as the contribution has been paid. The planning condition I have imposed, no. 28,

dovetails with these requirements and reflects a similar timing, and it is therefore reasonable and necessary.

65. Condition 29 requires the provision of on-site renewable energy to ensure an energy-efficient and sustainable development in line with adopted policy.
66. Conditions 6, 7, 11, 13, 15, 16, 17, 18, 19, 25, 26 and 29 are 'pre-commencement' conditions and require certain actions before the commencement of development. In all cases this is necessary to ensure that the condition will have its proper effect.
67. I have not imposed a condition in relation to noise mitigation as no evidence has been submitted to demonstrate a problem would arise in terms of noise that requires mitigation.
68. For the reasons given above, and subject to the aforementioned conditions, I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Rebecca Clutten	Of Counsel, instructed by Head of Legal Practice, South Cambridgeshire District Council
----------------------	--

She called

Mr Mathew Bright BSc(Hons), BLD, CMLI	Landscape Architect – Huskisson Brown Associates
Ms Elizabeth Moon BA(Hons), Dip.Arch, Reg.Arch	Elizabeth Moon Urban Design Consultancy
Ms Sarah Ballantyne- Way BSc(Hons), MSc, MRTPI	Planning Consultant SBW Planning.

FOR THE APPELLANT:

Mr Rueben Taylor	Queens Counsel, instructed by Ms Nicola Parsons of Pegasus Group
------------------	---

He called

Mr Simon Parfitt BA, MSc, CMILT	Director at David Tucker Associates
Ms Katie Machin BSc, PGDIP CMLI	Principal Landscape Architect Pegasus Group
Mr Michael Carr BA(Hons), Dip LA, Dip/MA UD	Executive Director Pegasus Group
Ms Nicola Parsons BA(Hons), DipUP, MRTPI.	Regional Director Pegasus Group

INTERESTED PERSONS:

Mr Geoff Twiss	Over Parish Council
----------------	---------------------

PLANS AND DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 List of appearances for the Local Planning Authority.
 - 2 List of appearances for the Appellants.
 - 3 Appeal decision letter APP/W0530/W/15/3139730 for Land at Teversham Road, Fulbourn, Cambridgeshire.
 - 4 Final signed copy of the Statement of Common Ground marked as Core Document CD-J8
 - 5 Update of Appendix 3 – Details on Local Employment Sites contained in CD-K13- Appendices to Proof of Evidence of Sarah Ballantyne-Way submitted by the Council.
 - 6 Five pages of tables in respect of Five Year Housing Land supply permissions marked as appendix 5 to evidence of Sarah Ballantyne-Way submitted by the Council.
 - 7 Opening submissions on behalf of the appellant.
 - 8 Opening submissions on behalf of the Council.
 - 9 Statement read by Geoff Twist, Over Parish Council.
 - 10 A3 Copies of the plans and photographs in CD-K19 supporting evidence of Matthew Bright submitted by the Council.
 - 11 Errata sheet to evidence and summary of Sarah Ballantyne-Way providing extract of Policy DP/1 and other minor textual changes submitted by the Council.
 - 12 A3 plan of Landscape Character Areas taken from Cambridge Green Infrastructure Review and Second Edition in respect of Mathew Bright's evidence; submitted by the Council.
 - 13 Further more detailed zoom of Character Area boundaries (see document 12) in respect of Mathew Bright's evidence; submitted by the Council.
 - 14 Colour Copy of appendix 5 to the Village Classification Report (CD –E1) supplied by the appellant.
 - 15 Written Note on planning obligations in respect of:
 - A) indoor community facilities; and
 - B) maintenance of award drainSubmitted by the Council.
 - 16 Extract from Planning Practice Guidance paragraph 011 reference ID: 21b-011-20140612 submitted by the Council.
 - 17 Copy of Draft conditions with appellants written comments submitted by the appellant.
 - 18 Draft of Planning Obligation Agreement submitted by the Council.
 - 19 Summary of Planning Obligations agreement detailing the obligations, submitted by the Council.
 - 20 Plan proposed to be included in the Planning Obligation agreement to identify the site.
 - 21 Plan of locations from where the Inspector should view the site on my unaccompanied visit as agreed by both main parties.
 - 22 Certified Copy of Section 106 Planning Obligation Agreement dated 18th November 2016.
 - 23 Council's Closing Submissions.
 - 24 a) Appellant's closing submissions and b) written Costs Claim.
 - 25 Council's response to Costs Claim.
 - 26 Appellant's Final comments on Costs Claim.
- END

Schedule of conditions for appeal reference APP/W0530/W/16/3148949

1. Approval of the details of the layout of the site, the scale and appearance of buildings, and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of two years from the date of this permission.
3. The development hereby permitted shall begin not later than the expiration of one year from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan: Pegasus Group, B.0400_02, July 2015
 - Proposed Site Access: DTA Transportation, 15097-02 Revision A, August 2015.
5. Details of the mix of housing types, size and tenure (including both market and affordable housing) shall be submitted with any reserved matters application for housing and be provided in accordance with the approved details.
6. Prior to the commencement of the development full details of all trees and hedges to be retained and the tree protection measures shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5380 2000, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.
7. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:
 - a) Information about the design storm period and intensity (up to 1 in 100 (+30% allowance for climate change)), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharge from the site, and the

measures taken to prevent flooding and pollution of the receiving ground water and/ or surface water.

- b) Flood water exceedance routes, both on and off site;
- c) A timetable for implementation;
- d) Site investigation and test results to confirm infiltration rates

The development shall be carried out in accordance with the approved scheme.

8. The development shall only be carried out in accordance with the approved Flood Risk Assessment Reference E3150-FRA-SEPT 15-REV O.
9. Details of the layout and landscaping submitted pursuant to condition 1 shall include a 5m access and maintenance strip to be maintained along the western boundary of the award drain and kept clear of debris at all times.
10. If, during development, contamination not previously identified is found to be present at the site then, no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval for the remediation strategy from the Local Planning Authority. The remediation strategy shall be implemented as approved.
11. Prior to the commencement of development, a detailed Landscape and Ecological Management Plan (LEMP) for the site shall be submitted to and approved in writing by the Local Planning Authority in accordance with the recommendations set out in part 5 (Enhancement Measures) of the Extended Phase 1 Habitat Survey report by Practical Ecology Ltd, October 2015. The plan shall include full details of landscape and ecological management objectives, operations and maintenance prescriptions, together with their timings. The plan shall also include details of specific ecological features to be enhanced, recreated and managed for species of local importance and provision to be made for bird nest boxes. The LEMP shall be carried out as approved, and the site maintained thereafter in accordance with it.
12. The landscaping scheme to be submitted under Condition 1 shall include:
 - Planting and seeding plans and schedules, specifying species, planting size, densities and plant numbers
 - Tree pit and staking/underground guying details
 - A written soft landscape specification (National Building Specification compliant, including topsoil stripping, storage, importation, ground preparation, cultivation and other operations associated with plant and grass establishment)

- Existing and proposed levels, contours and cross / long sections for all earthworks
- Hard surfacing materials: layout, colour, size, texture, coursing and levels
- Walls, fencing and railings: location, type, heights and materials
- Minor artefacts and structures — location, type, size, colour of street furniture, play equipment and safety surfacing, signage, refuse units, cycle stands, and lighting columns and lanterns

The scheme shall be implemented in full accordance with the approved details. Planting and installation of play equipment shall be carried out according to a timetable to be agreed in writing with the Local Planning Authority prior to commencement of the development.

Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

13. Prior to the commencement of any development, ground works and/or vegetation removal, a repeat survey shall be undertaken for badgers. The findings of the badger survey, and any associated recommendations shall be provided to the LPA for written approval prior to any development commencing. The agreed recommendations shall be undertaken in accordance with any implementation arrangements agreed as part of the recommendations.
14. Any removal of trees, scrub or hedgerow shall not take place in the bird breeding season between 15 February and 15 July inclusive, unless a mitigation scheme for the protection of bird-nesting habitat has been previously submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
15. No development shall take place until a scheme for the provision and location of fire hydrants to serve the development has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented.
16. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the local planning authority for the development, hereby permitted. The CEMP shall accord with and give effect to the waste management principles set out in the adopted Cambridgeshire and Peterborough Minerals and Waste Core Strategy (2011) and Waste Hierarchy. The CEMP shall address the following aspects of construction:
 - i. A construction programme;
 - ii. Contractor's access arrangements for vehicles, plant and personnel including the location of construction traffic routes to, from and within the

- site, details of their signing, monitoring and enforcement measures, along with the location of parking for contractors and construction workers;
- iii. Construction hours;
 - iv. Delivery times for construction purposes;
 - v. Soil Management Strategy including a method statement for the stripping of top soil for re-use; the raising of land levels (if required); and arrangements (including height and location of stockpiles) for temporary topsoil and subsoil storage to BS3883:2007;
 - vi. Noise monitoring method including location, duration, frequency and reporting of results to the Local Planning Authority in accordance with the provisions of BS 5228 (1997);
 - vii. A construction noise impact assessment and a report/method statement detailing predicted construction noise and vibration levels at noise sensitive premises, and consideration of mitigation measures to be undertaken to protect local residents from construction noise and/or vibration. Potential construction noise and vibration levels at the nearest noise sensitive locations shall be predicted in accordance with the provisions of BS 5228:2009+AI :2014: 'Code of practice for noise and vibration control on construction and open sites - Part 1: Noise and Part 2: Vibration.
 - viii. A programme of measures to minimise the spread of airborne dust from the site during the construction period or relevant phase of development.
 - ix. Site lighting during construction;
 - x. Drainage control measures including the use of settling tanks, oil interceptors and bunds;
 - xi. Screening and hoarding details;
 - xii. Access and protection arrangements around the site for pedestrians, cyclists and other road users;
 - xiii. Procedures for interference with public highways (including rights of way), permanent and temporary realignment, diversions and road closures;
 - xiv. External safety and information signing and notices;
 - xv. Liaison, consultation and publicity arrangements including dedicated points of contact;
 - xvii. Consideration of sensitive receptors; Prior notice of agreement of procedures for works outside approved limits;
 - xviii. Complaints procedures, including complaints response procedures;
 - xix. Location of Contractors compound and method of moving materials, plant and equipment around the site.

The CEMP shall be implemented in accordance with the agreed details.

17. Prior to the commencement of development a full Site Waste Management Plan and Waste Audit shall be submitted in writing and approved by the Local Planning Authority. These shall include details of:
- i Construction waste infrastructure dealing with how inert waste arisings will be managed/recycled during the construction process;
 - ii Anticipated nature and volumes of waste and measures to ensure the maximisation of the reuse of waste;
 - iii Measures and protocols to ensure effective segregation of waste at source including waste sorting, storage, recovery and recycling facilities to ensure the maximisation of waste materials both for use within and outside the site;
 - iv Any other steps to ensure the minimisation of waste during construction;
 - v The location and timing of provision of facilities pursuant to criteria i), ii), iii) and iv)
 - vi Proposed monitoring and timing of submission of monitoring reports;
 - vii The proposed timing of submission of a Waste Management Closure Report to demonstrate the effective implementation, management and monitoring of construction;
 - viii A RECAP Waste Management Guide toolkit, including a contributions assessment, shall be completed with supporting reference material.

Proposals for the management of municipal waste generated during the construction phase of the development, to include the design and provision of permanent facilities including internal and external segregation and storage of recyclables, non-recyclables and compostable material; access to storage and collection points by users and waste collection vehicles is required.

The scheme shall be carried out in accordance with the approved details.

18. Prior to the commencement of the development an artificial lighting scheme, to include details of any external lighting of the site such as street lighting, floodlighting, security/ residential lighting and an assessment of impact on any sensitive residential premises on and off site, shall be submitted to and approved in writing by the local planning authority. The approved lighting scheme shall be installed, maintained and operated in accordance with the approved details/ measures.
19. No construction works shall commence on site until a Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The principal areas of concern that should be addressed are:
- i. Movements and control of muck away lorries (all loading and unloading should be undertaken off the adopted public highway);

- ii. Contractor parking, which shall be within the curtilage of the site and not on street;
- iii. Movements and control of all deliveries;
- iv. Control of dust, mud and debris.

The scheme shall be carried out in accordance with the approved details.

- 20. The dwellings shall not be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority for the development hereby permitted. The Plan shall be implemented in accordance with the approved details.
- 21. The occupation of any particular dwelling hereby permitted, shall not commence until car parking, in accordance with the Council's standards, and covered and secure cycle parking to serve that unit, has been provided within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The car parking and cycle parking shall thereafter be implemented and maintained in accordance with the approved details.
- 22. The main site access onto Mill Lane, as shown on drawing number: 15097-02 Revision A, August 2015 shall be constructed and maintained so that its falls and levels are such that no surface water from the site drains across or onto the public highway.
- 23. The proposed main site access and emergency access, as shown on drawing number: 15097-02 Revision A, August 2015 shall be constructed using a bound material to prevent debris spreading onto the adopted public highway.
- 24. Notwithstanding the details shown on drawing 15097-02 Revision A, August 2015 the radii of the main site access off Mill Road shall be 6m and the access road shall be at least 5.5m wide.
- 25. No development shall take place until a scheme for the provision of footway improvements connecting the site to Mill Road and separately to Willingham Road, as indicated on plan No. 15097-02 Revision A, August 2015 has first been submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved details prior to occupation of any dwellings.
- 26. No development shall take place until a scheme for the provision of a 2m wide footway through the site between Mill Road and Willingham Road has been submitted to and approved in writing by the local planning authority. The works shall be completed in accordance with the approved details prior to occupation of the last dwelling.
- 27. No dwelling shall be occupied until a scheme for the provision of 10 cycle parking spaces on land within adopted public highway at or close to

Swavesey Cambridge Guided Bus Station has been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

28. No dwelling shall be occupied until details of the design and location of bus stop improvements to include shelter, flag, hard standing and raised kerbs on either side of Mill Road, Over have been approved in writing with the Local Planning Authority. No dwellings shall be occupied until the shelters have been provided in accordance with the approved details unless the Local Planning Authority agrees otherwise in writing.
29. No development shall take place until a scheme for the provision of on-site renewable energy to meet 10% of the projected energy requirements of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

END