
Appeal Decisions

Inquiry held on 13-16 June 2017

Site visit made on 15 June 2017

by Christa Masters MA (hons) MRTPI

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

Decision date: 30 June 2017

Appeal A Ref: APP/C1570/W/16/3162954

Land South of School Lane, Henham, Essex

- 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 Persimmon Homes/ E Dicker/ J Turpin/S Andrews/ D Shepherd against the decision of Uttlesford District Council.
- The application Ref UTT/15/2982/FUL, dated 29 September 2015, was refused by notice dated 10 May 2016.
- The development proposed is residential development for 36 dwellings and associated roads and parking, together with public open space and a play area along with infrastructure improvements to Henham and Ugley Primary School including parking and playing fields provision.

Appeal B Ref: APP/C1570/W/17/3171425

Land South of School Lane, Henham, Essex

- 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 Persimmon Homes/ E Dicker/ J Turpin/S Andrews/ D Shepherd against the decision of Uttlesford District Council.
- The application Ref UTT/16/0841/FUL, dated 26 July 2016, was refused by notice dated 19 September 2016.
- The development proposed is installation of a SUDS pond and swale on land to the south of School Lane, Henham.

Decisions

1. Both appeals are dismissed.

Preliminary Matters

2. The second reason for refusal in relation to appeal B relates to insufficient information having been submitted in relation to biodiversity and protected species. A separate proof of evidence was presented on this issue. This confirms that ecological walkover surveys were carried out in February and October 2016 and that a package of mitigation measures is proposed. These include, but are not limited to, the translocation of the common lizard, the creation of meadow grassland and the requirement for a landscape and ecological management plan (LEMP) which would be subject to an appropriately worded condition.
 3. The Council confirmed within the Statement of Common Ground (SOCG) that subject to appropriate conditions and the provisions of the Unilateral Undertakings (UU) (set out below), this matter has been satisfactorily addressed and the proposals accord with policy GEN7 of the Local Plan (LP)
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concerning nature conservation. On the basis of the evidence presented, I concur with this view.

4. In relation to appeal A, a signed UU was submitted during the inquiry dated 8 June 2017. The Council were satisfied that this document adequately addressed the third and fourth reasons for refusal relating to affordable housing provision and education infrastructure contributions. I have had regard to this document during my consideration of the appeals and shall return to this matter below.
5. In relation to appeal B, a signed UU was submitted during the inquiry dated 8 June 2017. This document seeks to secure the management and maintenance of the SUDS drainage scheme and associated open land and the relocation of the reptiles. I have had regard to this document during my consideration of the appeals and shall return to this matter below.
6. The SOCG with the highways authority referred to an alternative layout for the parent drop off area which proposed a one way system, reconfigured car parking layout and a reduced number of spaces. This alternative layout was included within the appellant's proof of evidence. The Council and Rule 6 party provided comments on this alternative layout as part of rebuttal proofs of evidence. Both parties considered that they would not be prejudiced by my consideration of the alternative layout.
7. Having regard to the Wheatcroft principles¹ I advised the parties at the inquiry that I was concerned that interested parties could be prejudiced by my consideration of this alternative layout. In this regard, I am mindful that the Council had not carried out any additional consultation on a revised plan, and there is significant public interest in the appeal proposals. Moreover, no individual plan was supplied to the Council in order for this to be undertaken. The change relates to a fundamental element of the scheme which has attracted much public interest. As a result, I advised the parties at the start of the inquiry that I would not be considering this alternative car park layout and I proceed to determine the appeal proposals on this basis.

Main Issues

8. In relation to both appeal A and appeal B, the effect of the proposals on:
 - the character and appearance of the area, with particular reference to the site's relationship to the existing school and surrounding countryside;
 - Highways safety.
9. In addition, in relation to appeal A only, whether any harm arising is outweighed by any other considerations, including the supply of housing land in the area.

Reasons

Background

10. The appeal site includes the existing Henham and Ugley primary school which is located at the end of a cul-de-sac known as School Lane. The school

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982,P37]

accommodates approximately 215 children aged between 3 and 11 and has an existing playing field, a linear strip of additional playing field (referred to during the course of the inquiry as 'behind the hedge') which is currently leased by the school as well as a hardcourt area which sits along the eastern boundary of the site.

11. Part of the existing school playing field would be reconfigured to provide part of the access to the site. As a result, the proposal would provide replacement playing field provision by extending the boundary of the school site to the south. This playing field would be transferred to the local education authority. The proposal would also provide for a replacement staff car park and a dedicated parent parking/drop off area directly opposite the school entrance.
12. Beyond the school, the appeal site comprises a greenfield site which is grassland and is somewhat overgrown. Informal footpaths exist on the site and are used for dog walking. Vernons Close, comprising detached dwellings borders the site to the west and part of the northern boundary. To the south and east, the surrounding area is predominantly open countryside.

Policy context

13. Paragraph 47 of the Framework requires, amongst other things, that local planning authorities should identify a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement, with the addition of a 5% buffer. This buffer should increase to 20% where necessary to provide a realistic prospect of achieving the planned supply. It is common ground between the parties that there is at present no five year housing land supply. The dispute between the parties on this matter relates to (i) the OAN which the Council state is 568 dpa whereas the appellants advise 640 dpa and (ii) whether a 5 or 20% buffer should be applied. In supply terms, this means the Council consider they have a supply of 4.5 years, whereas the appellant advises that this figure is 3.24 years.
14. It was also common ground between the parties that it is not for the Inspector in a Section 78 appeal to assess the issue with the kind of detailed analysis that takes place at a local plan examination or to seek to assess this matter with the same rigor as the local plan process. Recognising that housing applications should be considered in the context of the presumption in favour of sustainable development, paragraph 49 of the Framework advises 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 sites. The Council also acknowledges that this lack of 5 year supply means that paragraph 14 of the Framework is engaged. In summary, the proposals would make a beneficial contribution to housing supply. As a result, the need for both market and affordable housing carries weight in favour of the appeal proposals.
15. Policy S7 of the LP relates to the countryside. The policy advises that it applies to all those parts of the plan area beyond the green belt which are not within the settlement or other site boundaries. In the context of Henham, there is no overall settlement boundary but two designated areas defined as the development boundaries. The appeal site, along with significant parts of the built up village, lies outside of these defined areas. The policy advises that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. In this context, the proposals would be

in conflict with the policy. Policy H3, which is referred to by the policy in the context of infill development is not relied upon by the Council and was accepted to be in conflict with the Framework. In addition, policy S7 advises that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set.

16. The appellant contends that policy S7 is in fundamental conflict with the Framework and is out of date. The Council accepts that the policy is only partially consistent with the Framework. I share the views expressed by the Council that the aim of protecting the landscape is clearly consistent with the Framework and in particular paragraph 17 which acknowledges its intrinsic character and beauty and seeks to protect valued landscapes. Nevertheless, my assessment of the policy is that it also seeks to restrict development to within the defined boundaries. In the absence of a Framework compliant supply of housing land, the policy cannot be considered up to date. As a result the policy can be no more than partially consistent with the Framework. Nevertheless, it remains the development plan. I attach weight to the policy in this context and also in so far as it is consistent with the wider countryside objectives of the Framework.
17. In addition to policy S7, policy GEN2 refers specifically to design and part (b) seeks to ensure, amongst other things, that development proposals safeguard important environmental features in their settings, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate. This policy was not referred to in the Council's reasons for refusal or written evidence before the inquiry. The Council's witness advised that this was an error. In addition, the Rule 6 party sought to verbally rely on this policy in support of their objections to the appeal proposals at the inquiry. Given that the policy refers to design, I have also assessed the proposals in the context of this policy.
18. My attention has also been drawn to policy GEN1 regarding access. Part (c) is directly relevant to the appeal proposals as it requires that the design of a development must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired. Part (e) is also of relevance and this requires development to encourage movement by means other than driving a car. I have considered this policy in the context of the highways issues raised.

Character and Appearance

19. Section 7 of The Landscape Character Assessment 2006 (LCA) assists in defining the landscape character of the district. The appeal site is covered by section B10 Broxted Farmland Plateau. This describes the overall landscape character as large and open with tree cover appearing as blocks on the horizon or scattered trees along field boundaries, as is the case with the southern boundary of the existing school. The document acknowledges that hedgerows are intermittent and field patterns are delineated with mainly ditches or grass tracks, occasionally with trees and scrub.
20. The description provided by the LCA correlates with what I saw on site. The existing character of the area is typical of the edge of a village. The school and playing field abut the open countryside to the east and south beyond. Vernons Close, the residential development which abuts the appeal site to the west and north, is more suburban in form.

21. The Council helpfully clarified at the inquiry that the principal concern in terms of character and appearance relates to the loss of the existing trees which run along the southern boundary of the playing fields. This existing tree boundary must be considered within the established character and context of the area. The trees would be removed in order to necessitate the extension to the existing playing field provision to a larger facility and to ensure visibility of the extended playing fields from the school site itself. Part of the existing school playing field would remain, however a formal replacement sports pitch to an agreed specification would be provided to the south. The removal of the trees would in my view ensure the most optimum and effective use of the space available to the school, which, given the sporting credentials of the school pupils expressed at the inquiry, can only be supported.
22. As matters stand, the trees currently provide a clear boundary to the south of the school site, separating it from the wider open countryside. However, they have no more than a localised effect on the wider countryside and landscape and are not afforded any statutory protection. Taking into account the overall character of the area as described by the LCA, I do not consider that they represent an important environmental or landscape feature.
23. Replacement planting would be provided along the southern boundary of the site. The immediate outlook for the school would change in the short to medium term to allow for the more extensive playing field provision, along with replacement boundary planting. I acknowledge that this may take some years to become as established as the existing planting. During the intervening period, the outlook from the school would be of the wider landscape beyond. However, there is no policy requirement for the planting to mirror the species, form scale or height of the existing planting. I am unable to agree that the loss of this existing tree belt to the southern boundary would cause material harm in this regard. Taking the above into account, in terms of the wider landscape, the relocation of this boundary further south would not have a materially harmful effect.
24. The application was supported by and LVIA prepared by James Blake Associates in 2015. This document updated an earlier LVIA prepared in 2014. The report provides a landscape and visual impact assessment of the impact of appeal A. There was no direct challenge to either the accuracy of the assessment, methodology used or the anticipated effects of the proposed development. The viewpoints selected present both shorter distance views from nearby public footpaths as well as longer distance views. The LVIA provides details concerning the location of the replacement planting on the southern boundary of the school site and concludes that as it matures, the planting would locally enhance the level of tree cover and appearance of the area and the effect will be a negligible increasing to medium positive by year 15 as the vegetation matures.
25. From the information presented including the assessment of landscape effects within the LVIA, I am satisfied that strategic planting would be an inherent part of the proposed development. This planting would respond to the existing landscape and take into account the view of the existing landscape from within the site and the surrounding area. Whilst its depth maybe limited in places, there is no compelling evidence before me to suggest a suitable landscape boundary could not be provided. Moreover, requiring the details of any such landscaping scheme by way of condition would ensure that the Council can

- meet all of the desired objectives in this regard. Put simply, if the landscaping was considered to be in any way inadequate, it would not be approved.
26. In addition to the changes to the southern boundary, the leylandii hedgerow and a number of trees along the western boundary of the school site would also be removed to facilitate the vehicular access to the proposed dwellings. The access road would run along part of this boundary, as would the rear gardens to a number of the proposed dwellings and the SUDs area. Again, this would necessitate a change to this boundary treatment but I have limited evidence as to how this change would amount to harm. In my view, as above, the matter could be satisfactorily addressed by an appropriately worded condition.
27. In reaching the above views, I am also mindful of the fact that the existing trees are considered to provide a security function to the school. There is secure chain link fencing around the boundaries of the site. In security terms, the trees do little more than provide an aesthetic contribution to screening the chain link fencing rather than a direct security measure in their own right. I see no reason why replacement planting would be prevented from carrying out this function. Privacy for the school has also been referred to, however I have no policy basis to support this assertion. It would neither be unusual or harmful for the playing fields to be a visible feature from the surrounding network of public footpaths. Indeed, playing fields regularly form part of the landscape on the edge of settlements. Similarly, the issue of the shading benefits which the existing trees provide was also raised. I agree that this can be an important function that the trees offer, particularly in the summer months. Replacement planting would in time be able to provide the same function. Temporary measures for shading could be used if necessary in the intervening period.
28. Turning to consider the remainder of the appeal site, the proposed dwellings would be dispersed across the remainder of the site. The position, spacing and location of these dwellings is reflective of the existing pattern of development in the area most notable parts of Vernons Close. Indeed, no concerns have been raised regarding the spacing, design or layout of the proposed dwellings.
29. I acknowledge that the proposal would extend the built form of the village into the existing countryside. The boundary to the open countryside to the south would be softened and interspersed with soft landscaping. There are also limited views into this area. I am mindful that views of the site from the south would be seen against this backdrop and the school playing fields to the east and existing residential development to the north and west. I am unable to agree that the proposal would result in material harm to this area abutting the built edge of the village. The proposal would have a localised effect on this area, which would not cause harm to the wider character and appearance of the area.
30. In terms of appeal B, this would result in the installation of a SUDs pond and swale to the south of the new dwellings. It would be a low level feature seen as part of the existing landscape. The Council's evidence acknowledges that the SUDs pond and swale would be a necessary part of the development and would be less intrusive than the dwellings it intends to serve.
31. I therefore conclude on the first main issue that subject to appropriately worded conditions to cover the issue of landscaping, the proposals would not have a significant adverse effect on the character and appearance of the area. There would be conflict with the element of policy S7 which seeks to restrict

development to within the settlement boundaries. However, the proposals would not conflict with the broad objective of policy S7 which is to seek to protect the intrinsic character and beauty of the countryside. There would also be no conflict with the objectives of policy GEN2 (b).

Highways Safety

32. There are a number of areas to cover in relation to the overall issue of highways safety. I have addressed each of the matters separately below before drawing my overall conclusions on the issue.

Extension to School Lane

33. The proposals would result in a change to the highway conditions outside of the main entrance to the school. At present, the school is located at the end of a cul-de-sac. Vehicles which enter the school grounds are directly related to the activities taking place on the site and comprise delivery vehicles, staff parking and taxis as well as elderly relatives and those requiring use of the schools disabled parking space. The appeal proposals would mean that School Lane would be extended and continue past the school, with both vehicular traffic and pedestrians going past the school entrance. This would be a marked change from the existing arrangement. The Essex Design Guide (2005) stipulates that schools should not be located on a road terminating in a cul-de-sac. The Council's highways witness advised that in his view, the reason for this is that it is undesirable to have vehicle reversing movements next to a school. I concur that this is a logical reason.
34. The extension to School Lane would be built to adoptable highways standards and has been designed to accord with the Essex Design Guide including a 6m carriageway and 2m footway on both sides. Beyond the school, the carriageway would narrow to 4.8m. The Council did not dispute the trip generation figures presented by the appellants. These envisage that the 36 dwellings could generate up to 17 vehicle movements (two way) in the AM peak and 18 vehicle movements (two way) in the afternoon (school peak) and 20 vehicle movements (two way) in the PM peak. Essex County Council (ECC) as highways authority, also concur that School Lane can accommodate the additional traffic arising from the appeal proposals. Taking all of this evidence into account, I am unable to agree with the Council's and Rules 6 party's concerns that this change would result in material harm in terms of highways safety.
35. Concerns were also expressed regarding the Stage 1 safety audit² prepared in August 2014 to support the application in terms of the brief issued. The appellant's highways witness explained that the audit was conducted by a member of the society of road safety auditors. Paragraph 1.6 also highlights that the audit relates to a proposed residential development, with vehicular access via an extension of School Lane. Whilst I accept that the audit considered an earlier layout option, the car park on the plan at appendix 2 is annotated 'parking area' and would have been assessed as such. There is no evidence from the plan or audit itself that this was interpreted as a staff car park. The consideration of an earlier layout does not in itself render the conclusions out of date as the principle of traffic passing the school remains the same. Moreover, the document recommends that conflict between heavy plant

² CD 14, F3, appendix E

and large vehicles with children going to and from school should not occur and safe routes to and from the school should be provided and maintained. This issue is addressed below. On balance, I do not consider there is any merit in the suggestion that the audit cannot be relied upon.

36. In terms of speed, the highways witness for the Council advised that the extension of School Lane would result in significantly higher vehicle speeds. However, the road would, as existing, be subject to the same speed limit. Road markings including a continuation of the 'keep clear' markings and road signage would ensure that drivers were fully aware of both the existence of the school and pedestrian crossings on School Lane. The enforcement of the 'keep clear' markings is not a matter for my deliberations. I see no evidence before me to support the view that the extension of the School Lane would cause material harm to highways safety.

Staff Parking

37. The school has two existing staff car parks. One of these is located next to the school hall and accommodates approximately 13 spaces. The other existing staff car park is opposite the entrance to the school. This would be reconfigured as part of the appeal proposals to provide a 16 space parent drop off and parking area, the details of which I set out below. A replacement 14 space staff car park would be provided along the extended School Lane by the entrance to the playing fields area.
38. Concerns were expressed regarding the security of this new staff car park and its lack of visibility from the school office and headteacher's office. However, in my view these concerns could be addressed through the positive management of the car park by those involved. The existing staff car parks are only partially visible from the main school and there is not in my view a direct relationship between these areas. The replacement car park is covered by the UU and includes a security barrier to the entrance as well as a 1.8m high chain link fencing enclosing the perimeter. There is a barrier in place at the entrance to the existing school entrance although I have not seen this in use. On balance and in light of these factors, I attach little weight to the concerns expressed regarding the security of the relocated staff car park.
39. There was significant discussion regarding the provision of a temporary staff car park during the construction period. I recognise that the construction of the SUDs and swale (appeal B) would lead to the loss of one of the existing staff car parks. However, this would be for a temporary period only, until the permanent replacement staff car park is provided. In the meantime, the school would retain one of the existing staff car parks. The assertion made by the Council that the lack of a temporary car park would force staff to park 'inappropriately' on surrounding residential roads cannot be supported. Indeed, the Council's own evidence advises that a majority of staff arrive before children in the morning and leave after children in the afternoon so they would not add to the existing conflict between vehicles and pedestrians as they would be parked vehicles.
40. Notwithstanding my comments above, there could be scope for a condition to require a temporary car park to be created prior to the permanent replacement car park being provided. Such a condition would need to be considered in the context of my comments below on this issue in relation to planning obligations

and conditions. To conclude, I do not consider the proposal would result in material harm to highways safety in relation to this issue.

Coach Parking

41. Turning to consider coach parking and accessibility to the site, I was advised in both written and oral evidence how the existing coach collects children on a Thursday to transport them to swimming. It was explained to me how the coach currently does this in a controlled way by using the school grounds to reverse and exit School Lane in a forward gear. The coach returns to the school around 3pm, although the headteacher acknowledged that this can be later. As the children depart from the school at 3.15pm, there is existing potential conflict between pedestrians and the coach. I was presented with evidence concerning the manoeuvres which the coach undertook to turn around within the school grounds, and concerns were expressed that the proposal would result in this controlled environment being removed.
42. On the site visit, the coach did not turn within the school grounds but reversed into Sages, another cul-de-sac next to the school entrance. The arrival of the coach, turning manoeuvre and children departing from the coach took approximately 3 minutes. The coach would have the ability to undertake this manoeuvre even if the appeal proposals were permitted. The school governor who presented evidence to the inquiry advised that no requirement had been put forward for off street coach parking to be provided as part of the appeal scheme. On balance, given the relatively low frequency of coach vehicle movements and the existing method by which I witnessed the children depart from the coach, I do not consider that the appeal proposal would result in any material harm to highways safety in this regard.

Proposed parent drop off

43. In terms of the parent drop off area, a new 16 space parent drop off and parking area is proposed as part of the appeal proposals. This would replace one of the existing staff car park areas directly opposite the school entrance. The appellant states the drop off areas evolved as a result of design development although I acknowledge the views expressed by the headteacher that it is simply not wanted. However, I have taken these comments in the context of the perceived risk to highways safety³ which I address below.
44. Surveys of vehicles, pedestrians and traffic accumulation were carried out during the morning drop off period⁴. These figures identified 29 cars parked on Crow Street at the busiest time, 6 on Mill Road with 10 cars parked on School Lane, and a further 13 between Sages and Pimblett Row. The time period was selected as it is generally the busiest time. Afternoon pick up is more staggered with a number of the nursery age children having departed at lunchtime as well as afterschool clubs and activities taking place. I also visited the site at both drop off and pick up times. I agree that the surveys undertaken provide a useful tool to understanding the existing pattern of pedestrian and vehicular movements around the school. I am also aware that the school will be offering extended hours from September 2017. This will mean a breakfast club available from 0730 and wrap around care extending to 1815. This will further stagger the drop off and pick up and although no fixed

³ S Giles statement paragraph 8

⁴ H Jenkins proof table 4.5

figures were tabled on the likely take up, it could further ease the pressure on the existing peak times.

45. The school has actively encouraged parents and carers not to access School Lane with a car. It was explained to me that they do this by direct letters to parents, the weekly newsletter and patrolling the 'keep clear' markings outside of the school. They also actively seek to discourage poor parking at the end of Pimblett Row and Sages by approaching drivers and talking with them directly. This occurs on an ad hoc basis and the headteacher advised that she may well receive phone calls regarding poorly parked vehicles. The success of this initiative is self-evident from both the lack of queuing of vehicles attempting to enter School Lane to find a parking space and also the surveys which recorded the relatively high number of cars parking along Crow Street/Mill Road who then walk to the school entrance.
46. Notwithstanding the success of this initiative, parking and vehicular movements remain an existing problem along School Lane during drop off and pick up. Cars which do enter School Lane are required to reverse the car in either one of the turning head on Sages or Pimblett Row, and some cars reverse at the mouths of these roads with School Lane. These manoeuvres result in conflict with pedestrians trying to access the school. The Council's witness would not be drawn on the risk attached to these movements. Given the locational characteristics of the school at the end of the cul de sac, I do not consider that the movements are unusual. However, they do mean that parents and carers need to be vigilant when using School Lane. In addition, the headteacher advised that one of the main risks to the school is vehicles manoeuvring near to the entrance. In light of the above, it is my view that there is clear evidence of daily conflict between pedestrians and vehicles. This is an existing and ongoing situation.
47. The appellant states that the parent drop off car park would give existing parents an alternative option in terms of parking facilities in the vicinity of the school. The Council and the Rule 6 party both expressed concerns that the car park could increase conflict between pedestrians, particularly children and traffic in this important location. There can be no doubt that both vehicular traffic and pedestrians require a greater degree of awareness in important locations such as school entrances. Indeed, I have already acknowledged the existing conflicts which take place in terms of vehicles turning and reversing, particularly in Pimblett Row and Sages.
48. It was common ground between the parties that demand would exceed supply in relation to this parent drop off area. Even assuming the appellants suggested turnover of spaces to be correct, during both the morning and afternoon drop off times, parents and carers would still need to park along School Lane, Sages, Pimblett Row and Mill Road. The car park would provide an alternative parking facility but it would not prevent all of these existing car movements. It would however ensure that the reversing movements which take place within the car park do so away from the public highway. It would also help alleviate some of the existing on street parking associated with the school. This would be an improvement on the existing situation.
49. There was much discussion at the inquiry as to what the effect the car park would have on the existing situation and attempts to predict the future behaviour of parents and carers collecting children should the drop off area be

available. In my view, the school run itself necessitates an element of repetitive behaviour. It is also to an extent dictated by the onward journey after the drop off/collection has taken place. The existing parking which takes place on the surrounding streets is typical of many residential areas close to schools at drop off and pick up times.

50. The headteacher explained how a number of external activities take place within the school hall. These include evening and weekend activities for both adults and children such as netball, football and karate. The school field is also used by Elsenham football club to cover the U7's, U8's and U9's. These activities clearly demonstrate to me that the use of the school site is much wider than the school children themselves. Although no evidence was presented on this issue, it must follow that these additional users of the school and existing playing fields need to use some form of transport to arrive at the site. As a result, there may be wider benefits to the existing highways situation if the parent and drop off parking area were made available to these users outside of the school day. I can see no reason why it could not be made available in this way.
51. The car park would provide an alternative to the existing on street parking options. It would provide dedicated parking away from the public highway which is not currently available for parents or carers. The numerous existing on street parking options would remain available, and would be extended on the basis of the extension of School Lane. 8 visitor spaces would also be provided within the residential development. The option of walking or cycling to the site would also remain. Crow Street would still be an attractive option for those who would like to depart quicker once the drop off has been completed. Parking on Carters Lane would remain an attractive option given the pedestrian walkway available through Sages.
52. To my mind, the car park is likely to attract those parents and carers who already park along School Lane so there may be some merit in the suggestion that it could alleviate existing on street parking here. However, there was no suggestion that the existing successful efforts of the headteacher and her staff to encourage parking away from the school entrance would change. In light of this initiative and taking into account the limited size of the car park, I am unable to conclude that the car park would act as a 'significant' draw. Parents and carers would observe children in the car park in the same way as any other car park. I am unable to agree that the car park would make the existing situation considerably worse or would cause material harm in terms of highways safety.

Pedestrians

53. As matters stand, the survey information presented to the inquiry confirms that around 100 pupils currently walk to school. An analysis of the use of the public footpaths on both the western and eastern sides of School Lane confirmed that the existing footpaths are well used by children accessing the school with their parents/carers. I have already highlighted the existing conflict which takes place between vehicles manoeuvring close to the school and pedestrians accessing the school. I would expect that parents and carers who are taking children to the school on foot to be aware of these traffic movements and act accordingly. This was borne out by what I saw on the site visits.

54. Concerns were expressed regarding the existing width of the footpath. As it is a rural area, it is not unusual that the existing footpath is considered by some to be inadequate in places. The appeal proposals would provide for the widening of this footpath directly outside of the school in accordance with Manual for Streets. The footpath would be extended and subject to land ownership issues, would be widened at the entrance to the school to allow for parents to wait in the area. To conclude, I do not consider the proposals would result in material harm to pedestrians.

Construction traffic

55. Access to the appeal site for construction traffic would need to pass directly outside the main entrance to the school. The construction stage of the development was estimated to be around one year, although no formal construction timetable or phasing plan was presented to the inquiry.
56. Planning conditions could be used to restrict construction traffic to certain times and also to limit the size of the vehicles used. The precise wording of any such condition would also need to take into account workers arriving and departing from the site who may also use large vehicles, as well as the school drop off and pick up times. However, I am satisfied that the matter could be adequately addressed by an appropriately worded condition, which would be specific and precise to the locational characteristics of the appeal site.
57. In relation to appeal B only, specific concerns have been raised regarding the size of the access road as shown to allow construction traffic to access the site although I heard little evidence on this issue at the inquiry. Given the land ownership around the access road, I am satisfied that the submission of a construction method statement in line with the draft condition discussed at the inquiry could satisfactorily address this issue. This would include addressing the issue of wheel washing as raised by the Parish Council. On balance, I do not consider construction traffic would result in material harm to highways safety.

Highways safety - conclusion

58. To conclude, I am satisfied that the design of the development would not compromise highways safety. It would, as a result, accord with the objectives of policy GEN1- access of the LP. Although the policy wording of (c) also refers to cyclists and horse riders, save for an acknowledgment that cycling is negligible; I was not presented with any specific evidence in relation to these groups. The Council content that the additional reference within policy GEN1 (c) to people 'whose mobility is impaired' would include children. I do not agree with this interpretation as to my mind this relates specifically to those groups who may have mobility difficulties.
59. In addition, the proposals would also accord with the Framework and in particular paragraph 32 which advises, amongst other things, that safe and suitable access to the site can be achieved for all people and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Other Matters

60. It was common ground between the appellant, the council and the highways authority that the site is accessible to a range of local services on foot as well as more extended facilities and services which are accessible through the local bus services.
61. Notwithstanding this position, the Parish Council allege a conflict with policy GEN1 (e) of the LP as they state the development does not encourage movement by means other than driving a car. Henham itself provides a rural community with a number of services and facilities within the village itself, including post office, pub, tennis club and village hall. Other services and facilities are within reasonable proximity by both public transport as well as the private car. The nearest bus stop is 400m and the local service provides links to Elsenham and Stanstead Mountfitchet. These facilities within the village and option for public transport provide alternative transport options to the private car. The appeal site would be within walking distance of the existing school and also the many additional activities which take place on the site during the week and weekends. Public open space would also be provided within walking distance of the site. In this regard, and taking into account that the site is within a village location, I do not consider there would be a conflict with policy GEN1 (e) as alternative modes of transport are available.
62. Concerns were expressed that the proposal does not provide the school with a dog parking area. This is an existing facility that is used by parents and carers who walk their dogs as part of the school run. I have no doubt that if desired; it would be possible to provide a replacement area as part of the overall works. However, it would not be possible to condition this as a requirement as such a condition would not in my view meet the very stringent tests for conditions as defined by paragraph 206 of the Framework. Additional concerns regarding the deliverability of the scheme have been raised. However, the extracts from the Framework cited in this regard relate to deliverability in the context of five year housing supply and not decision making.
63. Additional concerns have been raised regarding the effect of construction traffic on noise and disturbance, access for emergency services, flooding, housing mix and effect of the new dwellings on the amenity of existing dwellings as well as the effect on house prices, the location of a ditch relative to the new sports pitch, the existing residential development which has already taken place in Henham as well as the impact of the development on local services and infrastructure. A number of these matters are covered by the officer's report to committee and were before the Council when it prepared its evidence in relation to these appeals. I can see no reason to disagree with the Council's view that these concerns do not amount to sufficient reasons to justify planning permission not being granted. The location of the ditch was highlighted to me during the site visit and is located within the SUDs area and not the replacement school field area.
64. The appellants, the Council and Rule 6 party provided me with several other appeal decisions⁵ as part of the evidence presented to the inquiry which they consider to be comparable in the context of the approach to housing land supply. However, I have had regard to these decisions and do not consider any of these to be directly comparable to the specific nature of this appeal. In

⁵ A Hutchinson evidence appendices 1-5 inclusive, G Gardner evidence appendices 5-7 inclusive

particular, some of the decisions are some 2 years old and have been superseded by more up to date evidence presented to this inquiry. I have thus determined this appeal on the basis of the evidence presented to me and on its own merits.

Planning Obligations & Conditions

65. Two completed and signed Unilateral Undertakings were presented to the inquiry dated 8 June 2017. The first document relates to appeal A and would secure the provision of on-site affordable housing, financial contributions towards early years and primary education, as well as a contribution towards secondary school transport. The affordable housing would accord with policy H9 of the LP. The early years and primary contributions as well as the contribution towards secondary school transport would accord with the requirements of policy GEN6 of the LP. In addition, a reptile translocation scheme is also included, as well as open space provision, play area, staff car park, drop off area and improvements to the existing bus stop on the north side of Mill Road including raised kerbs, pole flag and timetable casing. The second agreement relates to appeal B and seeks to secure the necessary ecology mitigation required in accordance with policy GEN7 of the LP.
66. I have considered both of the documents in light of the advice contained within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) as well as policy and guidance in relation to the use of planning obligations. The general provisions of both of the agreements are necessary and reasonable. The Council have also confirmed that none of the financial contributions identified would result in the pooling of more than five obligations for the specified type of infrastructure project. I am satisfied that the obligations are directly related to the proposed development, fairly and reasonably related to it in scale and kind and necessary to make the development acceptable in planning terms.
67. However, I have severe concerns regarding the drafting of the documents. Firstly, there are a number of drafting errors within the UU relating to appeal A. The plans attached do not correlate with the annotation referred to within the agreement. There are also inaccuracies in terms of the drawing number purporting to show the site which is incorrect. Overall, in relation to appeal A, it is neither a document which can be relied upon or is binding. As such, the document fails to secure the affordable housing, education contributions, bus stop improvements and staff car park identified. There is a clear policy conflict in this regard. This weighs heavily against the proposals.
68. Secondly, I also have serious concerns regarding obligations within the UU which relate to matters on land owned by ECC who are not a signatory to the document. In particular, the land owned by ECC is a fundamental part of the application site as it is required to provide the replacement staff car park prior to the occupation of the 25th house. Without ECC being party to the agreement, there is no method by which the UU before me and the obligation to provide a replacement staff car park could be enforced and secured. This factor weighs heavily against the proposals.
69. There is also the potential for appeal B to be implemented in isolation. As matters stand, I have no mechanism before me to ensure that both appeal A and appeal B are implemented together. It follows that to allow the appeals in the absence of any mechanism to link the two appeals would run the serious

and real risk that the school could be left without a replacement staff car park. This factor weighs heavily against the proposals.

70. Finally, in relation to appeal A, there is a conflict between the condition as suggested by Sport England⁶ and the provisions of the UU. The condition requires that no development shall take place on the existing playing field until the replacement sports pitch has been provided. However, the plan attached to this draft condition would prevent access to the replacement sports pitch area. Moreover, the provisions of the UU require the SUDS scheme to be substantially completed and capable of receiving and disposing of surface water from the site.
71. Location plan PH-120-001 Rev B shows that access to implement these works would be provided through the existing staff car park although it would not be possible to provide the new staff car park in light of the condition outlined above as it is to be located on the existing playing field provision. Furthermore, in my estimations there is also a direct conflict between Plan A: Condition 5 plan and location plan PH-120-001 Rev B and the suggested condition 15 concerning the provision of the replacement car parking. As matters stand, I am unable to conclude with any confidence that these matters could be satisfactorily addressed through alternative condition wording. This factor weighs heavily against the proposals.

Planning Balance

72. I have already concluded above that in relation to the environmental role, the proposals would not result in harm to the character the area or the wider countryside, although I acknowledge that development on a greenfield site would inevitably lead to the loss of this land. The proposals would cause no material harm in terms of highways safety. The proposals would also provide for suitable mitigation in relation to biodiversity enhancement requirements. These factors are neutral in the balancing exercise.
73. New residential development of both market housing and affordable housing would assist both the social and economic functions of the settlement, by providing both employment opportunities during the construction period as well as spending in the local economy. I attach significant weight to these factors and see no support at either national or local level to the position advanced by the Parish Council that these factors should only be given weight if the local facilities where the settlement is located are on the verge of closure. The proposals would also provide for a larger replacement sports pitch provision. This would extend the size of the school's existing playing field provision by some margin. I attach moderate weight to this factor in favour of the appeal proposals.
74. Notwithstanding the above matters, paragraph 14 is clear that in terms of decision taking, 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.
75. In the circumstances of this appeal, I have insufficient information before me to enable me to conclude with any certainty that the phasing of the

⁶ Amended draft condition 5 and Plan A: Condition 5 Plan

development and requirements of both the UU's and the suggested planning conditions have been satisfactorily addressed. For the reasons I have explained above, the absence of ECC as party to the UU's before me means that aspects of the UU's, notably the provision of the replacement staff car park, may not be binding. In addition, I have also expressed concerns regarding the implementation of the SUDS appeal (appeal B) and the potential for this proposal to be implemented in isolation of the appeal A. I have no mechanism before me to ensure that both appeal A and appeal B are implemented and completed together.

76. To allow the appeals in the absence of any mechanism to link the two appeals would run the serious and real risk that the school could be left without part of its playing field area or replacement staff car park. In addition, there is a clear conflict between the suggested condition put forward by Sport England which would require the provision of the replacement playing field to be in place prior to the loss of the existing field and the implementation of the SUDS works. No satisfactory solution to this issue has been provided. These factors, when taken collectively, mean that the proposals cannot represent sustainable development and in light of this, the appeals must fail.
77. In the particular circumstances of these appeals, I have not found it necessary to conclude on a precise position on the scale of the housing land supply shortfall. This is because even if I were to take the appellants position (3.24 years supply), the substantial harm that would result if the appeal proposals were to proceed with the mitigation proposed in the UU's (which I have identified as being flawed and therefore cannot be taken into account), the overall harm arising would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposals do not accord with the development plan when taken as a whole and having applied the tilted balance as required by paragraph 14 of the Framework, there are no material considerations which warrant a decision other than in accordance with the development plan.

Conclusion

78. For the reasons above and taking all other matters into account, the appeals are dismissed.

Christa Masters

INSPECTOR

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She called:

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Headteacher of Henham and Ugley Primary School

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Director of Gardner Planning Ltd

INTERESTED PERSONS:

Nigel Hogg

Governor of Henham and Ugley Primary School

A Mitchell

Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appellant's list of appearances
2. Council's list of appearances
3. Rule 6 list of appearances
4. Opening Statement on behalf of the Appellant
5. Opening Statement on behalf of the Council
6. Opening Statement on behalf of the Rule 6 party
7. Two signed Unilateral Undertakings (UU) dated 8 June 2017
8. Site layout drawing 2015-560-002 Rev K
9. Drawing 2015-560-80 Rev A
10. Drawing 2015-560-81 Rev A
11. Land Registry copy of title and plans
12. Haydens Arboricultural Plan reference 4663-D
13. Enlarged copy of landscaping strategy plan dated March 2015
14. Enlarged OS Plan with application site red lined
15. Uttlesford Local Plan proposals map extract: Henham Inset map
16. Site survey plan reference 2015-560-100
17. Extract from the Landscape Character Assessment, Section 7
18. SHLA Extract for application site
19. Conditions as agreed between the main parties (appeal A and appeal B)
20. Amended wording for conditions 5 and 7
21. Closing submissions on behalf of the Council
22. Closing submissions on behalf of the Rule 6 party
23. Closing submissions on behalf of the Appellant