
Appeal Decision

Inquiry Opened on 25 July 2017

Site visits made on 28 July and 2 August 2017

by Clive Hughes BA(Hons) MA DMS MRTPI

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

Decision date: 21 August 2017

Appeal Ref: APP/C1570/W/17/3168869

Land off Little Walden Road, Saffron Walden, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/16/2210/OP, dated 3 August 2016, was refused by notice dated 23 December 2016.
 - The development proposed is up to 85 residential dwellings (including 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Little Walden Road and associated ancillary works; all matters to be reserved with the exception of the main site access.
 - The inquiry sat for 5 days on 25 to 28 July and 1 August 2017.
-

Decision

1. The appeal is allowed and outline planning permission is granted for up to 85 residential dwellings (including 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Little Walden Road and associated ancillary works; all matters to be reserved with the exception of the main site access at land off Little Walden Road, Saffron Walden, Essex in accordance with the terms of the application, Ref UTT/16/2210/OP, dated 3 August 2016 subject to the 20 conditions set out in the Annex to this Decision.

Procedural matters

2. Saffron Walden Town Council & Residents Against Unsustainable Development (SWTC/RAUD) were jointly accorded Rule 6(6) party status and presented evidence in support of their objections to the proposals.
3. Following the refusal of planning permission for the application the subject of this appeal, a second application, also for up to 85 dwellings, was submitted. The Appellant has stated that the reason for this second application was to overcome the reasons for refusal on highways and ecology matters and to give Uttlesford District Council (UDC) the opportunity to avoid this appeal. The second application was accompanied by a revised illustrative development framework plan and an amended site access plan as well as various revised supporting documents and assessments. These amendments included increasing the amount of landscaping, at the expense of the developable area,

to address the concerns of the Ecological Consultant to Essex County Council (ECC) and a highways amendment to delete a proposed footpath along Little Walden Road to the north of the site entrance.

4. The revised application was refused by Members against Officers' advice on two grounds. These reflected reasons for refusal Nos 1 and 4 of the first planning application, relating to the character and appearance of the area and to the provision of affordable housing and other community infrastructure.
5. In respect of this appeal, the Appellant sought permission to substitute the plans submitted with the second planning application for those originally submitted. As the amended plans relate to an outline application for the same site; the same amount of development; the same access point; and have been the subject of consultation with UDC and other interested parties, I do not consider that any parties would be prejudiced by my consideration of them at this appeal in substitution for those originally submitted. In these circumstances UDC did not pursue reasons for refusal 2 (highways matters) and 3 (ecological matters). The Rule 6 parties, however, maintained their objections in respect of these matters and advanced evidence accordingly.
6. For the avoidance of doubt this Decision is based upon Drawings No 6825-L-01 Rev B (site location plan); 6825-L-03 Rev J (illustrative development framework); and 17-T019-02 Rev A (access).
7. The application is in outline form with all matters other than access into the site from Little Walden Road being reserved for future consideration.
8. Prior to the Inquiry the Appellant submitted a draft planning obligation under s106 of the Act. A completed Unilateral Undertaking (UU) was submitted during the Inquiry and its provisions are considered later in this Decision. The parties agree that it overcomes reason for refusal 4.
9. Prior to the opening of the Inquiry the Appellant and UDC agreed¹ that for the purposes of this appeal only, UDC's housing land supply position should be assessed against a requirement of 640 dwellings per annum with a buffer of 20%. The UDC housing land supply figure of 3,034 units was accepted, giving an agreed position of there being a housing land supply of 3.1 years.

Main issues

10. The main issues in this appeal are:

- Whether UDC is able to demonstrate a 5-year supply of housing against a full objective assessment of housing need (OAHN) and the implications of this in terms of national and local policy; (UCD & Rule 6 Party)
- The effect of the proposals on the character and appearance of the area; (UCD & Rule 6 Party)
- The effect of the proposals on the efficient and safe operation of the highway network in the area; (Rule 6 Party only)
- The effect of the proposals on protected species and upon wildlife generally in the area; (Rule 6 Party only)

¹ Email dated 17 July 2017 from Kathryn Fitzgerald (Gladman Developments Ltd) to PINS

- Whether the proposals make adequate provision for community and other services and facilities including affordable housing; (UCD & Rule 6 Party) and
- Whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Reasons

Background

The appeal site and its setting

11. The site, which has an area of 4.47ha, is situated on the eastern side of Little Walden Road (B1052) immediately to the north of the northern extremity of the built up area of Saffron Walden. The settlement boundary, which follows the boundaries of properties in Little Walden Road, St Mary's View and Limefields forms the southern boundary of the site. Little Walden Road forms much of the western boundary; there is an area of woodland to the north; and agricultural land to the east. The site itself is mostly in agricultural use with an area of scrub adjacent to the houses to the south. There are trees within the southernmost "finger" of the site, which are subject to a Tree Preservation Order (TPO)². There is a hedge along some of the boundary with Little Walden Road although part of this frontage is open as is much of the eastern boundary.
12. It is situated towards the bottom of a valley and it slopes uphill from the road, the change in level across the site being about 9m. The road is one of the principal roads into Saffron Walden, a market town that is one of the main settlements in the District. The site is some 1.5km north of the town centre where there are shops, banks, restaurants and various other commercial uses.

Planning history

13. There is some overlap between the appeal site and the site of the St Mary's View housing development to the south³. In particular the land the subject of the TPO falls within both sites, as does the strip of land immediately to the north of Nos 23 and 24-30 (even) St Mary's View.
14. There have been two relevant planning applications in respect of the bulk of the appeal site, the first of which is the subject of this appeal. The second application was for broadly the same development but with more land set aside for landscaping and the omission of a footpath along part of the Little Walden Road frontage. These are the revised plans described above.
15. In respect of this revised application, ECC's Ecological Consultant raised no objections subject to conditions and welcomed the amended proposals to improve connectivity around the perimeter of the site; to retain most of the existing habitat; and to create a nature reserve/ park. ECC, as Highway Authority, recommended approval and said that from a highway and transportation perspective the impact of the proposals was acceptable subject to conditions and a legal obligation to secure contributions towards transport strategies. Officers recommended the application for approval subject to conditions and subject to the applicant entering an appropriate Agreement.

² TPO 04/16: 29 September 2016 (Phil Rech Appendix 5D)

³ UTT/0007/95/OP (27 September 1995) & UTT/0027/98/DFO (13 August 1998) (ID 26 & 27)

The proposals

16. The proposals involve developing some 2.5ha of the site for housing with a mix of 60% market and 40% affordable housing. The affordable housing would itself provide a mix of 30% intermediate and 70% social or affordable rented. The remaining 1.97ha will provide green infrastructure including a nature park; a local equipped area of play (LEAP); replacement hedgerow and tree planting; and a circular footpath in a landscaped setting. The part of the site containing the trees the subject of the TPO would not be developed. There would be a vehicular access from Little Walden Road.

Planning policy

17. The development plan comprises the saved policies of the Uttlesford Local Plan (ULP) which was adopted in January 2005 and was intended to cover the period to 2011. The emerging plans included an emerging Local Plan which was submitted for examination in 2014. The Examining Inspector halted the examination in December 2014 as he considered it to be unsound and the plan was withdrawn in January 2015.
18. The Council has recently published a draft Regulation 18 Local Plan which is currently out for consultation. It covers the period 2011-2033 and gives an OAHN of 14,100 dwellings, giving an annual housing requirement of 641 dwellings. Adoption is anticipated in Spring 2019 but it was accepted that this may be optimistic given that it includes garden communities for the first time.
19. The first reason for refusal, the only reason now being pursued by UDC, cites ULP Policies GEN2 (Design) and S7 (The Countryside). At the Inquiry UDC accepted that the provisions of GEN2 can be met through the submission of acceptable details with the reserved matters applications and that this outline scheme is not in conflict with this policy.
20. The key policy, therefore, in respect of this reason for refusal is Policy S7. UDC's Compatibility Assessment (July 2012) acknowledges that this policy is only "partly consistent" with the Framework. It is more restrictive than the Framework in that it says that in the countryside planning permission will only be granted for development that needs to take place there and that there will be a strict control on new building. As there is no five-year housing land supply and the draft Regulation 18 Plan shows that there will have to be new housing development in the countryside, this policy cannot be considered to be up-to-date. While its aim of protecting the countryside is clearly in line with the Framework, and in particular with paragraph 17 (bullet point 5), overall the policy can only carry limited weight.

Whether UDC is able to demonstrate a 5-year supply of housing against a full objective assessment of housing need and the implications of this in terms of national and local policy

21. When the application the subject of this appeal was considered by UDC in December 2016, the Council based its decision on its contention, contained within its Housing Trajectory and 5 Year Land Supply Statement (November 2015) that it was able to demonstrate a five-year housing land supply with a 5% buffer. The Officers' Report refers to an estimate of a 5.1 to 5.3 year supply with a 5% buffer. The planning balance was therefore carried out against that background.

22. When the second application was reported to Committee, the Officers' Report acknowledged that the Council could only demonstrate a 4.5 year supply of housing land, again with a 5% buffer, based upon its interim 2016 Housing Trajectory. The Report acknowledged that the provisions of paragraph 14 of the Framework were triggered and, after balancing the harm with the benefits, it recommended that conditional planning permission be granted provided an appropriate Agreement was entered into.
23. That position had changed again by the time of this Inquiry. The Appellant and UDC were agreed, as set out in the Statement of Common Ground (SoCG), that a five-year housing land supply could not be demonstrated, regardless of whether a 5% or 20% buffer was used. These parties agreed that, based upon an OAHN of 640 dwellings per year, for the purposes of this Inquiry the Council could only demonstrate a 3.1 years housing land supply with a 20% buffer.
24. The implications of this need to take account of *Suffolk Coastal v Hopkins Homes Ltd*⁴. This recent judgment makes it clear that the agreed housing land supply, being less than 5 years, triggers the tilted balance under paragraph 14 of the Framework. This is in accordance with paragraph 49 of the Framework which says 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. The second bullet point of the decision-taking part of paragraph 14 says that in such circumstances 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 this Framework taken as a whole.

The effect of the proposals on the character and appearance of the area

25. All parties at the Inquiry acknowledged that the development would comprise an urban intrusion into the countryside and that this would be contrary to the provisions of ULP Policy S7 and policies in the Framework. It was further agreed that this would result in some harm to both the character and the appearance the countryside. The parties differed in the degree of harm that would arise and the weight that should be attached to that harm in the overall planning balance.
26. The site can be viewed from three main places. These are from Little Walden Road itself and from the public footpaths on the eastern and western sides of the valley which look down onto the site and across the valley towards it. From Little Walden Road the public view is quite fleeting as, when travelling south, the site is screened by a block of woodland until one is almost level with it. There is a mature hedge at the northern end of the site which, in the summer, significantly reduces views into the site although the perception of countryside remains. At this point, looking ahead, urban features are coming into view, including the church spire and the first houses as well as a gateway feature, lighting and a reduced speed limit. The new access, together with glimpses of houses through the existing and proposed planting, would mean that the urban character of the land beside the road would arise a little earlier.
27. Heading north along Little Walden Road the site gives the first rural view when leaving Saffron Walden. There are bungalows immediately to the south, albeit

⁴ *Suffolk Coastal DC v Hopkins Homes Ltd and another; Richborough Estates Partnership LLP and another v Cheshire East BC* [2017] UKSC 37 (10 May 2017) (CD 8.02)

set well back from the road and to the rear of a mature hedge and access road, which mark the end of the urban area. The southern part of the appeal site has no hedge, allowing uninterrupted views across the site to the hills and woodland beyond. These views would be lost by the development. While the Development Framework plan indicates that the southern half of the road frontage would remain free from dwellings, the proposed houses, and the new hedges, would still restrict views across the site. This would extend the urban area of Saffron Walden into the countryside.

28. The footpaths to the east, and in particular Byrd's Farm Lane and Harcamlow Way, run at a higher level than the site and are, for the greater part, open to the west. This allows views down onto the site. In many of the views the site is seen in the context of abutting the northern extremity of Saffron Walden so housing would not appear incongruous; housing is part of the established character of the area. Nonetheless, it would result in an extension of the urban form into the countryside at the expense of open fields.
29. The development would be more visible when seen from the footpaths to the west and in particular from the northern end of Caton's Lane and from Westley Lane. From these viewpoints the houses would be seen against the backdrop of the fields rising up from the valley floor. The development would nonetheless be seen in the context of the town and, looking from the north western viewpoints, in the context of houses in and around Sheds Lane which rise up the hillside and break the skyline.
30. The Historic Settlement Character Assessment (HSCA) (2007) seeks to assess the environmental sensitivity of the area in and around the town so as to understand the extent to which it might be able to accommodate development. Sector 3 (the Little Walden Road approach) encompasses all the land immediately outside the settlement boundary to the north of the town and it includes all the public areas from which the appeal site is visible.
31. The HSCA identifies that the general function of this approach road is to provide a rural approach of quality. It says that the loss of open arable farmland would significantly diminish the sense of place and local distinctiveness of this part of the town. It is clear from its section on the quality of the landscape that the HSCA includes land well to the north of the appeal site as it refers to intermittent groups of buildings, the closest of which are found along Little Walden Road to the north of Westley Lane.
32. The HSCA also makes reference to the clear demarcation between countryside and the ribbon of development that is the start of the built up area and says that at this point the church spire intermittently comes into view. This must be the stretch of road adjacent to the site as it is here that the spire first comes into the direct line of sight. The proposed development would not be seen until this point due to the block of woodland to its north. The presence of this woodland means that the location where the perception of a change from a rural area to an urban area first becomes apparent would not significantly change. The forward views of the church, houses, gateways, lights and other urban indicators would still become apparent at the same point on the road so there would be little change in the overall character of the area when travelling south on Little Walden Road. The woodland lies outside the site, but if the Council considered it expedient it could serve a TPO similar to the one that it served in 2016 in respect of the trees at the southern end of the site.

33. When heading north along Little Walden Road the change in the character of the area to countryside would be delayed until one reached the northern end of the site. In the views from the public footpaths there would be a loss of countryside and a clear extension of the settlement. This would be noticeable as the site would form a finger of built development adjacent to the road with farmland and woodland to the north, west and east.
34. In this regard there would be harm to both the character and the appearance of the countryside. Nonetheless, the site has no designation beyond being in the countryside. It is attractive countryside but there is no assessment or evaluation of it to demonstrate that it is in any way out of the ordinary or a valued landscape that warrants protection by virtue of paragraph 109 of the Framework. The site it has no lawful public access.
35. The main contribution of the site to the appearance of the area is that it forms part of the countryside view from a number of public footpaths and from about 120m along Little Walden Road when heading north from the town. However, as the site is in a valley and as there is woodland immediately to the north and trees and housing to the south, the views in which the development would be a significant component are quite localised. The indicative masterplan shows that the site could be further landscaped with new perimeter planting that, in time, would filter the views of the housing. The suggested muted palette of materials could ensure that the housing did not stand out in long views. The housing would not break the skyline when viewed from across the valley, an important consideration as set out in the Landscape Character Assessment.
36. Taking all these factors into account I conclude that the impact of the proposed development would be harmful to the character and the appearance of the area. This would be in conflict with saved ULP Policy S7 and paragraph 17 (bullet point 5) of the Framework. Any harm would be localised as the site is well contained in the landscape and the harm would diminish with time as the new planting became more established. Nonetheless, the identified harm weighs against the proposals in the planning balance.

The effect of the proposals on the efficient and safe operation of the highway network in the area

37. The SoCG says that the Appellant and UDC agree that the site can be accessed safely and that there are no outstanding highways issues to warrant refusal of the scheme. This followed the submission of a revised Transport Assessment (February 2017) with the second planning application. At the Inquiry UDC did not pursue its second reason for refusal. ECC concluded that it would be difficult to prove, in highway terms, that the residual, cumulative impact of development would be severe. As a consequence, ECC, in its role as the Highway Authority, recommended approval subject to conditions and financial contributions towards the Transport Strategy. All the relevant conditions suggested at the Inquiry have been imposed and UDC is satisfied that the provisions of the UU meet its requirements.
38. SWTC/RAUD produced a highways proof of evidence but its author was unable to attend the Inquiry and so his evidence was not tested through cross-examination. Their advocate/ planning witness answered questions on highway matters. His case was that SWTC/RAUD opposed the first planning application and that ECC only considered that the details submitted with the second application (brought forward for this appeal) to be acceptable as the figures

had been manipulated. He acknowledged that SWTC/RAUD had not put forward any quantitative evidence concerning traffic flows or impact; he was unable to say whether he considered that its impact would be severe.

39. Many residents who spoke against the proposals, and many who made written representations, raised the issue of traffic congestion in Saffron Walden. I saw that a combination of narrow roads, one way streets, traffic lights, junctions and roundabouts clearly leads to some queuing, especially at peak times, even during the school holidays. Further housing in or around Saffron Walden is likely to exacerbate this problem and the draft Regulation 18 Local Plan indicates that Saffron Walden is expected to accommodate a further 240 dwellings, in addition to the 548 with outstanding planning permissions, within the Plan period. The final bullet point of paragraph 32 of the Framework says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
40. The only quantitative evidence shows that the impact of the development would be minimal. This position is accepted by the Highway Authority in its consultation response and has been accepted by UDC. SWTC/RAUD has not produced any evidence to demonstrate otherwise. The experiences of local residents relate to the existing situation; the highways evidence shows that the proposed development would only have a minimal impact on this. For example, the forecasts show that the development would put only 11 additional cars on Church Street, which is subject to queuing traffic, during the whole morning peak period. The most affected junction would remain within capacity even in the worst case scenario involving 90% of traffic leaving the site and travelling south during the morning peak period. The predicted split is 82% (south) and 18% (north).
41. The proposals include mitigation measures to encourage walking, cycling and the use of public transport. A financial contribution would be made, as set out in the UU, towards capacity enhancements as outlined in principle in Uttlesford Local Plan Highway Impact Assessment and/ or Uttlesford Cycling Strategy. Overall, the submitted evidence does not indicate that the residual impacts of development would be severe or that there would be any conflict with the Framework.

The effect of the proposals on protected species and upon wildlife generally in the area

42. The relevant reason for refusal in respect of the appealed planning application refers to protected species and wildlife generally in the area. At the time the application was determined, ECC's Ecological Consultant maintained a holding objection for the reasons reiterated in her letter dated 22 March 2017. In that letter she confirmed that she welcomed the amended proposals, the subject of the second planning application, subject to additional mitigation measures. As set out above, UDC is now satisfied that the revised proposals are acceptable from an ecology point of view and there was no ecology reason for refusal in respect of the second planning application. The SoCG says that "the revised Development Framework Plan responds to the issues raised by the County Ecologist and resolves all the issues raised". The ecology reason for refusal was therefore not pursued at the Inquiry by UDC.
43. The main ecological objection was raised by SWTC/RAUD. This, as set out in the evidence of Caroline Elliott, relates to bats and in particular to two notable

species, the Barbastelle and the Nathusius pipistrelle. The former is listed in Annex II of the Habitat Directives; the latter is of conservation concern.

44. The Appellant submitted an Ecological Appraisal (June 2016) and a Revised Ecological Appraisal (February 2017), the latter being based upon the changes to the indicative site layout as a result of the second planning application. Considerable survey work was undertaken. This included over 495 hours of static detector surveys on the site and over 20 hours of walked transect survey. The surveys showed a very low level of registrations for Barbastelle bats; just 15 registrations and of these only one was on the hedgerow fronting Little Walden Road. The site is therefore only occasionally used by Barbastelle bats; this is unsurprising given its agricultural use. There were only 2 registrations of Nathusius pipistrelle so the site does not provide a significant resource for them.
45. The proposed mitigation measures, including bat hop-over trees to the main access road from Little Walden Road, together with the hedge and tree planting should improve the commuting routes from north to south along the western and eastern boundaries. The existing planting is incomplete along both these boundaries. The double row of hedging, either side of the perimeter trail, together with the imposition of a condition concerning external lighting, should improve the habitat for these species. Due to the very low level of activity on the site by the cited species of bats; the support of ECC's Ecological Consultant; and the evidence produced in the Ecological Appraisals, I am satisfied that the proposals will not result in any unacceptable harm to protected species or upon wildlife generally in the area.

Whether the proposals make adequate provision for community and other services and facilities including affordable housing

46. The Appellant submitted a UU at the Inquiry which makes provision for various community and other services and facilities as well as ensuring that 40% of the proposed dwellings comprise affordable housing. This is in full accordance with the development plan. In the SoCG the Appellant and UDC agreed that provision for community infrastructure was necessary where these meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs). Just before the Inquiry opened the Infrastructure Planning Officer at ECC submitted additional information concerning the secondary education contribution which enabled the Appellant to be satisfied that this meets the requirements of the CIL Regs.
47. In the SoCG UDC confirmed that the UU makes provision for all requested financial contributions and that it overcomes the second reason for refusal. During cross examination the advocate/ witness for SWTC/RAUD confirmed that in his opinion the UU addressed all relevant matters.
48. In addition to affordable housing, the UU makes provision for education (including early years, primary education and secondary education contributions); highways; a LEAP; and provision of public open space including its long term management and maintenance.
49. Concerning the highway contribution I understand the concern of the Town Council regarding the use of the term "in the vicinity of the Land" but I am satisfied that this could include the suggested improvements to the cycle route from the appeal site to the station as set out in the Uttlesford Cycling Strategy

as this is directly related to the development proposed. I do not consider that the insertion of the words "or otherwise" after "2014" in paragraph 1.32 would be appropriate as it would make this provision too vague.

50. Concerning the possible transfer of the public open space to the Town Council, and its future management by that Council, the details of the transfer of funds for its maintenance could form part of the Management Plan as defined in paragraph 1.45 and referred to in paragraph 9.1 of the UU. I understand the desire of the Town Council to take over the ownership and management of this land, on the payment of £1 in accordance with paragraph 9.3. However, whether the land is owned and maintained by the Town Council or a management company is immaterial for the purposes of this Decision.
51. I am satisfied that the proposals make adequate provision for community and other services and facilities including affordable housing. I am further satisfied that all the provisions of the UU meet the requirements of Regulation 122 of the CIL Regs and so its provisions can be taken into account in the determination of this appeal.

Other matters

52. SWTC/RAUD raised the issue of air quality and the Appellant put forward a witness to respond, although it is not a reason for refusal in respect of either planning application. The site lies to the north of Saffron Walden Air Quality Management Area (AQMA) which was declared as a result of nitrogen dioxide exceedances at some town centre junctions. UDC's Environmental Health Officer commented that the cumulative impact of the proposed development would not lead to an unacceptable risk from air pollution; to any breach in national objectives; or to a failure to comply with the Habitats Regulations. At the Inquiry the Appellant's evidence in this matter was not challenged by SWTC/RAUD although their advocate/ witness questioned the impartiality and professional integrity of the witness. No evidence was put forward to support such allegations and I give them no weight whatsoever.
53. UDC's Air Quality Annual Status Reports (ASR) show only that of the 29 monitoring locations, only three locations have experienced any exceedances since 2011. In 2014 no locations exceeded the annual mean objective (40 µg/m³) and in 2015 only 2 locations exceeded the objectives. These were both kerbside monitoring positions within the AQMA and, when adjusted to the distance to the nearest receptor, there were no exceedances. UDC's 2016 ASR shows that pollutant concentrations are not expected to exceed the air quality objectives at residential premises.
54. The unchallenged evidence shows that the proposed development will not cause any exceedance of the air quality objectives. The predicted increase in pollution concentrations are so low as to be not significant. Nonetheless a range of mitigation measures are proposed within the UU and a condition is imposed concerning electric vehicle charging points. I conclude that the proposals are unlikely to result in any exceedance of the annual mean objective. This conclusion is in line with the Inspector who determined an appeal off Thaxted Road, Saffron Walden⁵ following an Inquiry at which the Town Council and local residents put forward a technical witness on this subject. Air quality is therefore a neutral factor in the overall balance.

⁵ APP/C1570/A/14/2221494 – Land off Thaxted Road, Saffron Walden (2 June 2015) (CD 7.03)

55. SWTC/RAUD claimed that, based upon the Agricultural Land Classification map, the site is Grade 2 (very good) and therefore the best and most versatile agricultural land so that the proposals would be contrary to LP Policy ENV5. The SoCG says that the site was surveyed in June 2017 and was found to comprise Subgrade 3b (moderate) land (93%) and non-agricultural land (7%). At the Inquiry SWTC/RAUD did not wish to challenge this agreed position. I conclude that the land does not comprise the best and most versatile agricultural land. This is also a neutral factor in the overall balance.
56. Concerns were raised about the distance of the site from shops and facilities. The site is beyond the desirable walking distance from the town centre and, for example, the secondary school. These services and facilities are within cycling distance, as is the railway station at Audley End. In the Officers' report, it was pointed out that while the site is some distance from most everyday services and facilities, this is not dissimilar to other sites in Saffron Walden.
57. The distances would be only marginally greater than for existing residents of St Mary's View and the northern end of Little Walden Road, and would be closer to the town centre than some approved housing sites to the east of the centre. Nonetheless, the site is outside desirable walking distances from most services and facilities and this would be likely to mean greater use of the motor car for everyday journeys. This carries some limited weight against the development.

Conditions

58. A list of draft conditions was drawn up by the Appellant and UDC and this was discussed at the Inquiry. In addition to the standard outline planning conditions it is necessary to identify the approved plans for the avoidance of doubt as these have changed since the original planning application was submitted. The scheme should be carried out in accordance with the broad principles set out in Indicative Development Framework Plan and the Design and Access Statement as these were material considerations at the Inquiry.
59. Conditions concerning details of the junction of the proposed access road with Little Walden Road and other highway works including sight lines, the provision of a footway, central island and associated works, pedestrian/ cycle link, gateway feature, electric vehicle charging points and details of a Travel Plan are necessary in the interests of highway safety and securing sustainable transport options. A speed management review is necessary to determine whether the speed limit needs to be relocated in the interests of highway safety. A construction environmental management plan and an outline ecological management plan need to be submitted and implemented in the interests of biodiversity and ecology. Details of all fixed lighting, of finished floor levels of proposed buildings and for the protection of trees need to be submitted and approved in the interests of the visual amenities of the area and to protect the ecology of the area.
60. A detailed surface water drainage scheme, based upon sustainable drainage principles, needs to be submitted together with a scheme to minimise the risk of off-site flooding during construction to mitigate potential flooding issues. A programme of archaeological trial trenching needs to be undertaken and a mitigation strategy needs to be provided in the interests of the archaeology of the area. The approved dwellings need to be accessible to all potential occupiers and visitors to ensure that satisfactory access can be achieved.

61. It is not necessary to impose a separate condition in respect of external materials for the dwellings/ garages as this matter will be considered when the full details are submitted under the standard outline conditions and, in any case, are covered by the Design and Access Statement.

The planning balance

62. Paragraph 17 of the Framework says that planning should be genuinely planned, empowering local people to shape their surroundings and with succinct local plans setting a positive vision for the future of the area. In this case the ULP covers the period to 2011 and, while some of its policies have been saved, the plan itself is clearly out of date as its settlement boundaries cannot contain the necessary housing growth. This is demonstrated by the provisions of the draft Regulation 18 Plan that has been put out for consultation.
63. In short, UDC does not have an up-to-date local plan and it cannot demonstrate a five-year supply of deliverable housing sites. In these circumstances, and as agreed by the parties, paragraph 14 of the Framework is engaged and with it the tilted balance set out in the second indent of the second bullet point of its decision-taking section.
64. In respect of the main issues there is some environmental harm arising from the harm to the character and appearance of the area. That harm, however, is limited as it is highly localised and is capable of being partly mitigated by landscaping. In respect of the other main issues, which were not contested by UDC, I have found that in respect of highways the evidence does not indicate that the residual impacts of the development would be severe. I have also found that there would not be any unacceptable harm to protected species or upon wildlife generally in the area. In respect of the other matters raised the impact on air quality would be so low as to not be significant and there would be no loss of the best and most versatile agricultural land. There would be some harm arising from the location of the site being outside desirable walking distances from most shops and services.
65. Concerning the environmental harm, there is no doubt that the proposals are in conflict with the development plan. This only relates to a single policy (ULP Policy S7) and the weight that can be given to that policy is less than full weight as it is only partially consistent with the Framework.
66. I have given considerable weight to the fact that UDC cannot demonstrate a five-year housing land supply. This position has changed significantly since the planning application was refused by UDC as at that time it considered the supply to be in excess of 5 years. When the second planning application was determined it was against the backdrop of a 4.5 year supply; that position is now much worse as the agreed position is that the supply is just 3.1 years.
67. This identified harm needs to be balanced against the benefits of the proposed development. The provision of up to 85 dwellings carries significant weight in a District with an acknowledged shortage of housing. The absence of a five-year housing land supply affects the weight that can be given to this benefit and I have had regard to Lindblom J in *Phides*⁶ in which he identified that the factors to take into account in determining such weight should include the extent of the shortfall and how long the deficit is likely to persist. In this case the

⁶ *Phides Estates (Overseas) Ltd v SoSCLG, Shepway DC and David Plumstead* [2015] EWHC 827 (Admin) (CD8.01)

agreed deficit, 1.9 years, is significant. The Regulation 18 Plan is at an early stage and includes potentially controversial proposals for meeting the deficit. UDC considers that it can be adopted in Spring 2019 but even that seemingly optimistic timescale would mean that the deficit is likely to persist for some considerable time. This site is deliverable within 5 years and would provide a substantial number of homes which justifies the provision of up to 85 dwellings being given significant weight.

68. The affordable housing also carries weight in an area where there is a considerable unmet need but as the proportion of affordable housing is no more than that required by the development plan the weight is limited.
69. There are economic benefits arising from new housing, both in terms of the construction value and the estimated 76 jobs (FTE) that would be created during construction. The spending power of future occupiers of the dwellings, estimated to be in the region of £1.7m per year, would be likely to assist local shops and other businesses. The mix of tenures, including 40% affordable housing, would help promote a balanced community as sought by the Framework. Also of benefit would be the provision of public open space, which would exceed the Council's requirements. There would be ecological benefits too, as the site is currently of limited value in this regard and about 1.97ha of this 4.47ha site would be used for green infrastructure and public open space. The proposed perimeter planting and the landscaping of the open space would be beneficial to various species including bats, birds and reptiles.
70. Overall the proposals would be in conflict with Policy S7 of the development plan. For the reasons given above, however, the weight that can be given to this policy is limited. The development plan is not up-to-date; there is no five-year housing land supply; and the identified harm to the environment is localised and limited. The only other harm relates to the location of the site in relation to shops and other services and this harm carries only limited weight.
71. I conclude that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. The proposals therefore benefit from the presumption in favour of sustainable development as set out in paragraph 14 of the Framework. The conflict with the development plan is outweighed by the other material considerations and outline planning permission is granted.

Clive Hughes

Inspector

APPEARANCES

FOR GLADMAN DEVELOPMENTS LIMITED:

Guy Williams of Counsel	Instructed by Gladman Developments Ltd
He called	
Malcolm Walton BSc	Technical Director and Principal Environmental
MCIEH AMIA	Scientist, Wardell Armstrong LLP
Phil Rech BA BPhil LD	Director, FPCR Environment and Design Ltd
CMLI	
Kurt Goodman	Associate Director of Ecology, FPCR Environment
BSc(Hons) MSc MCIEEM	and Design Ltd
Clive Burbridge BSc MSc	Director, Icen Projects Ltd
MRTPI MCIT MCILT	
Kathryn Fitzgerald	Senior Planner, Gladman Developments Ltd
BA(Hons) MPlan MRTPI	
Samuel Hollingworth *	Associate Planner, Strutt & Parker
MTP MRTPI	
Tom Baker * BA(Hons)	Associate, GVA
MTP MRTPI	

* Samuel Hollingworth and Tom Baker each produced a proof of evidence with appendices but did not appear at the Inquiry.

FOR UTTLESFORD DISTRICT COUNCIL:

Josef Cannon of Counsel	Instructed by the Solicitor, Uttlesford District Council
He/She called	
Simon Atha BSc MA	Principal Planner, Cerda Planning Ltd
MRTPI	

FOR SAFFRON WALDEN TOWN COUNCIL & RESIDENTS AGAINST UNSUSTAINABLE DEVELOPMENT:

Alan Storah BSc DipTP DMS	Principal, Walden Town Planning
MRTPI	
He called himself and	
Caroline Elliott	Member of RAUD
Bruce Bamber* MA MSc	Director, Railton TPC Ltd
CMILT MCIHT	
Paul Gadd **	SWTC/ RAUD

* Bruce Bamber produced a proof of evidence with appendices but did not appear at the Inquiry.

** Paul Gadd contributed to the session on the s106 Undertaking

INTERESTED PERSONS:

Ruth Downman	Local resident
Sarah Terry	Local resident
Geoffrey Suckling	Local resident
Tim Hanbury-Tracy	Local resident
Georgina Buckfield	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Appeal decision APP/C1570/W/16/3162954 – land south of School Lane, Henham
- 2 Uttlesford Regulation 18 Local Plan 2017- Saffron Walden Inset Map
- 3 Statement of Common Ground between Uttlesford DC and Gladman Developments Ltd
- 4 *Barwood Strategic Land II LLP v East Staffordshire BC and SoSCLG* [2017] EWCA Civ 893
- 5 *Borough of Telford and Wrekin v SoSCLG and Gladman Developments Ltd* CO/2639/2016
- 6 *Anita Colman v SoSCLG, North Devon DC and RWE Npower Renewables Ltd* CO/12831/2012
- 7 Opening submissions of the Appellant
- 8 Opening submissions on behalf of the Local Planning Authority
- 9 Introductory statement on behalf of Saffron Walden TC and Residents against Unsustainable Development
- 10 Email 24 July 2017 heading “£150k contribution at Saffron Walden”
- 11 Uttlesford Cycling Strategy (October 2014)
- 12 Photograph looking south towards appeal site from Viewpoint 1
- 13 Statement of Ruth Downman
- 14 Statement of Sarah Terry
- 15 Statement of Tim Hanbury-Tracy
- 16 Statement of Pieter Elliott
- 17 Statement of John Parker
- 18 Statement of Vivienne and Philip Flack
- 19 Statement of Simon Curtis
- 20 Email dated 26 July 2017 heading “Gladman application at Little Walden Road, Saffron Walden - £150,000k contribution”
- 21 Uttlesford Transport Study: Report to Uttlesford Planning Policy Working Group 22 June 2017
- 22 Draft conditions
- 23 Draft Unilateral Undertaking under s106
- 24 Site visit itinerary
- 25 Statement of Georgina Buckfield
- 26 Outline planning permission UTT/0007/95/OP (27 September 1995)
- 27 Planning permission UTT/0027/98/DFO
- 28 Completed Unilateral Undertaking dated 27 July 2017
- 29 Closing statement on behalf of Saffron Walden TC and Residents against Unsustainable Development
- 30 Closing submissions on behalf of the Local Planning Authority
- 31 Final submissions of the Appellant

PLANS

- A Drawing No 6825-L-01 Rev B – Site location plan
- B Drawing No 6825-L-03 Rev J – Development framework
- C Drawing No 17-T019-02 Rev A - Access

Annex: List of Conditions (20)

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing No 6825-L-01 Rev B – Site location plan
Drawing No 17-T019-02 Rev A - Access
- 4) The development shall be delivered in broad accordance with the principles as set out within the Development Framework as shown on Drawing No 6825-L-03 Rev J and the Design and Access Statement.
- 5) No dwelling shall be occupied until the proposed access onto the B1052 (Little Walden Road) as shown in principle on Drawing No 17-T019-02 Rev A to include a 5.5m carriageway, two 2m footways (within the site), and a minimum radius of 8m has been provided. The road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 78m to the north and 89m to the south along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and thereafter retained free from obstruction at all times.
- 6) No dwelling shall be occupied until a 2m wide footway has been provided on the B1052 (Little Walden Road) to link the footway on the proposed access and the existing footway to the south of the site, the existing island has been removed and a new pedestrian crossing of the B1052 (Little Walden Road) in the form of an island refuge (minimum of 1.5m in length) with associated drop kerbs and tactile paving has been provided to the south of the access (as shown in principle on Drawing No 17-T019-02 Rev A).
- 7) No dwelling shall be occupied until a pedestrian/ cycle link and access of minimum width 3m onto St Mary's View as shown in principle on Development Framework Drawing No 6825-L-03 Rev J is built to adoptable standards. Its exact alignment is to be agreed through a reserved matters application and once provided it is to be maintained in perpetuity thereafter.
- 8) No dwelling is to be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include a timetable for implementation and provision for monitoring and review. The Travel Plan will include the requirement for the developer to be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved in writing by the Local Planning Authority (to include six 1-day travel vouchers for use with the relevant public transport operator). All

measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented in accordance with the approved scheme of monitoring and review as long as any part of the development is occupied.

- 9) Prior to the first occupation of any dwelling, an electric vehicle charging point shall be provided within any garage associated with that dwelling.
- 10) None of the dwellings hereby permitted shall be occupied until a scheme detailing the relocation of a gateway feature in an agreed location to the north of the proposed site access has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any of the dwellings.
- 11) Within 6 months of the first occupation of the final approved dwelling a speed management review shall be undertaken on Little Walden Road, including, but not limited to, a speed survey and analysis of results in consultation with the highway authority. If in the view of the highway authority the results demonstrate that the relocation of the speed limit is required, then within 6 months of written notice being provided to the highway authority, the speed limit relocation process shall be undertaken and, if consultations are favourable, this shall include implementation of all necessary signing, road markings and Traffic Management Orders as required, all entirely at the expense of the developer.
- 12) No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:
 - a. Risk assessment of potentially damaging construction activities.
 - b. Identification of "biodiversity protection zones".
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d. The location and timing of sensitive works to avoid harm to biodiversity features.
 - e. The times during construction when specialist ecologists need to be present on site to oversee works.
 - f. Responsible persons and lines of communication.
 - g. The role and responsibilities on site of an ecologist clerk of works or similarly competent person.
 - h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 13) No development shall commence until an Outline Ecological Management Plan (EMP), including long term design objectives, management responsibilities and maintenance schedules for not less than 10 years for all areas of habitat and landscaping other than those within the curtilages

of individual dwellings for residential phases, shall be submitted to and approved in writing by the Local Planning Authority. The design, management objectives and maintenance of the landscaped areas shall thereafter be in accordance with the approved EMP.

- 14) No fixed lighting shall be erected or installed until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Local Planning Authority. The details shall ensure the lighting throughout the site is designed in such a way as to minimise any potential impacts upon nocturnally mobile animals. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.
- 15) No development shall take place until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- Details of the retention and protection of trees, shrubs and hedgerows on or adjacent to the site;
 - Implementation, supervision and monitoring of the scheme of protection;
 - A detailed tree work specification and details of its implementation, supervision and monitoring;
 - Implementation, supervision and monitoring of construction works in any tree protection zone, to avoid excavations, storage parking, and deposit of spoil or liquids; and
 - The timing of arboricultural works in relation to the approved phase of development.

The development shall proceed in accordance with the approved Arboricultural Method Statement and the scheme of protection shall be retained throughout the period of construction.

- 16) No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme, which shall include details of future management and maintenance, shall subsequently be implemented prior to the first occupation of any of the approved dwellings should include, but not be limited to, the following:
- Surface water discharge should be limited to 7.4l/s for all storm events including the 1 in 100 year event plus climate change allowance of 40%;
 - Provide sufficient storage to ensure no off site flooding takes place as a result of the development for all storm events up to and including the greenfield 1 in 100 year event plus a climate change allowance of 40%; and
 - Provide treatment for all elements of the development in line with guidance in the CIRIA SuDs Manual C753.
- 17) No works shall take place until a scheme to minimise the risk of off site flooding caused by surface water run-off and groundwater during

construction works has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of top soils during construction may limit the ability of the site to intercept rainfall and may lead to increased run-off rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/ disposal of surface water and groundwater which needs to be agreed before commencement of the development.

- 18)
 1. No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme which has been submitted to and approved in writing by the Local Planning Authority.
 2. A mitigation strategy detailing the excavation/ preservation strategy shall be submitted to the Local Planning Authority following completion of this work.
 3. No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the completion of fieldwork, as detailed in the mitigation strategy and which has been signed off by the Local Planning Authority through its historic environmental advisors.
- 19) 5% of the dwellings approved by this permission shall be built to category 3 (wheelchair user) housing M4(3) (2)(a) wheelchair adaptable. The remaining dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 20) No development shall commence until cross-sections of the site including details of existing levels around the buildings hereby permitted and any changes in level proposed, together with the proposed finished floor levels within the buildings, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.