



Appeal Decision

Hearing Held 22 October 2019

Site visit made 22 October 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/C1570/W/19/3229420

The Joyce Frankland Academy, Cambridge Road, Newport CB11 3TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Colin Campbell of Hill Residential Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/18/0739/FUL, dated 15 March 2018, was refused by notice dated 23 November 2018.
 - The development proposed is the erection of 24 dwellings with associated access, car and cycle parking and landscaping, drainage and acoustic fencing, construction of a new multi-use games area (MUGA) and floodlights, replacement floodlighting to existing artificial turf pitch, construction of new fenced tarmac courts for tennis and netball, first floor and side extension to the Wawn sports pavilion, new brick electrical cupboard and reconfigured car parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 24 dwellings with associated access, car and cycle parking and landscaping, drainage and acoustic fencing, construction of a new multi-use games area (MUGA) and floodlights, replacement floodlighting to existing artificial turf pitch, construction of new fenced tarmac courts for tennis and netball, first floor and side extension to the Wawn sports pavilion, new brick electrical cupboard and reconfigured car parking at The Joyce Frankland Academy, Cambridge Road, Newport CB11 3TR in accordance with the terms of the application, Ref UTT/18/0739/FUL, dated 15 March 2018, subject to the following conditions in the attached schedule.

Application for costs

2. An application for costs was made by Hill Residential Limited against Uttlesford District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Following the close of the hearing, the appellant submitted additional evidence relating to the emerging Uttlesford Local Plan (eULP). As this is material to the appeal, I gave the Council and other interested parties the opportunity to provide comment. I have had regard to any relevant comments received in my decision.
4. A signed and dated S106 Agreement was provided during the hearing. I shall return to this matter below.

5. For the avoidance of doubt, I have used the address given on the original application form in my header and formal decision above.

Main Issues

6. The main issues in this case are (i) the effect of the residential development on the character and appearance of the area, including the Newport Conservation Area (NCA) and its setting; (ii) whether the proposal makes adequate provision for affordable housing; and (iii) the effect on the provision of school playing fields.

Reasons

Background and Policy Context

7. The appeal site forms part of the grounds of the Joyce Frankland Academy. It takes in a car park, playing fields and the hardstanding area of the school. The housing would be focussed on the car park and playing fields to the south east of the site. The proposal includes provision of new and enhanced sports facilities associated with the school, along with replacement parking areas. The sports facilities would be available for local residents and community groups to use.
8. The site lies outside the defined settlement boundary for Newport. Policy S7 of the Uttlesford Local Plan (ULP) (2005) states that in such circumstances the countryside will be protected for its own sake and development will only be permitted if it needs to take place there or is appropriate in a rural area. The Newport Neighbourhood Plan (NNP) is currently in preparation and is under examination. As far as I am aware, the Examiner's report has not been published. I am also unaware of the level of objection that may exist to policies of this plan. I can therefore give only moderate weight to the NNP. Nevertheless, the site is beyond the defined 'development limits' where development will generally not be supported unless it meets a number of specific criteria.
9. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing land, as required by paragraph 73 of the National Planning Policy Framework (the Framework). At 1 April 2018, the supply stood at somewhere between 3.46 and 4.45 years. There is nothing to suggest that the situation has improved since this time. As a result, the most important policies for determining the appeal are considered to be out-of-date. Paragraph 11d of the Framework states that in such circumstances, planning permission should be granted unless the application of policies in the Framework provides a clear reason to refuse development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework when taken as a whole.
10. The eULP is currently going through Examination. My attention has been drawn to a letter from the examining Inspectors dated 10 January 2020. This sets out a number of concerns and concludes that withdrawal of the plan from examination is likely to be the most appropriate option. I have not been made aware of any formal response to this from the Council. However, the letter casts some doubt on the timing of any adoption of the plan. This inevitably affects the weight I have given it in my decision.

Character and appearance

11. The majority of the site lies outside the NCA, with only a small element required for flood mitigation encroaching into the designation. The significance of the NCA lies in its historic street pattern, open spaces and the age, quality and variety of many of the buildings within it. The NCA itself is however predominantly residential in nature. The Newport Conservation Area Appraisal and Management Proposals document (NCAAMP) (2007) makes specific reference to the open area in front of the original school buildings adjacent to the site. The site itself is not referred to as being of any particular importance. There is no dispute that the trees lining the site make a positive contribution to the visual setting of the NCA. The NCAAMP supports this view.
12. The NCAAMP also states that open spaces that contribute to the landscape, historic or visual quality of the NCA have generally been included in the conservation area. The fact the site was not identified for inclusion within the NCA is suggestive that it does not contribute significantly to the setting of the NCA, either from an historical or landscape quality perspective. I saw nothing that would lead me to a different conclusion. The site is in an elevated position behind a bank of trees and tall wire fencing lining Cambridge Road and Bury Water Lane. The site rises gently towards the main school buildings which are clearly visible. The open nature of the site is apparent to an extent through gaps in the trees on Cambridge Road, particularly at the junction with Bury Water Lane. Views across the site from parts of Bury Water Lane are more open where there are fewer trees. The extent of these views is limited by the topography of the site, which rises gently to the north.
13. From the roadside, there is no particular sense that the site forms part of the wider open countryside beyond the settlement. This is reinforced by the character of the site which, while largely open, clearly forms part of the school grounds and has no visual or functional link to the agricultural uses beyond. The school car park and buildings, tall fencing and continuation of the ribbon of development beyond the adjacent railway bridge all serve to reduce any contribution the site makes to the transition to the countryside. Notwithstanding the defined 'development limits', the site is not distinct or separate from the main settlement.
14. Nonetheless, the trees and the open space create something of a break in the linear built form of Cambridge Road and provide a welcome sense of openness. The residential development would have a clear urbanising effect on the site. Its elevated position above the road would emphasise the erosion of the open space. While this would be detrimental to the existing quality of the street scene, the extent of the visual impact of this would be somewhat localised. The dwellings would be most prominent when viewed from Bury Water Lane and the school itself. Views of the housing from elsewhere would be filtered by existing trees, topography and existing buildings. The potential also exists for increased landscaping measures to be provided which could further soften the impact over time.
15. The housing would generally turn its back to Cambridge Road and Bury Water Lane, with rear gardens nearest the roads. The front of the dwellings would face inwards, with a distribution road separating the housing from the playing fields. There would be a single point of access from Bury Water Lane. As a result, the dwellings would appear as a small distinct and disjointed estate.

While the housing would fill a gap on the Cambridge Road frontage, it would not properly reflect the linear street pattern or integrate particularly well with the existing pattern of development. Although the boundary treatments could be controlled by condition and need not be unsightly, rear gardens facing the street in this elevated position would appear somewhat incongruous. These factors would combine with the loss of openness to cause some harm to the appearance of the street scene.

16. The dwellings would all be two storey detached or semi-detached units, of varying designs. Variety would be provided through the use of different roofing materials. Red brick would generally be used for the external walls. Although I saw that many buildings in Newport were either painted or rendered, there were also a large number of red brick examples. This would not therefore be incongruous. The designs would be contemporary in nature, but there is nothing to suggest they would be inappropriate in this location and they would not detract from the architectural character or quality of nearby buildings within the NCA.
17. The majority of trees along Cambridge Road and Bury Water Lane would be retained. I am satisfied that these trees can be adequately protected during construction. Nonetheless, the proximity of some houses to retained trees could result in increased pressure for pruning or felling.
18. Although the trees in question are safeguarded by a Tree Preservation Order, it could be difficult for the Council to resist applications to lop, top or fell where safety is an issue. Trees in close proximity to dwellings can also cause nuisance from leaf drop, loss of light or falling branches. Some trees would be more at risk than others in this regard. Those on Bury Water Lane would generally be located well away from the dwellings and thus the long-term risk would be low. Some of those along Cambridge Road, and adjacent to the railway bridge, would be closer to the dwellings. This would particularly be the case for plots 6-11. The proximity of these trees to the dwellings could give rise to issues relating to the living conditions of residents of those plots. It is likely therefore that the proposed dwellings would lead to some pressure for works to these trees. Any additional loss of trees from the Cambridge Road frontage could result in harm to the street scene and the setting of the NCA.
19. The proposed dwellings would therefore erode the open character of the site, integrate poorly with the existing built form and result in increased risks to some important trees. The scale, extent and severity of the harm would be tempered by the localised nature of the visual impact, the lack of encroachment into the countryside and the fact that not all trees would be at risk. Nevertheless, the residential element of the development would still result in some harm to the character and appearance of the area, and adversely affect the setting of the NCA.
20. The Headmaster's House, The Priory Cottage and the Old Priory are all Grade II listed buildings in the vicinity of the site. The Headmaster's Houses sits to the south of Bury Water Lane and clearly has an historical and functional relationship with the remainder of the school site. The Priory Cottage and Old Priory are to the southeast of the site on the opposite side of Cambridge Road. Owing to their relationship with the appeal site, I am satisfied that the development would not affect how any of the buildings are currently appreciated or experienced.

21. The playing fields would obviously have some historic relationship with the Headmasters House as part of the wider school. However, the overall effect on the extent of the school grounds would not be significant. The role and function of the school, and the relationship between the listed building, retained playing fields and the other school buildings would not be materially affected. There appears to be no historic or functional relationship between the site and The Priory or Old Priory. As such, I am satisfied that the development would not result in any harm to the significance of the listed buildings.
22. The Council has also raised no concerns relating to the effect of the sports facilities on the character and appearance of the area. I have seen nothing that would lead me to a different conclusion.
23. Nevertheless, there would still be conflict with ULP policies S7, GEN2 and ENV1 which seek, amongst other things, to ensure development in the countryside protects or enhances the particular character of the area, safeguards important environmental features in its setting and which preserves or enhances the character or appearance of conservation areas. I would characterise the harm to the significance of the setting NCA as 'less than substantial'. The Framework requires the harm to be weighed against any public benefits of the development. I shall return to this in the 'planning balance'.

Affordable Housing

24. ULP Policy H9 states that the Council will seek an affordable housing requirement of 40% of the total provision of housing on appropriate sites, having regard to up to date Housing Needs Surveys, market and site considerations.
25. The development would normally be expected to provide 10 affordable dwellings. Notwithstanding the provisions of the S106 Agreement, the appellant has not sought to provide any affordable dwellings as part of the development. Their justification for this is that the receipt from the land should be maximised and used to deliver improvements to the school. They also argue that the provision of any level of affordable housing would reduce the scale of receipt to below that which would allow the improvements to sports facilities, or any other works, to be implemented. The Council do not consider the benefits of the proposal outweigh any conflict with policy.
26. The evidence does not lead me to conclude that the provision of affordable housing on this site is inherently unviable or unfeasible. Rather, a conscious decision has been made by the appellant to maximise the receipt available to the Academy. I acknowledge that the viability evidence suggests that affordable housing provision would impact on the delivery of improvements to the sports facilities, or any other improvements put forward as justification. I shall consider this in the planning balance. However, this does not alter the fact that the failure to provide affordable housing does not comply with ULP Policy H9, which seeks to ensure appropriate affordable housing provision. Although the ULP pre-dates the Framework, the approach to affordable housing is broadly consistent with its requirements.

School Playing Field Provision

27. The playing fields that would be lost are ostensibly not currently used to any significant degree. Their loss would not have any particular impact on the

current day-to-day operation of the school. The development would also provide and facilitate a range of improved facilities, including a new multi-use games area (MUGA), new courts for tennis and netball and other improvements to existing facilities.

28. Subject to suitable controls, there is no dispute between the parties that the development would provide alternative sports facilities that would both mitigate for the loss of the existing space and improve the quality of what is currently on offer. This would both be in terms of the facilities that are available to pupils at the school, but also to the local community. I have had regard to concerns raised over whether there is a need for these facilities. However, based on the totality of the representations before me, including those from Sport England, I am satisfied that there is sufficient justification for the new and improved facilities. These will provide benefits for both pupils and the wider community.
29. The new and/or improved facilities to be provided would therefore meet the requirements of ULP Policy LC1 and paragraph 97 of the Framework which seek, amongst other things, to ensure any loss of playing fields is replaced by equivalent or better provision. The new sports facilities would also not conflict with the provisions of Policy LC4, which is supportive of such development in principle.

Planning Obligation

30. I have considered the S106 Agreement in line with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the Framework. These state that planning obligations must only be sought where they are necessary to make development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development.
31. The agreement covenants to make an owner's contribution of not more than £2.9 million, and to complete a number of sports facilities (identified in Schedule 4) including the replacement carpet and shock pad to the existing artificial grass pitch, replacement floodlights to the artificial grass pitch, construction of the new MUGA, new courts for tennis/netball and the artificial cricket wicket, construction of new car park and access areas, upgrades and repairs to the sports hall and upgrades to the cricket pavilion. It also requires the facilities to be available for community use when not required by the Academy.
32. A further obligation provides that should the cost of the works in Schedule 4 amount to less than the owners contribution, the balance shall be used for the 'Other Facility Improvements' listed at Schedule 5 of the agreement. If within 5 years of implementation, the 'Other Facility Improvements' are not complete, the balance shall be transferred to the Council for the provision of affordable housing. The agreement also includes provisions ensuring access could be achieved for the implementation of works and a requirement for the developer to implement and maintain the proposed pedestrian link.
33. I was informed at the hearing that one of the sports facilities listed in Schedule 4 had already been funded (item A1). This is not therefore necessary to make the development acceptable and its inclusion does not meet the statutory tests. The remainder of the requirements are however related to the development

insofar as they are intended to meet the requirements of the Framework on loss of playing fields. This is both in quantitative terms through the provision of new facilities, but also in bringing existing facilities up to standard. The replacement car parking is also necessary, both in the interests of the school but also ensuring the facilities are adequate for local community needs. The obligation will ensure that the necessary mitigation and associated benefits of the development will take place. I am therefore satisfied that the remaining elements of Schedule 4 meet the statutory tests. This is also true of the requirement to ensure on-going community access to facilities. I have therefore taken account of these obligations.

34. The 'other facility improvements' would only be delivered if there is a surplus once the Schedule 4 works are complete. Therefore, there is no certainty that they would be delivered as part of this development. For this reason, as well as the nature of some of the Schedule 5 works, they would not be necessary to make the development acceptable. They would therefore fail the statutory tests and I am unable to take the obligation into account.
35. The agreement refers to the use of any remaining funds being provided to the Council, ostensibly to be used for affordable homes. Again, there is no guarantee that any funding would be available for affordable housing following expenditure on the school's facilities. Based on the evidence submitted to the appeal, it is uncertain that the obligation would secure any affordable housing. On this basis, the obligation would fail the statutory tests and I have not taken account of any potential benefits relating to affordable housing.
36. The pedestrian link is an important element of the development in terms of pedestrian safety and connectivity. I am therefore satisfied that ensuring that this is delivered and maintained meets the statutory tests. Equally, the obligations relating to access are necessary to ensure development can proceed. This also meets the tests.

Other Matters

37. Concerns have been raised about issues of congestion on Bury Water Lane, particularly when parents are dropping off or picking up pupils. The road is narrow and school buses can cause problems by holding traffic up. It is also argued that relocating the lost parking spaces to the western end of the school would be likely to exacerbate the situation, as parents and teachers may need to travel further along the lane than currently necessary.
38. There are also safety concerns resulting from the lack of a footway on Bury Water Lane, which have been highlighted by both a school safety report published in 2013 and evidence produced to support the emerging NNP. This latter report particularly highlights issues relating to the capacity of the Bury Water Lane and Cambridge Road junction at the AM peak and the sensitivity of this area due to the school and the constraints of the carriageway. The report concludes that any development which generates a significant amount of traffic at the Wicken Road or Bury Water Lane junctions would lead to a severe impact at the junctions.
39. In terms of safety, the development is unlikely to materially exacerbate any issue that might already exist. The site is already used as a car park and thus vehicles are already coming and going from the site on a regular basis. It would be reasonable to assume that these would mainly be at the same or

similar times to when pupils are arriving and leaving. People using the lane will therefore already be aware that vehicles may be entering or leaving the site. The development would not change that.

40. I was also informed by the Academy that there is no reason for any pupil to walk along the unpaved sections of Bury Water Lane, as routes are available through the school. Pedestrian links into the site from Cambridge Road would also be improved as part of the development. The development should not therefore lead to any undue increase in risk to pedestrians along Bury Water Lane.
41. The Transport Assessment indicates that the development would generate 13 two-way trips in the AM peak and 14 during the PM peak. This is a reasonable assertion. This does not constitute a significant increase in the amount of traffic using the lane. It would be reasonable to assume that the majority of these trips would be directed toward the Cambridge Road junction. While it is possible that queueing at this junction might increase to some extent, I am not convinced this would rise to the level of severe transport problems, as set out in the Framework. The behaviour of any future residents of the scheme is also likely to adapt to avoid the busiest periods. Subject to conditions, the Highway Authority has also not objected to the development on this basis.
42. There will be some changes insofar as additional vehicles will be displaced to the new parking area. This will mean vehicles entering the school closer to where the buses drop off/pick up. Nevertheless, this is already an access to the school and there is no reason in principle why this should unacceptably lead to safety concerns. The presence of the school, access and issues associated with school buses will be well known to all regular users of the route. This should not therefore lead to any undue traffic or safety concerns.
43. The site is not an Air Quality Management Area. I have noted the comments of the Council's Environmental Health Officer, who concluded that air quality monitoring in the area does not indicate there to be a particular problem. It is not unusual for dwellings to be located near to schools. The scale of development is such that it is unlikely to generate levels of traffic that would lead to health impacts to pupils or other nearby residents. There is no substantive evidence before me to conclude that the development would be unacceptable in this regard, either individually or cumulatively with other development. I have had regard to the emerging NNP policy on air quality, but this does not alter my conclusion.
44. The site is not in an identified area of flood risk. Subject to conditions, there were no objections on flooding grounds from the Council or the Lead Local Flood Authority. I am satisfied that suitable flood protection and mitigation measures have been identified in principle and can be secured by condition. In coming to this conclusion, I have noted the comments from local residents and the photographic evidence submitted. However, this does not lead me to conclude that the development is likely to exacerbate existing issues or increase flood risk elsewhere.
45. Either individually, or in combination with other development, there is no clear evidence to suggest local facilities or infrastructure would not be able to cope with the increase in population from this development. Indeed, the Local Education Authority did not consider a contribution toward school provision was necessary. This suggests that local schools, here or in other villages, have

sufficient capacity to accommodate the relatively small level of population growth. Additional effects on such things as sewerage capacity are likely to be negligible for a development of this scale.

46. Newport has some local facilities, including the school itself, a small convenience store, doctor's surgery and train station. The provision of facilities for a settlement of this size is relatively good. Some travel outside the village is likely to be necessary for many day-to-day trips. This is not unusual in a rural area. The proximity of the school and access to other facilities in the village is a positive factor, as is access to a train station and public transport services. The site is therefore in a relatively sustainable location.
47. The site would be located close to a main road, a railway line and a school. This is not necessarily an unusual situation. With appropriate conditions in place, there is no clear evidence to suggest that noise from these sources, or disturbance from the floodlighting, would be sufficient to lead to unacceptable harm to living conditions of existing or future residents.

Planning Balance

48. I have found conflict with the development plan with regard to the location of development outside the 'development limits', the effect on the character and appearance of the area and in relation to affordable housing. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.
49. The Framework does not suggest there should be any blanket restriction on development outside defined boundaries. Policy S7 does not therefore fully reflect the Framework's approach to housing in rural areas. Paragraph 78 states that development in rural areas should be located where it can help maintain or enhance the vitality of rural communities. The development would not be isolated in the countryside and thus would not need to meet any of the exceptions set out in paragraph 79 of the Framework. The development would be able to provide a degree of support to local facilities, both in Newport and other settlements. The location of development does not therefore conflict with the Framework. In these circumstances, I therefore give only moderate weight to the conflict with the ULP or emerging NNP policy in terms of its location outside the 'development limits'.
50. The development would add 24 dwellings to the housing land supply. The short fall in the housing land supply is significant. The Council is seeking to address its five year housing land supply position this through the eULP. However, there is no certainty as to whether the eULP will be adopted in its current form or any timescale for its progression. It may therefore be some time before the issue is resolved. As such, I have given only limited weight to the eULP in this regard. In these circumstances, the delivery of additional housing is thus a public benefit of very significant weight.
51. Associated with the housing would be short term economic benefits associated with construction. In the longer term, the development would be able to provide support for local services and facilities. These factors weigh moderately in favour of the development.

52. The delivery of the sports facilities would be secured by the S106. While there is an element of mitigation for the loss of playing fields, the improvements proposed would still result in a clear quantitative and qualitative improvement on what is currently available. This would not only be of benefit to the school, but also the local community who will have access to the facilities. The improvement of the facilities for existing and future pupils can also not be overlooked. I therefore attach significant weight to these benefits.
53. It is possible that there would be some additional funds available from the sale of the land to facilitate other repairs or improvements to the school. These would clearly provide some benefits to the school. However, there is no way of knowing which of the works listed under Schedule 5 of the S106 would be facilitated by the development. I have therefore given limited weight to these factors.
54. Owing to the nature of the impact and its localised extent, I consider the harm to the character and appearance of the area and setting of the NCA to be at the lower end of any scale. I have given great weight to the conservation of the heritage asset. Nevertheless, I still find that the public benefits associated with the development would outweigh the less than substantial harm that would be caused to the significance of the NCA and any other impacts on the character and appearance of the area. In this context, there are no policies in the Framework which provide a clear reason for refusing the development proposed.
55. The development would not comply with the development plan in relation to the provision of affordable housing. However, in the circumstances of this appeal, I consider the overall benefits derived from the additional housing would outweigh the lack of affordable provision. Furthermore, there is some additional justification in this case in terms of maximising the benefits associated with the school.
56. I am satisfied that all other aspects of the development would either not be harmful or can be adequately addressed by condition. A lack of harm in these respects is neutral and weighs neither for nor against the development.
57. With regard to paragraph 11d(ii) of the Framework, I find that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. This is a material consideration of very significant weight.
58. My attention has been drawn to another appeal decision¹ in the Newport area where the Inspector came to a different conclusion on the planning balance. I do not have all of the details of that development. However, it is clear that it was different in both scale and context to that before me. As such, it does not alter my conclusion. I have noted the concerns of those who consider the school has not done enough to seek funding from other sources. Nevertheless, having considered all of the evidence before me, this does not alter my conclusion about the planning balance.
59. Having had regard to all relevant matters, I am satisfied that there are material considerations in this case which justify a decision other than in accordance with the development plan.

¹ Appeal reference: APP/C1570/W/18/3209655

Conditions

60. I have considered the suggested conditions from the main parties in accordance with the Planning Practice Guidance. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
61. The site lies on the northern edge of the medieval town and thus there may have been some potential for occupation of the site in this period. A condition requiring an archaeological written scheme of investigation is justified in this case.
62. Conditions requiring the agreement of full details of foul and surface water drainage schemes are necessary to ensure the site can be appropriately drained and in the interests of living conditions. I have made amendment to remove some unnecessary descriptive detail and make it clear that any measures must be retained. For the same reason, I have also imposed a separate condition requiring a maintenance plan for surface water drainage scheme.
63. I have imposed conditions requiring the agreement of Construction, Environmental and Traffic Management Plans. These are in the interests of the living conditions of nearby residents, the operation of the school and highway safety. Separate conditions were suggested relating to issues of drainage during construction. I see no reason why these should not be subsumed within the general conditions requiring the agreement of the Construction Management Plan, as this will address similar issues. This adds no additional burden on the developer. I have also imposed conditions requiring arboricultural method statements for the sports and residential developments. These are necessary in the interests of the character and appearance of the area and protection of trees.
64. Apart from archaeology, separate conditions for the residential and sports facilities have been included to address the above matters. This is acceptable in this case as the different elements of the development may come forward at different times and in different phases. Where these are pre-commencement conditions, they are necessary to ensure investigations are complete prior to development starting or to ensure it proceeds in accordance with the agreed details. The appellant has confirmed agreement of all pre-commencement conditions.
65. Conditions are necessary to ensure the replacement parking area is provided before the existing car park is removed. In addition, I have imposed conditions requiring the changes to the existing access, improvements to pedestrian crossing facilities and individual parking areas are implemented prior to the occupation of any dwelling. These are necessary in the interests of highway and pedestrian safety and the living conditions of future occupants. I have made amendments to remove any unnecessary reference to measures already identified on the plans. I have also combined the separate suggested conditions on the access to remove duplication and made it clear that all works must be retained. In the interests of pedestrian safety, a condition requiring approval of the details of any lighting of the proposed pedestrian link is also necessary.

66. Although the plans give some indication of the types of materials that will be used, they do not specify all details. A condition requiring the approval of materials is justified in the interests of the character and appearance of the area.
67. I have imposed conditions requiring the submission of noise management measures to address passing road and rail traffic and in relation to the adjacent MUGA. I have combined the suggested conditions addressing these matters to avoid unnecessary duplication. I have imposed a condition requiring the approval of details relating to the cricket nets and the need for these to be in place during any matches. The principle of these have been established, but detailed matters should still be approved by the Council. I have also imposed a condition requiring any floodlighting to be compliant with the approved plans. All of these conditions are necessary in the interests of the living conditions of future residents.
68. A condition requiring accessible homes is necessary to ensure that the development promotes inclusion and community cohesion. To ensure adequate protection of biodiversity on the site, I have imposed a condition requiring the development to be carried out in accordance with the Biodiversity Statement. I have also imposed the suggested condition requiring the installation of electric vehicle charging points to facilitate the use of electric vehicles.
69. I have amended the suggested condition relating to the approval of details of the tennis and netball courts. This required approval of details of court specifications, including dimensions, surfacing, fencing and line markings. The approved plans set out much of this detail. Furthermore, it would be reasonable to assume that the courts would be laid out appropriately or they would not be fit for purpose. Much of the condition is therefore unnecessary. The exception to this is the fencing, the details of which I consider should be approved for reasons of character and appearance. There is no reason however that this could not be agreed prior to the courts becoming operational rather than before commencement. I have amended the condition to reflect this.
70. I do not consider it necessary to impose the condition requiring approval of the specification of the cricket wicket. Again, it would be reasonable to assume that what is implemented would be fit for purpose and there is no necessity for the Council to approve it. I also have not imposed the suggested condition on contamination. There is no evidence to suggest that this is likely to be an issue and thus a condition is not necessary.

Conclusion

71. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Colin Campbell	Hill Residential Ltd
Stuart Morse	Vectos
Duncan Murdoch	Moult Walker
Emma Sharp	Turley
Mark Flatman	Liz Lake Associates
Duncan Roberts	Joyce Frankland Academy

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Brown	Uttlesford District Council
-------------	-----------------------------

INTERESTED PERSONS:

Judy Emanuel

Neil Hargreaves

Catherine Petch

David Mayle

Howard Bowman

DOCUMENTS SUBMITTED AT THE HEARING

1. A signed S106 Agreement
2. Council minutes
3. Appeal decision – reference: APP/C1570/W/18/3209655

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 093-008 A; 093-010 N; 093-011 AA; 093-021 X; 093-030 G; 093-031 F; 093-032 G; 093-033 G; 093-040 O; 093-041 I; 093-042 L; 093-043 L; 093-044 I; 093-045 I; 093-050 J; 093-051 J; 093-052 J; 093-053 I; 093-054 D; 093-055 D; 093-056 D; 093-100 C; 093-101 C; 093-023 A; 093-020 X; 1701-69 SP02 A; 1701-69 SP03; 1701-69 SK10; 1701-69 SK11; 1701-69 SK12; 1701-69 SK07 A; JFA01r3; JFA02; JFA03r4; JFA04r1; JFA05; JFA06r1; SWHC/4 Rev B; SWHC/5 Rev D; SWHC/10 Rev B; SWHC/11; SWHC/12; 3276/SD01 D; 3276/SD02 D; EDS 08-0123.06
- 3) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The Scheme shall include:
 - (a) A programme and methodology of site investigation and recording;
 - (b) A programme for post investigation assessment and recording;
 - (c) Provision to be made for publication and dissemination of the analysis and records of site investigation;
 - (d) Provision to be made for archive deposition of the analysis and records of site investigation;
 - (e) A timescale for the analysis, publication, dissemination of the results.

The site investigation and post investigation assessment shall be completed in accordance with the approved Scheme.

- 4) Prior to commencement of the residential development hereby approved, except for site preparation/groundworks or enabling works, a foul water strategy, including a timeline for the phasing of the works shall be submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved works and retained thereafter.
- 5) Prior to commencement of the residential development hereby approved, a Residential Construction, Environmental and Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The Plan should include:
 - (a) The construction programme and phasing
 - (b) Hours of operation, delivery and storage of materials
 - (c) Details of any highway works necessary to enable construction to take place
 - (d) Parking and loading arrangements
 - (e) Management of traffic
 - (f) Control of dust and dirt on the public highway
 - (g) Control of any risks associated with potential off-site flooding caused by surface water run-off and groundwater and prevent pollution

- (h) Details of construction and complaint management with neighbours
- (i) Mechanisms to deal with environmental impacts such as noise, air quality and light

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

- 6) Prior to commencement of the residential development hereby approved, a detailed surface water drainage scheme for the residential development, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter. The scheme should include, but not be limited to:

- Limiting discharge rates via infiltration for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. Where this is found to be unviable, run off rate should be limited to the 1 in 1 year greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provision of sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A timeline for the phasing of the drainage works.

- 7) Prior to commencement of the residential development hereby approved, an arboricultural method statement shall be submitted to and approved in writing by the local planning authority. The statement should include, but not be limited to:

- Tree protective fencing
- No ground excavations within tree root protection areas (RPA)
- Any anti-compaction measures required to be taken
- The specific locating of service trenches to avoid excavations within the RPAs of retained trees where possible, or being undertaken by hand dig only
- Specific methods for construction of site access routes close to or within the RPAs of retained trees.

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

- 8) Prior to commencement of the residential development hereby approved the new/relocated parking area identified on drawing no 3276/SD02 D must be fully hard surfaced, sealed and marked out in parking bays.
- 9) Prior to any works above slab level details of the following external finishes for the dwellings hereby approved (including samples and/or photographs as appropriate) shall be submitted to and approved in writing by the local planning authority:
 - Walls
 - Roofs
 - Windows
 - Doors

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

- 10) Prior to any works above slab level a detailed scheme for protecting the dwellings hereby approved from noise from road and rail traffic and the multi-use games (MUGA) facilities shall be submitted to and approved in writing by the local planning authority. The scheme shall follow the recommendations identified in the submitted Noise Assessment (Cass Allen Report – Ref: RP01-17226 Rev 2). The approved scheme shall be implemented prior to the occupation of any dwelling and retained thereafter
- 11) Prior to the first use of the netball/tennis courts hereby approved, details of the fencing to be used shall be submitted to and approved in writing by the local planning authority. The fencing shall be implemented in accordance with the approved details before the courts are made operational and shall be retained as such thereafter.
- 12) Prior to commencement of the sports facilities hereby approved, a Sports Facilities Construction, Environmental and Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The Plan should include:
 - (a) The construction programme and phasing
 - (b) Hours of operation, delivery and storage of materials
 - (c) Details of any highway works necessary to enable construction to take place
 - (d) Parking and loading arrangements
 - (e) Management of traffic
 - (f) Control of dust and dirt on the public highway
 - (g) Control of any risks associated with potential off-site flooding caused by surface water run-off and groundwater and prevent pollution
 - (h) Details of construction and complaint management with neighbours
 - (i) Mechanisms to deal with environmental impacts such as noise, air quality and light

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

- 13) Prior to commencement of the sports facilities hereby approved, a detailed Surface Water Drainage scheme for the sports facilities, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter. The scheme should include but not be limited to:
- Limiting discharge rates via infiltration for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. Where this is found to be unviable, run off rate should be limited to the 1 in 1 year greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
 - Provision of sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
 - A timeline for the phasing of the drainage works.
- 14) Prior to commencement of the sports facilities hereby approved, an arboricultural method statement shall be submitted to and approved in writing by the local planning authority. The statement should include, but not be limited to:
- Tree protective fencing
 - No ground excavations within tree root protection areas (RPA)
 - Any anti-compaction measures required to be taken
 - The specific locating of service trenches to avoid excavations within the RPAs of retained trees where possible, or being undertaken by hand dig only
 - Specific methods for construction of site access routes close to or within the RPAs of retained trees.
- 15) Prior to the occupation of any dwelling hereby approved, details of the following hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority:
- Retained features
 - New planting (including to directly replace trees T18 and T52, as labelled in the submitted Tree Protection Plan)
 - Hard surfaces

- Boundary treatments

All hard and soft landscaping works shall be carried out in accordance with the approved details.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases, whatever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in relevant British Standards.

- 16) Prior to occupation of any dwelling hereby approved, full details of the cricket netting system hereby permitted shall be submitted to and approved in writing by the local planning authority. The system shall be installed in accordance with the approved details prior to occupation of any dwelling and the netting must be fully raised in accordance with the details during cricket matches.
- 17) Prior to occupation of any dwelling hereby approved, a detailed Maintenance Plan for the surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall thereafter be maintained in accordance with the approved Maintenance Plan.
- 18) Prior to the occupation of any dwelling hereby approved, details of lighting for the eastern pedestrian access shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details prior to the occupation of any dwelling and retained thereafter.
- 19) Prior to the occupation of any dwelling hereby approved, the approved vehicular access shall be formed as shown on drawing no 1701-69 SK07 Rev A and shall be retained thereafter. Visibility splays shall be retained free from obstruction above 600mm and no unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.
- 20) Prior to the occupation of any dwelling hereby approved, the pedestrian crossing point across Bury Water Lane at the junction with Cambridge Road, including the extension of the footway, dropped kerb crossing points and visibility splays shall be provided in accordance with drawing nos 1701-69 SK10, 1701-69 SK11 and 1701-69 SK12. Visibility splays shall be retained free of obstruction above 600mm.
- 21) One of the dwellings hereby approved shall be built in accordance with Requirement M4(3) (Wheelchair user dwellings – adaptable) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition. The remaining dwellings shall be built in accordance with Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 22) Each dwelling hereby approved shall be provided with its vehicle parking areas as shown on drawing no 093-020 Rev X prior to its occupation.

- 23) Each dwelling hereby approved shall be provided with a fully wired and operational electric vehicle charging point prior to its occupation.
- 24) No external lighting shall be installed for the existing and proposed artificial grass pitches, other than in accordance with the lighting details contained and submitted Lighting Statement (Paul Hawkins Development, November 2017) and associated drawing no JFA03r4.
- 25) The development shall be carried out in accordance with the ecological measures and/or works recommended in the submitted Biodiversity Statement and Mitigation Plan (Landscape Planning Ltd, March 2018).