

**The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013**

**ISSUES REPORT**

**Application Reference No:** s62A/22/0000002

**Applicant:** Chase (SW) Ltd (Chase New Homes)

**Description of proposal:** Conversion of buildings and demolition of buildings to allow redevelopment to provide 96 dwellings, swimming pool and changing facilities, associated recreation facilities, access and landscaping

**Site address:** Friends School, Mount Pleasant Road, Saffron Walden, Essex CB11 3EB

**Report prepared by:** Owen Woodwards

**Hearing to be held on:** 25 August 2022

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**Introduction/background**

*The site*

1. The application site is c.3.25 hectares. It comprises the former Friends’ School, most recently occupied by Walden School, which has been vacant since July 2017. It contains the former main school building as extended including an indoor swimming pool, and a number of other buildings and structures, including an assembly hall. There is open space to the front of the main building and further open space and play areas to the rear, including an avenue lined by mature lime trees. Primary vehicular access is from Mount Pleasant Road although the site can also be accessed from The Avenue to the rear and Debden Road via Water Tower Place to the west.
2. The application site lies within Saffron Walden, to the south of the town centre. It is primarily surrounded by residential development and also by the playing fields for the former school.

*Planning policy*

1. The development plan includes the Uttlesford District Local Plan 2005 (the LP). Saffron Walden is identified as a ‘Main Urban Area’ in the LP and also as a ‘major service centre’. The land to the front of the site in and around the crescent access road is listed as Protected Open Space. A relatively small part of the site to the south east of the gym is Protected Open Space for Playing Fields. The entire site lies within the Saffron Walden Conservation Area (the CA). The main school building is a locally listed building. The school as a whole is a designated Asset of Community Value[[1]](#footnote-1). The trees lining The Avenue, some along the western boundary, and a number within the open space to the front of the school, are covered by a Tree Preservation Order (TPO)[[2]](#footnote-2).
2. The Saffron Walden Neighbourhood Plan 2022 (SWNP) was formerly approved by Uttlesford District Council (UDC) on 7 July 2022. It will now proceed to a referendum, scheduled for 15 September 2022. The SWNP therefore carries weight in the decision making process, the extent of which can be addressed at the Hearing.
3. National policy and guidance is contained within the National Planning Policy Framework (the Framework) and associated national Planning Practice Guidance (PPG).

*The proposal*

1. It is proposed to convert the existing main school building to provide 52 flats and a communal library/drawing room and to refurbish the existing swimming pool and changing rooms. Some newer extensions to this building would be demolished and there would be internal works relating to the conversion. It is also proposed to convert the Croydon Building into four flats, and to convert and extend the Assembly Hall to provide six dwellings. The remainder of the existing buildings are to be demolished and replaced with a mixture of flats and houses in new buildings. The new buildings would be in a modern architectural style, with a variety of designs proposed.
2. Overall, a total of 96 dwellings are proposed. The proposed residential development would comprise 25 one-bed, 44 two-bed, 18 three-bed, and 9 four-bed units. All of it is to be market housing and there would be no affordable housing. 206 car parking spaces are proposed, 171 of which would be for future residents and 35 of which would be for visitors and for the users of the swimming pool. I note that some interested parties have raised concerns about the consistency of the number of proposed spaces in the supporting documentation. This should be clarified at the Hearing.
3. It is also proposed to extensively re-landscape the site, including the provision of replacement tennis courts and multi-use games area (MUGA), car parking, and a variety of soft and hard landscaping. Access would largely remain as existing, though upgraded where necessary, albeit with the avenue between the lime trees changed to be for pedestrians and cyclists only.

**Procedural matters**

1. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. The decision was taken that as a major application, a Hearing was appropriate in this case. This is to be held on 25 August 2022 and will be conducted in accordance with The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013.
2. An application for a screening opinion for the above proposal under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 was submitted to UDC and separately to the Planning Inspectorate. It was found that the proposal would not give rise to significant adverse effects and an Environmental Impact Assessment was not required.
3. The application was made on 11 April 2022 and validated on 21 April 2022. Notifications were then made on 28 April 2022 and allowed for initial responses by 19 May 2022. Responses were received from:
* Essex County Council (ECC) Ecology;
* ECC Highways;
* ECC Built Heritage;
* ECC Lead Local Flood Authority (LLFA);
* ECC Archaeology;
* Historic England;
* Stansted Airport Aerodrome Safeguarding Authority;
* NATS Safeguarding;
* Natural England;
* Saffron Walden Town Council (SWTC);
* Sport England; and,
* UDC.
1. A number of interested parties and local residents have also submitted responses.
2. Following a request from myself, the applicant submitted further information on 17 June 2022, including further information regarding drainage, ecology, a schedule of garden sizes, transport and access, energy efficiency, sports facilities and playing fields, and a note regarding the SWNP. All relevant parties were given the opportunity for further comment by 22 July 2022. Further information was also submitted by the applicant in July 2022 regarding bat surveys and the SWNP. This information was relatively limited and did not require re-consultation. The Planning Inspectorate commissioned an independent review of the applicant’s Toolkit Viability Assessment (TVA), which was completed by Gerald Eve and was submitted in August 2022 (FRA). The FRA largely agreed with the TVA (see below for more information on this) and also did not require re-consultation.
3. UDC has submitted a comprehensive Officer’s Report. Subsequently, UDC submitted minutes of the 11 May 2022 Committee Meeting in which they:

*RESOLVED that the Council requests that PINS approve the applications subject to completion of a S106 and conditions as set out in section 16 of the report, together with the headline issues highlighted above.*

1. The initial responses, the further comments, and UDC’s Officer’s Report and committee recommendation have informed the following main issues.

**Main issues**

1. The following are the main issues to be considered in respect of the application:
* the effect of the proposed development on the character and appearance of the area, including whether or not the proposed development would preserve or enhance the character or appearance of the CA;
* the effect of the proposed development on sports facilities, in particular playing pitches; and,
* the financial viability of the proposal, including consideration of Vacant Building Credit (VBC).

*Character and appearance*

1. The applicant considers that the proposal would retain the most important openings, doorways and detailing of the existing main building, and that the proposal would also preserve, where possible, certain buildings within the grounds which are identified as of architectural or historic merit at a local level, such as the Croydon Building. Overall, they consider the proposal to be of high quality design.
2. The general approach of proposing modern architectural styles is supported by UDC but with the caveat that the detailed design could be improved, particularly in relation to a perceived lack of articulation of the proposed buildings. Concerns are also raised regarding the provision of some areas of inactive frontages at ground floor level. ECC raise concerns regarding the detailed design of the Pine Building, which is perceived as bland, and that the Ash Houses being terraces would be incongruous for the location.
3. UDC are generally supportive of the proposed layout, which largely echoes the existing layout, despite reservations about a perceived lack of masterplanning. UDC particularly highlights the positive impact on the setting of the main school building from the proposed landscaping, and a pleasing blend of proposed house type designs. However, concerns are raised regarding the lack of clear delineation between public and private landscaping, and whether or not the two new flats proposed in the Assembly Hall extension would be provided with private open space. Concerns are raised regarding the layout of the Oak Buildings and the car parking in the south east area of the site, particularly regarding alleged poor definition of public and private spaces, awkward driveways, and car parking design. In addition, due to its nature, the flats proposed within the main school building would not have any private open space. Overall, UDC and ECC conclude there would be harm to the character and appearance of the CA, and to the setting of the locally listed building.
4. A Tree Survey & Impact Assessment 2022 has been submitted by the applicant. It confirms that the proposal would retain all of the TPO trees, including the avenue of lime trees. Few trees would be lost and those that would be are found to be of low quality. This is with the exception of tree 104, which is of moderate value and would be felled in order to provide car parking. UDC also suggest that a tree to the rear of the Assembly Hall would be better retained, even if this had negative effects on the provision of open space. It is not made clear, but this is probably a reference to the Beech tree no 83.
5. The application site lies in the CA and I am conscious of the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In addition, the former school is included on the local heritage list and it is therefore a non-designated heritage asset. In this regard, Historic England has no objection to the proposal, and states that the scale, massing and detailed design of the scheme overall would be contextually acceptable in relation to the setting of the locally listed former school building and that it would preserve and /or enhance the character or appearance of the conservation area. UDC consider the retention and conversion of the main school building a positive aspect of the scheme. ECC raises concerns regarding the proposed changes to the historic fabric and plan form and recommend that a recording survey is made of the main school building.
6. The key policies in relation to this main issue are Policies ENV1 (conservation areas) and GEN2 (high quality design) of the LP, and emerging Policy SW7 (high quality design) of the SWNP. Key guidance includes the Essex Design Guide 2018 and Saffron Walden Conservation Area Appraisal 2018. In addition, chapter 12 (design) and paragraphs 202 (heritage assets) and 203 (non-designated heritage assets) of the Framework are particularly relevant.

*Sports facilities*

1. The proposal would result in the loss of c.0.15 ha of playing fields, through the proposed swimming pool car park and access road and ancillary facilities such as the changing pavilion and car parking.
2. Sports England (SE) are a statutory consultee for playing fields and it has objected to the proposal. SE specifically highlight that the fields were significantly used by the community outside school hours until it closed in 2017, that paragraph 99 of the Framework does not distinguish between public and school playing fields or whether they are currently in use or not. SE state that the area to be lost is important because it would make it impossible to re-instate the cricket pitch, and would prevent small winter pitches for eg football. The loss of car parking for the playing fields is also of concern because it could undermine the use of the remainder of the playing fields in the future. SE contend that the exceptions in paragraph 99 of the Framework do not apply. In particular, Saffron Walden has a deficiency in football, cricket and rugby playing field provision, both as existing and increasing into the future, as set out in UDC’s Playing Pith Strategy & Action Plan 2019.
3. The applicant highlights that the incursion into the playing field is necessary to provide access to the swimming pool and main parking areas from Mount Pleasant Road, rather than through The Avenue. Additional traffic movements on The Avenue would be a sub-optimal solution given the importance of that part of the site for landscaping and open space, and potential effects on the living conditions of future residents. The applicant, however, acknowledges that the loss of the playing field is a negative aspect of the proposal in the planning balance.
4. The existing swimming pool and associated changing rooms would be refurbished and reopened. SE raise concerns that the refurbishment cost is not sufficient and that, consequentially, operational feasibility for the pool is questioned. The cost for this has been provided by the applicant through the TVA, at £558k. This has then been independently reviewed through the FVA. Both reviews agree that the sum allocated for the refurbishment of the swimming pool and associated facilities is acceptable. The applicant states that funding of the pool should be possible through service charges for the future occupants of the proposed dwellings, at £593 per home per year. They additionally state that the pool would be open for wider community use and that this and/or changes to operational costs would influence the level of the service charge, up or down, and that they do not anticipate issues.
5. The existing gym/sports hall is to be demolished. SE highlight, whilst acknowledging that they are not a statutory consultee for this element of the proposal, that this was used by the community whilst the school was still open, forming part of a formal community use agreement, signed in 2011. SE also highlight that sports hall demand in the area is high and that the only other dedicated sports hall in Saffron Walden, Lord Butler Leisure Centre, is almost at capacity. SE therefore object to the loss of the sports hall.
6. The existing MUGA is to be retained and refurbished. Two grass tennis courts would be reinstated. SE are broadly supportive of this but highlight that two all-weather tennis courts would be lost, which are more valuable to the community because they can be used all year. Saffron Walden Town Council (SWTC) also highlight that they believe the proposed public benefits in these respects are essentially the same as those already provided on the site.
7. The key policies in relation to this main issue are Policies LC1 (loss of sports fields and recreational facilities) and GEN6 (infrastructure provision) of the LP, and emerging Policies SW25 (playing fields and sports halls) and SW27 (open space) of the SWNP. Key guidance includes Sport England’s Playing fields policy and guidance 2021, and UDC’s Playing Pith Strategy & Action Plan 2019 and Indoor & Built Sports Facilities Strategy 2019. As referred to above, paragraph 99 of the Framework is also relevant.

*Viability*

1. The appellant’s TVA concludes that the residual land value is £4.37m and the benchmark land value is £5.1m. In other words, even without affordable housing or s106 contributions, the scheme is unviable. The Planning Inspectorate’s commissioned independent review of the TVA broadly agrees with the TVA, with some minor differences regarding construction period and the timing of sales receipts, finance rates, and marketing fee. The FVA concludes that the residual land value is £2.9m and the benchmark land value £5m, and therefore also finds that the proposal is inviable. Sensitivity testing finds that, for the scheme to get to a profitable position, there would need to be a 10% increase in sales values, or a 5% decrease in construction costs combined with a 5% increase in sales values.
2. Because of the above, the proposal would not provide any affordable housing and nor would it provide any contributions in mitigation of any effects on local infrastructure. Policy H9 of the LP seeks 40% of proposed housing to be affordable but subject to site by site negotiation including market and site considerations and emerging Policy SW5 of the SWNP reflects this policy. SWTC has objected to the proposal regarding the lack of affordable housing provision, stating that the lack of viability is a function of the applicant having paid too much for the site.
3. Paragraph 64 of the Framework states that where vacant buildings would be re-used or redeveloped, any affordable housing contribution should be reduced by a proportionate amount, ie a ‘vacant building credit’ (VBC). PPG expands on this, stating that an applicant should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.[[3]](#footnote-3) All of the buildings on the application site are vacant, totalling 10,754 sq m. The total proposed floorspace would be 10,590 sq m. VBC only applies where the building has not been abandoned. VBC will need to be explored at the Hearing, although it is also important to note the financial viability position as set out above, which also affects the provision of affordable housing.

*Planning balance*

1. The benefits, planning merits and compliance with policy informing the planning balance is a necessary part of this case. UDC has found that the proposed dwellings particularly in light of the lack of a five year supply of housing land, net gains for biodiversity, provision of additional landscaping, re-use of previously developed land in a location accessible to services and facilities, re-use of buildings that have lain vacant for many years, proposed community use of the MUGA, community room and swimming pool, and economic benefits during construction and operation are all positive aspects of the proposal that weigh positively in the planning balance. UDC has found that the loss of the gym, less than substantial harm to the setting of the locally listed building ie the main school building and the character and appearance of the CA, and inappropriately designed off-street car parking provision all weigh negatively in the planning balance. The overall conclusion of UDC is that the benefits of the proposal outweigh the harms and that planning permission should be granted.
2. The applicant has come to similar conclusions to UDC apart from finding that the design of the proposal is a positive factor and that it would preserve or enhance the character and appearance of the CA, and acknowledging that the loss of playing fields is a factor that weighs negatively in the planning balance. I additionally highlight the effect of the proposal on local infrastructure, potentially without mitigation in the form of payments and/or alternative provisions, and consideration of the change of use from education to residential particularly in light of the ACV listing, are also factors that need to be discussed at the Hearing.
3. The Housing Trajectory and Five-Year Land Supply 2021 document by UDC sets the housing land supply at that time at 3.52 years. No further information has been submitted in relation to this issue with the application and it is common ground that UDC cannot demonstrate a five year supply of housing land. In addition, the LP is from 2005 and is out-of-date. Either scenario triggers paragraph 11d of the Framework. In this instance, there are no clear reasons for refusal in relation to areas or assets of particular importance. Paragraph 11dii of the Framework, and therefore the ‘tilted balance’, is engaged.

**Other issues**

*Ecology*

1. The application site has limited ecological interest, being largely either grass, hard standing or buildings. No designated ecological sites are within the application red line or would be affected by the proposal. Natural England has confirmed it has no objection to the proposal. However, there is the potential for bat roosts in some of the buildings and trees. The applicant has undertaken a Preliminary Ecological Appraisal 2019, an Ecological Impact Assessment 2022, and provided a lighting assessment. ECC Ecology object to the proposal because of insufficient coverage of the western elevation of Building B12 during the bat surveys. In response, the applicant has submitted further specific information regarding bats in a Supplementary Bat & Ecology Note July 2022, concluding that there are no bats in B12.
2. Other than the above, ECC Ecology support the proposal and the proposed biodiversity enhancement measures, including the provision of appropriate flora and fauna, bat and bird boxes, and hedgehog gaps. Further biodiversity enhancement measures are suggested and the biodiversity measures as a whole, with the aim of achieving a biodiversity net gain, could be controlled by condition(s).

*Location*

1. The application site is within Saffron Walden, close to the town centre, and is easily accessible to a range of services and facilities. It is a brownfield site with good access to public transport with bus stops just outside the site on Mount Pleasant Road.

*Flooding and drainage*

1. The applicant has submitted a Flood Risk Assessment and a consultation response dated 15 June 2022, where they state the proposal would result in a betterment with regard to surface water drainage. ECC, in their role as the LLFA, has raised some technical points of detail, but do not object to the proposal with regard to surface wate drainage, subject to conditions requiring details of a surface water drainage scheme and its maintenance. They provide no advice regarding fluvial flooding and the site lies in Flood Zone 1, low risk.

*Living conditions*

1. The tennis courts, MUGA and swimming pool all could create noise and no Noise Impact Assessments have been submitted. If deemed necessary, it is likely this could be covered by condition(s) because there is no suggestion that these uses could not successfully co-exist with residential development.

*Listed buildings*

1. Within 500 metres of the site are 20 grade II listed buildings. In particular, a Water Tower listed at Grade II situated to the west of the main school building and nos 9 and 10 Mount Pleasant Road, a pair of Late Victorian villas. Consideration will be given at the Hearing to the effect of the proposal on the settings and how this might affect the special interest and heritage significance of the listed buildings.

*Highway safety and traffic*

1. The applicant has submitted a Transport Assessment. The applicant has not assessed the effect of the proposal on vehicular traffic because the proposal would generate fewer trips than the previous and extant use of the site as a school, in the peak periods. ECC Highways, as the Highways Authority (the HA), has confirmed it is in agreement with this approach.
2. Following the submission by the applicant of a Transport Note June 2022, providing further information on cycle parking, access from Water Tower Place, and tracking for refuse vehicles, the HA has confirmed it has no objection to the proposal. This is subject to conditions requiring a Construction Management Plan, the provision and maintenance of visibility splays, upgrading the two closest bus stops on Mount Pleasant Road, details of the cycle parking, details of car club parking, a Travel Plan, and travel packs for future residents.
3. However, the HA has also stated that measures are encouraged to encourage the use of modes of travel other than the car by the future residents of the proposal, to reduce traffic congestion. The measures are contributions to the emerging bus strategy and cycling strategy for Saffron Walden, and a Travel Plan. These are explored further in the s106 Planning Obligation section below.

*Energy*

1. The applicant has highlighted the positive aspect of the re-use of a significant part of the existing floorspace and building fabric. They have also highlighted that Building Regulations are due to be updated soon and that the carbon emissions standards in the updated regulations are likely to be stricter than that set out in local policy. UDC and SWTC have raised concerns that there is a lack of detail on fabric or energy standards at this stage and a lack of justification for why some of the newer buildings that are proposed to be demolished could not also be refurbished.

*Other*

1. Matters relating to air quality, archaeology, airport safeguarding, contaminated land, refuse, and living conditions have all been assessed and accepted that they could be addressed by the use of suitable conditions and/or planning obligations. However, I note that there have been inconsistent references in the supporting documentation to whether or not the application site is within an Air Quality Management Area, which needs to be clarified at the Hearing.

*Interested parties*

1. A number of interested parties have submitted objections to the proposal. They raise a number of points that have been discussed above. In addition, they highlight that local infrastructure eg doctors surgeries are already over-capacity, concerns with an increase in pressure for on-street car parking on surrounding streets, requests that the site should remain in educational use eg as a sixth form college particularly because this was the intention of the original benefactor George Stacey Gibson, and disruption during construction.

**Conditions**

1. The Council and some consultees have recommended conditions if the application is to be permitted. Without prejudice, these are set out in a draft Schedule of Conditions provided and they will be discussed at the Hearing. Their inclusion here, and any discussion on their merits, do not indicate that a decision has been made on the application, but only that the conditions suggested are to be assessed as to whether they are necessary, relevant, enforceable, precise and reasonable.
2. All suggested conditions by UDC and statutory consultees have bene included for completeness, apart from a couple of minor changes to avoid unnecessary duplication and for consistency. Inclusion of a condition does not necessarily indicate that I believe it should be retained if the application were to be approved, either as worded or amended. The schedule is for discussion at the Hearing.
3. In addition to the conditions in the schedule, SWTC has also requested conditions so that only the parts of the site which are the subject of this planning permission can be used for construction related activities and that none of the other sports fields or open space can be used, and to limit working hours. These can also be discussed at the Hearing.

**Planning obligation**

1. A draft s106 Planning Obligation (the s106) has been submitted. It secures:
* a community meeting room and a financially viable plan or strategy governing the terms on which the Community Meeting Room shall be made available for use by the wider community;
* a contribution cap and an additional contribution towards local infrastructure, both to be set by the Planning Inspectorate if deemed appropriate;
* an external review of the TVA by UDC 12 months after all pre-commencement conditions have been discharged ie an ‘early-stage review’;
* an external review of the TVA by UDC 4 years after all pre-commencement conditions have been discharged ie a ‘late-stage review’;
* a mechanism for securing payment of any surplus profit, if found by either the early or late-stage reviews, to UDC;
* provision of a MUGA, public open space, swimming pool and changing rooms, and tennis courts, with associated financial viability plans or strategies governing the terms on which they shall be made available for use by the wider community;
* to set up a management company with powers to raise its own funds and the ability to resource itself to appropriately maintain the community meeting room, MUGA, swimming pool, public open space and tennis courts; and,
* a payment, £tbc, towards the UDC’s legal costs in connection with the preparation and completion of the s106.
1. UDC requested various contributions towards local infrastructure, such as schools and libraries. However, these have not been included in the draft s106 because the scheme is not financially viable and cannot support the payments. However, both early and late-stage reviews of the financial viability of the scheme and that if surplus profit is found that 50% of this would then be provided towards local infrastructure.
2. ECC has requested a £100k contribution towards the enhancement of local cycling and pedestrian facilities. The applicant contests this request because of the proximity of the site to services and facilities and the on-site provision of cycle parking and routes. In addition, the applicant highlights that the scheme cannot financially support such contributions. ECC has also requested a contribution of £280k towards the enhancement of bus services in Saffron Walden. The applicant contests this request because of the proximity of the application site to existing bus routes and stations. However, ECC’s request for a Travel Plan monitoring contribution of £1,596 per year has been agreed in principle with the applicant.
3. In addition, SWTC has set out a number of requests for items to include in the s106 in a ‘wishlist’, which can be discussed at the Hearing.
4. As with the conditions, I have set out above the full Heads of Terms as set out in the draft s106 but it does not indicate, either way, if I think they should be retained or re-worded. The draft s106 will be discussed at the Hearing. A suitable amount of time provided following the Hearing so that a final s106 Planning Obligation can be completed, engrossed and sent to the Planning Inspectorate ahead of determination of the application.

O S Woodwards

INSPECTOR

1. Ref UTT/18/0036/ACV [↑](#footnote-ref-1)
2. Ref 7/07/38 [↑](#footnote-ref-2)
3. Paragraph: 026 Reference ID: 23b-026-20190315 [↑](#footnote-ref-3)