



## Appeal Decision

Inquiry held (virtually) on 14, 15, 16, 17, 21, 22 and 24 September 2021

Unaccompanied site visit made on 7 September 2021

Accompanied site visit made on 23 September 2021

**by Katie McDonald MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 October 2021**

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**Appeal Ref: APP/C1570/W/21/3274573**

**Land north of Bedwell Road, Elsenham, Essex CM22 6HG**

- 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/19/2266/OP, dated 9 September 2019, was refused by notice dated 15 April 2021.
  - The development proposed is outline planning application for the erection of up to 220 dwellings including affordable housing with public open space, structural planting and landscaping and sustainable drainage system (SuDS) with vehicular access point from Bedwell Road. All matters reserved except for means of access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposal is for outline planning permission, with access proposed as a reserved matter. A parameters plan is presented for approval setting out constraints and areas of development. An indicative plan has also been submitted and I have had regard to this so far as relevant to the appeal.
3. Henham Parish Council received Rule 6 (R6) Party Status on 7 June 2021 and presented evidence at the Inquiry.
4. A planning obligation was submitted in draft form, discussed at the Inquiry and subsequently finalised.
5. Uttlesford District Council, as the Local Planning Authority (LPA) confirmed that the proposal falls within the description of a development in column 1 of Schedule 2, 10(b) (urban development projects). The LPA adopted a screening opinion on 24 May 2019 and concluded that due to potential for likely significant cumulative effects, the development qualifies as an Environmental Impact Assessment (EIA) development. Therefore, an Environmental Statement (ES) was submitted with the planning application. Following review, the ES is considered satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017. I have taken account of the ES accordingly.

6. Reasons for refusal 3 and 5, dealing with air quality and infrastructure were not pursued by the LPA or R6 at the Inquiry. This was owing to the drafting of the planning obligations and the LPA reviewing its evidence.
7. Policy GEN4 of the Uttlesford Local Plan (January 2005) (ULP) is referred to in the reason for refusal 4. It was accepted at the Inquiry that Policy ENV10 was more applicable to the reason, along with the National Planning Policy Framework (the Framework).

### **Main Issues**

8. These are:
  - (a) Whether the future residents would be provided with acceptable living conditions, with specific regard to noise from the M11 motorway and the West Anglia Main Line railway.
  - (b) The effect of the proposal on the character and appearance of the area.
  - (c) Whether there would be appropriate opportunities to promote sustainable transport modes to access services and facilities.
  - (d) The effect of the proposal upon the safety of all highway users.

### **Reasons**

#### ***Site description, proposal and spatial strategy***

9. The site is located on the northern side of Elsenham and is around 13 hectares. It is a triangular, generally flat area of undeveloped agricultural land, bounded by Bedwell Road to the south, the West Anglia main line railway to the east, and the embankment to the M11 motorway to the west. The southern boundary contains residential properties and Gold Nursery Business Park. There are existing hedgerows, ancient ditches, trees and scrub on site, with a public right of way (PRoW) running from the south west at Bedwell Road, to a (temporarily closed) pedestrian railway crossing point approximately halfway along the eastern boundary.
10. The proposal is for a residential development of up to 220 dwellings. Access to the site is proposed from Bedwell Road at the south west of the site. The indicative details show a sustainable drainage scheme and extensive landscaping to the north, east and west boundaries, with the housing located centrally within the site. Three play areas are detailed and a central landscaped area running east west along the PRoW.
11. The site lies outside the 'development limits' set within the ULP, and as such is in the countryside for these purposes. Development of the site would be contrary to Policy S7 of the ULP and the overall adopted spatial strategy. I shall return to the weight to be given to this later in the decision. Additionally, the R6 assert there would be conflict with Policy H3, however, as this refers to new houses within development limits, I do not find it relevant here.

#### ***Future living conditions***

12. Having the M11 to the west and the main line railway to the east of the site boundaries results in the site being exposed to noise from both sides. On both visits, I experienced the noisy character of the site and this left me with concerns about the overall suitability of the site for residential use. The dominant noise source is the M11, but the railway also contributes to the noise

environment of the site. It is agreed that noise from Gold's Nursery Business park would not cause significant adverse impact to future residents.

13. The proposal is outline, and apart from the parameters plan which indicates area for development and the access point, there is little fixed. Therefore, the evidence relating to noise has been assessed largely with regard to the indicative layout. Although it is indicative, there is little else to base an assessment of future living conditions on and this is what the appellant's noise expert has used in the Proof of Evidence.
14. The agreed Noise Statement of Common Ground sets out the acoustic model and findings in the noise assessment submitted with the planning application<sup>1</sup> are inaccurate and unreliable. Thus, I have not had any regard to them.

#### *Internal noise*

15. There is agreement between the LPA and appellant that in order to achieve satisfactory internal living conditions in relation to noise levels, every window of all 220 dwellings on the indicative layout would have to remain closed at all times. The windows would not be fixed shut for emergency escape purposes. But if residents opened the windows, they would be exposed to unacceptably high noise levels at all times. Whilst, technically, internal noise conditions would be satisfactory with the windows closed, my assessment does not just dwell upon technicalities.
16. The Framework seeks to create places that promote health and well-being, with a high standard of amenity for future users. It also requires that developments should mitigate, and reduce to a minimum, potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. The ProPG: Planning and Noise<sup>2</sup> (ProPG) document sets out most residents value the ability to open windows.
17. Being required to always keep windows closed in all 220 residential properties, is far from desirable and raises concerns over the suitability of the site for residential use. In my opinion, being able to open windows in a family dwelling is an essential part of everyday life, and something which most people take for granted. For example, in summer months, patio doors or windows may be open all day round if the weather is warmer, children are playing outside, or families are enjoying barbecues. Equally, in winter months, windows are often opened to let in fresh air, even if for short periods. Windows are often left open overnight, even if only partially, to enable fresh air particularly in summer months.
18. Keeping all windows closed to produce a suitable noise environment internally would, to my mind, create an oppressive living environment, and I fail to see how keeping windows closed at all times could promote a high standard of amenity. This is particularly relevant given its rural edge of village location, where I consider it would be reasonable to expect a quieter noise environment than perhaps an urban area or city centre. Furthermore, there could be potential adverse impacts on health and quality of life because the scheme places an unreasonable burden upon all the future occupants.

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<sup>1</sup> CD1.15

<sup>2</sup> CD 9.05

19. Additionally, it is likely that ventilation of the properties would be necessary to avoid overheating in warmer months and ensure suitable air flow all year round. Whilst again, this could be technically achievable, I remain concerned how it could be conditioned to be investigated, designed, implemented and maintained, whilst remaining reasonable and enforceable. It would also place an additional unusual financial requirement upon the house owner to maintain the equipment. This particularly concerns me in relation to the occupants of the intermediate affordable homes.

#### *External noise*

20. The Noise Policy Statement for England<sup>3</sup> sets out that it is not possible to have a single objective noise-based measure that defines a significant observed adverse effect level (SOAEL) (the level of noise exposure above which significant adverse effects on health and quality of life occur) that is applicable to all sources of noise in all situations. Nor is there a measure for the lowest observed adverse effect level (LOAEL), which is the level of noise exposure above which adverse effects on health and quality of life can be detected.
21. However, the World Health Organisation<sup>4</sup> (WHO) provides guideline noise values. These set out that 55dB  $L_{AeqT}$  would cause serious annoyance, daytime and evening (continuous noise, outdoor living areas). 50 dB  $L_{AeqT}$  would cause moderate annoyance, daytime and evening (continuous noise, outdoor living areas).
22. There is also a "possible values or range of values for LOAEL and SOAEL for a given source/effect" issued by Defra<sup>5</sup>. This sets out that for road noise, the effect of annoyance for LOAEL occurs at 56 dB (or 53-59 dB)  $L_{Aeq16hr}$  and SOAEL at 66 (or 64-68 dB)  $L_{Aeq16hr}$ . For sleeping, LOAEL occurs at 46 dB (or 43-52 dB)  $L_{night}$  and SOAEL at 56 (51-64 dB)  $L_{night}$ . For cardiovascular effects, this sets the LOAEL at 58 dB  $L_{Aeq16hr}$  and the SOAEL at 67 dB  $L_{Aeq16hr}$ .
23. British Standard 8233:2014<sup>6</sup> (BS8233:2014) sets out that for traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB  $L_{Aeq,T}$ , with an upper guideline value of 55 dB  $L_{Aeq,T}$  which would be acceptable in noisier environments. The Uttlesford Noise Assessment Technical Guidance<sup>7</sup> states similar.
24. BS8233:2014 then goes on to explain that the guideline values are not achievable in all circumstances where development might be desirable and provided examples of higher noise areas where compromises may be made such as convenience or efficient use of land. Indeed, the agreed Noise Statement of Common Ground set out that the values are aspirational, and a marginal exceedance should not be a reason to refuse planning permission.
25. The appellants produced their own LOAEL and SOAEL, based upon the guidance documents, the site context and professional judgement. These are not agreed by the LPA. They set a LOAEL of 55 dB  $L_{Aeq 16hr}$  and a SOAEL of 65 dB  $L_{Aeq 16hr}$

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<sup>3</sup> CD 9.01

<sup>4</sup> Mr King's (appellant's noise expert) Proof of Evidence

<sup>5</sup> Possible Options for the Identification of SOAEL and LOAEL in Support of the NPSE (Defra, January 2013, modified 2014)

<sup>6</sup> CD 9.02

<sup>7</sup> CD 9.08

- for daytime external noise. Planning Practice Guidance<sup>8</sup> (PPG) seeks to mitigate and reduce to a minimum LOAEL and avoid SOAEL. There is a 10dB range between the LOAEL and SOAEL, which is a 10 fold change in the energy level of the sound, and can be perceived as a doubling or halving in loudness.
26. Externally, noise levels within around  $\frac{3}{4}$  of the private gardens on the indicative plan would be subject to external noise levels above 55dB  $L_{Aeq\ 16hr}$ . It is agreed that this would be most of the gardens in the Noise Statement of Common Ground. If the Council's advocated 3dB margin of error is added, there would only be 6 gardens which would be between 53-55 dB  $L_{Aeq\ 16hr}$ . No dwellings would have external noise levels in gardens below 53 dB  $L_{Aeq\ 16hr}$ . Having around  $\frac{3}{4}$  of dwellings above the appellant's own LOAEL level concerns me, as whilst this would be the lowest observed effect and everybody's perception of noise is different, the effect remains adverse.
27. Furthermore, based on the evidence I heard, a marginal exceedance of 55dB as an upper limit [detailed in the BS8233:2014], would be around 3dB. I was advised this was where one would detect changes in noise levels. Therefore, those above the marginal exceedance of 3dB would be the dwellings/gardens within the upper 2 daytime noise bands as set out in the "agreed noise response". The appellant sets out that 76 dwellings would have external noise levels at 57-59 dB  $L_{Aeq\ 16hr}$  and 15 between 59-61 dB  $L_{Aeq\ 16hr}$ . The LPA have assessed the same, but looked at private gardens, and claim 78 gardens would have noise levels between 57-59 dB  $L_{Aeq\ 16hr}$  and 24 between 59-61 dB  $L_{Aeq\ 16hr}$ .
28. Based on either approach, at this time, considerably more than one third of the dwellings would be exposed to external noise levels that are greater than a marginal exceedance of the BS8233:2014 upper limit of 55dB and the appellant's LOAEL. Additionally, they would be above the LOAEL level in the Defra document, again which is an observed adverse effect. However, I accept these values are under the appellant's SOAEL level for external noise, which is within the range set out by Defra.
29. The appellants propose a condition that would restrict external noise levels in private gardens to 58 dB  $L_{Aeq\ 16hr}$  between 0700 and 2300. This is indeed a marginal exceedance of the BS8233:2014 guidance and could be a satisfactory approach. However, this would require detailed noise mitigation and I have serious reservation whether this condition could be realistically complied with, given the high number of dwellings currently within the 57-61 dB  $L_{Aeq\ 16hr}$  ranges and the elevated nature of the M11, which I was advised would make it difficult to mitigate noise.
30. Therefore, it would be reasonable to conclude that, based on the indicative plan, my experience of the site and evidence before me, that most, if not all properties would be exposed to noisy external conditions. I was advised that 55 dB is around the level at which someone may raise their voice to be heard in normal conversation. Indeed, the WHO describe noise at 55 dB to cause serious annoyance. To have most private garden spaces exposed to this amount of noise, or even marginal exceedance at 58 dB, would be undesirable, particularly considering the value private garden spaces have played in many peoples' lives over the course of the COVID-19 pandemic. Furthermore, these dwellings are likely to provide a high amount of family housing, occupied by people with children who are likely to utilise gardens frequently. Being able to

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<sup>8</sup> Paragraph: 005 Reference ID: 30-005-20190722 Revision date: 22 07 2019

have the window open and passively observe children playing, 'keeping an ear out for them', could be difficult at times.

31. Likewise, talking to neighbours in the street would also be problematic as noise levels are likely to be higher in public spaces. The open spaces and play areas on the west and north would be in the noisiest parts of the site, where noise levels are indicated as 61 and 65 dB  $L_{Aeq\ 16hr}$ . This would not encourage community cohesion nor social wellbeing and the quality and value of the public space around the development would be diminished by the noise levels, such that I fail to see how they would be actively and continually used.

### *Conclusion*

32. The Planning Practice Guidance<sup>9</sup> sets out that noise impacts may be partially offset if residents have access to one or more of:
- i) a relatively quiet facade (containing windows to habitable rooms) as part of their dwelling;
  - ii) a relatively quiet external amenity space for their sole use, (e.g. a garden or balcony). Although the existence of a garden or balcony is generally desirable, the intended benefits will be reduced if this area is exposed to noise levels that result in significant adverse effects;
  - iii) a relatively quiet, protected, nearby external amenity space for sole use by a limited group of residents as part of the amenity of their dwellings; and/or
  - iv) a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minute walking distance).
33. It is likely that residents would not have access to any of these. The appellant's suggested condition that at least one facade should achieve 56 dB  $L_{Aeq\ 8hr\ (night)}$  at night (at bedroom windows and door position) and 61 dB  $L_{Aeq\ 16hr}$  between 07:00 and 23:00 (at living room window and door positions) concerns me for the reasons set out before in relation to the external noise level condition. Also, the night time level is at the SOAEL level in the Defra document, causing a significant adverse effect. Furthermore, Defra advises adverse cardiovascular effects exist at 58 dB  $L_{Aeq\ 16hr}$ , 3 dB below the suggested condition. Coupled with this being the quietest facade, the rest of the dwelling would be exposed to louder noise, even if technically acceptable noise levels could be achieved internally.
34. Thus, I am unconvinced that any dwelling would have access to a relatively quiet facade. I also note the LPA propose a condition for quieter noise levels and for these to be applied to all facades with habitable rooms, which is disputed by the appellant. A high number of properties would be exposed to noisy external conditions. For around one third on the indicative layout, I consider it would be significantly adverse. I also have concerns over the success of the suggested external noise condition for the reasons set out earlier.
35. There are no relatively quiet, protected, nearby external amenity spaces for sole use by a limited group of residents as part of the amenity of their

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<sup>9</sup> CD 9.09 Paragraph: 011 Reference ID: 30-011-20190722

- dwelling, nor is there a relatively quiet, protected, external publically accessible amenity space. Indeed, the areas of public open space proposed are in the noisiest parts of the site. Consequently, I am unconvinced there are means to offset, mitigate or minimise the adverse impacts of noise on health and quality of life as required by the PPG.
36. Arguments were presented that people buying the properties would be aware of the noise conditions of the site prior to purchase, and people's sensitivity to noise levels differs widely. I agree. However, 40% of these properties would be affordable, and these future occupants would have less choice over their future housing than market dwelling purchasers – especially those who would be housed in the social rented dwellings. This seriously concerns me.
37. The Decision<sup>10</sup> presented to me required only some of the dwellings to keep windows closed. Moreover, it appears that outdoor private gardens were able to meet external noise standards of 55dB. This is materially different. The Waltham Abbey Report was discussed in depth, but I find the material circumstances different to those before me, for example, it was a previously developed site and a detailed proposal which featured a 'barrier block' adjacent to the M25 (the relevant noise source in that case), that optimised the layout to allow habitable rooms with openable windows. It also contained details of the mechanical ventilation and heat recovery system which was to provide alternative ventilation where windows were to remain closed. It goes without saying that I have also formed my own judgement based on the evidence before me.
38. ProPG recommends that outline planning permission should not be granted at sites considered to pose a medium or high noise risk without first being satisfied that good acoustic design will be able to overcome the acoustic challenges. In particular, where a site is considered medium or high risk following an initial site noise risk assessment, it is recommended that the examination of acoustically critical issues such as site layout, building heights, materials, landform contouring, detailed design and landscaping, the location of vehicle and pedestrian access, boundary treatments, amenity spaces etc. should not be left for agreement at a later stage (my emphasis).
39. I accept that the appellants' SOAEL is unlikely to be exceeded, yet this is not agreed by the LPA. I also have no detailed acoustic design, and what is before me greatly concerns me. Moreover, the suggested conditions do not assuage my concerns. Rather, I remain unconvinced how some of the conditions would be fulfilled as well as meeting both the tests of enforceable and reasonable. It is important to note that this would be *the* planning permission, and I need to be satisfied that the proposal would produce an acceptable environment in which to live in. This cannot be left to the hope that conditions or the reserved matters will remedy the issue.
40. Furthermore, given the parameters and constraints, including the elevated location of the M11, at this stage, I am unconvinced that it could be laid out significantly differently as to attract acceptable levels of noise, such that windows could be opened or quieter gardens could be achieved.
41. Consequently, based on the details before me at this time, the combined effect of the requirement to keep all windows always closed in all properties, the level

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<sup>10</sup> APP/H0520/W/19/3228494

of noise in external private gardens, the public open space located in the noisiest areas on site, along with there being no quiet alternative space (except inside the house, with windows closed) and the concerns over long term ventilation and condition compliance; it is my judgement that the proposal would not provide high standards of amenity or acceptable future living conditions. This could lead to significant adverse impacts on health and quality of life and is contrary to Policy ENV10 of the ULP, which seeks to ensure occupants of housing would not experience significant noise disturbance.

42. Notably, however there would also be conflict with the Framework, which requires developments to provide high standards of amenity.

### ***Character and appearance***

43. The site is an open undeveloped field on the edge of the village, identified as part of the Broxted Farmland Plateau (BFP) in the Landscape Character Assessment<sup>11</sup> (LCA) for the district. A key planning issue identified in the LCA is the pressure from expansion of village settlements, and it sets out the character area has a moderate to high sensitivity to change. Suggested landscape planning guidelines in the LCA are to conserve the rural character of the area and ensure that any new development responds to historic settlement patterns.

### *Landscape value and setting of Elsenham*

44. It is agreed between the LPA and appellant that the site is not a valued landscape for the purposes of the Framework; and whilst the site is in the countryside and used for agricultural purposes, it contains historic ditches and has an inherent open character, the strategic infrastructure corridors to the east and west and developed boundary to the south cuts the site off from the wider open countryside within the BFP. Housing development adjoins the eastern boundary with the railway line, running along Old Mead Road and there is a harsh edge to development from the business park and residential dwellings, with limited views out to the wider countryside.
45. Equally, views into the site from wider countryside are also limited. Housing would not take place directly off the main access, such that views from Bedwell Road would be limited. The PRoW running to the east of Old Mead Road gives an elevated view of the site, but it is only seen between breaks in the residential development on Old Mead Road. There are also glimpsed views of the site from Spencer Close and Maytree Gardens.
46. The main parties disagree on the comprehensiveness of the viewpoints selected in the appellant's landscape and visual impact assessment. However, no other viewpoints were put before me and I am satisfied with the various points I viewed the site from on my visits.
47. The site allows an element of relief between the M11, railway and the village by its undeveloped nature, but I do not consider this to be so important that it warrants protection from development per se. Furthermore, the site is so heavily influenced by the surrounding infrastructure, and with limited wide-ranging views, it has a limited rural character, limited visibility and a medium landscape quality and sensitivity.

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<sup>11</sup> Core Document 7.01



48. It is also argued that the proposal would not respond to the historic settlement pattern of Elsenham. This is centred around Elsenham Cross, the shops and school. However, I observed that much of the housing development is post war, and there was no noticeable historic settlement pattern of any significant value that would be adversely affected by the proposal. Indeed, development around the site is modern and the village has, or will, given the existing planning permissions, spread to the south, east and west.

*Role of the site in separating settlements*

49. It is argued the development would lead to coalescence of the rural hamlets of Ugley Green, Old Mead and Henham, that lie to the east and west, and this would be harmful to the LCA. I disagree. As detailed above, the site is contained by the M11 and railway. The M11 bridge is directly to the west of the access and forms a strong physical barrier between the site in Elsenham and the hamlet of Ugley Green. The site cannot be seen from Ugley Green itself and is only partially visible on a PRoW to the north of the hamlet, across the motorway. The site access frontage is moderate and forms no noticeable visual break between housing on Bedwell Road and the bridge, even for pedestrians. The visual break between settlements is the bridge.

50. Likewise, development along Old Mead Road is existing and closer to Henham and Old Mead than the site. Development in the northern part of the site would be very limited based upon the parameters plan and would not extend far beyond the northern dwelling on Old Mead Road. Therefore, containment of the site means that it provides a very limited, if any, function in separating settlements or preserving openness. Indeed, because of this strong containment, I agree with the appellant that the development would form a logical extension of the village. Consequently, there would be no perception of coalescence or any physical coalescence from the development and the hamlets would remain visually separate.

*Recreational value of the public footpath*

51. The PRoW running through the site has a rural quality and value, in that it is set within an undeveloped field and the rural setting of Elsenham can be appreciated from the site. This would be lost through the development and there would be an adverse effect.

52. That said, any housing development on the edge of a village with a PRoW running through would have a similar effect. Furthermore, the proximity of the infrastructure and its associated noise, along with the other development surrounding the site results in this value being limited. This is further marred by the dead-end nature of the PRoW owing to the temporary (albeit for a decade) closure of the pedestrian railway crossing. Development of the site would retain the PRoW and the parameters plan sets out this would be within generous green corridors. Furthermore, part of the planning obligation would provide monies towards upgrading the PRoWs to the south of the site. This would mitigate the harm and with the upgrading works, would enhance PRoWs overall.

*Other matters*

53. Views from trains passing the site would change, yet the view from a train varies through urban and rural areas and I do not consider the effect to be

adverse. Residents in housing on the southern boundary would be subject to a substantial visual change in outlook, but the planning system does not protect such private interests.

### *Conclusion*

54. Development of the site would inevitably and significantly change the landscape character, and this would be a localised permanent spatial and visual change. Whilst change does not necessarily equate to harm, the loss of an open and undeveloped rural field is generally regarded as adverse in landscape terms.
55. That said, the Framework requires development to be high quality, beautiful and well designed, and I have no reason to doubt that the detailed design could not achieve this. Extensive landscaping and a community woodland are also proposed on the parameters plan that would respond to the suggested BFP land management guidelines in the LCA. The development could be designed sympathetically, having regard to the edge of village setting, creating a softer edge than currently exists to the south. Furthermore, Elsenham would retain its rural setting and there would be no sense of coalescence.
56. Therefore, on balance, there would be a moderately adverse effect on the character and appearance of the area. This would conflict with Policy S7 of the ULP, which seeks to protect or enhance the countryside. Lastly, there would be moderate conflict with the Framework, which seeks to recognise the intrinsic character and beauty of the countryside.

### ***Access to services and facilities***

57. Elsenham as a village is relatively well served by services and facilities. However, for secondary schools, employment, leisure and shopping, many residents will be required to travel to larger urban areas. This is to be expected, as despite recent and future growth, Elsenham remains a village. Despite claims of it being 'top-heavy' with housing and the services and facilities not keeping pace, the range of services and facilities is satisfactory.

### *Walking*

58. The main disagreement here is the location of the site, and the walking distances required to access the village's services and facilities from the one access point into the site. The site's location is on the northern tip of the village, and walking distances from the centre of site are agreed as follows:

Elsenham Railway Station	1000m
Elsenham Surgery	1440m
Post Office / Shop	1680m
Elsenham CE Primary School	1990m
The Crown Public House	2040m
Gold Nursery Business Park	810m
Bowls Club / Recreation Ground	1490m
Bus Stops Jenkins Drive	750m

59. There are various guidelines on walking distances that would result in the choice of walking over a private car journey. The Institution of Highways and

Transportation<sup>12</sup> guidance (Table 3.2) is robust, but it is dated (published in 2000) and refers to desirable, acceptable and preferred maximum distances for 3 locations, town centres; commuting/school; and elsewhere. This ranges between 200m and 2km.

60. Manual for Streets<sup>13</sup> (MfS) guidance talks about walkable neighbourhoods, which are typically characterised by having a range of facilities within 10 minutes (up to about 800 m) walking distance of residential areas which residents may access comfortably on foot. However, it also states that this is not an upper limit, noting a reference to the defunct PPS13<sup>14</sup>, which stated that walking offers the greatest potential to replace short car trips, particularly those under 2 km.
61. Given that MfS is a government document and carries forward guidance from PPS13, I find this to be the most relevant and appropriate when applying a planning judgement. Furthermore, shorter walking distances would always be more desirable, but the crux of this issue is the distance at which people would potentially choose to walk instead of taking a private car. Whilst the shorter the distance, the greater the propensity, I consider the upper limit would be around 2km. All services and facilities would be within the 2km upper limit, except for the pub. However, the extra 40m above 2km would not, to my mind, preclude future residents walking to it.
62. There is only one access into the site. However, this is not unusual for some new developments and I do not consider that it would inhibit walking. Access from the site to all facilities is flat and pleasant, running along Bedwell Road and Station Road on footways of sufficient width with dropped kerbs such that access for all is possible.
63. Assertions were made that many parents and carers drive to school, and the roads are hectic at pick up and drop off times. However, I observed a high number of parents and carers collecting children from the local school and walking back towards the village centre. Whilst I accept this is a snapshot in time, and a warm day, the majority accessed the school on foot. Those parked near to the school were on nearby roads or at the public house car park, and I saw no conflict or traffic problems. I also observed parents and children walking and cycling back up Station Road towards Bedwell Road. Therefore, walking to and from school and shops would be a realistic option.
64. As detailed above, the planning obligation would require contributions towards upgrading PRoWs, with the intention to upgrade the PRoW that runs south from the site. Improvements to this footpath would provide an attractive off road route to access the shops and school. Whilst the more direct route would be along the roads, this would provide an alternative walking route.
65. Everyone has a different propensity to walk. Some people will walk in inclement conditions and further distances than 2km to access local services and facilities. Some people will drive to the end of the road. What is important in this appeal is that all but one of the services and facilities would be within 2km when measured from the middle of the site, and the topography is flat to

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<sup>12</sup> CD 8.01

<sup>13</sup> CD 8.02

<sup>14</sup> Now defunct

all of them. Therefore, whilst it would be on the upper limits of walkable, the site's location would not deter walking entirely.

### *Cycling*

66. Cycling from the site into the village is an option, and Stansted Mountfitchet is within 5km. Topography to Stansted Mountfitchet is varied, and the road conditions enable higher vehicle speeds that may dissuade some cyclists, particularly in inclement conditions. However, this does not discount cycling as a realistic alternative to the private car given that Stansted Mountfitchet is relatively close by.
67. Furthermore, covered and secure cycle spaces would be provided at the railway station. This would encourage a short cycle ride given that a bicycle could be stored safely and kept dry while taking further travel by train. Sheffield cycle stands are proposed at the shops and post office, and this would facilitate cycling to the shops for a small number of provisions. The Travel Plan also indicates that cycle vouchers would be offered to new residents, encouraging bicycle purchases. Everyone has a different propensity to cycle, but I believe cycling by future residents would be an option and opportunities would be taken to encourage this form of sustainable travel.

### *Bus*

68. The bus stop is located around 750m away from the centre of the site. Whilst this is not within the 400m guidance set out by Essex County Council, 400m is an optimum distance and cannot be achieved in all situations. Furthermore, the planning obligation would also provide a large sum of money towards upgrading the bus service. Essex County Council intend to use this money to provide a more frequent service, earlier and later times and a Sunday service.
69. I agree with the appellants that people would tolerate a longer walking distance to access a more frequent service. Additionally, the Travel Plan would provide bus vouchers to future residents to encourage bus travel. Overall, therefore, bus travel would be a genuine option and opportunities would be taken to encourage this.

### *Train*

70. The railway station, which offers regular services towards Cambridge and London is a benefit to this village location and is less than 1km from the site. Census data sets out that 11% of commuters use the train, which I consider to be a high proportion.
71. The location of the station offers a real and valuable alternative to car travel and it is entirely realistic to expect that many residents would walk to the station from the site. However, even if residents drove to the station, taking the train for the latter part of their journey would remain a sustainable choice of travel.

### *Other sustainable transport modes*

72. The proposal would contain electric vehicle charging points for each dwelling, and this would encourage the use of electric cars. This is another sustainable transport mode and may encourage residents to purchase electric cars.

### *Travel Plan*

73. The Travel Plan (together with the planning obligation) would be implemented on first occupation for a minimum period of 5 years following final occupation. Considering the build period would be around 6 years, the travel plan would be employed for a significant amount of time. It would be reviewed, tested and monitored and could be amended to reflect the results in partnership with the County Council. Because of this long period of implementation, I consider the Travel Plan could realistically achieve its aims to encourage a modal shift to more sustainable travel options.

### *Parking*

74. Parking in the village was raised as a concern by interested parties, with limited parking for shops or facilities and the recreation ground. Whilst I accept that parking may be displaced onto surrounding roads, causing nuisance to residents, the creation of additional parking would encourage travel by car.

### *Conclusion*

75. Even considering all the above, a private motor car is likely to remain the primary mode of travel for shopping or leisure trips outside the village. It may also be the main choice for accessing services and facilities in the village. However, this is normal for a rural village where private car ownership is likely to be high. Indeed, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and each dwelling is likely to have a car parking space associated with it.

76. The important point here is that appropriate opportunities to encourage and promote walking, cycling and public transport use have been identified and would be pursued and secured via the planning conditions and obligation. There is also a realistic proposition of the proposal providing a modal shift through the implementation of the Travel Plan.

77. Consequently, I am satisfied that the site would offer a genuine choice of transport modes, giving priority first to pedestrian and cycle movements. This would be compliant with Policy GEN1 of the ULP, which seeks to encourage movement by means other than the use of a car. There would also be compliance with the Framework, which seeks to promote sustainable travel.

### ***Safety of all highway users***

78. The evidence<sup>15</sup> indicates that the road to the east (Snakes Lane, turning into Pound Lane) would be predominantly used as the access to and from the site to access larger towns, such as Bishops Stortford or Stansted Mountfitchet. Therefore, my assessment relates to the effect upon the safety of all highway users on this road only.

### *Road width*

79. The road is narrow in places and runs through the hamlet of Ugley Green and then open countryside with occasional roadside dwellings and smallholdings. There is no footway for most of the road. Widening to 4.8m is proposed around the 90° bend where Snakes Lane turns into Pound Lane, and this is a matter that could be the subject of a condition. This widening would result in the road

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<sup>15</sup> CD1.21 Transport Assessment within the Environmental Statement

being more than 4.3m wide from the site to where it meets the B1383. The width of the road is wider in places, with the appellant stating it is typically 4.5m to 5.5m wide<sup>16</sup> and the R6 saying it is typically 4.5m<sup>17</sup>. With the widening completed, 2 cars could pass on all parts, albeit slowly where it is narrower. Wider vehicles would simply have to wait for the other to pass. This is not uncommon nor necessarily unsafe.

80. Furthermore, despite the evidence presented by the R6, applying modern day standards of road widths to this road is not suitable. This is because it is not a modern day road and standards cannot be applied retrospectively. Drivers must be aware of their surroundings and adapt appropriately to the situation, taking corners slowly where forward visibility is limited and slowing down when faced with other vehicles, pedestrians, horse riders or cyclists. If this means waiting at a wider point in the road for something to pass, then this is just what they do. The width of the road, with the widening, would be suitable for average sized cars to pass each other at any point. This is satisfactory.
81. Additionally, I disagree with the claim from the R6 that it makes no sense to have a 5.5m access for the site leading to a narrower road in the wider highway network. It makes perfect sense to construct a new access to current standards where this can be achieved and drivers exiting the site would adapt to the road conditions.
82. There are assertions from interested parties that there are narrower points on the road than where the widening is proposed, particularly near to the thatched Rose and Ivy Cottages. The road outside these cottages does appear to narrow, and indeed features a 'road narrowing' sign. The road width survey<sup>18</sup> carried out by the appellants is uncontested by the Council and indicates the road width at this point to be 4.4m. Whilst I accept this is relatively narrow, vehicles could still get past each other. Additionally, the road appears narrower due to the vegetation at the sides and some localised verge and hedgerow trimming would not go amiss. This section of road would not result in unsafe highway conditions.

#### *Traffic flows*

83. Fundamental to the issue here is that the traffic flows are modest. Even with the development, there would be 236 (AM peak hour) and 234 (PM peak hour) trips immediately west of the access and 200 (AM peak hour) and 242 (PM peak hour) trips immediately east of the B1383. These trips are 2 way, and the proposal accounts for 83 2-way trips in the AM peak and 88 2-way trips in the PM peak.
84. If averaged over the hour they represent approximately 4 vehicles a minute, or one vehicle every 30 seconds in each direction. Therefore, even if the road is narrower in places, the number of vehicles passing each other in peak hours is low. Additionally, heavy goods vehicles (HGV) numbers are very low, with one in the AM peak and 3 in the PM peak. The risk of vehicle and HGV conflict is likely to be very slim.
85. There would be a considerable increase in traffic, but this would take it nowhere near capacity. Therefore, the traffic increase does not lead to the road

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<sup>16</sup> Mr Weeks Proof of Evidence 4.2

<sup>17</sup> Mr Gardner Proof of Evidence 4.63

<sup>18</sup> Contained within CD2.19

becoming unsafe, and evidence<sup>19</sup> details there has been no recorded personal injury accidents along the length of the road, apart from a slight accident at the junction with the B1383. No concerns are raised about the safety or width of this junction.

#### *Shortcut*

86. The route via Snakes Lane and Alsa Street is shorter when travelling south, by around 650m. However, the Snakes Lane section of road is extremely narrow with limited passing places or forward visibility. Therefore, although the distance may be shorter, the travelling speed would be very slow and overall, unlikely to save any material amount of time, such that it would be reasonable to assume that drivers would generally choose the safer route and continue onto Pound Lane.

#### *Road safety audit*

87. The R6 asserts that a Stage 1 Road Safety Audit should have been carried out when the road widening was proposed as this would be a material change to the highway. I disagree. The road widening is a relatively minor change and whilst making improvements to the acceptability of the access to the site, is not a material change to the road conditions. Furthermore, the County Council explained it was unnecessary at this stage and would be required by condition.

#### *Local Plan Examining Inspector's report 2014*

88. The R6 referred me to the 2014 Local Plan Examining Inspector's conclusions<sup>20</sup> in terms of the suitability of Elsenham for large scale growth and its road access. The situations are very different. The Local Plan Inspector was assessing a 2,000+ dwelling village extension with a different main route. The proposal before me, even cumulatively with others, does not reach 2,000 dwellings, and the conclusions does not persuade me that the access to the site is unsafe or unsuitable.

#### *Conclusion*

89. The proposal would have an acceptable effect upon the safety of all highway users. This would be compliant with Policy GEN1 of the ULP, which seeks to ensure access to the main road network must be capable of carrying the traffic generated by the development safely and the traffic generated by the development must be capable of being accommodated on the surrounding transport network. There would also be compliance with the Framework, which seeks to ensure safe and suitable access to the site can be achieved for all users.

### **Other Matters**

#### *Best and most versatile agricultural land*

90. The land is grade 3a land, and development of the site would conflict with Policy ENV5 of the ULP. The R6 argue no evidence has been presented to seek alternative sites, and I have not been directed to any either. The appellant claims the site is of limited value in agricultural terms because it is small, well contained and not part of a larger land holding. The appellant's planning

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<sup>19</sup> Appendix 8 of the Transport Assessment, within CD1.21

<sup>20</sup> CD 6.18

witness also set out that the loss of fields would not impact the viability of wider land holding, which had been confirmed by the landowner. Clearly, the landowners interest lies with the site being developed and I give little value to the statement.

91. The site was being used to actively grow crops on both visits and there is no evidence presented of an assessment of alternative sites, or the economic and other benefits of the land. In the absence of any evidence, there would be moderate harm to the supply of best and most versatile agricultural land.

#### *Planning obligation*

92. The planning obligation would commit to 40% affordable housing on site, split 70% social rented and 30% intermediate housing along with open space management and a residential travel plan. It also commits to provide monetary contributions towards a community building, Hatfield Forest, healthcare, education, footpath upgrades and passenger transport along with monitoring fees. Given my findings below, it has not been necessary to examine the planning obligation any further.

#### *Pedestrian railway crossing (Elsenham Emergency Hut)*

93. There is a pedestrian railway crossing to the east of the site, connecting the PRow to Old Mead Road. It has been temporarily closed<sup>21</sup> since 2011 owing to non-compliance because of the speed of approaching trains and the time taken to cross the railway. There are methods suggested by Network Rail and the Council to ensure its final closure prior to occupation of the dwellings. Whilst these have been contested by the appellants, the matter has not been determinative given my findings below.

#### *Other decisions and representations*

94. Numerous other decisions were put before me and I have had regard to these so far as necessary, along with assessing this proposal upon its own merits. I have also had regard to the numerous representations from interested parties. However, given my findings below, it has not been necessary to examine these any further.

### **Planning Balance**

95. I use the rising scale of limited, moderate, significant and substantial in the planning balance.

#### *Development plan*

96. The ULP covers a period of 2005-2011. It is widely accepted that it is out of date for the purposes of the housing requirement set out in Policy H1. Indeed, the housing land supply stands at 3.11 years, which is a significant shortfall, and one which is unlikely to be remedied anytime soon. Because of this, the policies which are most important for determining the application are out-of-date.
97. Therefore, the tilted balance in the Framework is engaged, such that there is a presumption in favour of granting planning permission for sustainable development, unless the adverse impacts of doing so would significantly and

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<sup>21</sup> Under a Temporary Traffic Regulation Order



demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

98. Much discussion took place on the consistency of Policy S7 with the Framework. Policy S7 is relevant to the principle of the proposal, and it essentially splits into 3 parts; the first 2 parts are restrictive and lack consistency with the Framework. The location of the development outside the development limits, is of limited weight given the out-of-date nature of the spatial strategy and the lack of a 5 year housing land supply. The latter part is concerned with protecting or enhancing the character of the countryside. This is consistent with the Framework, such that overall, the policy is of moderate weight.
99. Elsenham has seen a high level of growth in recent years. This is unsurprising in the context of a lack of housing land supply and it being within the second tier of growth hierarchy. Furthermore, the village benefits from a train station with direct links to London and Cambridge, which 2 of the market towns do not. It is also very close to Stansted airport which provides employment opportunities. Therefore, I do not accept the R6 or interested parties' arguments that Elsenham has reached its limit in terms of development.

#### *Benefits*

100. The proposal would quickly<sup>22</sup> deliver up to 220 homes, of which 40% would be affordable. Whilst Elsenham will see a high level of growth in both market and affordable housing from existing proposals granted planning permission, there remains a significant shortage of both market and affordable housing supply in the district. I attach significant weight to the benefit of market homes and significant weight to the 40%, or up to 88 affordable homes, for local people in housing need.
101. There would be economic benefits associated with the proposal, and whilst the amount of local spending was questioned by objectors, the Socio-Economic Sustainability Statement<sup>23</sup> sets out the proposal could generate total gross expenditure of £6.7 million annually. Construction would also result in local spending and job creation and the LPA would receive New Homes Bonus. This is of moderate weight. The assertion that greater weight than normal should be given to proposals which will deliver material positive economic outcomes both for the local and national economy, owing to recovery from the COVID-19 pandemic, is without policy support and I give the proposal's economic benefits no greater weight.
102. There would be a net gain in biodiversity, which is of moderate weight. Publically accessible open space and a community woodland would be provided on site, along with 3 play areas, exceeding the requirements of the ULP. This is within the parameters plan and would form part of the development. Whilst this is a benefit and could be used by other residents of the village, the open space is so extensive because they provide buffers from the M11 and railway noise, and their actual value as open space is questionable because of the noise levels. Nonetheless, these elements would form part of the scheme and are of some value, such that they attract limited weight.

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<sup>22</sup> The appellants agreed to reducing the standard time periods for the submission of reserved matters applications and the commencement of development.

<sup>23</sup> CD1.07

### *Harms*

103. The proposal would not provide high standards of amenity or acceptable living conditions for the future occupants. There is conflict with Policy ENV10 of the LP, to which full weight is attached, and the Framework. The harm is of substantial weight.
104. Additionally, there would be harm to the landscape character and appearance of the area and harm from the loss of best and most versatile agricultural land. There would be conflict with the S7 on this matter and ENV5 of the LP, and the Framework. These are of moderate weight.
105. The site is outside the development limits, and there is fundamental conflict with Policy S7 on the matter of the location of development. However, this is of limited weight given the housing supply context.

### *Neutral*

106. The acceptable elements of the proposal relating to access to services and facilities and highway safety are neutral. Likewise, the requirements in the planning obligation would mitigate the effect of development and carry neutral weight. The sustainable drainage system would equally be of neutral weight as it would be required to offset the effect of surface water run off from the development.

### *Balance*

107. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. This proposal would not meet the needs of the future occupiers because it would fail to provide acceptable living conditions or a high standard of amenity. The effects could harm both health and well-being, and my overall conclusions on future living conditions is such that the benefits of housing become much reduced. It also indicates that the proposal is not sustainable development.
108. Therefore, on balance the adverse effects of granting planning permission substantially and demonstrably outweigh the benefits, when assessed in the policies in the Framework taken as a whole.

### **Conclusion**

109. For the reasons set out above, I conclude that the appeal should be dismissed.

*Katie McDonald*

INSPECTOR

**APPEARANCES**

<b>For the local planning authority:</b>	
Josef Cannon of Counsel	Instructed by the Solicitor for Uttlesford District Council
He called	
Alison Hutchinson MRTPI	Partner, Hutchinsons Planning
Gill Wynne-Williams BA(Hons) PGD CMLI	Managing Director, Wynne-Williams Associates Limited
Stephen Gosling BEng(Hons) MIOA MAES FRSA	Principal Consultant, 24 Acoustics Limited
<b>For the appellant:</b>	
Thea Osmund-Smith of Counsel	Instructed by Christien Lee, Planning Director, Gladman Developments Limited
She called	
Christien Lee BSc(Hons) MCD MRTPI	Planning Director, Gladman Developments Limited
Silke Gruner BL(Hons) CMLI	Associate Landscape Architect and Urban Designer, CSA Environmental
Gary King MIOA MCIEH	Director and acoustic consultant, Sharps Redmore
Nigel Weeks BSc FAcConE	Consultant, Stirling Maynard Transportation
Lynette Anderson	Solicitor, Gladman Developments Limited
<b>For Henham Parish Council Rule 6 Party:</b>	
Geoff Gardner MSc MRTPI DMS	Director, Gardner Planning instructed by Henham Parish Council
<b>Interested parties:</b>	
Dr Graham Mott	Elsenham Parish Councillor
Katharine Wilkinson	Essex County Council Highways
David Morson	Local resident speaking on behalf of Julie Carrington, another local resident
Ruth Clifford	Stansted Mountfitchet Parish Council Clerk
Paul Jarvis	Chairman, Elsenham Youth Football Club

**INQUIRY DOCUMENTS**

ID1	Appellant opening submissions
ID2	Council opening submission
ID3	Rule 6 opening submissions
ID4	Context Plan CSA/4183/124 Revision A
ID5	Stansted Mountfitchet Parish Council statement
ID6	Elsenham Youth Football Club statement
ID7	Agreed walk distances
ID8	Extract from Design Recommendations for Multi-Storey and Underground Car Parks Fourth Edition (Institution of Structural Engineers, 2011)
ID9	Essex County Council Development Management Policies (February 2011)
ID10	Noise Statement of Common Ground
ID11	LPA Noise Technical note
ID12	Sustainable Travel Planning Officer email regarding Travel Plan success
ID13	Possible Options for the Identification of SOAEL and LOAEL in Support of the NPSE (AECOM/DEFRA January 2013, revised 2014)
ID14	Appeal Decision APP/H0520/W/19/3228494, with Noise Models and summary points
ID15	Replacement Table 6 for Mr King's Proof of Evidence
ID16	Mr Gardner's Examination in Chief
ID17	Noise conditions schedule 20/09/21
ID18	Appellant's external noise levels
ID19	Appellant's comments on Council's proposed noise conditions
ID20	Dr Mott's growth of settlements
ID21	Agreed noise response
ID22	Ms Carrington/Mr Morson photographic evidence
ID23	Noise conditions
ID24	Site visit route
ID25	Updated planning obligation
ID26	Dr Mott's closing statement
ID27	Rule 6 close submissions
ID28	Council closing submissions
ID29	Appellant closing submissions
ID30	Appellant's reply to closing submissions
ID31	Completed planning obligation