

SWTC SEPC APPENDIX A3 – APPEAL DECISIONS –

LAND SE OF GRIFFIN PLACE

SWTC SEPC APPENDIX A3 – APPEAL DECISIONS

- 1 Appeal West Street Coggeshall Decision
- 2 Appeal Land off Colchester Rd Bures Hamlet Decision
- 3 Appeal Poplar Hill Stowmarket Decision
- 4 Appeal land North of Rosemary Lane Bran End Decision
- 5 Appeal Land off Thaxted Road Saffron Walden Keir Homes Decision



Appeal Decision

Inquiry opened on 8 May 2017

Site visit made on 18 May 2017

by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC

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

Decision date: 12 July 2017

Appeal Ref: APP/Z1510/W/16/3160474 Land at West Street, Coggeshall CO6 1NS¹

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant a part full and part outline planning permission.
 - The appeal is made by Pigeon Land Ltd and Systemafter Ltd against the decision of Braintree District Council.
 - The application Ref: 15/01271/OUT, dated 1 October 2015, was refused by notice dated 7 July 2016.
 - The development proposed is described² as a hybrid application for mixed use development to include community woodland and public open space. Outline: 8 no. self-build plots and business hub (Class B1a) 836 sqm floorspace (both elements re-sited in revised plans). Full: 98 dwellings with associated garages and parking areas. Proposed new access from West Street and pedestrian access from Robinsbridge Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Inquiry sat between 9-12 May and on 19 May with the site visit held on the 18 May 2017.
3. During the application process the scheme was revised. The proposed number of dwellings in the fully detailed scheme was reduced down from the 119 originally proposed to the 98 dwellings now sought along with associated garages and parking areas, proposed new access from West Street and pedestrian access from Robinsbridge Road, ancillary buildings, roads, footpaths and incidental open space, as well as use of 5.6 hectares as community woodland.
4. Outline planning permission is also sought for eight self-build plots and a business hub (use class B1a). The outline elements of the proposal would be accessed from roads which are the subject of the full part of the application but all other matters within the identified areas are reserved for later approval.
5. Given that consultation was undertaken on the revised scheme, and it was that scheme upon which the Council made its determination, there would be no prejudice arising from my consideration of the revised scheme. I have therefore determined the appeal on the basis of the revised proposals.

¹ At the Inquiry local residents advised that they felt the postcode should be CO6 1NT

² As explained in Preliminary Matters this is a revised description

6. A Screening Direction was issued on 24 March 2017 which directs that this development is not Environmental Impact Assessment development. Nothing was raised to challenge that direction.
7. A s.106 planning obligation (s.106) between Systemafter Limited (the land owner) and the Council was submitted at the Inquiry.³ The s.106 requires the provision of 44 affordable housing units as a mix of rented and shared ownership dwellings. The s.106 prevents more than 55% of the open market housing being occupied until 50% of the designated affordable units (shown on the s.106 plans) have been constructed, and sets out that no more than 80% of the open market housing can be occupied until all of the affordable housing has been constructed. It also sets out details of the type of occupier for the affordable housing and matters relating to any disposal of affordable housing. The second element of the s.106 is to secure a Primary Healthcare Contribution of £34,840 towards provision of primary healthcare works with a clawback provision should the monies not be spent on such works within five years. The s.106 overcomes the Council's reason for refusal no 3 and, as set out in the Statement of Common Ground, that reason for refusal is no longer being pursued.
8. A Community Infrastructure Levy (CIL) Compliance Statement was submitted at the Inquiry.⁴ The affordable housing requirement is in line with the requirements of Policy CS2 of the Braintree District Core Strategy 2011 (the CS), is necessary, and directly and fairly related to the development scheme. The Primary Healthcare Contribution accords with the requirements of Policy CS11 of the CS. The existing doctors' practice does not have capacity for the assumed number of new residents derived from the scheme (254 people) and so a sum is sought towards capital costs for increased provision. The surgery at Coggeshall does not have any other s.106 monies available to it and so there would be no breach of Regulation 123(3) of the CIL Regulations which deals with pooled contributions.

Main Issues

9. The Council and the appellants agree that the Council cannot demonstrate a five year supply of housing land, as required by the National Planning Policy Framework (the Framework). It is therefore necessary to consider the implications of this in determining the appeal. Having that context in mind the main issues are:
 - (a) the effect of the proposed development on the landscape character and appearance of the surrounding area; and,
 - (b) the effect on heritage assets, and particularly, whether or not the proposed development would preserve the setting of the grade II listed buildings at Highfields Farm and the effect on the character or appearance of the Coggeshall Conservation Area.

It is then necessary for me to consider the benefits of the scheme, and any other matters, so as to undertake the necessary balancing exercises and arrive at a decision on this appeal.

³ Doc 3 and Doc 24

⁴ Doc 23

Reasons

Housing Land Supply and the Policy Background

10. The Development Plan includes the saved policies of the Braintree District Local Plan Review 2005 (BDLPR) and the CS.
11. With regard to housing land supply, there was general agreement between the main parties with regard to the figures in terms of available sites and completions. However, the main parties do not agree on the extent of the shortfall. In this regard, there were two areas of disagreement. The first is whether or not the Council has persistently under-performed in its delivery such that a 20% buffer should apply rather than the normal 5% buffer. The second relates to whether the shortfall should be made up over the next five years (Sedgefield approach) or whether it should be made up over the plan period which extends to 2033 (Liverpool approach).
12. In terms of the matter of the buffer, it is apparent that this Council has had periods of very successful delivery compared with the requirement in place at the time. For instance, in 2014-2015 completions exceeded the CS requirement (385 dwellings per annum (dpa)) by 24 dwellings, the following year it was exceeded by 138 dwellings and for 2016-17 it is anticipated that it will be exceeded by 93 dwellings. However, the new objectively assessed housing need (OAN) introduced in November 2016 increases the requirement to 716 dpa. Hence retrospectively applying the buffer to 2013 this leads to a shortfall. Nevertheless, given the Council's record of supply in recent years I do not consider that it can be said that persistent under delivery has arisen. It seems to me that the buffer, which is not intended to be punitive but to simply bring availability of sites forward in the plan process, should be at the normal 5%, not the higher rate.
13. Turning to undersupply, the National Planning Practice Guidance (PPG) advises that local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. This clearly seeks to prevent adding further delay to housing provision which has been deemed necessary. Thus, given the need to significantly boost housing land supply, as advised in the Framework and reinforced in the Housing White Paper – 'Fixing our broken housing market' February 2017, I have no doubt that this should be the starting point.
14. The Council explained that its new Local Plan would be based on new settlements and so it would be delivering large volumes of housing, but later in the plan period. I appreciate that with such an approach, the need for infrastructure and whole settlement planning would inevitably push delivery dates back within the plan period but it could also offer the opportunity of significant amounts of well-planned, and served, housing development. I also appreciate that planning in such a manner, needs to be established early in the plan process so that there is greater certainty of housing and infrastructure requirements, phasing, delivery and financing.
15. However, it is agreed that the new Local Plan is so early on in its progress that it cannot be afforded material weight. In these circumstances, and being realistic about the hurdles of getting a plan adopted and then progressing to development, there is every likelihood that large scale delivery of new settlement(s), if adopted as an approach, would be a long way off. As there is

- a current need for homes for people, provision of sites to meet the existing requirement in line with the Sedgefield approach is what is necessary now, at least until there is greater certainty with the Local Plan and the approach it will take.
16. Furthermore, the new OAN results in a significant increase in housing land supply requirements, indeed the back-log arrived at by imposing the OAN requirement on earlier years (back to 2013) results in a projected shortfall to the end of March 2017 of some 1,272 dwellings. This would add a back-log element of 254 dpa for the next five years to the new requirement of 716 representing a new housing land supply requirement of 970 dpa for that period plus the buffer.
 17. The appellants have set out a range of scenarios based on the Sedgefield/Liverpool approaches and buffers at either 5% or 20%. The figures in those tables are not disputed. The 'Sedgefield and 5% buffer scenario', which I consider to be the most appropriate in this case, based on a supply of housing land for 3,177 dwellings, results in a calculated level of 3.12 years of housing land supply.
 18. Whilst the parties vary in their views about how such a situation should be categorised, whilst far from a good situation it is not critical because, at least in the short term, the supply needed for the new challenging requirement and making up the backlog can be met. Nonetheless, this shortfall is one to which I attach significant weight in the balance. However, it is tempered by the fact that the undersupply, in part, results from a recent reassessment of housing need (November 2016), whereas the Council has a history in recent years of good levels of delivery when compared with the CS targets and is in the process of progressing towards a plan which should deal with the area's housing need.
 19. In terms of other housing land supply matters, I have heard from residents, and, as part of the process prior to the Inquiry opening, was written to by interested parties, including those involved in an emerging Neighbourhood Plan (not so far advanced as to be of material weight) that Coggeshall has taken and will continue to take, its fair share of new housing development. In particular, a previously developed site, the Dutch Nursery Site, is raised as having potential to further add to housing in Coggeshall in the relatively near future. Whilst a positive approach to finding suitable sites and taking local responsibility for encouraging housing delivery is to be welcomed, housing need that exists in the housing market area must be considered as a whole, particularly in the absence of an up-to-date Local Plan. In these circumstances I can attach negligible weight to the Dutch Nursery Site.
 20. As the Council points out, the appeal site has already been put forward and discounted in the initial trawl for sites as part of the Local Plan process. However, in terms of the principle of developing the appeal site, this is not a matter to which I attach weight simply because it may be revisited given the early stage of the plan making process.
 21. The situation I have outlined affirms that in this case paragraph 14 of the Framework applies. This states that where the development plan is out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed

against the policies in the Framework taken as a whole; or, specific policies in the Framework indicate that development should be restricted.

Character and Appearance - Landscape

22. The appeal site is currently an area of open land. The Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006)⁵(LCA) identifies the appeal site as being situated within LCA area A9 - Blackwater Valley. The key characteristics are the shallow valley, with gently rising sides. The land is predominantly arable with a strong sense of tranquillity away from the A120. Extensive linear poplar and willow plantations are identified as a key feature of the valley floor. Visual characteristics include views along the valley corridor. In terms of sensitivities, the LCA notes the importance of historic settlements and the dispersed settlement pattern including farms. It seeks in the suggested planning guidelines, amongst other things, that the landscape setting of settlements is preserved and, in management guidelines, that hedgerow and other planting is strengthened where appropriate to local landscape character.
23. CS Policy CS8 sets out that development must have regard to the character of the landscape and its sensitivity to change and, where development is permitted, it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.
24. At a more detailed level the 'Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Coggeshall'⁶, produced for the Council in 2015, assesses the sensitivity of the land adjoining Coggeshall, including the area of the appeal site, with a view to future development. The appeal site land falls within two areas 4d and 4e.
25. The 4d area is situated to the north of West Street and includes the listed building farm group at Highfields Farm as well as the former isinglass factory and other buildings on this side of the road frontage. The parcel description identifies the ribbon development, trees around Vicarage Field, an informal recreational space, and the footpath connections through the area, noting the views from these paths and the Essex Way, a promoted long distance route on the opposite side (south) of the valley. It identifies that the main edge of Coggeshall is enclosed by relatively dense riparian vegetation along the River Blackwater and Robin's Brook.
26. In establishing guidelines for development it sets out that development should be sensitive to the approach to the Conservation Area and to listed buildings and, also, that cross valley views should be preserved with development situated on the lower valley slopes and contained by existing development and vegetation along the Blackwater corridor. Further, it says the public footpaths should be retained and enhanced, and that planting will be required to preserve the rural context of the settlement and its well contained edge, and should contribute to the 'gateway' along West Street. The area is categorised as having a medium capacity for accommodating development.

⁵ The Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006) by Chris Blandford Associates - extract in the Appendices to the Appellants' Landscape Evidence (Appendix H)

⁶ Braintree District Settlement Fringes Evaluation of Landscape Analysis Study for Coggeshall by The Landscape Partnership - extract in the Appendices to the Appellants' Landscape Evidence (Appendix D)

27. The 4e area is situated to the north of 4d, so is of higher ground, and to the West of Coggeshall. At this side, the tree belt along Robin's Brook is described as containing a reasonable amount of built development within Coggeshall. The A120 defines the northern edge of this parcel of land. Whilst this provides only glimpsed views of larger vehicles, the traffic noise is noticeable throughout the land parcel. The 4e parcel contains large arable fields and slopes south eastwards towards the River Blackwater and Robin's Brook.
28. There are a number of public rights of way crossing this area and from these there are views across the Blackwater Valley and the fields around Highfields Farm. The Landscape Analysis Study comments that the parcel has limited connections with the edge of Coggeshall due to the intervening presence of Robin's Brook, with its associated trees, the relatively strong visual containment of the settlement and the slightly elevated nature of the landscape away from adjacent built development. This area is identified as having a medium-low capacity. No guidelines are provided for developing on or mitigating this area whose character is such that the analysis recommends it is conserved and strengthened.
29. The landscape witnesses who appeared at the Inquiry took different approaches to assessing the landscape. The appellants' witness took the view that the landscape of the appeal site was the key consideration whilst the Council considered that the appeal site with the surrounding landscape of which it forms a part should be the area for assessment. I note this difference in approach was also encountered in the Nanpanton Road appeal⁷.
30. Whilst the Framework paragraph 109 test based on the Stroud case⁸ (which I shall consider later) refers to 'this site' I consider that it would be too narrow to just consider the appeal site. A site might have a variety of characteristics but, taken in isolation, for some sites it would be difficult to assess whether those characteristics have any particular value or importance. Moreover, a site might be important because of its position in the landscape as part of it rather than being important in its own right, rather like the pieces of a jigsaw puzzle. Further, as my colleague in the Nanpanton Road appeal sets out, the interactions between people and place are important in the perceptions of landscape and people will perceive the site in a wider context.
31. I visited the site and viewed it from more distant vantage points. The appeal site is largely open because of modern farming practices and does not include trees or hedgerows other than those which enclose it⁹. Moreover, it had recently been heavily sprayed. However, I do not consider that the heavy spraying and consequent discolouration of vegetation justifies down-grading the value of the land, such spraying operations can damage the appearance of land but are sometimes simply the short term product of agricultural management. Moreover, this or other agricultural practices referred to such as keeping of pigs would not alter the open fields and agricultural character in the way that residential development would. In any event, agricultural and undeveloped land is not uncharacteristic in this landscape. The landscape condition of the site may not appear at its best at present but, given the recent spraying, it is not a matter to which I attach significant weight. Rather, the wider landscape to which it relates appears to be in good condition with

⁷ Appeal Refs: APP/X2410/W/15/3028159 & 3028161

⁸ Stroud DC v SSCLG [2015] WHC 488 (Admin) at 16

⁹ See Figure 2 of the Council's Landscape Witness's Appendices

- attractive fields on the valley slope, well defined riparian trees and attractive hedgerows.
32. The topography is that of a gently rolling slope of a valley side. This provides for visual connection to the much wider landscape of the LCA. The views across the site extend far beyond it. For instance there are extensive views across the Blackwater valley to the south, and from the south towards the rising land of the upper valley slopes. Those views also include areas of settlement be they small farmsteads or larger areas of development, which are often enclosed by trees.
 33. The footpaths provide for views to the key landscape features of the watercourses with their associated tree cover particularly that of Robin's Brook and the Blackwater. This provides for a scenic quality which is added to with the views to the historic buildings of the Highfields Farm group which provides a historic interest/cultural interest. It also offers representative characteristics of the tree lined riparian routes which are a feature identified in the LCA, in a location where recreational enjoyment can be easily accessed.
 34. The value placed on a landscape is put there by people. Those people who utilise this area are the key receptors. The way in which they assess the environment will vary, but those who enjoy the recreational value of the land will be particularly sensitive. In this case there are quite a number of rights of way across and in the vicinity of the site. Those using such routes are high sensitivity receptors because they are moving at a slow pace and often are seeking to enjoy the natural environment.
 35. The key footpaths for views towards the appeal site travelling south/south-west are footpaths 17 and 18¹⁰. Footpath 17 close to the A120 is used as a photomontage point (PM3) but this montage is orientated so that the wooded edge of Coggeshall is seen over the field rather than showing the view to the other side of the Blackwater Valley which is currently seen when traversing the field on this route. There are limited views from Ambridge Road, an old hollow-way¹¹, much of which is lower than the land and enclosed by hedging thereby reducing views out.
 36. To the south, on the opposite side of the Blackwater Valley, is the promoted route, the Essex Way. This has views out over the wider landscape including views over the Blackwater Valley. Whilst the appellants suggested walkers would be looking in the direction of travel and not towards the site, on walking that route it was apparent that because of the position of the hedge-line to the south of the route, views were along the route but also to the north, the opposite valley slope and along the valley. Thus, walkers currently enjoy landscape views, including those of the appeal site, albeit the lower slopes are screened by trees in the valley floor.
 37. Closer to and crossing the site are footpaths 17 (lower section) 50 and 57. Each of these has different characteristics but, footpaths 17/57 result in arriving or leaving the site via Vicarage Field, an area of attractive open space largely bordered by either tree screening or high quality hedgerows. Footpaths 50 and 57 both join footpath 17 which crosses the lower part of the site in an approximately east-west line. Each footpath is able to be used to form part of

¹⁰ The footpath numbers have been taken from Figure 2 of the Council's Landscape Witness's Appendices

¹¹ It was confirmed at the Inquiry that this route does not have protected lane status

- a longer rural walk, including one which joins the Essex Way which runs past the historic Grange Barn¹² agricultural building which clearly links to the wider open landscape because of its former historic use.
38. The linkages and views available from these routes enable enjoyment of the countryside with, at some points, far reaching views over the valley's sloping form and into the Blackwater Valley, as well as to the wooded Robin's Brook Valley. The site's position is such that it creates a linking route across farmland but also, and importantly, provides for views that are free from development other than small, sporadic areas. The recreational value of this landscape is also important because of the Essex Way route.
39. The Council claim that the site is a 'valued landscape' for the purposes of paragraph 109 of the Framework. The Framework does not offer a definition or guide as to what constitutes a 'valued landscape'. I am in no doubt that local residents value the site, but it seems to me that value must go beyond that to be a paragraph 109 landscape or it could simply be applied too often, though nor is there anything in the Framework to indicate that only designated landscapes can be paragraph 109 'valued landscapes'. The main parties, reflecting on case law, agree the test for whether paragraph 109 is engaged depends on there being 'demonstrable physical attributes which would take this site beyond mere countryside' (as set out in the Stroud case referred to above). Other than the appellants' view that the words 'this site' limits the area for landscape character purposes, I have no reason to disagree.
40. The Council drew attention to the fact that this area was formerly designated as an area of Special Landscape Value. However, that designation is no longer in force (it being dropped in 2011 with the adoption of the Core Strategy) and so I do not attach weight to it. However Guidelines for Landscape and Visual Impact Assessment edition 3 (GLVIA3) notes that the lack of designation does not mean that a landscape does not have value. Whilst not all of the factors identified in Box 5.1 of GLVIA3¹³ would suggest a high rating for the appeal site and the landscape of which it forms a part (such as rarity or associations), this only provides for a range of factors to consider, as I have done, and some of the other factors, such as landscape quality, scenic quality, conservation interests and recreational value, are much more significant for this landscape.
41. Taking all the factors I have considered into account I find that the site as part of a landscape is more than merely an area of agricultural land or countryside at the edge of a settlement. Rather, it is a part of a valued landscape, at an increasingly pressurised point near a settlement edge. Thus, I consider it is a Framework paragraph 109 valued landscape. This paragraph of the Framework seeks that the planning system should contribute to the natural and local environment by protecting and enhancing valued landscapes. It does not, however, indicate any particular methodology or approach as to how such status should be weighed in the planning balance and nor does it indicate weight for any of the other matters in the paragraph 109 bullet points.
42. I heard differing views on whether paragraph 109 'valued landscapes' should be considered as a 'footnote 9' specific Framework policy. I also heard differing views on the implications of how it should be weighed in the planning balance.

¹² This is a National Trust Property

¹³ See the Appellant's Landscape Witness Appendix J

43. Footnote 9 does not provide an exhaustive list as it states 'for example'. However, it relates to formally protected or designated sites or interests, which is not the case for this landscape. Moreover, landscape has its own hierarchy of designations. Indeed paragraph 113 of the Framework makes it clear that distinctions should be made between the hierarchy of international, national and locally designated sites and that protection should be commensurate. Paragraph 115 makes it clear that the greatest weight should be given to National Parks, the Broads and Areas of Outstanding Natural Beauty none of which apply here. Such designations would also fall within paragraph 109 'valued landscapes' but at a much higher level of importance than here.
44. In the absence of any clear legal judgement to the contrary, using a commensurate approach to protection I consider that this lower tier landscape in the hierarchy of landscapes, whilst being a paragraph 109 landscape, requires me to consider any harm to it in the planning balance but that in this case it does not affect whether the balance is tilted at the outset.
45. I appreciate this is at variance with the Nanpanton appeal decision. However, in that appeal it appears the parties had broadly agreed a position which is not the case here. I also consider that the paragraph 109 requirement to 'protect and enhance valued landscapes' does not necessarily mean prohibit development rather it requires careful consideration to ensure that development protects and enhances what is valued.
46. The next step is to consider the effect of the proposed development on this valued landscape.
47. The lower part of the appeal site occupies most of the undeveloped road frontage of Parcel 4d, and the rising land northwards to approximately the Highfields Farm area, wrapping around that area a little. The remainder of the site is in 4e. It is not proposed to develop the whole of the site with housing. Rather, the developed area would be entirely to the east of the Highfields Farm complex and an area of open space would be retained on the site frontage. Whilst it would be on rising land, the development would be mainly below the 45m contour line. The density of development would reduce as it progresses up the hillside. It would also be set away from the built edge of Coggeshall at key points such as Ambridge Road, Robin's Brook, Vicarage Field as well as from Highfields Farm.
48. In landscape terms there is scope for development of the West Street frontage area. But development northwards into this area (the upper parts of 4d and the 4e area) is identified as increasingly sensitive, more divorced from the settlement with views of increased importance both from rights of way within the site, from the north and from the Essex Way on the opposite valley side. Whilst the appellants suggest that they have followed the Landscape Analysis Study in this respect, I do not find that to be the case. The study advises that for the lower parcel of land (4d) development should be positioned on the lower slopes and contained by existing development and vegetation along the Blackwater corridor (as set out at page 15 and in the Analysis form). This would not be the case in the appeal scheme which would extend significantly beyond any containment derived from existing development and would not be acceptably screened by the vegetation of the Blackwater Valley vegetation. Development higher up into the 4e parcel is not encouraged by the Landscape

- Analysis Study and is poorly related to existing built development just as the Analysis Study records.
49. In terms of the road frontage development the appeal scheme broadly follows the Landscape Analysis Study's advice. However, some features are not particularly sensitive to the historic location, including the bell-mouth junction onto the old Roman Road not far before the Conservation Area (this is not reflected in the photomontage illustration which is not correct in terms of this detail and simply illustrates a drive type construction with a dropped kerb). In more general character and appearance terms the loss of the estate style railings and likely increased need to undertake work to the chestnut tree on West Street would also have some adverse visual effects. However, the scheme would reintroduce a tree line along the Roman Road, reflecting a historic planting pattern.
50. It is also evident that consideration has been given to the structural planting as vegetative landscape features are important in this location. Indeed the original Landscape and Visual Impact Assessment, upon which I have not focussed because it relates to the larger scheme of 119 dwellings, concluded it would have a Moderate Adverse Effect on the landscape but that with the planting the scheme would result in there being a Slight Beneficial Effect. Hence the proposal relied heavily on planting to mitigate the scheme and the associated judgements in respect of the benefits of the planting. In respect of the appeal scheme, whilst much is made of screening the A120 I do not consider that to be vital given that there are only occasional glimpses of taller vehicles. I note this point is also acknowledged by the Landscape Analysis Study. Moreover, I am not so convinced about the extent of screening/planting proposed. This is because the open arable form and its connection to the higher land beyond is part of the character of the landscape, with denser screening situated along the watercourses and in the valley bottom.
51. Additionally in terms of tranquillity it was suggested planting alongside the A120 would reduce road noise. However, there was no evidence to substantiate this claim. Whilst planting might mask some noise I do not consider, from the information available to me, that planting to improve tranquillity is likely to be a significant benefit especially as the new development would itself generate noise in this locality. That said, I do not consider tranquillity to be an important feature of the site.
52. Whilst photomontages provided by the appellants indicate that there would be glimpsed views of the proposed development, that part in outline only (the self-build units higher up the slope in parcel 4e and business units) are not clearly illustrated. Moreover, the only illustrations relate to summer foliage. As the trees in this area are deciduous there would be considerable periods when the visual impacts would be much greater. This would be of particular significance for photomontage illustration PM1 from the Essex Way where the development would be seen to significantly reduce the open agricultural landscape to the north above the vegetation of Blackwater Valley floor.
53. This would be at odds with the Landscape Analysis Study guidelines which seek to protect cross valley views from the Essex Way by positioning development on the lower valley slopes of parcel 4d. It notes that the field to the East of Highfields is slightly more prominent as are the elevated slopes of the parcel to the north (4e). Despite this, the proposed development extends back and

- upwards from West Street for the full depth of parcel 4d and then continues into the lower slopes of parcel 4e.
54. The photomontage illustrations are focussed on the distant views looking towards the site. However, there would be very significant changes across the site with the footpath routes from Robin's Brook, Vicarage Field and the isinglass factory area (footpaths 17, 50, 57) all becoming dominated by the proposed housing as they cross the appeal site so making current walks across countryside with views out wholly changed. This is not simply a case of it taking a little longer to reach countryside. Rather, it would reduce the feeling of getting out from the settlement because of how it relates to other parts of the right of way network. Furthermore, it would result in the loss of open views to the wider landscape and the important features of that landscape.
55. Far from the aims of the Landscape Analysis Study, the public footpath routes, while retained, would not be enhanced and the visual connections between those routes and the wider landscape would be irreversibly lost. The mitigation offered by way of a formalised woodland area would not overcome those issues or preserve the rural context and well contained edge of Coggeshall at this side.
56. The proposed development would particularly erode the landscape quality around the area closest to Robin's Brook, which is identified as creating an enclosing edge to the settlement of Coggeshall. The development would harm the cross valley views from public rights of way in both directions. Notwithstanding the proposed meadow area close to the Highfields Farm complex, it would also detract from, or result in the loss of, views to the listed buildings at Highfields Farm rather than being sensitive to the listed buildings as landscape features.
57. I conclude that the proposed development, even taking account of the proposed landscaping, would seriously harm the landscape in this locality and would detract from the character and appearance of the area. This would conflict with the Framework requirement to protect and enhance valued landscapes.
58. It would also fail to accord with CS Policy CS5 which limits development outside specified boundaries to uses appropriate to the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. I do not consider a large speculative housing scheme to be an appropriate use for the countryside for the purposes of this policy. Whilst the policy does not set out what is meant by 'appropriate', elsewhere in the CS (at paragraph 4.24 under the heading 'The Countryside') it is clear that it is intended that in the countryside 'development will be severely restricted, unless it is necessary to support traditional land based activities such as agriculture or forestry, leisure and recreation based uses, which require a countryside location...' which assists the clarification of the policy. I appreciate this is not, however, part of the policy but even without this reference I would have come to the same view.
59. I appreciate that the weight to attach to this policy is reduced because it has the effect of restricting land for housing where there is not an adequate supply of housing land. However, this does not mean those aspects which seek to protect and enhance landscape character and the amenity of the countryside are not relevant; indeed the Framework makes them so. Rather, it is

necessary to consider schemes on their own merits in this respect instead of simply applying rigid boundaries. The parties acknowledge this is the approach being taken by the Council which has used the Landscape Analysis Study to support development outside settlement limits in other circumstances. Thus, I attach more than moderate weight to this policy albeit not full weight.

60. Further, whilst not initially raised as an issue, the view that there would be conflict with Policy CS8 was raised at the Inquiry. Despite the mitigation put forward, I am not satisfied that the scheme has adequate regard to the character of the landscape and its sensitivity to change. Thus, I find lack of compliance with CS Policy CS8 to which I attach significant weight given it reflects the Framework.

Built Heritage

Highfields Farmhouse

61. Highfields Farm is a grade II listed building. The parties agree that the Milking Barn should be considered as a curtilage listed building of the Farmhouse. I shall discuss the Milking Barn with the Cart Lodge separately because of the inter-relationship of all three buildings and the original ancillary role of the Cart Lodge and Milking Barn to the Farmhouse.
62. The Farmhouse reportedly dates from c.1600 with C18th and C19th alterations and restoration after a fire of about 1977 (post listing which dates to 2 May 1953). It is identified as a timber framed building that is plastered under a plain red clay tiled roof. This has rear wings, also under red plain clay tiles, beyond which is a C19th hipped roof/two storey range of painted brick under a slate roof with a further single storey section. The two storey elements of the older house and two storey slate roofed range are linked by a single storey flat roof building.
63. The elevation which, architecturally, appears as the front is the south elevation approximately facing, albeit distant from, West Street on the route of the Roman Road, Stane Street. This elevation shows significant change since the original date of listing with the Council's photograph¹⁴ from 1951 providing good visual evidence for the earlier elevational treatment. In common with that photograph the front elevation has a parapet which wraps around the side elevations of the main range. There is a central door with full height splayed bays to either side, each containing three sashes of 12 lights (6 over 6) at both ground and first floor. Between those bays and the door at each side there is a further sash window. Above the door there is a window of three adjacent sashes the central one being taller with a semi-circular head and the narrower outer ones with ogee heads.
64. The house had formerly had a similar bay arrangement but containing a third storey of windows in each bay and a semi-circular central window over a differently proportioned window above the door. Thus, whilst the basic form of this historic elevation remains there is clear evidence of its remodelling, including a remodelling of the position and proportions of the windows resulting in the two storey form where it had previously been configured as three storeys. The loss of chimneys to the main range is, however, apparent.

¹⁴ To be found on page 13 of the Appendices to the proof of the Council's Heritage Witness

65. There are further arch headed windows to the side. Particularly noticeable are that in the side of the front range, which serves the staircase and is situated above the main side door, and the other first floor window in the rear wing of the older part of the house. This elevation faces the track to the buildings of the former agricultural complex and the area of the appeal site proposed for housing.
66. Due to the fire it is acknowledged that the interior is likely to be much altered, although it is of some interest given the history that appears to be associated with some features of the restoration. Some detail is contained within the listing details for the building.
67. The building has potential to provide archaeological value but that is not key to the concerns raised in this appeal. Nor does the house have any clearly identified associative values in terms of people of national interest. Thus, the significance of this building is derived from its architectural (artistic interest in this case is combined with architectural interest) interest and its historic interest as a property of a 'gentleman farmer' with its associations with the rest of the farm complex including the agricultural land, local families and local events. There is also some interest in social history related to the working of the land here and with more general historic development of the area.
68. The fabric of Highfields Farmhouse would not be physically harmed by the proposed development.

The Cart Lodge at Highfields Farm and the Milking Barn (a curtilage building to the Farmhouse)

69. The Cart Lodge is a grade II listed building. I only viewed the property externally. It dates from C17th but was converted to residential use in the mid 1980s. The building is of timber framed construction mainly of a weather-boarded finish with some C20th red brick infill, including the cart openings, under a hipped roof of plain red clay tiles. It has two rear lean-to sections incorporated under the main roof. As part of the conversion casement windows have been added. The west facing roof slope has two cat-slide dormers and a rooflight, while there are a significant number of rooflights to the east elevation. Two metal fluepipes have also been added. Moreover, the whole structure has been lifted onto a concrete pad. Thus, it is evident that the works have involved some significant changes to the historic structure and fabric in order to facilitate the change of use to a dwelling.
70. In addition the enclosure of land as domestic curtilage along with the subsequent planting and domestic paraphernalia have altered the setting of the building as well as its character. Nonetheless, the retained historic fabric and form of the building are such that it is listed, even though the list is clear that it is included for group value.
71. The Milking Barn forms part of the farm complex group. As with the Cart Lodge, it has been converted to residential use. Weather-boarded under a steeply pitched plain red clay tiled simple gable roof, it has been altered with modern fenestration, rooflights and extensions. It is of some architectural and historic interest and contributes to the wider building group.
72. These buildings may have potential for below ground archaeology. There is some architectural interest in the buildings insofar as there are surviving

elements of the vernacular timber-framed structure. Key to the interest of these buildings is their relationship to the historic use of the wider site providing part of the historic layout for the farmstead and, containing within that, historic interest relating to agricultural practices, social history as well as associations with local families and events as identified for the Farmhouse itself.

The Setting of the Highfields Farm Complex Listed Buildings

73. The setting of a building, whilst not an asset in itself, can contribute to the significance of the building. The Framework identifies setting as *'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'*.
74. Highfields Farmhouse and the associated historic former agricultural buildings, from the cartographic evidence, have always been situated in a location that is distinctly apart from other development. The reason for choosing that location is not known but, nonetheless, given the land ownership shown on the historic maps this site was chosen rather than being the only available option to the then landowner. Whether or not the Farmhouse was positioned to survey the surrounding fields, it has reasonable views over the land. Moreover, it is situated away from the settlement core at a point where, from the eastern elevation of the front range, and particularly the first floor stair window, the main settlement with its church tower is seen beyond the fields and above trees. The historic maps do not indicate anything which suggests that relationship has significantly changed over time. Thus, the building is located away from, but with views of, the historic heart of Coggeshall.
75. Also consistent since the earliest map evidence provided (Chapman and Andre 1777) is the presence of an avenue of trees leading up from West Street to the Farmhouse, even though the driveway appears to have been repositioned to the eastern side of a tree avenue by the 1870s. There is evidence from this date onwards of associated farm buildings with the detail of these and particularly the domestic gardens becoming increasingly apparent as the dates of the maps move forward. The remaining historic buildings of the former farmstead and the domestic gardens, including a section of walled garden and the tree lined approach, along with the relationship to the settlement and open agricultural land which had formerly been part of the Highfields Estate¹⁵ are, therefore, historic elements of the setting.
76. It is also apparent that there has, historically, been a gap along West Street between the development in the general location of the gelatine/isinglass factory and the main body of the Coggeshall settlement. The housing on the edge of the settlement appears as the main change in this gap. That frontage development, set back from the road, dates from the mid C20th.
77. In addition to the mid C20th fire at Highfields Farmhouse, the late C20th has seen notable change. In particular there are works to the historic agricultural buildings outlined above and the routing of the A120 (bypassing Coggeshall) across the agricultural land to the north of the farmstead, bisecting the land

¹⁵ The Appellants' Heritage Witness - Appendices Appendix 1, The Council's Heritage Witness - Appendices Figures 4 and 5

- which had formerly been that of the Highfields Estate. Changes to ownership have also affected the agricultural land's use and appearance, especially the modern curtilage arrangements for the converted barns and the loss of hedgerows.
78. The former use and association between the Farmhouse and the farm buildings is particularly important. It clarifies the understanding of the use of Highfields Farmhouse as being the centre of a farmstead complex. Also important to the setting of the house is its relationship to the surrounding open land and the relatively secluded and detached, if not isolated, location away from the main body of Coggeshall and from the sporadic development leading up to it. This provides some status for this grouping within the area. It does not seek the type of status of a building like the elaborate property Paycocke's House¹⁶ situated on West Street. Rather, it emphasises the 'gentleman farmer' status of its earlier owners.
79. The proposed housing would be situated to the south east, east and north east of the Highfields Farm complex. Frontage development would continue the post war housing out from the main body of Coggeshall along West Street, but, behind that, in-depth development would occupy land to the west of Vicarage Field and then wrap around the Vicarage Field area occupying land beyond the modern curtilages of the converted farm buildings back as far as Robinsbridge Road.
80. Whilst there would be no severing of the relationship between the Farmhouse and agricultural buildings, I have no doubt that the proposed housing would significantly intrude on the setting of the Farmhouse and the historic Cart Lodge and Milking Barn by imposing a substantial area of housing between these buildings and Coggeshall to the east. This would considerably reduce the sense of being set apart, from which a degree of status is derived, and diminish the agricultural context for the buildings.
81. There would be no harm to the historic fabric of any of the listed buildings. Moreover, there is no substantiated evidence that developing in this location would harm a specific designed view or formal interrelationship between these historic buildings and another building or landscape feature. Thus, I do not consider that substantial harm would arise in this case. The buildings would remain worthy of listing for their special architectural and historic interest. Nonetheless, the harm would be significant so that while less than substantial harm would arise, the harm would be at the higher end of less than substantial harm for Highfields Farmhouse. I note in this respect Historic England concluded the proposals would cause serious harm to the setting of the grade II listed buildings at Highfields Farm.
82. Whilst it was argued that the historic and architectural appearance of the farm buildings is such that they would be recognised as agricultural even if engulfed by housing, this does not address the importance of setting in adding to the significance of the buildings. In this case the significance is contributed to by the open agricultural land which enables the buildings to be read together in context and in a manner where their scale relates to the expanse of farmland. Whilst not in the ownership of the former Estate, most of the open land remains in agricultural use as it was when the 1852 Map of the Estate was compiled with the A120 route being a notable exception. I appreciate that in

¹⁶ This is a grade I listed building

intervening years there was another use of some of the land, as a football field, but this too was an open land use. This does not mean to say the land should be precluded from other use or development, but does lead me to conclude that on the range of less than substantial harm a moderate level of harm would arise for these buildings which are, to a large extent important, because of their group value rather than their specific architectural quality given the extent of works which have been undertaken.

83. The less than substantial harm I have identified has implications for the approach to historic buildings in terms of the Framework. It does not, however, alter the position with respect of the legislative requirement that I must pay special regard to the desirability of preserving a listed building, its setting and any features of special architectural or historic interest which it possess. The harm arising here is undoubtedly a matter to which I must attach considerable importance and weight.
84. Turning to the Framework because less than substantial harm would arise I am required to weigh that harm against the benefits of the proposal. I return to this below.

Conservation Area

85. The Coggeshall Conservation Area is characterised by its medieval plan form and the particularly high quality of buildings within it. As with many conservation areas, the quality varies across the area, as do the age and date of buildings. Much of the core area development is tight-knit and includes numerous listed buildings, including the historic and exuberant Paycocke's House (a National Trust property), which demonstrates its owners' wealth founded on the cloth trade. However, not all of the Conservation Area is of higher density; some areas such as those around Grange Barn, a monastic barn, and the Abbey ruins, are more spacious and verdant.
86. The Conservation Area boundary almost adjoins the appeal site on West Street. At this point the Conservation Area encompasses the mid C20th housing. It does not include Vicarage Field to the north or the road frontage of the appeal site.
87. At this side of the settlement the largely open, rural setting has a bearing on how the Conservation Area is perceived. Unlike the appellants, I consider that the sporadic development on approaching Coggeshall is quite different in character from that of the main body of the settlement. There is some road frontage housing in this area along West Street. However, it also includes a significant number of larger buildings, businesses or other uses, some of which appear to have been located away from the settlement core for practical use purposes, such as separating less pleasant uses from the town or to gain proximity to natural resources such as water or to provide recreational space.
88. This area, and the verdant break, before the Conservation Area starts, provides a visual buffer and also means that the high quality of the Conservation Area is almost immediately apparent when approaching from this direction along the former Roman Road. The setting of a Conservation Area does not have any statutory protection. Nonetheless, it does have a bearing upon how the heritage asset is understood as a settlement without significant urban fringe sprawl. The introduction of housing along the road frontage would reflect the C20th housing within the Conservation Area. However, those houses face other

housing development on the opposite site of the street. In contrast, the appeal scheme would appear as more of an incursion into the existing verdant gap and would harm this approach to the Conservation Area. Thus, there would be modest harm to the Coggleshall Conservation Area were the appeal scheme to be built. Again I note Historic England concluded that there would be harm to the Conservation Area as a consequence of this proposal. The harm I have identified is a matter for the planning balance.

Other Heritage Assets - including listed buildings

89. Coggleshall has a significant wealth of listed buildings. However, given the degree of separation between those properties, including those on West Street, and the appeal site there would be limited impact upon the setting of those buildings, albeit there would be an impact. As such these properties are not addressed further and I have focussed on the listed buildings most affected.

Heritage Policies

90. The proposal results in conflict with CS Policy CS9. This policy seeks to protect and enhance the historic environment in order to respect and respond to local context, including where development affects the setting of historic buildings, conservation areas and landscape sensitivity. The scheme also conflicts with saved Local Plan Policy RLP95 which seeks, amongst other things, to preserve and enhance the setting of conservation areas.

91. Saved Local Plan Policy RLP100 does not appear to be strictly relevant in this case as it relates to alterations, extensions and changes of use to listed buildings and their settings. However, inherent in the application is the change of use of the existing agricultural land to residential and business use. The Policy explains changes of use will only be acceptable where they do not harm the setting of the building, stating 'The Council will seek to preserve and enhance the setting of listed buildings by appropriate control over the development, design and use of adjoining land.' Given the lack of clarity about this policy I accord it little weight but note that, in any event, the matter of setting is one covered by statutory duties.

92. In terms of weight to attach to these policies, I note that they do not set out the balancing requirements of the Framework so lessening their weight. However, their requirements reflect the statutory position in respect of these designated heritage assets. As such, and subject to the balance requirement being undertaken in a formalised way, I consider that policies CS9 and RLP95 should be accorded considerable weight.

Benefits of the Scheme

93. The scheme would provide 98 dwellings and provision for a further 8 dwellings on a self-build plot basis. This represents a significant number of additional dwellings and reflects the Government's objective of supporting self-build opportunities to broaden the housing offer. Moreover, because the scheme for the 98 dwellings is submitted as a full application there is a greater likelihood of prompt delivery and that delivery would include a mix of properties ranging from 1 bedroom apartments to 5 bedroom houses as well as 33 bungalows aimed at meeting the needs of the county's aging population.

94. In addition, that housing would be policy compliant in providing 44 affordable dwellings. Again, that would be a significant benefit given the need to expand

the type, range and affordability of housing available and in this part of the scheme two of the 13 bungalows proposed would be built as wheelchair accessible properties, with the remainder of the affordable accommodation being 13 houses and 18 apartments. These factors weigh heavily in favour of the scheme in the balance, particularly given that the Council cannot demonstrate a five year housing land supply. This housing offers social benefits. It would also provide economic benefits during the construction phase and, once occupied, residents would be likely to support the local economy.

95. The appeal scheme includes a significant area of public open space/community woodland as part of the proposals as noted in the description of development. The change of use of land for recreational purposes requires planning permission. This benefit does not fall within the CIL regulations for assessment as it is simply part of the proposals. That said, for it to be afforded weight as a positive part of the proposals it needs to be secured and would need to be genuinely available as public open space. The physical laying out and planting could be secured by condition and the use could be restricted to that of community woodland. As such, that element of the scheme would be a benefit which weighs positively in the planning balance. That benefit would be relatively limited given that there is already a good footpath network within the locality providing access to the rural area beyond the main settlement. That said, there would be new recreational opportunities for children and young adults, including a children's play space (a local equipped area for play - LEAP) and trim trail, which the Braintree Green Spaces Strategy of 2008 identifies as being deficient. This would therefore be a social benefit. There would also be an environmental benefit because of opportunities for greater bio-diversity to be introduced than with some possible agricultural uses.
96. Whilst the appellants attach weight to the screening of the A120 and provision of a permanent meadow area around the listed building group at Highfields Farm, I attach very little weight to this. The impact from vehicles on the A120 is modest, limited to taller vehicles, and the existing field with hedgerow form relates to the wider landscape, as set out above, such that woodland screening is not necessarily such a positive benefit. In terms of the protection of space around the listed building, this would be modest compared with the extent of existing agricultural land. While I appreciate that agricultural practices might appear less attractive than a perceived agricultural character of open field, pasture or crop use, any agricultural use would retain the current status and use, unlike the scheme which would result in a significant part of the area being developed with housing. Any positive weight derived from these perceived benefits in terms of biodiversity and formalised open meadow would, in my view, be negated by equal or greater harms associated with reduced open space, increased urbanisation of the area and increased on site activity.
97. The scheme includes a business hub (Use Class B1(a)) which would also provide scope for economic growth and have the benefit of potentially reducing travel to work distances for new residents or those already within Coggeshall. As with the housing, there are also likely to be some economic benefits during the construction phase and potentially from occupation of the hub units. Thus, there are also social, economic and potential environmental benefits from this scheme.
98. The benefits set out are matters for the planning balance.

Other Matters

99. Local residents and the Parish Council raised a number of additional matters including flooding at Robins Brook and West Street, concerns about highway access and parking, transport infrastructure and public transport, education provision, noise and disturbance from the proposed business units for the occupiers of the nearest existing homes, adequacy of sewerage infrastructure and disruption to traffic flow and noise for nearby residents during construction. These matters have all been considered and subject to conditions, where necessary, following the advice of the statutory and professional consultees provided to the Council, I am satisfied they would not result in material harm were this proposal to proceed.

Development Plan

100. It is necessary to consider the weight to attach to the policies of the development plan and whether the proposal accords with the development plan taken as a whole. In this case the housing land supply position is such that the policies for the supply of housing are out-of-date. This reduces the weight which can be attached to those specific policies, but they have not been promoted as a reason for refusal in this case as emphasis has been placed upon the OAN requirements.

101. In terms of the countryside policies it is clear that the Council has been making objective assessments attaching weight to evidence such as that in the Landscape Analysis Study work. As such it is evident that the countryside character policy is being applied in such a way as to protect what is important, albeit by using guidance that does not have formal status. This approach is in line with the advice of the Framework. For the reasons set out above I accord more than moderate weight to Policy CS5 albeit not full weight. I also attach weight to Policy CS8 as explained above.

102. Insofar as the heritage policies reinforce the statutory duties I accord them considerable weight but acknowledge that the weight given to those policies needs to be reduced because those policies do not formalise a balancing exercise with public benefits.

103. I appreciate that the proposed development provides much needed housing and would comply with policies in respect of creating high quality places to live, affordable housing, public open space, accessibility and biodiversity and would also assist employment provision. However, because of the harms I have identified, I find the scheme would not accord with the development plan taken as a whole.

Balancing Exercises and Conclusion

104. The Framework is a key material consideration in determining planning proposals. In this case this national policy establishes an approach to dealing with certain matters and/or circumstances.

105. The first Framework based balancing exercise which I consider it necessary to make is that relating to the heritage assets. This is because the outcome of this balance affects the applicability of paragraph 14 of the Framework.

106. As I have identified less than substantial harm to the designated heritage assets, it is necessary to weigh the harm to each of them with the benefits of

the appeal proposal. Of the designated heritage assets cited, I have found greatest harm to the listed building Highfields Farmhouse. However, balancing the harm to that listed building, and giving it considerable importance and weight, I find that the balance with the public benefits of providing the housing proposed in this scheme is such that the balance lies in favour of the housing development given the extent of the housing shortfall in the District.

107. Given that Highfields Farmhouse is the most affected listed building, it is not necessary to make a specific balance for each other heritage asset as this assessment means the scheme does not fail on the Framework test that *'specific policies of the Framework indicate development should be restricted'* (this is the second strand of paragraph 14 bullet point 2).
108. However, it remains necessary to apply the first strand of paragraph 14 bullet point 2 and consider the balance set out which seeks granting of planning permission unless *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*.
109. It is necessary to aggregate all the adverse impacts and weigh them against all the aggregated benefits but applying the tilted balance because the Council does not have a five year housing land supply.
110. On one side of the scales are the harms to each of the designated heritage assets and the harm to the landscape and character and appearance of the area which I identified. These are matters of importance, each being a matter to which the Framework attaches significance.
111. In terms of the benefits I find that the extent of undersupply to be of a moderate level. As identified by the Framework, significant benefits would accrue from the proposed housing because of the numbers involved and the affordable housing element. To this there are some modest public open space, social, economic and biodiversity benefits.
112. Having considered that balance it is my judgement that the harms to the heritage assets and to the landscape, both of which also contribute to the character and appearance of the area, are such that those adverse impacts significantly and demonstrably outweigh the benefits of the scheme before me.
113. Therefore, in addition to the conflict with the development plan, I conclude that the proposal does not gain support from the Framework taken as a whole.
114. Thus, for the reasons set out above, and having paid regard to all other matters raised, the appeal fails.

Zoë HR Hill

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Dr Ashley Bowes of Counsel assisted by Mr Liam Wells	Cornerstone Barristers, 2-3 Gray's Inn Square Instructed by Michael Jones, Solicitor Braintree District Council
---	--

He called:

Mr Clive Tokley MRTPI	Independent Town Planning Consultant
-----------------------	--------------------------------------

Mr Nigel Cowlin BA (Hons) DipLA CMLI	Managing Director Nigel Cowlin Ltd
---	------------------------------------

Mr Richard Broadhead BA(Hons) MSc	Historic Building Consultant Essex County Council
--------------------------------------	--

FOR THE APPELLANT:

Mr Trevor Ivory He called:	DLA Piper UK LLP
-------------------------------	------------------

Mr Andrew Thompson MA (Urban Design) BA(Hons) MRTPI	Director Beacon Planning Ltd
---	------------------------------

Mr Mark Flatman CMLI DipLA BA(Hons)	Director Liz Lake Associates
--	------------------------------

Dr Jon Burgess PhD MA(Arch Con) BPI BA(Hons) MRTPI IHBC	Director Beacon Planning Ltd
---	------------------------------

INTERESTED PERSONS:

Ms Tina Sivyer	Local Resident
Mr Trevor Plumb	On behalf of Coggeshall Parish Council
Mrs Belinda Wargent	Local Resident
Mr Tom Walsh	Coggeshall Neighbourhood Plan
Mr F McKennon	Local Resident
Mr A Stevenson	Local Resident
Mrs Phillippa Butler	Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1	Statement of Mr Tom Walsh on behalf of Coggeshall Neighbourhood Plan
Doc 2	Signed Statement of Common Ground
Doc 3	Draft s.106 Obligation

- Doc 4 Extract from GLVIA3
- Doc 5 Committee Report for application 16/01653/OUT Land East of Boars Tye Road, Silver End, Essex
- Doc 6 Committee Report for application 16/00397/OUT Land East of Mill Lane, Cressing, Essex
- Doc 7 Extract from the Oxford English Dictionary
- Doc 8 Plan to show extent of previous Special Landscape Area designations
- Doc 9 Opening on behalf of the Appellants
- Doc 10 Opening on behalf of the Council
- Doc 11 Statement of Coggeshall Parish Council (as read by Mr Plumb)
- Doc 12 Supporting text to Policy CS1
- Doc 13 Draft Conditions
- Doc 14 Braintree District Local Plan Review 2005
- Doc 15 Braintree District Council Local Development Framework Core Strategy 2011
- Doc 16 Braintree District Protected Lanes Assessments July 2013
- Doc 17 Judgement Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another(Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) before Lord Neuberger (President), Lord Clarke, Lord Carnwath, Lord Hodge and Lord Gill, Easter Term [2017] UKSC 37
- Doc 18 Bundle of Listed Building Descriptions (Mendips, Zebra Crossing near Abbey Road and Charles Dickens House)
- Doc 19 Statement of Mr F McKennon
- Doc 20 Queen’s Bench Division Planning Court Leckhampton Judicial Review – Request Refused
- Doc 21 Local Plan Monitoring Report 1 April 2015-31 March 2016
- Doc 22 Preston Road Action Group and Gayzer Frackman and SoS for Communities and Local Government and Lancashire County Council and Cuadrilla Bowland Ltd and Cuadrilla Elswick Ltd [2017] EWHC 808 (Admin)
- Doc 23 Statement of Community Infrastructure Levy Regulations Compliance
- Doc 24 Copy of the signed s.106 Planning Obligation between Braintree District Council and Systemafter Limited
- Doc 25 Copy of a social media message regarding the site visit
- Doc 26 Revised Draft Planning Conditions
- Doc 27 Statement of A Stevenson
- Doc 28 Practice Note on Citation of Authorities
- Doc 29 Court of Appeal Cherkley Campaign Limited and Mole Valley District Council and Longshot Cherkley Court Limited [2014] EWCA Civ 567
- Doc 30 High Court The Forge Field Society, Martin Barraud, Robert Rees v Sevenoaks District Council v West Kent housing Association, The Right Honourable Philip John Algernon Viscount De L’Isle [2014] EWHC 1895 (Admin)
- Doc 31 Regina (Palmer) v Herefordshire Council [2016] EWCA Civ 1061
- Doc 32 Shadwell Estates Ltd v Breckland District Council v Pigeon (Thetford)Ltd
- Doc 33 Statement of Phillippa Butler (received in hard copy after the close of the Inquiry)

- Doc 34 Closing Submissions on Behalf of the Council
Doc 35 Closing Submissions on Behalf of the Appellants

PLANS

- Plans A1-A30 The applications plans as determined and set out at 12.4 of the Statement of Common Ground:
- Location Plan 366-LP-01, 23/09/2015; Existing levels 1 366-SK-09, 23/09/2015; Existing levels 2 366-SK-10, 23/09/2015; Illustrative Proposed Levels Plan 2944.SK06, September 2015; Landscape Masterplan 172205D, September 2015 (Revised); Planning Site Layout 1 of 2 366-SK-01C, 23/09/2015 (Revised); Planning Site Layout 2 of 2 366-SK-02A, 23/09/2015 (Revised); Block Plan 366-SK-03D, September 2015 (Revised), Storey Heights Plan 366-SK-04C, 23/09/2015 (Revised); Affordable Unit Plan 366-SK-05C, 23/09/2015 (Revised); Refuse Collection Plan 366-SK-06C, 23/09/2015 (Revised); Garden Compliance Plan 366-SK-07C, 23/09/2015 (Revised); Parking Compliance Plan 366-SK-08C, 23/09/2015 (Revised); Street Elevations 014-038-011 P3, 23/09/2015 (Revised); Bungalow Types B2A & B2B 014-038-101, September 2015 (Revised); Bungalow Types B2C & B2D 014-038-102 P1, September 2015 (Revised); House Types 3A 3Ai 014-038-103 P2, September 2015 (Revised); House Types 4A & 4B 014-038-104 P1, September 2015 (Revised); House Types 4C & 4F 014-038-105 P2, September 2015 (Revised); House Types 5A & 5B 014-038-106 P1, September 2015 (Revised); House Types AB1 & AB2 014-038-107 P2, July 2015 (Revised); House Types AH1, AH2 & AH2i 014-038-108 P2, September 2015 (Revised); House Types AH3, AH3i & AH4 014-038-109 P2, September 2015 (Revised); House Types AH2A & AH5 014-038-110 P2, September 2015 (Revised); House Types _AF1_AF2 014-038-111 P2, September 2015 (Revised); Garages 014-038-112 P2, September 2015 (Revised); House Types 3D & 4F Render 014-038-113, March 2016 (Revised); Apartment Types AH1, AF1 & AF2 014-038-114, March 2016 (Revised); House Types_3A, 3Ai & Garage 014-038-115, March 2016 (Revised); House Types AH2A & AH3 014-038-116, March 2016 (Revised).
- Plans Bundle B The superseded plans as set out at 12.1-12.2 of the Statement of Common Ground
- Plan C Plan for the Site Visit Route



Appeal Decision

Inquiry Held on 12-15 and 19-20 February 2019

Site visit made on 21 February 2019

by Robert Mellor BSc (Est Man) DipTRP DipDesBEnv DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2019

Appeal Ref: APP/Z1510/W/18/3207509

Land off Colchester Road, Bures Hamlet, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Braintree District Council.
 - The application Ref 17/02291/OUT, dated 21 December 2017, was refused by notice dated 26 June 2018.
 - The development proposed is for the erection of up to 98 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Colchester Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline and all matters are reserved for subsequent determination apart from the principle of the development and the means of access.

Main Issues

3. Having regard to the provisions of the development plan and to other material considerations, including national policy, I consider the main issues to be:
 - What effect the development would have on the landscape character and appearance of the area.
 - What effect it would have on the significance of heritage assets.
 - Whether adequate provision would be secured for affordable housing and for necessary infrastructure to support the development.
 - What effect the development would have on biodiversity including whether any likely significant effect on the Blackwater Special Protection Area/RAMSAR site would require that an Appropriate Assessment be made of such impacts before determining the appeal.
 - Whether there is a 5-year supply of housing land in Braintree District.

- Whether, having regard to the planning balance and to the provisions of paragraph 11 of the National Planning Policy Framework, if the most important development plan policies for determining the application are out-of-date, or if there is not a 5-year supply of housing land, should the proposal trigger a presumption in favour of this development of market and affordable housing or do any of the listed exceptions to that presumption apply here?

The Policy Context

4. Statute requires that the appeal be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan includes the saved policies of the Braintree Local Plan Review (2005) (the RLP) and the Braintree Core Strategy (2011) (the CS). Material considerations here include: the National Planning Policy Framework (2019) (the Framework); national Planning Practice Guidance (PPG); the emerging Braintree Local Plan (eLP); and the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan (the MP).

The Site and its Surroundings

5. Bures Hamlet in Braintree District, Essex, is on the western side of the River Stour and faces Bures St Mary in Babergh District, Suffolk, on the eastern side of that river. The built-up areas of the 2 settlements meet at the main river bridge and the 2 parishes function as a single village with many shared services.
6. The appeal site is an L-shaped open arable field to the south of Bures Hamlet. It fronts Colchester Road to the north east and is raised above the level of that road. To the south east the site boundary runs along the Cambridge Brook which joins the River Stour to the east of Colchester Road. To the south west the site is bounded by the embankment that carries the Marks Tey-Sudbury branch railway line across the valley of the Cambridge Brook. To the north west the site in part adjoins a smaller arable field owned by Braintree District Council and otherwise adjoins an area of mixed 20th century suburban residential development.
7. Each village has a designated conservation area. That at Bures Hamlet is limited to the village core. It excludes the appeal site and the adjacent 20th century housing which separates the appeal site from that village core. The Bures St Mary Conservation Area extends beyond the core of that settlement to include open land in mainly open recreational use on the east bank of the river opposite the appeal site.

REASONS

Landscape character and appearance

8. The appeal site lies outside but adjoining the development boundary of Bures Hamlet as currently defined in the development plan by RLP Policy RLP2 and CD Policy CS5 and also as defined in the emerging Braintree Local Plan by eLP Policy LPP1. Each policy treats the areas outside development boundaries as countryside where proposals are subject to a policy restriction on development that would exclude the proposed type of housing development. The proposed development would thereby be in conflict with both the current and emerging

development plan policies. However, the weight to be attached to the policies is disputed by the parties and is addressed below under the Planning Balance.

9. RLP Policy RLP 80 provides amongst other things that development will not be permitted that would not successfully integrate into the local landscape. However, it lacks more specific criteria for the assessment of proposals. CS Policy CS8 is a wide-ranging policy for the Natural Environment and Biodiversity. It applies both within and beyond the development boundary. Amongst other things it provides that development: *'must have regard to the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment'*. This provision remains applicable notwithstanding that, whilst there has been an assessment of landscape character, the further definition of Landscape Character Areas and guidance as envisaged in the policy (and in the text relating to Policy RLP 80) has not come forward.

Landscape Baseline

10. The Braintree Landscape Character Assessment (LCA) [ID12] is helpful in assessing the baseline situation on the Essex side of the River Stour. The site falls within the A2 Stour River Valley Landscape. That landscape type covers an extensive area and the LCVA is inevitably broad brush in its scope. However characteristic features identified in the LCA and found on and around the appeal site include, as identifiable landscape qualities: a broad flat valley floor; a patchwork of pasture and arable farmland on the valley sides; plantations of cricket bat willows on the floodplain; traditional settlements with limited modern development; panoramic views of the valley; and church towers as distinctive features. Visual characteristics include: the river as a focal point; churches as key landmarks; and panoramic views from valley slopes and along the valley floor.
11. Of particular relevance to the appeal proposal, the LCA identifies the skyline of the valley slopes as visually sensitive with potential new development being highly visible within views across and along the valley floor. Views to the valley sides from adjacent landscape character areas (such as here from the Suffolk side of the river) are also cited as sensitive. Overall the character area is assessed as having relatively high sensitivity to change.
12. Key planning and land management issues are identified as including: *'small urban extensions of the larger settlements within the valley'*. Suggested landscape planning guidelines include: *'Consider the visual impact of new residential development ... upon valley slopes'*, *'Maintain cross-characteristic views across and along the valley'* and *'Ensure any new development on valley sides is small-scale, responding to historic pattern, landscape setting and distinctive building styles.'*
13. Although near views of the appeal site are available from the adjacent road, railway, dwellings, and some agricultural land within Essex, there are also medium and long views of the appeal site from the valley floor and valley sides within Suffolk. From there the site is currently seen as rising open arable land on the valley side, partly enclosed by hedges and trees, and set against a backdrop of woodland along the railway embankment which disguises the man-made character of that feature. There are some long views from the valley floor within the Conservation Area across the site which in winter can include

- glimpses of the distant church tower at Mount Bures. From higher ground on the Suffolk side the site reads as a continuation of the similar rolling farmland to the south and also to the west beyond the railway. It contributes with that other land to what has been described as the green nest setting of Bures.
14. The landscape on the Suffolk side of the river is part of the baseline of the wider area around the appeal site and is important to its context. It shares many landscape and visual characteristics with that on the Essex side. In the Babergh landscape guidance (2015) [ID11] the adjacent landscape character areas are the 'Valley Meadowlands' on the valley floor and the 'Rolling Valley Farmlands' above. Relevant characteristics of the latter area include: '*From elevated locations ... substantial views are obtained*'; and '*Historic villages blend with the valley landscape, with the buildings complementing a landscape of the highest visual quality.*' An objective for both character areas is to: '*maintain and enhance the distinctive landscape and settlement pattern*'. The guidance warns in relation to the Valley Meadowlands that: '*The sense of tranquillity of this landscape ... can ... be impacted by development of the adjacent Rolling Valley landscapes which are often a focus for settlement and development*'. As the landscape on both sides of the valley share similar characteristics that effect would also apply to development on the Essex side.
 15. The appeal site lies close to the Dedham Vale Area of Outstanding Natural Beauty. However, there is little direct inter-visibility and no harm to the setting of the AONB has been alleged by the Council. Nevertheless, there is a long-standing ambition shared by the relevant local Councils and amenity groups to extend the AONB to include more of the Stour Valley. To that end a Report entitled: '*Special Qualities of the Dedham Vale AONB – Evaluation of the Area between Bures and Sudbury*' was commissioned from Alison Farmer and produced in 2016 (The Farmer Report).
 16. The Farmer Report concluded that only part of the extensive area evaluated was of a quality to merit designation as an extension to the AONB. It identified a potential candidate area for the AONB extension that includes Bures and the surrounding area. Amongst other things the Farmer Report commented on the relatively intact pattern of the landscape north and south of Bures and that a conservation area includes the valley floor. However, it also notes that peripheral development in Bures has altered the way in which the settlement sits in the landscape. Before defining a boundary for the AONB the Report cited a need for further scrutiny at Bures and two other settlements regarding whether the settlements should be included in the AONB or excluded. The Report noted on the one hand that the settlement is surrounded by high quality landscape but on the other that there have been housing estate extensions to the south west (adjoining the appeal site) and to the south east (in Bures St Mary). Particular scrutiny was recommended as to: '*the extent to which modern housing effects [sic] the intact character of the settlement and its relationship with the valley floor*'.
 17. I saw that whereas the two village conservation areas are mainly characterised by local vernacular buildings, often built in rows or terraces close to the road, the peripheral 20th century extensions referred to in the Farmer Report are made up of a mixture of ribbon and estate development in a variety of different contemporary styles and materials that are generally not characteristic of the Stour Valley. They are more suburban in layout than the historic village cores.

18. The appeal site adjoins some of that modern housing on part of its northern boundary but is otherwise buffered by an intervening field. The remaining boundaries adjoin woodland and the brook or Colchester Road, beyond which is an area of meadowland and the river. In its open and gently sloping condition as arable land I consider that the appeal site is part of the intact high quality landscape described in the Farmer Report and that its landscape character has not been significantly affected by the adjacent modern housing.
19. Unusually, the statutory Management Plan for the Dedham Vale AONB also includes the whole of the Stour Valley Project Area, although only part of that area is recommended in the Farmer Report for consideration for inclusion in an extension to the AONB. The Project Area lies outside the AONB boundary and does not itself have any statutory landscape or other designation. It is thus not subject to the statutory requirement to prepare a management plan. Nevertheless, the Management Plan is a material consideration. It does not seek to preclude housing development in the AONB or the Stour Valley. However, it qualifies support for such development as applying to that which: sits well with the patterns of historic villages; contributes to the architectural patterns of the area; and which seeks to meet the needs of the community in terms of affordable housing.
20. Paragraph 127 of the Framework provides amongst other things that planning decisions should ensure that developments are: *'sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'*. Paragraph 170 of the Framework provides amongst other things that planning decisions should contribute to and enhance the natural and local environment by: *'a) protecting and enhancing valued landscapes, ... (in a manner commensurate with their statutory status or identified quality in the development plan)'* and *'b) recognising the intrinsic character and beauty of the countryside'*
21. I consider that recognition of the intrinsic character and beauty of the countryside would have little practical effect without an assessment of the particular qualities of the countryside and the landscape setting where development is proposed and the effect of that development upon them. Neither, having regard to Paragraph 127, do I consider that the exhortation to protect and enhance *'valued'* landscapes is necessarily limited to landscapes that have either a statutory designation or a local designation in the development plan.
22. The Framework does not provide a definition of a valued landscape. However, I consider it improbable that the addition of the words in brackets to paragraph 170(a) which occurred in July 2018 was intended to encourage policy makers to revive the practice of creating local *'Special Landscape Areas'* or similar designations in development plans as a means of identifying a valued landscape. Previous advice had sought to discourage such designations in favour of landscape character assessment which would identify the distinctive and valued qualities of landscapes. That is of particular relevance here where the RLP designations of Special Landscape Areas including in the Stour Valley were superseded in the CS by policies which referred to the use of landscape character assessment.

23. Had the creation of new local designations been the Government's intention then I consider that it would have been highlighted in the public consultation on the changes to the Framework and made explicit in the new text. Moreover, even if that were the intention there would be a long hiatus whilst all the necessary work was carried out to identify, consult upon, examine, and adopt the necessary policies as part of the statutory development plan framework, during which sensitive landscapes would remain vulnerable to insensitive development. In any event, whether or not the site qualifies as a 'valued landscape' in the terms of the Framework, the Framework at Paragraph 127 requires development to be sympathetic to its landscape setting. Such consideration must necessarily have regard to the sensitivity of that landscape.

Landscape Value

24. In this case I consider that there is ample evidence that the landscape around Bures, including the appeal site, is not ordinary countryside of no value but is of high sensitivity and is locally valued. That evidence encompasses: its inclusion in the Stour Valley Project Area and the Management Plan; the commissioning and conclusions of the Farmer Report; the submissions to Natural England to review the AONB designation; and the related text of the emerging Local Plan at paragraph 8.27 which highlights the sensitive nature of the upper Stour Valley and supports the aims of the Management Plan whilst also seeking to avoid prejudicing the expressed long term aim to extend the AONB to this area.
25. The appeal site itself displays many of the characteristics of the A2 character area. It is arable farmland on the rolling valley sides. It is visible both from within and across the valley. It contributes positively to the setting of Bures within the valley, notwithstanding that other nearby development may have had an adverse impact in that regard.

Landscape Effects

26. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA). This focussed most attention on the site itself and its landscape features. These were assessed as of only medium landscape quality, sensitivity and value. The LVIA did not acknowledge the conclusions of the LCA that the landscape of the wider character area is of high sensitivity or the Farmer Report conclusions that the landscape south of Bures is of high quality (and similar to that of the AONB). I therefore consider that the LVIA understates the sensitivity and value of the appeal site as part of that landscape. Neither did it acknowledge the conclusions of that Report that the peripheral housing estate extensions had altered (and by inference harmed) the way in which the settlement sits in the landscape such that further scrutiny may conclude that the settlement would not itself merit inclusion in the AONB.
27. Where the LVIA does refer to the impact of the proposed development on that wider landscape it was seen only in the context that it would be an incremental addition to the existing settlement to the northwest. This led to a conclusion that there would be no significant adverse landscape effects and no more than moderate adverse visual effects in the near vicinity. I disagree.
28. The application is in outline and thus no design details have been submitted for determination. However, the lower part of the site to the south adjacent to Cambridge Brook is in a flood zone which would not be suitable for built

development. The proposal is for 98 dwellings and the illustrative layout indicates that this would probably be 2 storey development with a suburban style road layout. A respect for traditional architectural styles in the area as indicated in the Design Statement would imply relatively steep gabled roofs. Together with the raised level of the site above Colchester Road the overall effect would be a marked change from an open field visible from the valley floor as part of an area of open countryside to a relatively dense and homogenous block of suburban development without significant visual gaps. It would be of different townscape and visual character to the characteristic street scenes to be found in the village cores of the two conservation areas and also different in style, materials and form from the adjacent 20th century development.

29. Whilst the LCA and Management Plan preferences for 'small-scale' development are not defined, I do not consider that this proposal could be so described. That a similar preference is included in the guidelines for many other landscape character areas in Braintree is unsurprising given that this is a mainly rural area where most existing development has occurred organically and at a small scale. The development would add considerably to the peripheral extension of Bures Hamlet towards the south in the form of a large housing estate, exacerbating and extending the adverse effect that the 20th century development has already had on the historic settlement pattern, including in views from higher ground in Suffolk.
30. The development would contain views from the valley floor which would then be surrounded by built development on 3 sides. Panoramic cross-valley views would be restricted and there would be a loss of outward views from the valley floor to the open countryside. Even were the buildings to be limited in height to 2 storeys (or 9m) they would still break the skyline in views from the valley floor, a matter highlighted in the LCA. The development would also appear urban and intrusive as seen in near views from the Colchester Road and from the recreational cycle routes along that road. The indicated landscaping, which may be different in the final scheme, would take time to establish and would only partially mitigate these effects in the longer term by softening but not screening the edges of the development.

Visual Effects

31. Many of the landscape effects, including the loss of open landscape character and the restriction of views, would be perceived visually by neighbouring residents, persons using Colchester Road (including recreational cyclists), walkers on the network of local and longer-distance footpaths on the valley floor (including permitted paths), users of the open space opposite the site, and by both commuters and leisure users of the adjacent railway line. The sensitivity of these users would vary according to the reason for their presence as well as other factors such as distance from the development. The most sensitive users would be those using the public footpaths and the recreational cycle routes and the neighbouring residents. However other road and rail users would include those visiting the area for leisure purposes who can be expected to be more sensitive. All would experience some negative visual effects from the loss of longer views and the change in landscape character.

Conclusion

32. Paragraph 48 of the Framework provides amongst other things that existing development plan policies adopted prior to the publication of the Framework should be given due weight according to their degree of consistency with the Framework. In that regard, I consider that CS Policy CS8 is generally consistent with the Framework objectives to recognize the intrinsic character and beauty of the countryside, which certainly apply here, and for development to be sympathetic to, and enhance, its landscape setting, which this proposal would not. That policy merits substantial weight.
33. Having regard to the nature, scale and setting of the proposed development I conclude that it would be a major development with a significant adverse impact on the character and appearance of the countryside and on the sensitive landscape setting of Bures and Bures St Mary, including its Conservation Area, contrary to the Guidelines in the LCA and in conflict with CS Policy CS8 and RLP Policy RLP 80.

Heritage Assets

34. In the development plan the RLP and CS heritage policies are no longer consistent with more up-to-date policy for heritage assets in the Framework that includes provision to assess whether there is harm to the heritage significance of the designated or undesignated asset and then to weigh that harm with any benefits of the development. In this case I therefore attach greater weight to the Framework policies.
35. The appeal site is too distant from the listed churches and most other designated heritage assets in the wider area to have any appreciable effect on their settings or significance. The exceptions are the Bures St Mary Conservation Area and the Grade II listed Brook House which are closer to the site. The Conservation Area includes the open recreation land on former meadows on the opposite side of the River Stour. That is part of the valley floor and it is contiguous with surviving meadows beside the river. In its present form the appeal site is open countryside and it provides an open visual connection with the wider countryside. However, the built development of the appeal site at the proposed scale would be very visible from the conservation area and would close off that view to the west and create a much more urban setting. Those adverse landscape and visual effects would cause harm to the significance of the conservation area by reason of the loss of a significant part of its open countryside setting.
36. In the case of Brook House the appeal development would be seen in some long filtered views from that property as part of the wider setting of the listed house which otherwise has long been characterised by mainly open countryside. However, those views would be against a backdrop of more distant 20th century development which has already intruded on that setting to a degree.
37. In each case I agree with the conclusions of the main parties that there would be some, less than substantial, harm to the heritage significance of these designated assets. Any such harm nevertheless merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development.

38. The site includes some undesignated buried heritage assets which have been dated to the Bronze Age. However, they are of a common type and have been damaged by past human activity such as ploughing which has diminished their significance such that they would not satisfy the criteria for scheduling as ancient monuments. Neither are they visible except from the air as crop marks for a brief period in each growing season. The assets are unlikely to have a connection with other assets in the valley from different eras and there is no objection from the Council or its archaeological advisers to the loss of what little remains of the asset subject to an appropriate condition to investigate what remains. The very slight residual harm to significance from the loss of any physical remains would nevertheless fall to be included in the planning balance.

Affordable housing and necessary infrastructure

39. Planning permission was refused in part because of a lack of provision to secure both the promised affordable housing and also financial contributions to provide necessary social infrastructure, especially the creation of adequate capacity in health and education provision to serve the development.
40. A completed unilateral undertaking has been submitted by the Appellant under Section 106 of the Act which would ensure compliance with CS Policy CS2 in respect of the 40% affordable housing provision sought in rural areas. It also makes provision for financial contributions to enhance education provision and primary health services as requested by the local education authority (Essex County Council) and the NHS respectively. Other provisions include contributions to the provision or enhancement of sports facilities and allotments. Provision would also be made for on-site open space for public use.
41. It is possible that the education and health contributions in particular may be put towards facilities that would not be directly used by occupiers of the development. That is because residents would be likely to use existing facilities closer to the appeal site. In that case other persons may be displaced to go elsewhere, depending on how those facilities are managed in the future. However, with the agreed contributions and with similar provision in relation to other new development, the overall capacity of facilities in the area is likely to be adequate to account for the increase in overall demand.
42. I consider that these measures would accord with relevant Community Infrastructure Regulations and CS Policy CS11.
43. The provision made by the undertaking for potential mitigation of effects on bio-diversity is considered below.

Biodiversity

44. As an arable field the main part of the appeal site has limited bio-diversity or ecological interest and the development should not cause a direct loss of habitat. Moreover, there is the opportunity to enhance the site's flora as significant areas at the side edges are likely to be available to reinforce, strengthen, and diversify existing hedgerow and tree planting and to improve the bio-diversity of open parts of the site. That would more than compensate for the likely loss of one tree adjacent to the proposed access.

45. In respect of fauna it appears that the original ecological surveys may have correctly recorded and addressed the presence of badgers adjacent to the railway but missed some of the potential habitat of water voles and possibly otters along the brook. Whilst there would not necessarily be a direct loss of habitat or adverse effect on these protected species, it may be necessary to control public access to this area in a final design by fencing or other means and a suitable buffer. The illustrative layout indicates that there would be space available for that purpose although that would reduce the area of accessible public open space.
46. At the time of the application, Natural England had no objection to the proposed development. However, they have subsequently published draft proposals to mitigate the impacts of increased recreational use on Special Protection Areas (SPA) of European importance as wildlife habitats on the Essex Coast. These include the draft designation of a 22km zone from the Blackwater Estuary within which mitigation payments would be sought from new residential developments to fund management of the SPA.
47. Before a need for avoidance measures or mitigation payments could be justified it would first be necessary to establish if the development would have a likely significant effect on the SPA, in which case an Appropriate Assessment would then need to be undertaken.
48. The Appellant has submitted evidence to the effect that there would be no likely significant effect having regard to the remoteness of the site from the Blackwater Estuary SPA, the length of the routes between the site and that estuary (which exceed 22km) and the limited access possibilities at the nearest parts of the estuary. It is also pointed out that there are other similar SPAs at closer distances and that no objections in respect of a likely significant effect have been alleged. Nevertheless, the Appellant has offered a mitigation payment in case there is judged to be such an effect and if an Appropriate Assessment were to conclude that such mitigation was both necessary and appropriate. The Council relies on the blanket approach of Natural England in respect of distance. However, the Council's own evidence is that a development of less than 100 dwellings (as this would be) would not have a likely significant effect. When considering a near duplicate proposal on the same site the Council did carry out what it describes as an Appropriate Assessment and concluded then that the proposal would not adversely affect the integrity of the habitats site.
49. I do not rely on the Council's conclusions as they do not appear to have taken account of potential cumulative effects of multiple developments. However, I prefer the Appellant's evidence in relation to the actual potential effects and conclude that a development on this site at the outer edge of the draft zone and with limited opportunities for access along long and convoluted routes makes a pathway of effect unlikely and makes it improbable that the site's development would have a likely significant effect.
50. In these circumstances I do not consider it necessary to carry out an Appropriate Assessment or to require the mitigation payment described in the unilateral undertaking.
51. I conclude that the development is not in conflict with the bio-diversity provisions of CS Policy CS8.

Housing Land Supply

52. Although not a provision of the development plan, national policy at paragraph 73 of the Framework (2019) provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need where the adopted strategic policies are more than 5 years old [as here].
53. At the date when the application was determined in June 2018, the Council accepted that it was unable to demonstrate that it had the minimum 5-year supply of housing land required by the Framework (2012). Shortly afterwards in July 2018 the Government published the updated Framework (2018) which, amongst other changes, modified how the housing requirement should be calculated. Changes to the supporting Planning Practice Guidance were then published in September 2018 in respect both of the housing requirement calculation and the evidence sought to demonstrate the available supply.
54. In January 2019 the Council published an Annual Monitoring Report with a base date of 31 March 2018 and which claimed that the Council could demonstrate a housing land supply in excess of 5 years. This was based on a local housing need requirement using the recommended standard method and derived from the latest 2016 household projections.
55. Following a Technical Consultation the Government has made further relevant changes to the Framework and to the PPG. These were published during the Inquiry in February 2019. Amongst other things these changes provide that the 2014 household projections should be used when calculating the standard method and that alternative approaches to calculating housing need should only be considered at the policy-making stage and not in decision-making.
56. When calculated in line with the latest policy and guidance (and the results of the Housing Delivery Test - also published in February 2019), the Council continues to maintain that it has a supply in excess of 5 years. The Framework provides that there should be an annual assessment of supply. The PPG at paragraph 3-038 also allows that for applications and appeals it is only necessary to demonstrate supply once a year. The Council does not yet have up-to-date strategic policies on which an Annual Position Statement would be based. It therefore relies instead on the Annual Monitoring Report (AMR) published in January 2019.
57. The Appellant challenges the Council's supply figures as set out in the AMR. The main area of disagreement concerns the treatment of outline planning permissions for major development in the calculation of supply. Also at issue is whether sites subject only to a resolution to grant planning permission at the base date should be included (as for example where the grant of planning permission depends upon the completion of a Section 106 planning obligation).
58. Based on the 2014 household projections, and with an agreed 5% buffer, both main parties now agree that the local housing need at 31 March 2018 over 5 years is for 4,457 dwellings. The Council estimates the supply at 4,834 dwellings (5.42 Years) to include 2,247 dwellings on sites with outline permission at the base date, 200 at 'growth locations' and 267 at 'other sites'.
59. The Appellant has offered 2 alternative calculations. What is described as a 'strict' interpretation would result in a supply of 2,977 dwellings (3.34 years).

This excludes the above supply at the growth locations and other sites and reduces the supply on sites with outline permission to 857 dwellings, mainly due to a claimed lack of clear evidence that these would have been deliverable at the base date of 31 March 2018. In the alternative the Appellant has also calculated supply based on what is described as a '*benevolent*' approach which would result in a supply figure of 3,968 dwellings (4.45 years). In that case the supply from sites with outline permission at the base date would be 1,613 dwellings.

60. My attention has been drawn to how these matters have been addressed in other appeal decisions, albeit that they pre-dated the latest Government policy and guidance. In particular, in the Woolmer decision¹ the Inspector opined that the definition of 'deliverable' in the Glossary of the Framework 2018 is a closed list. If so, whilst the definition is set out in the first sentence, a closed list would mean that only the types of housing sites listed in the second and third sentences of the definition could qualify as deliverable. The Framework 2019 has slightly modified and restructured the definition but the changes do not provide additional confirmation that the list is closed.
61. The Council has drawn attention to the Salford decision² by the Secretary of State where sites with a resolution to grant permission subject to a Section 106 agreement had been included in the housing supply and the Secretary of State had made no criticism of that approach. However, as the supply in that case was agreed to be far in excess of 5 years it made no difference to the principal issues and it does not appear that the Secretary of State gave active consideration to that matter. I therefore accord it little weight.
62. In the Woolpit decision³ the Inspector concluded that all permissions issued after the base date should be excluded on the basis that its consideration would also require a review and extension of the period over which housing need is to be assessed. I disagree on that latter point. It is not necessary to adjust the housing need period if the assessment of supply only concerns that which is expected to be delivered within the original 5-year period. However, I agree that new planning permissions after the base date should be excluded and that would include permissions subject to a resolution to grant subject to a Section 106 obligation. Uncertainty about when such an obligation would be completed could put back a potential start date by months or even years. Information about significant new supply from such sources after the base date but before the annual assessment might nevertheless be material when considering the weight to be accorded to an identified shortfall in supply.
63. In respect of information received after the base date about the progress of sites with outline permission at the base date, I consider that this information should be included in the AMR in order to provide the necessary '*clear evidence*' of whether and when housing will be delivered. An example could be that a site with outline planning permission at the base date had subsequently been the subject of an application for full permission for a similar development in preference to a reserved matters application. That can occur when some amendment to the scheme had meant that whilst housing delivery was still expected a reserved matters application was not appropriate. That an

¹ Appeal Ref APP/C1950/W/17/3190821

² Document ID20

³ Appeal Ref APP/W3520/W/18/3194926

- essentially similar development was now being advanced by a different route should not to my mind preclude the site from inclusion in the base date supply.
64. The March 2018 base date of the Council's AMR preceded its publication by more than 9 months. However, a base date close to the beginning/end of the financial year is widely accepted as a suitable annual monitoring period. It is entirely reasonable that the base date is not updated to a new date for each application or appeal, as confirmed by the PPG. Reasons for the delay in preparing and publishing the report here include that the Framework was significantly modified 4 months after the monitoring period in July 2018 to include a new standard method to assess the housing requirement and a revised definition of deliverable sites for inclusion in the supply. Also, the PPG guidance about how to assess need and supply was only issued 6 months after the monitoring period in September 2018. It can be expected that subsequent reports using current guidance would be compiled and issued closer to the annual base date.
65. The Framework definition of deliverable sites provides that in some cases (including outline permissions for major sites and also for development plan allocations where there is as yet no planning permission) there should be clear evidence that housing completions will begin on site within five years. To establish the site's contribution to the housing supply there would also logically need to be an assessment of the amount of housing expected to be delivered within that five-year period.
66. Where there is to be reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review including, but not limited to, annual position statements. That is not to say that there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.
67. The information published here in the AMR is minimal and it relies heavily on unsupported assertions that a site will be delivered. That does not amount to clear evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of a delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type suggested in PPG paragraph 3-036. Information of that type could be readily summarised and published, possibly in a tabular form.
68. Overall, and having heard the Council's oral evidence about progress on sites which is said to have informed its conclusions in the AMR, I consider that the Appellant's 'strict' approach unreasonably excludes many sites where it is very probable that there will be significant delivery of housing within the 5-year period. On the other hand, the Council has over-estimated the rate at which some sites may be developed and progress on some sites remains unclear even

when taking into account the Council's additional oral evidence of what has occurred since March 2018. Sites that were subject only to a resolution to grant permission at the base date should be excluded.

69. I consequently do not consider that the Council has demonstrated in the AMR with clear evidence that it has a 5-year housing supply. Whilst there is insufficient evidence to make a precise assessment, the likelihood is that the supply is closer to the Appellant's 'benevolent' approach which concludes that there is a 4.45-year supply. That represents a shortfall, albeit not a severe one. The weight to be attached to the shortfall may also be reduced in that there is some evidence of factors which will increase supply such as the issuing of permissions for developments that were only subject to resolutions to permit at the AMR base date. There is also at least one permission issued on a major site after the base date where development has already commenced on site. It is also material that the eLP examination is advancing and that the adopted plan can be expected both to redefine the housing requirement and to make provision to address it.

Other Matters

70. I have taken into account all other matters raised in representations. In particular I consider that the location and dimensions of the access junction would be adequately safe. Although not clearly specified in the Section 106 agreement, the advance provision of dropped kerbs at junctions and raised kerbs at the bus stop could be the subject of a condition to facilitate disabled access.
71. For a small rural village, the accessibility by public transport is unusually good and there is a range of services and facilities within walking or cycling distance. The limited parking at the station would be likely to encourage rail users to walk or cycle to the station.
72. However, neither these nor the other matters raised outweigh my conclusions on the main issues.

The Planning Balance and Conclusions

73. I conclude above that the proposal would contravene adopted development policies for the control of development in the countryside outside development boundaries. There would also be conflict with policies to protect the character and appearance of the area and specifically with CS Policy CS8 in respect of the landscape and visual effects. That conflict here outweighs compliance with some other development plan policies such that there would therefore be overall conflict with the development plan.
74. However, the apparent lack of a deliverable 5-year housing supply means that at least some of the other most important development plan policies for determining the application are out of date inasmuch as they would not provide for a sufficient supply. In particular the CS Policy CS5 and RLP Policy RLP2 development boundary is out of date as there is a lack of evidence that sufficient housing to meet the identified local housing need could be provided within the adopted boundaries. Limited weight can yet be accorded to the emerging Local Plan and its development boundaries which are not yet part of the development plan which may change prior to adoption. That and the supply shortfall necessarily triggers the application of paragraph 11 of the

Framework, notwithstanding the evidence of progress towards delivering additional housing sites since the AMR base date, and progress on the eLP.

75. Paragraph 11 provides in these circumstances that planning permission should be granted unless:

- i) *'The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
- ii) *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

76. In relation to (i) I have concluded that there is not likely to be a significant effect on the Blackwater Estuary Special Protection Area. Whilst great weight is to be accorded to the less than substantial harm to the designated heritage assets, that harm falls to be weighed with the public benefits of the development.

77. The public benefits of the development include: the social benefits of the provision of market housing and affordable housing in circumstances where there is a local and national shortage against assessed needs; the economic and employment benefits associated with the construction and subsequent occupation of the housing including local spending in shops and services; some benefits to bio-diversity of flora; and the provision of on-site informal open space potentially in excess of policy requirements. However the latter merits only limited weight as no minimum level of provision is set out in the application, the Section 106 undertaking or the agreed conditions, and because there is no identified local lack of open space or play provision in the area.

78. Neither the harm to the setting and significance of Brook House nor the harm to the significance and setting of the Bures St Mary Conservation Area would outweigh the public benefits either separately or together. Thus, these effects would not on their own provide a clear reason for refusing the development or overcome the paragraph 11 presumption in favour of development. However, the harm to the setting of the conservation area overlaps with and reinforces other harm to the character and appearance of the area which also falls to be weighed with the benefits in the application of sub-paragraph ii above.

79. The main identified harm is the harm to landscape character and to the visual amenity of the area including the loss of the site's openness, the breach of the skyline by a large-scale development, and the loss or containment of open cross-valley views. This includes the associated conflict with relevant development plan policies in that regard including CS Policy CS8 which are important to the determination of the appeal and which are not materially inconsistent with national policy or out of date. Neither, having regard to Framework paragraph 127, would the development be sympathetic to its landscape setting.

80. My final conclusion is therefore that the proposal is in overall conflict with the development plan and that is not here outweighed by other material considerations. In the terms of paragraph 11(d)(ii) of the Framework the significant adverse impacts of granting planning permission would significantly

and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal should therefore be dismissed.

Robert Mellor

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ashley Bowes	of Counsel instructed by Ian Hunt, Head of Law and Governance, Braintree District Council
He called	
Gill Wynne-Williams BA DipLA MLI	Landscape Architect and Managing Director of Wynne-Williams Associates Ltd
Beverley McClean BA DipCM MRTPI	Planning Officer, Dedham Vale Area of Outstanding Natural Beauty
Kathryn Carpenter BA(Hons) DipEnvPlg	Senior Planning Officer (Housing Supply) Braintree District Council
Melanie Corbishley BA(Hons) MA	Senior Planner, Braintree District Council

FOR THE APPELLANT:

Thea Osmund-Smith	Of Counsel, instructed by Megan Farmer
She called	
Silke Gruner BHons CMLI	Associate Landscape Architect and Urban Designer, CSA Environmental
Gail Stoten BA MCIfa FSA	Heritage Expert, Director of Pegasus Planning Group
Aiden Marsh BSc PhD MCIEEM CEcol	Ecological Director CSA Environmental
Matthew Spry BSc(Hons) DipTP (Dist) MRTPI MIED FRSA	Housing Land Supply, Senior Director Lichfields
Megan Farmer MPlan MRTPI	Planning Manager, Gladman Developments Ltd

INTERESTED PERSONS:

David Lee	Chair of Bures Hamlet Parish Council
Gill Jackson	Chair of Bures St Mary Parish Council
Elaine Conerney	Local Resident
Nicholas Temple	Neighbouring landowner and conservationist
Robert Erith	Chair, Dedham Vale Area of Outstanding Natural Beauty
Charles Aldous	Former Chair Colne-Stour Countryside Association
Geoffrey Probert	President, Suffolk Preservation Society
Hugh Turner	Concerning archaeological heritage
Ken Jackson	Concerning arboricultural and site related matters
Kenn Butcher	Concerning highways and transport matters
Sheila Butcher	Concerning the Statement of Community Involvement

DOCUMENTS

- 1 Appellant's Opening Statement
- 2 Council's Opening Statement

- 3 Statement of Common Ground
- 4 S106 Unilateral Undertaking
- 5 Appellant's Note Concerning Primary Education Impact
- 6 Extract from Annual Monitoring Report concerning affordable housing delivery
- 7 Approved Applications and Allocations in the Stour Valley Project Area
- 8 Gov.UK advice on AONB designation and management
- 9 Gruner Proof photos printed at A3
- 10 *Gladman v SSHCLG and Central Beds [2019] EWHC 127*
- 11 Joint Babergh and Mid Suffolk DC Landscape Guidance (August 2015)
- 12 Landscape Character of Braintree District (2006)
- 13 Essex CC Guide to Developer Contributions (2016)
- 14 Revised figures for financial contributions (2018)
- 15 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2017] EWHC 2057*
- 16 *Baroness Cumberledge of Newick and Patrick Cumberledge v SSCLG and DLA Delivery Ltd [2018] EWCA Civ 1305*
- 17 Decision Letter for Appeal Ref APP/R3650/W/16/3165974 Haslemere
- 18 *Gladman Developments Ltd v Daventry DC and SSCLG [2016] EWCA Civ 1146*
- 19 Letter dated 23 October 2018 to Braintree DC from Planning Policy Reform Division MHCLG
- 20 SofS Decision Letter for Appeal Refs: APP/U4230/W/13/2209607 & APP/U4230/W/17/3180726 Salford
- 21 Decision Notice for Application 18/02139/OUT (Playing Pitches at Cambridge Way, Bures Hamlet)
- 22 Statement by Elaine Conerney
- 23 Statement by David Lee
- 24 Statement by Nicholas Temple
- 25 Statement by Hugh Turner
- 26 Statement by Sheila Butcher
- 27 Statement by Gill Jackson
- 28 Statement by Ken Jackson
- 29 Statement by Robert Erith
- 30 Map of National Cycle Network Route 13 at Bures
- 31 'Cycling through a masterpiece' local cycle routes
- 32 Statement by Charles Aldous and appended photos of old Bures St Mary
- 33 Statement by Geoffrey Probert
- 34 Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (2018-2038) – Essex CC and Appendices to Document 34
- 35 Documents to support Mr Butcher's statement
- 36 Schedule of major housing sites with outline planning permission at 31 March 2018
- 37 Petition opposing the development of the appeal site with 592 signatures
- 38 Suggested site visit itinerary
- 39 Update of planning history of Station Field, Land West of Kelvedon Station

- 40 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Policy Framework
- 41 Statement of compliance for financial contributions in relation to Community Infrastructure Levy Regulations
- 42 Government response to the technical consultation on updates to national planning policy and guidance 19 February 2019
- 43 Supplementary written statement from Hugh Turner
- 44 Updated 5 year Housing Land Supply position following February 2019 changes to National Planning Practice Guidance on 20 February 2019
- 45 Appellant's Technical note in response to Mr Butcher's evidence on transport matters
- 46 Appellant's Statement in response to representations concerning increased noise from road traffic
- 47 Council's closing submissions
- 48 *CEG Land Promotions Ltd v SSHCLG and Aylesbury Vale DC [2018] EWHC 1799*
- 49 *Redhill Aerodrome Ltd c SSCLG and others [2014] EWCA Civ 1386*
- 50 *St Modwen Developments Ltd v SSCLG & Another [2017] EWCA Civ 1643*
- 51 Closing submissions on behalf of the Appellant



Appeal Decision

Inquiry Held on 23-25 and 29-31 July 2019

Site visit made on 31 July 2019

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMJ

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

Decision date: 13 August 2019

Appeal Ref: APP/W3520/W/18/3214324 Poplar Hill, Stowmarket IP14 2EJ

- 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 Ltd against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/02380, dated 25 May 2018, was refused by notice dated 26 September 2018.
 - The development proposed is the erection of up to 160 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Poplar Hill.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline form with all matters reserved except for access. Details of appearance, landscaping, layout and scale are therefore not considered in this decision.

Main Issues

3. Following agreements between the Council and the appellant, issues relating to archaeology and effects on the Combs Wood SSSI have fallen away. The six main remaining issues are;
 - The effect of the proposal on the landscape character and appearance of the area
 - The effect of the proposal on the setting of St Mary's Church, Combs, a Grade 1 listed building
 - Whether harm would result from the failure to develop as open space the part of the site allocated for that purpose in the development plan
 - Whether the site is in a location which is, or can be made, sustainable
 - The effects of the proposal on the capacity of the highway network and road safety
 - The effect of the proposal on the supply of housing in the locality.

Reasons

Landscape character

4. The site is agricultural land on a valley side abutting the developed area of Combs Ford, a suburb of Stowmarket. It is outside the settlement boundary and so is not only countryside in fact but is also classed as such in planning terms. Its landscape character has been analysed in various scales of landscape character assessments.
5. The site forms part of national Character Area 86; South Suffolk and North Essex Clayland. Some 6.5% of the Character Area is urban. Specific reference is made to Stowmarket, and its recent significant expansion, in the description of the Character Area and so the development of the site would not necessarily be inimical in principle to the Character Area.
6. The site itself is too small to reflect all the key characteristics of the national Character Area but the development proposed would affect three of its key characteristics in particular. The first is the reference to ancient woodlands and wooded skylines. The proposal would not directly affect Combs Wood, an ancient woodland and Site of Special Scientific Interest (SSSI) which provides a wooded skyline on the opposite side of the valley but it would severely restrict views to it from Poplar Hill.
7. The second key characteristic affected is the agricultural landscape but the Character Area is very extensive and so even the transformational change of this site from undeveloped to developed land would have little effect on the Character Area overall. The third key characteristic is the reference to historical resources. Again, the proposal would have no direct effect on the impressive St Mary's Church, a grade 1 listed building standing on the opposite side of the valley but it would compromise views to it from Poplar Hill.
8. A regional landscape assessment called the East of England Typology is found on-line. It confirms that settled landscapes occur along the sides of the sinuous valley corridors that cut through the East Anglian clay plateau, reinforcing the conclusion drawn from the national assessment that development on this valley side is not, of itself, inimical to landscape character. It also notes the significance of ancient woodland on upper valley slopes and the presence of late medieval churches.
9. The Suffolk Historic Landscape Characterisation of 2008 appears to be more an agricultural land use classification than a landscape classification. It describes the area within which the site is located as a Post-1950 agricultural landscape. This is reported to be the fifth most common type identified by this study, comprising 6.02% of the County's area. This does not suggest that the existing character of the site itself has any rarity value.
10. The County-wide Suffolk Landscape Character Assessment, published in 2010, records that Rolling Valley Claylands are found in the upper reaches of most of the east Suffolk rivers, ten of which are listed, which also does not imply a particularly rare landscape type. It specifically mentions western tributaries of the Gipping from Stowmarket upstream to Combs amongst others, which clearly includes the site. It lists seven key characteristics, four of which can be recognised in relation to the site, a score which does not suggest an outstandingly exemplary landscape.

11. One is the fact of the slope of the valley side, a fact which would not change, even if the site were developed. A second is that valley sides are foci for development, which both reinforces the earlier conclusion that valley-side settlement is not, of itself, inimical to local landscape character and also highlights the potential existence of historic assets such as manorial halls and associated churches. Three examples are mentioned but not that of St Mary's, Combs, an omission which does not emphasise its significance.
12. A third characteristic is fields smaller than on surrounding plateaux. That characteristic would become less appreciable on this site were it to be developed but there is no suggestion that the development of this one field would compromise the existence or significance of such a characteristic within the Rolling Valley Claylands as a whole. The fourth characteristic is that of ancient woodlands on the upper fringes of the valley sides which, as noted previously, would be affected by the development of the site not directly but in views from Poplar Hill.
13. Beyond its analysis, the Suffolk Landscape Character Assessment goes on to advise on development management. Although recognising that valley sides have historically been a focus for development, it suggests that large scale expansion should be confined to the adjacent plateau where impacts can be more easily mitigated with effective landscaping and design. However it then goes on to give detailed advice on how settlement extension in a valley side landscape should be conducted, so I am not convinced that it presents a strong or forceful warning against the principle of such development. At best, it is ambiguous.
14. In 2015, Babergh and Mid-Suffolk District Councils prepared the Joint Babergh and Mid-Suffolk District Council Landscape Guidance. Its main purpose is to guide new development. It also outlines the main elements of existing character, noting the considerable visual impact of woodland cover such as Combs Wood but emphasises that it is not a definitive guide or list of all features that are important. For that, it defers to the County-wide character assessment, which it largely summarises.
15. None of the above studies suggest that the site itself has any particular significance in landscape terms. It is not designated as a Special Landscape Area nor as Visually Important Open Space in adopted development plans. If it has any significance at all it is because it allows views over it towards features which are of significance.
16. More pertinent as a local level assessment is the Stowmarket Environmental Assessment of February 2008, prepared as part of the evidence base for the Stowmarket Area Action Plan. It uses the six Landscape Character Types of the Suffolk Landscape Character Assessment, adding Pylons, dead-end lanes leading to isolated farmsteads and church towers to the previously identified characteristic of skyline woodland for the landscape type including the site. It identifies Combs Wood and Combs Church as landmarks. It identifies the site as; having an abrupt urban edge; forming part of an area of high scenic quality; of open countryside visible from within the urban area and adjoining landscape and forming an important landscape setting to Stowmarket and; as part of an area of open countryside separating settlements.

17. All parties agree that development of the appeal site would cause some harm to the landscape character of the area and to its visual character. They differ in the degree of that harm.
18. Both from the above analyses and from my site visit, I draw the conclusion that the principal value of the site in the landscape consists of its undeveloped nature. In that state, it offers no obstruction to the views which are obtained from Poplar Hill over the site towards Combs Wood and St Mary's Church. By contrast, land at Edgecomb Park (which is also identified in the Stowmarket Environmental Assessment as located in an area of high scenic quality, of open countryside visible from within the urban area and adjoining landscape and forming an important landscape setting to Stowmarket and as part of an area of open countryside separating settlements yet which has permission for development) does not figure in any such view.
19. The Stowmarket Environmental Assessment notes that land around Combs Wood and Church is visually significant when looking towards Stowmarket from the southwest (eg Combs). I concur. Although the specific view shown on the Visual Analysis and Landscape Setting drawing of that Assessment is from the junction of Park Road with Poplar Hill in Combs village, in which the site is to one side, very similar views in which the site is central are obtained from the length of Poplar Hill passing the site. As paragraph 4.3.9 of the Stowmarket Environmental Appraisal notes, these are memorable open and rural views. Notwithstanding the presence of electricity pylons in the views, I also concur with that observation.
20. My site visit established that these views would be lost from the majority of the site frontage along Poplar Hill. Some views would remain from the lower part of Poplar Hill but the views with the most impact, from the summit of the road, would disappear behind housing in the foreground.
21. There are also views in the opposite direction. Although valued by local people and to walkers on the various published recreational walks which pass St Mary's Church, these have less significance in that they do not focus on a landmark or feature cited in any landscape assessment. The views of the site would remain but would be views of developed, rather than undeveloped, land. That is a factor to be taken into account but does not, by itself, determine the conclusion I reach.
22. The value of the site in forming a separation between Stowmarket and Combs is also a factor to be taken into account. Separation would be reduced and would depend on two fields on the west side of Poplar Hill and one on the east side remaining undeveloped but, in my view, that would suffice. Any likely detailed layout of the appeal site would in any event be likely to leave undeveloped the southernmost part of the site because of the presence of electricity pylons there. That would add to the retained sense of separation.
23. Taking all the above matters into account, I conclude that although the site is not recognised in published documents as an exemplary or outstanding component of the Suffolk landscape and its development would in some ways be consistent with characteristic patterns of development along valley sides, the appeal proposal would compromise the appreciation of sufficiently impressive examples of other characteristic features of the landscape as to cause an unacceptable effect on the landscape character and appearance of the area. It would be contrary to Policies CS1, CS2 and CS5 of the Mid Suffolk

Core Strategy (adopted September 2008). These restrict development in the countryside to types not including that proposed in this appeal and seek to protect and conserve landscape qualities. It would also contravene policy FC1.1 of the Core Strategy Focused Review (adopted December 2012) which requires development to conserve and enhance the local character of the different parts of the district and policy 6.22(1) of the Stowmarket Area Action Plan adopted February 2013 which states the need for any future development on this site to address the need to protect the landscape and maintain the separation between Stowmarket and Combs.

Setting of Listed Building

24. There are other listed buildings in the local neighbourhood but both parties agree, and I concur, that the listed building of concern in this appeal is St Mary's Church Combs which is listed Grade 1, recognising its exceptional interest. The NPPF and Guidance advise that in the planning context, heritage interest may be archaeological, architectural, artistic or historic. Historic England's best practice document *Conservation Principles, Policies and Guidance (2008)* puts it slightly differently, proposing the use of four key heritage values – evidential, historical, aesthetic and communal. Both parties concur in their evidence, and I agree, that St Mary's significance derives from all four values.
25. The appeal proposal would have no direct effect on the church but the significance of a heritage asset derives not only from an asset's physical presence but also from its setting. The setting of a heritage asset is the surroundings in which it is experienced.
26. The various landscape assessments already quoted tell us that in this landscape there is a repeated pattern of former manorial halls and associated churches on the sides of their river valleys, some of which have grown into hamlets or villages, some of which have not. St Mary's is an example of the latter, having lost both Combs Hall (the former existence of which there is certain evidence) and any associated hamlet or village (the former existence of which is conjectural). For several centuries now it has stood separated from the settlements (Combs, Combs Ford, Moats Tye and Little London) which it serves. That physical isolation is part of its significance.
27. Its isolation is appreciated from the various directions in which the church is approached. The several footpaths from Combs Ford cross watermeadows (now a local nature reserve) before reaching the drive up to the church. Those same watermeadows help to transform Church Road from a suburban street at its junction with Poplar Hill to a country lane bordered by hedgerows, fields and a cemetery as it rises up the hill from crossing the stream in the valley bottom. The separation of the church from Combs Ford is also appreciated from the footpath from Combs itself (now diverted onto a more circuitous route adjacent to the realigned stream than that shown on Ordnance Survey maps dating from 1976/7 or earlier) and in impressive views; distantly from Park Road in Combs village and from a bench at the beginning of the footpath thence to the church and; impressively in a closer view from Poplar Hill across the site of this appeal proposal.
28. Physically, the development of the site would not encroach any closer to the church than development which already exists in Church Road, Combs Wood Drive and Naughton Gardens. The experience when approaching on foot from

Combs Ford would be largely unchanged as would the view in the opposite direction, back towards Stowmarket, which is noted as a key view in the Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk District Councils published in March 2018. When approaching down Church Road there would be a greater extent of urban character from the developed site fronting the road before reaching the bridge over the stream at the bottom of the hill, beyond which the separation of the church would continue to be appreciated.

29. When descending Church Road in the opposite direction, from Holyoak Farm or when standing in the upper parts of the cemetery, looking across the valley to the site, the extent of built form on the opposite valley slope would be much greater and there would be a loss of openness and a sense that the church would be enfolded by development but its immediate surroundings would remain open.
30. In the distant views along Park Road from within Combs village itself, the site does not figure. From the bench at the start of the footpath to the church from Combs, the separation between Combs and the existing development of Combs Ford would remain visible and unchanged. To the left of the view the development of the site would bring the suburbs of Stowmarket much closer to the viewer and so make the viewpoint feel less isolated in the countryside but the extent of visible separation between Combs Ford and the church would actually not alter.
31. What would be changed are the succession of views across the site from Poplar Hill as it rises from the bottom of a side valley to its summit outside the church hall where the built development of Combs Ford commences. In most of these, the church's clear separation from development is made apparent. As already noted, these views would be lost from the majority of the site frontage along Poplar Hill. Some views would remain from the lower part of Poplar Hill and there may be the potential for creating a view of the church itself along an avenue through the development but the views with the most impact, from the summit of the road, would be lost.
32. Although these views are not the only way in which the surroundings of the church would be experienced, they constitute the most immediate views in which both the church and its undeveloped surroundings can be seen together (others more distant are available from the footpath which runs along the ridge, between the church hall and Combs village). They are therefore valuable to an understanding of the significance of the church and so their loss would be harmful to its setting.
33. Obviously, their loss would not lead to a total loss of the surroundings of the church, let alone have any direct impact on its fabric, so the harm is very much less than substantial. Nevertheless, it is government policy that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. St Mary's church is an important asset. It is one of only 2.5% of all listed buildings which are given grade 1 status.
34. I therefore conclude that there would be less than substantial harm to the setting of St Mary's church which should be given disproportionately greater weight than the simple facts of the matter would suggest. This harm should be

weighed against the public benefits of the proposal, which I do in a later section of this decision letter. The proposal would be contrary to policy HB1 of the Mid Suffolk Local Plan 1998 which places a high priority in protecting the character and appearance of all buildings of architectural or historic interest with particular attention paid to protecting their settings.

Open space

35. A northern wedge of the site (its southern boundary following a straight line between the end of development on the south-western side of Church Road and the southern boundary of four isolated dwellings at 172-178 Poplar Hill facing the site) is allocated within the Stowmarket Area Action Plan (SAAP) adopted in February 2013 for the development of public open space. The allocation is part of a larger allocation of land, the remainder of which, on the western side of Poplar Hill, is allocated for residential development and a sheltered housing scheme, now known as Edgecomb Park.
36. The residential development now has planning permission in full. Phase 1 of the development is nearly complete. The Council's committee report on the application for that scheme records that development of the land within the current appeal site was omitted. The proposal was nevertheless approved, the committee report explaining that "the proposed development offers a lot of open space, despite the removal of the open space area (Phase 3) opposite the main housing site across Poplar Hill."
37. The Council's landscape expert deduced from this that the Edgecombe Park development contained sufficient open space to serve its own needs without the land to the east of Poplar Hill. In response to a specific question, the Council's expert planning witness confirmed that there was no need for the allocation on the appeal site to be developed as open space in order to supply any unmet need from any existing development in other parts of Combs Ford.
38. I therefore conclude that the failure to develop as open space the part of the site allocated for that purpose in the development plan is of no consequence. Although the proposal, if developed in the way indicated on the illustrative Development Framework submitted with the application, would contravene SAAP policy 6.20, that policy is, in effect, obsolete.

Sustainable location

39. Paragraph 103 of the NPPF advises that significant development should be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 122 advises that planning decisions should support development that makes efficient use of land, taking into account (amongst other matters), the availability and capacity of infrastructure and services and the scope to promote sustainable travel modes that limit future car use. Paragraph 108 advises that in assessing specific applications for development, it should be ensured that (amongst other matters) appropriate opportunities to promote sustainable transport modes can be or have been taken up. None of these matters were the subject of dispute between the appellant and the local planning authority but were challenged, with substantive evidence, by third parties.

40. The developer's submitted Transport Assessment makes reference to a document *Providing for Journeys on Foot (2000)* published by the Chartered Institute of Highways and Transportation (CIHT). This is a commonly used professional reference. It includes a matrix showing desirable, acceptable and preferred maximum walking distances for journeys to town centres, for commuting, school journeys or sightseeing and elsewhere or for local services. The government's Manual for Streets (MfS) describes walkable neighbourhoods as typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. It also notes that walking offers the greatest potential to replace short car trips, particularly those under 2km.
41. The appellant's inventory of local facilities (table 5.2 of the Transport Assessment) was not challenged. It shows only the church, Stowmarket Community Centre, a play area off Combs Wood Drive and a Nursery School within 800m of the centre of the site. The list is not comprehensive; to it could be added at least the church hall on Poplar Hill (opposite the site) and the Combs Scout hut at the end of Combs Wood Drive. I also observed a hairdressing service advertised at 172-8 Poplar Hill. But the data is unlikely to be unjust to the appellant.
42. It does show that the site would be well-favoured with community facilities, facilities for children's play and for their early education all within an acceptable walking distance. But primary school children would find their nearest school some fifteen to twenty minutes' walk away, within the "preferred maximum" walking distance but beyond the "acceptable" figure for school journeys. Secondary School children would have to travel further but a school bus does pass the site.
43. For people's employment needs, there would be some jobs available at Combs Ford, a little over the "acceptable" figure for walking to work but within the "preferred maximum". Needham Road Industrial Estate and Stowmarket Town Centre are also just on the cusp of the 2km figure which is reckoned to be the "preferred maximum" to walk to work. All of Stowmarket and its industrial estates would be within cycling distance. An hourly bus service to Ipswich can be found at Lindsey Way, about eleven minutes' walk from the site and although the Stowmarket railway station is about a half hour's walk from the site, services to Ipswich are relatively frequent and take about 12-15 minutes, making a commute by public transport a feasible proposition.
44. For shopping, Combs Ford provides a Cooperative supermarket, a Poundstretcher store, a pharmacy, a charity shop, a doctor's surgery, two public houses, two hairdressers, a small corner store (and a second one not currently in use), a mobile phone and computer shop, an upholsterer's, a pet care shop, a petrol filling station and a vehicle repair garage, all within about 1200m of the site. That would be considerably more than the "preferred maximum" walk of 800m to a town centre but just within the "preferred maximum" for local services and elsewhere.
45. All in all, the distances for walking would not place the site within a "walkable" neighbourhood in the terms used by MfS, nor within distances which would promote walking as a sustainable travel mode. But it would be far from being an unsustainable location, completely devoid of facilities within a preferred maximum walking distance. Much was made of the fact that the site is at the

summit of Poplar Hill whereas facilities are down in the valley but in truth the gradient on Poplar Hill is reasonable and within the capabilities expected of a wheelchair user. Other, slightly longer routes to the site are more level. Access times by bicycle are good, though specific facilities to promote their use are few. Public transport close to the site is very limited, only offering one or two journeys per day but a service with hourly frequencies typical of a rural area is about 11 minutes' walk away.

46. I conclude that although the site would not be in a particularly sustainable location, neither would it be in an unsustainable location. The submitted travel plan would promote the use of the sustainable travel modes available. If it were not for the fact that it is defined as countryside, outside settlement boundaries, then it would otherwise comply with those parts of Core Strategy policy CS1 which requires the majority of new development to be directed towards towns and key service centres and of Local Plan policy H7 which requires new housing normally to form part of existing settlements.

Highway capacity and road safety

47. NPPF paragraph 108 advises that in assessing specific applications for development, it should be ensured that (amongst other matters) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. NPPF paragraph 109 goes on to advise that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
48. The appellant's analysis of the proposal's impact on highway capacity produces more favourable forecasts than that of the developer of Edgecomb Park produced a few years' earlier. The reason given is that the standard tool for forecasting traffic growth without development (TEMpro) and its associated data sets were updated between the two assessments. Differences between residents' assessments of traffic flows on Poplar Hill and data used by the appellant are explained by the different locations used for data collection.
49. The submitted Transport Assessment appears to show that some junctions on the road network would be loaded to more than 85% of their designed capacity, at which point capacity problems may begin to occur. Some apparently dramatic increases in congestion at certain road junctions are shown; an approximately 43% increase in morning peak queue lengths at the junction of Needham Road with the A1308; a near doubling of queue lengths at the junction of Ipswich Road and Needham Road and at the junction of Ipswich Road and Poplar Hill.
50. These increases in congestion are from a very low base; equivalent to 4 or 5 cars on one arm only of a multi-arm junction which consequently gives very high increases when measured as percentages. In reality, congestion and increases in congestion caused by the development proposed would be minimal, hardly noticeable against the daily or seasonal fluctuation in traffic. The appellant's transport expert was asked how he would judge whether impact would be severe. His advice was that severe impact would occur if congestion at one junction tailed back so as to interfere with the operation of another junction. I agree that that criterion represents a useful yardstick by

which to judge a severe impact on the road network. The effects from this development would be far from that.

51. The accident records do not suggest that the network in the vicinity of the site has any design defects which would be so exacerbated by the increased volume of traffic resulting from the development as to become disproportionately or unacceptably unsafe. The access to the site itself has been designed in accordance with current standards for visibility and capacity for the volume of traffic it would be expected to carry and has been accepted as such by the competent highway authority. Absolute highway safety can never be guaranteed so long as any road is in use by a single car, pedestrian or cyclist but there is no evidence before me which would lead me to a conclusion that this appeal proposal should be dismissed on highway safety grounds.
52. I conclude that this proposal would have an acceptable effect on highway capacity and road safety. It would comply with Local Plan policy T10 which requires regard to be had to those matters.

Housing supply

53. Even as reviewed, Mid Suffolk's strategic policies are more than five years' old. Paragraph 73 of the NPPF sets out government policy that in such cases local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need calculated using the standard method set out in national planning guidance. The supply should in addition include a buffer, which in Mid-Suffolk's case is one of 20%, in order to improve the prospect of achieving the planned supply.
54. National planning guidance describes a three-step procedure for calculating local housing need. The first step is to set the baseline by using the government's 2014-based household projections to calculate the projected average annual household growth over a ten-year period with the current year being used as the starting point. The current year is 2019. An argument was put forward that this year's figure should be disregarded in favour of that for 2018 being used as the starting point on the basis that housing supply data with which the local housing need would be compared was not available for the year 2019 but there is no basis in guidance for making such an adjustment to the calculation of local housing need which is made independently of the calculation of supply.
55. The second step in calculating local housing need is to adjust the resulting average annual projected household growth figure to take account of affordability using the most recent median workplace-based affordability ratios published by the Office for National Statistics. The most recent figures are the 2018 dataset, published in March 2019. Again, an argument is made for using the 2017 dataset on the basis that those were the most recent figures at the time that housing supply data was assembled but there is no basis in guidance for making such an adjustment to the calculation of local housing need which is made independently of the calculation of supply.
56. The third step in calculating local housing need is to cap the level of any increase. Both main parties are agreed that for Mid Suffolk, this part of the calculation results in there being no need for a cap to be applied. Consequently, the local housing need (LHN) for Mid Suffolk, calculated in

accordance with national guidance is currently 556 dwellings per annum or 2,780 dwellings within five years. Adding a twenty percent buffer to improve the prospect of achieving the planned supply gives a figure of 3336 which needs to be demonstrated as deliverable in the Council's identified housing land supply.

57. The Council provided an analysis of housing land supply as at 1st April 2018 in its 2017/18 Annual Monitoring Report published in July 2018 but criticisms of its methods made in an appeal decision of September 2018 (Appeal reference APP/W3520/W/18/3194926) which led to a finding that the Council could not demonstrate a five-year supply of deliverable housing sites, together with revisions to NPPF published in July 2018 caused it to revisit the matter. A new Housing Land Supply Position Statement (HLPS) was issued in March 2019, following consultation from January 2019, setting out a housing land supply of 3,493 dwellings for the period 1st October 2018 to 30th September 2023 which the Council thought it could demonstrate would be deliverable.
58. This HLPS has been criticised in the current appeal largely on three grounds; firstly that it relates to a position some ten months ago whereas the local housing need has been updated by more recent information; secondly, that the data has been post-rationalised through the inclusion of data not available on 1st October 2018 and thirdly that the lead-in times and delivery rates presumed in the assessment cannot be justified.
59. Whilst the first criticism is factually correct, it is an inevitable consequence of the process of trying to pin down both local housing need and local housing supply to an annual calculation when, in reality, both are constantly changing on an almost daily basis but the ability to record them happens at less frequent intervals which do not coincide. National guidance is quite clear that local housing need should be calculated with the current year as the starting point, not some previous year, and applying the most recent figures for affordability, not those of some previous year and that housing supply need only be calculated annually.
60. In the past, prior to the changes introduced with the revisions to the NPPF published in July 2018, participants in a local inquiry would have spent many hours of resources in seeking to establish, in the words of the then footnote 11, whether sites were available and offered a suitable location for development "now", ie at the time of the Inquiry; a nugatory exercise because dwellings are completed on a constant basis (and so should be removed from the pipeline) whilst new sites would be brought forward at any time (and so added to the pipeline), an exercise of chasing a will-o'-the-wisp repeated successively for each appeal within a local authority's area. Now, the exercise need not be conducted more than once a year but will inevitably be out of kilter with the most recent calculation of local housing need.
61. The second criticism is answered by the comment made in paragraph 14.48 of appeal decision APP/P4605/W/18/3192918; in accordance with the "Woolpit" decision (APP/W3520/W/18/3194926) "a site granted permission after [the cut-off date for the calculation of the housing land supply] should not, therefore, be included in the sites with permission categories within the 5YHLS. However, this does not mean that all information gathered after the cut-off date is irrelevant where, for example, this serves to confirm that assumptions made when deciding what should be in the supply were well founded."

62. The third criticism is focused on five sites with outline planning permission but which did not have reserved matters approved on the 1st October 2018. Even if all the sites in dispute were deleted from the Council's claimed supply the result would still be a supply which, at 2796 dwellings, would meet the Council's Local Housing Need requirement of 2780 but without any buffer.
63. Subsequent events (noted in Mr Roberts's Proof of Evidence and in the draft Housing Land Supply Position Statement issued in July during the Inquiry) appear to have confirmed that the Council's assumptions made when deciding what should be in the supply were well founded in four of those cases and that the appellant's suspicions were well founded in one (land at Turkeyhall Lane), which amounts to 51 dwellings. Deletion of this site from the analysis would not invalidate the Council's claim that it can demonstrate a five-year Housing Land Supply with a 20% buffer in relation to its currently identified local housing need. I am confirmed in this view by the observation made in appeal decision APP/W3520/W/18/3209219 that the appellant in that case pointed to the fragility of the situation but accepted the Council's position that it had a 5.24-year Housing Land Supply.
64. As has been mentioned, the Council issued a draft of a new Housing Land Supply Position Statement during the Inquiry. This appears to have taken on board some of the criticisms of its previous methods by increasing the presumed lead-in time to 3.3 years, but aggravating others by increasing the annual delivery rate. Both changes are supported with evidence. It claims a housing supply of specific, deliverable sites sufficient to provide 3746 dwellings which equates to a supply of 5.61 years including a 20% buffer. But, it is only a draft issued for consultation and so may well contain errors. Neither party was willing to discuss it in detail during the Inquiry. I therefore place no more reliance on it than to observe that it does not lead me towards reaching a different conclusion to that stated in my preceding paragraph.
65. What is not in contention in this appeal is the contribution which would be made to the supply of affordable housing. The Council has a Local Plan policy (H4) of requiring a percentage of new dwellings to be delivered as affordable housing. The supporting text to this policy takes 15% as a starting point. The affordable need identified in the latest SHMA is much higher. In fact, although the Council has delivered 21% over the past eleven years, its current position was described in the recent Bacton appeal decision APP/W3520/W/18/3209219 as bleak. The current appeal proposal offers 35% affordable housing. Despite the scepticism of local residents, the appellant affirmed that it had a good record of sites which it had brought to market delivering the quantities of affordable housing promised. This claim was not challenged.
66. I therefore conclude that the effects of the proposal on the supply of housing in the locality would be beneficial in light of the government's policy to boost the supply of housing but not disproportionately so in light of the Council's ability to demonstrate a five-year housing land supply. Although the housing target in policy CS8 is obsolete, the general thrust of the policy, to allocate greenfield sites for housing is still relevant today and this proposal would be consistent with that. It would represent the equivalent of about half a year's supply, albeit probably spread over a longer period. In terms of affordable housing, the benefits should be regarded as more substantial, in view of the Council's disappointing achievements to date.

Other matters

67. The appeal is accompanied by a planning obligation in the form of a signed and dated Unilateral Undertaking. This provides for affordable housing, a sum of £10,000 to the Council to pay for measures to mitigate the effects of increased recreational use of the Combs Wood Site of Special Scientific Interest, an introductory travel pack for each household, a Travel Plan and coordinator, funded for five years, the layout of open space and a play area and a Management Company to take on the management of the open space and sustainable drainage system proposed. Because I am dismissing the appeal in any event, I do not need to consider the compliance of the Unilateral Obligation with the CIL Regulations but I note that a CIL compliance statement is provided by the Council.
68. There are other benefits which would also flow from the development. In addition to the benefits to the supply of housing and affordable housing, the construction work would produce economic benefits in the form of 140 full time equivalent (FTE) jobs over the construction period and an additional 152 FTE jobs in associated industries. Once complete the development would house approximately 186 economically active residents with a £4.8 million per annum household spend in the local economy and a New Homes Bonus payment to the Council.
69. Some elements of the scheme which are provided as mitigation would also provide benefits to the wider existing population of the area. This includes the public open space and play area which would be provided on site, two bus stops on Poplar Hill and the enhancements to the Combs Wood SSSI. The landscaping of the scheme could provide screening to the urban edge of Stowmarket sought by SAAP policy 6.22 and a net enhancement to biodiversity.

Conclusions

70. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration. In paragraph 11 (c) it advises that decisions should apply a presumption in favour of sustainable development and that this means approving development proposals that accord with an up-to-date development plan without delay.
71. Footnote 7 of the NPPF defines policies most important for determining the application as out of date as including situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer) or where the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years. Neither contingency applies in this case so footnote 7 does not lead to a declaration that the development plan is out of date.
72. Some development plan policies have clearly outlived their purpose and are out of date through obsolescence. Policy 6.20 of the SAAP has already been noted. The concept of settlement boundaries as a development management tool may not be outmoded but given the degree to which the Council has permitted developments outside current settlement boundaries, those currently defined by Local Plan policy Prop1 are clearly obsolete. Similarly, the particular

housing target of policy CS8 may be obsolete but the thrust of the policy, allocating greenfield sites to meet housing need is not.

73. Although the development plan is old, that does not necessarily mean that it is outdated. Due weight should be given to older policies according to their consistency with the NPPF. My attention was drawn to a number of appeal decisions in which various development plan policies were said to be out of date because of their inconsistency with the NPPF. Policies CS1 and CS2 are said to be out of date in appeal decision APP/W3520/W/18/3194926 because they perpetuate the theme of protection of the open countryside for its own sake, as the justification to policy CS1 (paragraph 2.37 of the Core Strategy) makes clear. The same could be said for Local Plan policy H7, the justification for which (paragraph 2.3.55) also makes it clear that its purpose is to protect the countryside for its own sake.
74. In contrast, the more nuanced approach of the part of policy CS5 which seeks to protect and conserve landscape qualities taking into account the natural environment and the historical dimension of the landscape as a whole, protecting the District's most important components and encouraging development consistent with conserving its overall character, appears to be fully consistent with the nuanced approach of the NPPF.
75. Although NPPF paragraph 170 does not endorse the theme of protection of the countryside for its own sake, it does call for the protection and enhancement of valued landscapes and for recognition of the intrinsic character and beauty of the countryside. Policies CS1, CS2 and H7 of the adopted development plan go too far and to that extent are therefore out of date but to the extent that they recognise the intrinsic character and beauty of the countryside, they are entirely consistent with the NPPF and so should be given weight to that degree. For much the same reason I take a similar view towards policy FC1 of the Core Strategy Focused Review; the particular test it contains may be derived from an outdated version of the NPPF but its general presumption in favour of sustainable development remains valid.
76. A similar approach is taken towards the heritage elements of policy CS5 in appeal decision APP/W3520/W/18/3200941. That policy is seen as going further than the statutory duty to have regard to the desirability of preserving or enhancing heritage assets and to advice in the NPPF but it is not thereby ruled out of date. Instead it is given reduced weight. But the advice of NPPF paragraph 184 is that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. That itself goes beyond the statutory requirement simply to have regard to that desirability and so my view is that the heritage element of policy CS5 is fully consistent with that provision of the NPPF and so is not out of date. The same can be said for Local Plan policy HB1.
77. From the above discussion it should be clear that I take the view that although some of the most important policies for determining the application (CS1, CS2 and H7) are out of date to a degree, others (CS5 and HB1) are not. There is a development plan which is at least partly up to date and the proposal does not accord with it, so the advice contained in paragraph 11(c) of the NPPF does not apply in this case.
78. For similar reasons, the advice contained in NPPF paragraph 11(d) which applies where policies which are most important for determining the application

are out of date does not apply in this case because although some of the most important policies are out of date to a degree, others are not. In any event, NPPF paragraph 11(d)(i) disapplies the advice because NPPF paragraphs 184, 193 and 196 provide a clear reason for refusing the development proposed (subject to the balancing exercise required by NPPF paragraph 196 which I carry out below).

79. For the above reasons, neither paragraph 11(c) nor 11(d) of the NPPF provide the basis for reaching a decision in this case and so, the "tilted balance" does not apply. I therefore fall back on the requirements of the law, that applications for planning permission must be determined in accordance with the development plan unless material considerations (which include the balancing exercise required by paragraph 196 of the NPPF as well as policies in the NPPF other than paragraph 11 which I have already considered) indicate otherwise.
80. In summary; the development proposed would not be in a particularly sustainable location but neither would it be in an unsustainable location. It would have an acceptable effect on highway capacity and road safety. These factors weigh neutrally in the balance.
81. Although the site is not recognised in published documents as an exemplary or outstanding component of the Suffolk landscape and its development would in some ways be consistent with characteristic patterns of development along valley sides, the appeal proposal would compromise the appreciation of sufficiently impressive examples of other characteristic features of the landscape as to cause an unacceptable effect on the landscape character and appearance of the area. These characteristic features are Combs Wood and St Mary's Church both of which have statutory status and so would qualify the landscape to be regarded as valued, to be protected and enhanced in terms of NPPF paragraph 170(a).
82. There would be less than substantial harm to the setting of St Mary's church which should be given disproportionately greater weight than the simple facts of the matter would suggest. This harm should be weighed against the public benefits of the proposal. These are a contribution of about half a year's supply towards the satisfaction of local housing needs, the economic benefits which would flow from that, a highly beneficial contribution towards the provision of affordable housing and some incidental public benefits which would flow from mitigation of some of the scheme's impacts.
83. Bearing in mind the statutory duty to have special regard to the desirability of preserving the setting of a listed building, the grading of that building in this case and the Barnwell judgments ([2013] EWHC 473 (Admin) and [2014] EWCA Civ 137) and supported by consideration of the need to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside, my conclusion is that material considerations do not indicate that this appeal should be determined otherwise than in accordance with the development plan.
84. Although there is compliance with some development plan policies such as H4 and T10 and those parts of Core Strategy policy CS1 which require the majority of new development to be directed towards towns and key service centres and of Local Plan policy H7 which require new housing normally to form part of existing settlements, there would be conflict with other parts of policies CS1

and H7 which seek protection for the countryside and with CS2, CS5 and HB1. Taking the development plan as a whole and recognising that parts of it are out of date to a degree, determination of this appeal in accordance with the development plan requires its dismissal.

P. W. Clark

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Martin Carter	Of counsel, instructed by Stuart Carvel MTCP (Hons) MRTPI Planning Manager, Gladman Developments Limited
He called	
Gary Holliday BA(Hons) MPhil CMLI	Director, FPCR Environment and Design Limited
Gail Stoten BA(Hons) MCIFA FSA	Heritage Director, Pegasus Planning Group
David Stoddart BA(Hons) CMILT MIHT	Associate Director, Prime Transport Planning
Jonathan Dixon BA(Hons) MA MRTPI	Director, Savills (UK) Limited
Stuart Carvel MTCP(Hons) MRTPI	Planning Manager, Gladman Developments Limited

FOR THE APPELLANT:

Anjoli Foster	Of counsel, instructed by the solicitor to Mid Suffolk District Council
She called	
Michelle Bolger BA DipLA PGCE CMLI	Director, Michelle Bolger Expert Landscape Consultancy
Laurie Handcock MA MSc	Director of Heritage Team, Icenii Projects
Alex Roberts BSc (Joint Hons) AssocRTPI	Director, DLP Planning Ltd
Graham Robinson BSc MA MRTPI	Associate Director DLP Planning Ltd

Steven Stroud, Strategic Projects Manager, Mid Suffolk District Council took part in the round table discussion on conditions

INTERESTED PERSONS:

Sara Waterer	Save Mill Mount Field Network and Local Resident
Ian Clark	Save Mill Mount Field Network and Local Resident
Bill Baldry	Local Resident
Cllr Gerard Brewster	Local Councillor
Sue Borges	Local Resident
George Bethell	Local Resident
Desiree Shelley	Save Mill Mount Field Network and Local Resident
Tom Oates	Save Mill Mount Field Network and Local Resident
Vivienne Smith	Local Resident
Alan Winchester	Local Resident
John Garbutt	Local Resident
Julia Stephens-Row	Local Resident

Dave Clayton	Local Resident
Georgina Marston	Local Resident
Robert Paton	Save Mill Mount Field Network and Local Resident
John Smith	Local Resident
Julia Swanson	Local Resident
Dilys Lloyd	Local Resident
Diane Oates	Local Resident

Additional DOCUMENTS submitted at Inquiry

- 1 Detailed planning layout of Edgecombe Park
- 2 (a) Appeal decision APP/Z1510/W/17/3172575
- 2 (b) Appeal decision APP/R3650/W/16/3165974
- 3 Mid Suffolk District Council Housing Land Supply Position Statement 2019/20-2023/24
- 4 FPCR drawing figure 6 with MB viewpoints and FPCR photomontages added
- 5 (a) Policy H16
- 5 (b) Policy HB1
- 6 Photograph of St Mary's church by Bill Baldry
- 7 Statement by Bill Baldry
- 8 Statement by Cllr Brewster
- 9 Written submission from Moira Walshe
- 10 Information about Mill Mount Field Network
- 11 Amended statement from Tom Oates
- 12 Photograph from Tom Oates
- 13 Mr Paton's questions
- 14 Appeal decision APP/P4605/W/18/3192918
- 15 Bundle of photographs from Georgina Marston
- 16 Statement by Diane Oates
- 17 [2015] EWHC 488 (Admin)
- 18 [2019] EWHC 127 (Admin)
- 19 [2019] EWHC 1993 (Admin)
- 20 Appeal Decision APP/W3520/W/18/3209219
- 21 Extracts from Guidelines for Landscape and Visual Impact Assessment (GLVIA3)

Additional DOCUMENT submitted (by agreement) following Inquiry

- 1 Certified copy of Unilateral Undertaking dated 1 August 2019



Appeal Decision

Hearing Held on 13 July 2021

Site Visit made on 14 July 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021

Appeal Ref: APP/C1570/W/20/3263440

Land to the north of Rosemary Lane, Bran End, Essex, CM6 3RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Land Allocation Ltd against Uttlesford District Council.
 - The application Ref UTT/20/1102/OP, is dated 1 May 2020.
 - The development proposed is up to 60 (maximum) residential dwellings.
-

Decision

1. The appeal is dismissed and planning permission for up to 60 (maximum) residential dwellings is refused.

Procedural Matters

2. The appeal is against the Council's failure to determine an application for outline planning permission. The Council has provided a statement for the appeal which states that in its opinion the proposal is unacceptable, however, these are not formal determinations of the Council, as the jurisdiction to determine the application transferred from the Council upon valid receipt of the appeal. However, the Council has set out its putative reasons for concluding the scheme would be unacceptable and would have refused the application had it been empowered to do so. I have therefore taken these reasons into account in determining the Main Issues.
3. The planning application was submitted in outline form with all matters reserved, except for access. I have had regard to the Indicative Site Layout and Landscape Strategy Plan Aerial Overlays (Drawing Refs CAL010719 10 A and CAL010719 11) but have treated each element of these drawings as indicative, apart from the details of the access, when considering the likely impact of the proposal on the matters set out in the main issues below.
4. In the run up to the Hearing and during the event, the main parties presented the following information:
 - a Transport Planning Statement of Common Ground (TPSoCG), between the appellants and Essex County Council, as Highway Authority (HA);
 - revised arrangements on Drawing Reference DR-D-2010 P02 for the visibility splays for Crossing Point 2 (B1057 to Pulford Field recreation ground). This updated an earlier revision received as part of the appeal (Drawing Reference DR-D-2010 P01);

- a speed survey undertaken on behalf of the appellants on 8/9 July 2021 in connection with Crossing Point 3 (junction of B1057 and Brick Kiln Lane) and revised arrangements on Drawing Reference DR-D-2009 Revision P04 for visibility splays at this crossing point. This also updated an earlier revision received as part of the appeal (Drawing Reference DR-D-2009 P01);
 - the HA's response to the speed survey and drawing; and
 - an email from Stebbing Parish Council to the Council in relation to the hedge adjacent to Crossing Point 2.
5. Further to discussion in the Hearing and with cognisance of the Wheatcroft principles¹, following the close of the Hearing, in the interests of fairness and natural justice, I invited the parties that had commented on the appeal to consider this evidence and provide comment to their content, and final comments from the main parties. Hence, I am satisfied that interested parties have not been prejudiced by my acceptance of the plans and information, so my findings relate to these. Similarly, I am also satisfied that the revision to the visibility splays to the crossing point that would serve the bus stops north of the site access, shown on Drawing Reference DR-D-2011 P01, would not change the nature of the proposed development before me. Interested parties would therefore not be deprived by there being no opportunity of consultation.
6. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any responses received in my decision.
7. The main parties have referred to the emerging Stebbing Neighbourhood Development Plan (Regulation 16 Draft v4a: June 2021) (SNDP). I understand that this has not yet been submitted for independent examination. Emerging policies and site allocations within the SNDP are not therefore matters that have a significant bearing on my consideration of the merits of this appeal, particularly as there may be unresolved objections to contend with. In accordance with the requirements of Paragraph 48 of the Framework, the policies of the SNDP attract only limited weight in my determination of the appeal.

Main Issues

8. The main issues are:
- whether the proposal is consistent with policies relating to housing in rural areas, with regard to the protection of the countryside;
 - whether the proposed development makes provision for safe and suitable pedestrian access;
 - in light of the proposed pedestrian and other access arrangements, whether the proposal would be accessible to services and facilities;
 - the effect of the proposed development on the protected species and habitat of the Hatfield Forest Sites of Special Scientific Interest (SSSI)

¹ Bernard Wheatcroft Ltd v SSE.

and National nature Reserve (NNR) and the Priority Deciduous Woodland and Bran End Wood Local Wildlife Site; and

- the effect of the proposed development on the setting of the Grade II listed buildings known as Apple Tree Cottage, Cranford, Stone Cottage and The Green Man.

Reasons

Protection of the countryside

9. The appeal site concerns a roughly L-shaped area of land that forms part of a larger gently undulating agricultural field situated to the western side of the B1057, north of a small group of houses in Rosemary Lane and adjacent to but beyond the settlement boundary of Bran End. It is therefore situated within the countryside, as defined by Policy S7 of the Uttlesford Local Plan² (ULP). The north and eastern boundaries are open, so the site is not distinguishable from the remainder of the field and shares common characteristics with the varied field pattern that envelopes the village. The backdrop of the western extent of the site is one of mature broadleaved trees situated within Bran End Wood and the skyline beyond the trees, as the site constitutes part of the eastern valley slope of Stebbing Brook.
10. The settlement boundary defined by the ULP does not include the ribbon of development that extends along the eastern side of the B1057 north of Pulford Field, but the built form contributes to defining what is more urban and rural in form. Further north, the grain of development of houses to the western side of the road is of loosely spaced buildings with a sylvan backdrop and becomes increasing sparser with a greater propensity for open and undeveloped fields. There is a larger development of houses to the east, which has been absorbed between Brick Kiln Lane and the B1057.
11. Taken together these stated features, particularly the openness and undeveloped nature of the site, give rise to a clear and distinct, pattern of development. This makes a significantly positive contribution to the rural landscape setting of the village edge, and therefore the character and appearance of the area. In particular, the openness of the site provides a significant vista of the landscape and skyline to the west of Bran End and emphasises the juxtaposition between built form and the surrounding undeveloped landscape. Given these characteristics and its visual prominence within the immediate surrounding landscape, including in views from the comprehensive network of Public Rights of Way (PROW) nearby, the site would be highly sensitive to change.
12. Although the submitted layout plan is only illustrative, together with the other application and appeal documents, it indicates that the proposal would be a development of significant proportions and prominence to the edge of Bran End, within the undeveloped and open site. Moreover, the proposal would be set apart from the existing houses in the locality and appear as a distinct built incursion of noticeable depth. It could not be said to be infill development and would appear discordant when viewed against the established grain of linear development to this edge of the settlement. The subsequent loss of openness and erosion of the site's undeveloped qualities would also undermine how the

² Adopted January 2005.

village currently blends more naturally into the wider rural landscape and interrupt the views into the countryside from Bran End across the valley.

13. I accept that the indicative landscape strategy for the scheme would be likely to be integral to the layout of the appeal scheme and reflect planting found in the landscape. However, clear views of the appeal site and its relationship with the existing built edges of Bran End are available from the surrounding road network, particularly the B1057, the PROW in the vicinity and from Pulford Field. The proposed landscaping would be unlikely to have matured enough in its initial years of development to achieve the intended screening effect required to soften the visual effect of the physical presence of the proposed development in its sensitive valley slope location, particularly during the operational and residual phases of development. It would also take a significant amount of time for the tree coverage to reflect the existing sylvan character of planting to the west.
14. I appreciate that the impact of the proposal on the surrounding rural landscape would only be likely to be experienced within the immediate locality, including in views from nearby PROW. Nevertheless, for the reasons outlined above, I cannot agree with the findings of the appellants' Landscape Visual Impact Assessment in respect of the magnitude of this impact, as the proposal would have a significant and detrimental urbanising effect on the rural setting of Bran End and, therefore, on the character and appearance of the area.
15. I note that the SNDP includes a potential allocation for land opposite the site, at Hornsea Lodge, but there is existing development there and two existing accesses. It is not therefore comparable to the appeal scheme and, in any event, as I have outlined in the Procedural Matters, the SNDP has not been through its examination so would be afforded limited weight.
16. In light of the above, the appeal scheme would not accord with the aims of Policy S7 of the ULP to protect and strictly control new building in the countryside. The appellants have not referred to any special reasons why the development needs to take place in the proposed location, nor have they highlighted any other policies in the ULP that would support the case for a significant development of houses, such as that proposed, in this location. It would also not amount to infill development. Hence, the proposed development would also be contrary to the design aims of Policies GEN2 and S7 of the ULP and paragraphs 130 and 174 of the Framework.

Pedestrian Access

Crossing Point 3 – junction of B1057 / Brick Kiln Lane

17. Prior to the Hearing, the appellants undertook a speed survey in relation to Crossing Point 3, south of the Brick Kiln Lane junction. There was some discussion at the Hearing to its efficacy given that it was not undertaken in a neutral period, as defined in *TAG Unit M1.2*³, and conflicting evidence was presented that it rained during the timeframe of the survey. Despite the content of weather reports, there is no substantive evidence to dispute the appellants' position that the survey was not rain effected and it contained sufficient vehicle movements to constitute a valid survey⁴.

³ Department for Transport (2020).

⁴ As defined in Highways England's Design Manual for Roads and Bridges document CA185 (2019).

18. While I accept that the recorded speeds north, 37.5mph, and south, 38.5mph, are close to the speeds outlined in *Manual for Streets*⁵ (MfS), it is only recommended for use with speeds below 37mph. Furthermore, the vehicle speeds recorded to the north of the junction, in close proximity of the latest speed survey, were found to be in excess of the 40mph speed limit. Based on the extent of traffic over the survey period, the B1057 also appears to be a well-trafficked road. For these reasons, it is more appropriate to use *Design Manual for Roads and Bridges* (DMRB) guidance to calculate the visibility for the proposed crossing. The HA's calculation of 74m would therefore be more appropriate for the southern visibility splay covering northbound vehicles and I would expect the northern visibility splay for southbound traffic to be greater than the 61.7m proposed. Nevertheless, I have considered the merits of the visibility splays shown on the various iterations of the drawing for this crossing, including that provided with the latest speed survey.
19. Due to the narrow nature of the footpath, the visibility south from the western side of the B1057 is taken from the back of the proposed tactile paving, 0.8m from the carriageway edge. It is also shown on all iterations of the drawing for this crossing to be to the offside of cars traveling north. The proposed visibility splay would not achieve the DMRB requirement set out above and pedestrians would be unlikely to see motorbikes approaching in the areas closer to the nearside of the carriageway. This would be further compounded by the narrow nature of the footpath, as pedestrians would be likely to be stood further back to avoid vehicles and looking over the front boundary wall and gardens of the adjacent properties. Visibility to the south would therefore be further impaired and vehicles would appear from a blind spot.
20. In terms of visibility north from the western side of the B1057, I note that the road is not straight as it approaches the junction and there will be vehicles turning. However, it is questionable whether it would be appropriate to utilise the latest speed data for southbound vehicles given the distance of the crossing from the survey point and the significant speeds recorded further north. Even if I were to accept that vehicles would be travelling south at 38.5mph in proximity of the junction, the visibility splay northwards would be insufficient and impaired. Moreover, like the splay southward, it would be taken from the back of the tactile paving and not terminate close to the nearside edge of the carriageway. This would exclude the possibility of overtaking vehicles being observed from the footway.
21. While the telegraph pole in the footway adjacent to the crossing point would, of itself, be a momentary obstruction to visibility⁶, together with the vegetation in the garden of Badgers Leap, there would be a more significant interruption to visibility of southbound traffic and vice versa. I am also conscious that the eyeline of some users of the footway, for instance wheelchair users and children, is likely to be relatively low such that they would find it more difficult to see and to be seen. Although it would be preferable for vegetation to be kept clear in such circumstances, this would rely on third party land beyond the highway.
22. For these reasons, pedestrians would need to stand close to the carriageway edge to view vehicles in either direction, which illustrates safe and suitable pedestrian access cannot be achieved at this crossing, as the visibility splays

⁵ Department for Transport (2007).

⁶ As defined in Section 3.4 of the Highways England's Design Manual for Roads and Bridges document CD109.

required for the speed of the road cannot be provided for this crossing. Despite the absence of concern in the Road Safety Audit in relation to obstructions, pedestrians already crossing the road here, I exercise caution in relation to the absence of recorded accidents, as not all accidents are reported and while they may not have occurred in the past they could in the future, particularly with the likely increased use associated with the proposed development.

Crossing Point 2 – Pulford Field recreation ground

23. There was some discussion at the Hearing as to whether the required visibility splay could be achieved to the eastern side of the carriageway, without the removal of the hedge along the roadside north of the crossing point. This is in the ownership of Stebbing Parish Council. Following the close of the Hearing the Parish Council confirmed that it would permit the cutting back or removal of the hedge were I to determine this appeal scheme favourably. In those circumstances and with cognisance of the guidance outlined in the NPPG⁷, a negatively worded planning condition could be utilised that would prohibit development from taking place until a scheme of such works has been completed. Such a condition, with respect to land outside of the appellants' control, would not create unacceptable uncertainty, since there is nothing to compel the appellants to implement the development in any event.
24. Notwithstanding the above, the extent of visibility south from either side of the carriageway would be deficient as it would be shorter than required and terminate further out into the carriageway. A compliant splay from the western side of the road would rely on third party ownership but a significant extent of the proposed visibility splay would be unencumbered and the latest speed survey demonstrates that vehicles would be likely to be travelling below the speed limit at the furthest extent of that splay. With this in mind, the reduced visibility that would be experienced south would not be of significant detriment to the safety of pedestrians using the crossing.
25. Conversely, in much the same way as Crossing Point 3, pedestrians would need to stand close to the carriageway to be able to see southward from the eastern side of the carriageway, as visibility immediately south would be likely to be obscured by a wall and vegetation in the garden to Toad Hall. The recorded speed of vehicles at this point would therefore mean that crossing the road at this point would be a daunting proposition for pedestrians. Safe and suitable pedestrian access would therefore also not be achieved for this crossing, as the visibility splays required cannot be provided for the proposed crossing.

Pedestrian Footways

26. The HA has suggested that it expects footways to be a minimum width of 1.5m but ideally 2m wide. The proposed footway from the site would be 2m wide and would link to the existing footway further south. This narrows over a distance of 20m to 1.1m and further still to 0.85m due to a telegraph pole sited in the footway. In accordance with the guidance contained in *Inclusive Mobility*⁸, at its widest point, the footway is sufficient to accommodate a visually impaired walker with a cane or assistance dog, or general dog walkers. However, as set out in MfS, it would not be wide enough to enable an adult and child to walk

⁷ National Planning Practice Guidance, Reference ID: 21a-009-20140306, Revision date: 06/03/2014.

⁸ Department for Transport (2005).

beside one another and groups of two or more pedestrians would need to walk in single file.

27. I accept that the proposed bus stops to either side of the B1057 would reduce pedestrian trips to the stops in Brick Kiln Lane. Occupants of the proposal may also utilise the PROW from Pulford Field as a short cut. Overall, the extent of pedestrian trips into Bran End and Stebbing using the existing footway is also not likely to be significant, but there would be a meaningful increase in its use. Moreover, the narrow section of the footway is relatively short and pedestrians may wait to enable others to navigate this section of the footway before entering it themselves, but they could equally step out into the road to pass one another, which would be a safety concern. I note that this was identified in the appellants' Road Safety Audit. The speed of traffic, width of the footway and the visibility from Crossing Point 3 would therefore be likely to create an environment that would not be conducive to people making walking trips from the appeal site into Bran End and Stebbing.
28. It is clear that the safety issues associated with the existing footway and crossing points are existing rather than directly resulting from the proposed development, but it would rely on them to facilitate access to it. The use of the footway and crossing points would therefore significantly increase the potential for undertaking unsafe pedestrian movements along and across the B1057. For the above reasons, I conclude that safe and suitable pedestrian access would not be provided for the proposed development. Hence the proposal would not accord with Policy GEN1 of the ULP and paragraphs 110 and 112 of the Framework.
29. I have not found against the policies of the Essex County Council Development Management Policies, as the evidence before me does not appear to indicate that these form part of the Development Plan.

Accessibility

30. The neighbouring village of Stebbing includes a primary school, village hall, community shop, public house, bowls club, and church. Notwithstanding the proposed footways and crossings points, the route into Stebbing has limited street lighting and the footways are generally narrow in width, vary in quality and terminate abruptly. Pedestrians are thereby required to cross over the road to continue their journey.
31. In addition to the highway safety effects outlined above, failure to provide safe and suitable pedestrian linkage from the development into Bran End and Stebbing would also be likely to discourage pedestrian movements and encourage use of the private car in preference. Moreover, the routes available would not be convenient or realistic ones, particularly for occupants with young children or mobility issues, especially after dark or during inclement weather.
32. Given the limited extent of facilities and services in Bran End and Stebbing, occupants of the proposal would be obliged to travel further on a regular basis to, amongst other locations, Great Dunmow and Braintree to meet their daily needs in respect of retail, leisure, employment and healthcare.
33. Whilst cycling into Stebbing would be more straightforward, the route to Great Dunmow would utilise the fast-flowing B1057. There are existing bus stops on Brick Kiln Lane and the proposal would provide new stops to either side of the

B1057 for services between Chelmsford and Finchingfield. However, at the Hearing I heard from third parties that these services are not frequent and changes are required for either Great Dunmow or Braintree. There are separate school services. The railway station in Stansted is equally some distance away and it is unclear how it would be reached by public transport.

34. The Unilateral Undertaking (UU) supporting the appeal includes a financial contribution toward sustainable transport initiatives. While this could amount to bus services and other initiatives, the UU does not clarify whether this would have a direct effect on the frequency or route of bus services from Bran End to nearby settlements. I cannot therefore conclude that existing bus services or those that could be made available, or the opportunities available to cycle, would sufficiently discourage future occupants of the development from travelling regularly by private motorised transport.
35. The Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, so a greater dependency on car use is expected in rural locations. I also accept that some of the journeys may be shorter, including into Stebbing, and occupants may choose to car share, but the cumulative effect of allowing developments of the scale of the development proposed in locations such as the appeal site would be likely to significantly increase the amount of unsustainable journeys made.
36. In light of the above, I conclude that the appeal site would not be accessible to services and facilities. Hence, the proposal would conflict with the aims in respect of the accessibility of development as expressed in Policy GEN1 of the ULP and paragraphs 79, 104 and 105 of the Framework.

Protected Species and Habitat

37. The appeal site is situated within the Zone of Influence for the Hatfield Forest SSSI and NNR, which the National Trust states to be the finest surviving example of a small Medieval Royal Hunting Forest, with considerable ecological significance, especially its veteran trees and old growth woodland on undisturbed soils. There is evidence to suggest that unsustainable growth in visitor numbers and associated recreational activity is causing damage to the features for which it is designated. Consequently, any intensification of these activities could lead to further damage.
38. A solution for mitigation has been finalised by Natural England (NE) and was submitted to the Council in June of this year but the intended Strategic Access Management and Monitoring plan has not yet been adopted. The appellants have therefore proposed a bespoke solution to minimise the number of residents from the proposed development traveling to Hatfield Forest for recreational activities. This would include the provision of recreational facilities at the appeal site and nearby, including improved facilities and access to Pulford Field; a Locally Equipped Area for Play and other open space within the site; and native thorny species planted within the open space to deter future residents and their pets from accessing the adjacent Local Wildlife Site.
39. In theory the proposed mitigation measures would provide an alternative for residents to have access to open space within easy reach of their home. However, contributions to offsite provisions and the onsite open space would not be provided until at least twenty-four open market houses have been occupied, by which point all of the affordable houses would be provided.

A significant portion of the houses within the appeal scheme could therefore be occupied without the proposed recreational opportunities having been provided. Those residents may therefore travel to Hatfield Forest to access recreational opportunities there, which could have a harmful effect on the habitat.

40. NE has not been consulted as part of the planning application or appeal. As the Planning Inspectorate is a Section 28G authority in respect of the Wildlife and Countryside Act 1981⁹, I am mindful of the responsibility to notify NE should the intention be to give consent for development that would be likely to damage the features for which the SSSI has been designated. Given that I have found harm in relation to the first main issue, unless there is another material planning consideration which suggests that permission should be granted, it is not necessary for me to consider this matter in any further detail.
41. The appellants have also proposed mitigation measures and biodiversity enhancements for the site, which include a Construction Environmental Management Plan and open space, as a buffer to Bran End Wood. While I have no doubt that these will eventually protect the woodland, and species and habitats therein, the open space would not be delivered until a significant portion of the development has been occupied. The woodland is privately owned but access through it is provided by Public Right of Way 46-7. Given my findings above and the proximity of the site to Bran End Wood, there is potential for the early occupation of the proposal to lead to degradation of the right of way and the adjacent woodland through increased usage.
42. For these reasons, from the information before me, I am not satisfied that the extent to which protected species and habitats may be affected by the proposed development has been satisfactorily addressed. Accordingly, notwithstanding that NE has not been consulted, the proposed development would be likely to have a harmful effect on the ecological and biodiversity value of Bran End Wood and the nearby Hatfield Forest SSSI/NNR. On this basis, there would be conflict with the nature conservation aims of Policies ENV7 and GEN7 of the ULP and paragraphs 174 and 180 of the Framework.

Significance and setting

43. To the north of the site, beyond the remainder of the field, is Cranford. This is a Grade II listed detached two-storey house, oriented north-south with its principal front façade overlooking its small front garden. It is a timber framed and plastered building, with a red plain tiled roof incorporating substantial chimney stacks, and originates from the 17th or 18th Century. The southern of its two ranges overlooks the field immediately south. Despite later alterations, the significance of the listed building today is as a good example of a well-preserved 17th to 18th Century rural house, constructed in vernacular materials. Cranford also draws significance from its historical and visual setting within its garden, the sylvan backdrop of woodland to the west, and the open and undeveloped fields in the surrounding agrarian landscape, including those to the south and across the B1057 to the east.
44. To the southeast of the site are Stone Cottage, Apple Tree Cottage and The Green Man, all of which are Grade II listed buildings and arranged close to the road frontage.

⁹ As amended by the Countryside and Rights of Way Act 2000.

45. Stone Cottage is a two-storey timber framed house of 17th or 18th Century origin, arranged on an L-shaped plan form. The roof is hipped and clad in red plain tiles and the facades are plastered with panelled pargetting. There is also a prominent external chimney to the northeast façade. Despite its front entrance being infilled and repositioned to the side, and the addition of a flat roofed range to the rear northeast corner, in so far as it is relevant to this appeal, its significance today lies in its architectural and historic interest as a 17th or 18th Century cottage, designed and constructed in the rural vernacular.
46. Apple Tree Cottage, which has its origins in the 17th Century or earlier, is arranged on an L-shaped plan form at the northeast corner of the junction of Brick Kiln Lane and the B1057. It is a timber framed house, the exterior of which is plastered, with 20th Century pargeting, and its roof is partly hipped and gabled and incorporates two brick chimney stacks. Despite later alterations, as far as it is relevant to this appeal, its significance today lies in its architectural and historic interest as a good example of a 17th Century or earlier house. Moreover, it is constructed in vernacular architecture and materials and occupies a visually and historically prominent position at the road junction.
47. To the opposite corner to the junction is The Green Man, a former public house, now in use as a house. Like the preceding properties, it is also of two-storeys, timber framed, plastered, arranged on an L-shape plan form and dates from the 17th or 18th Century. Its roof is part gabled and half-hipped and clad with red plain tiles roof. Despite later additions and renovation, in so far as it is relevant to this appeal, its significance today lies in its architectural and historic interest as a former public house, designed and constructed in vernacular materials. Like Apple Tree Cottage it also has prominence within the locality due to its position but is perhaps of greater prominence as it sits forward of both the other listed buildings to the north.
48. I am mindful of the definition of 'setting' in the Framework as being the surroundings in which a heritage asset is experienced and that this is not fixed and may change as the asset and its surroundings evolve. I have also had regard to the content of Historic England's Good Practice Advice in Planning Notes 2 and 3¹⁰, as far as they are relevant to this appeal.
49. While the immediate surroundings of the curtilage of each listed building contributes to its setting, the visual and historical association of the listed buildings with one another also makes a positive contribution. These three listed buildings are also listed for their group value together, likely in part due to this relationship.
50. It is evident that the historic settings of the listed buildings have changed as a consequence of the introduction of built development to the eastern side of the B1057. However, the open and undeveloped character of the adjacent agrarian landscape to the western side of the road, partly provided by the site, has remained largely unaltered and well-preserved since at least the late 18th Century. The characteristics of the site and the remainder of the field therefore provide a rural context which forms an integral part of the historic setting of the listed buildings, including a significant contribution to their appreciation within the historic core of the settlement and understanding of their role in its layout and development. In particular, in the mid-19th Century, the Tithe

¹⁰ Managing Significance in Decision Taking in the Historic Environment (2015); and The Setting of Heritage Assets (second Edition, 2017).

Apportionment shows that the eastern half of the field was in the same ownership as Stone Cottage, which together are likely to have contributed to the role of the settlement in food production.

Effect of the proposal on the setting and significance of the listed buildings

51. Despite the indicative landscaping within and around the site, the proposal would introduce considerable built development within close proximity of Stone Cottage, Apple Tree Cottage and The Green Man. This would include domestic paraphernalia such as street lighting which, together with greater road traffic, would lead to changes in the environmental conditions of the surrounding area.
52. The physical presence of the proposal would therefore significantly and permanently erode the openness and undeveloped qualities of the site within the agrarian landscape, which is prominent in views from these listed buildings. This would fundamentally alter and be harmful to their settings and the understanding and appreciation of their significance in the development of the historic core of Bran End. While the listed buildings would still be likely to be visible in views across the site's frontage, these would be significantly altered, as the current rural edge of the settlement would largely disappear.
53. The proposal would also bring built development closer to Cranford, but its clear visual link to the surrounding rural landscape, principally to the east, would remain due to the extent of undeveloped field south and the indicative landscaping within the site. The proposal would not therefore have a harmful effect on the setting of this building or its understanding and significance.

Public benefits

54. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Paragraph 199 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
55. The proposal would be harmful to the setting of three Grade II listed buildings, namely Stone Cottage, Apple Tree Cottage and The Green Man, which would have a harmful effect on their significance as designated heritage assets. In my view the harm that I have identified would equate to less than substantial harm to their significance. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
56. In assessing the benefits, I have also had regard to the appeal decision at Elsenham¹¹ but note that this differs to the appeal scheme before me, as it relates to a scheme on the edge of a town that does not affect the setting of any listed buildings.

¹¹ Appeal Ref: APP/C1570/W/19/3242550.

Unilateral Undertaking

57. The UU for the appeal scheme seeks to provide 40 per cent of the proposed dwellings as affordable housing, which would be commensurate with the Council's policy position to address the scale of affordable housing need and retain mixed and balanced communities. It would also include provisions and financial contributions for early years and childcare provision, primary and secondary education, school travel for secondary school-aged pupils residing in the development, primary healthcare, public open space within the site, sustainable infrastructure and initiatives, improved access within Stebbing parish to Pulford Field and the provision of a Multi-Use Games Area and improvements and maintenance of adult gym equipment therein, and towards the provision of a community minibus. Whilst these contributions and provisions would be beneficial, and in the case of affordable housing would help the Council to improve its delivery, they clearly respond to policy provisions that exist to mitigate an impact. In this case, that of the erection of up to 60 dwellings. Accordingly, as the obligations therein can only mitigate against the proposed development, I afford these benefits limited weight.

Other Benefits

58. The supply of housing land in the District has been agreed by the main parties to stand at 3.11 years. Policy H1 of the ULP covered the housing requirement for 2000-2011, so it is now time expired. The Council abandoned its previous attempt to adopt a new local plan in March 2020 and the latest emerging plan is some way from being adopted. I am therefore acutely aware that the Council has no adopted strategy for the delivery of housing to meet the needs of the district and any means of addressing this situation has been significantly delayed. The appeal scheme would boost the supply of homes in the district and help to address the acute deficit in supply. The Council's supply of housing also appears to have continuously fallen short of what is required by the Framework. While the current housing land supply difficulties in the area are likely to be temporary, given the above, I afford this benefit considerable weight.

59. There would be short-term benefits to the local and wider economy from the application of the New Homes Bonus and direct and indirect employment associated with construction and longer-term maintenance works. Future occupants would be likely to support local shops and services through expenditure. These would all constitute benefits in social and economic terms and given the magnitude of the proposed development, they would be afforded moderate weight.

60. While residents of the proposed scheme would be eligible for work and could contribute to the local economy, they could equally already be employed in the district. Council Tax receipts in conjunction with the proposal would also only be likely to make a modest contribution within the District, which would amount to economic benefits of limited weight.

61. The site is at low risk of flooding and the appeal scheme includes initial proposals for surface water drainage. However, given that the potential environmental risk to other land users would need to be addressed in the final design at Reserved Matters, I am only able to afford limited weight to the locational benefit of the site with respect to flood risk and climate change.

62. The proposed houses would ultimately be constructed to the standards expected by the Building Regulations, particularly in respect of thermal performance. While this would constitute an environmental benefit, given that it is a requirement of all residential development it would only amount to a limited benefit, especially as the detailed design and layout of the houses has not been finalised.
63. Despite the proposals for biodiversity enhancement of the site, given that there are likely to be harmful implications to the SSSI/NNR and Bran End Wood from the development before mitigation is employed on and off-site, there would be unlikely to be any net biodiversity benefits associated with the proposed development.
64. The facilities and services in Stebbing can be reached by walking and cycling and the existing access to Pulford Field would evidently be improved upon by avoiding grass verges. Nevertheless, for the reasons outlined in the second and third main issues, any potential benefits attract no more than limited weight.
65. Taking the above together, the public benefits that I have outlined would not justify allowing development that would be harmful to the setting of Stone Cottage, Apple Tree Cottage and The Green Man. In accordance with paragraphs 199 and 202 of the Framework, considered together, I therefore conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.

Conclusions on the fifth main issue

66. In light of the above, I conclude that the proposed development would have a harmful effect on the setting of Stone Cottage, Apple Tree Cottage and The Green Man, all of which are Grade II listed buildings. Hence, the appeal proposal would fail to satisfy the requirements of the Act, paragraphs 197 and 199 of the Framework and conflicts with the heritage aims of Policy ENV2 of the ULP.

Other Matters

67. The appeal site is also near to Bird in Hand, Mead/Oak Cottages, Peartree Cottage and The Malt House, all of which are designated as Grade II listed buildings. I have therefore had regard to the statutory duty referred to in the Act. However, given the proximity and physical relationship of the proposal with these designated assets, their settings will be preserved and the proposal will not detract from them.

Planning Balance

68. The Council cannot currently demonstrate a five-year supply of deliverable housing sites, as required by the Framework, and the development plan is out of date as it only plans for the District's housing needs to 2011. In these circumstances the so-call tilted balance approach to decision making would normally be engaged. However, in this case given my findings in relation to heritage, the conventional untilted planning balance applies.
69. The development plan for the area includes the ULP. While this predates the current Framework, it is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication.

Due weight should be given to policies according to their consistency with the Framework.

70. Policies GEN1, GEN2, GEN7 and ENV7 of the ULP are generally consistent with the Framework in terms of its aims to promote sustainable transport, achieving well-designed places, and conserving and enhancing the natural environment. I therefore afford considerable weight to the conflict of the proposal with these policies.
71. Despite the absence of a balancing exercise in relation to heritage harms in Policy ENV2, this policy is generally consistent with the heritage aims of the Framework, particularly the statutory duties of the Act reflected within it. Nevertheless, I only afford moderate weight to the conflict of the proposal with this policy given that it does not include any such balancing exercise.
72. Policy S7 refers to development outside of settlement boundaries. In isolation of other considerations, this would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. However, this does not fundamentally undermine the continued relevance of such an approach, particularly as its aim is to protect or enhance the character of the countryside from development that does not need to be there. This differs only slightly from the aim in the Framework to recognise the intrinsic character and beauty of the countryside. There is therefore still a clear rationale for development boundaries in order to protect the countryside while focusing growth within designated settlements. In light of this I have regarded the underlying objectives of the policy, as being partially consistent with the current Framework.
73. The ULP is of some age and Policy H1 has time expired, the settlement boundaries in the District are therefore out of date so, in order to meet current and future housing needs, development will have to take place beyond existing settlement boundaries, until such time as it has a new adopted local plan with redrawn boundaries and allocated sites. I note that this point has been repeatedly discussed by the Inspectors in the appeals to which I have been referred by the main parties. Policy S7 is therefore predicated on settlement boundaries that are out of date and I have referred to the acute shortage in the supply of housing in the District. With these points in mind, I afford limited weight to the conflict of the proposal with this policy.
74. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. In terms of harm, the proposed development would not comply with development plan policy in respect of the harm to the countryside, particularly the rural setting of Bran End and the character and appearance of the area; the provision for safe and suitable pedestrian access; the accessibility of the site to services and facilities; and the setting of three Grade II listed buildings.
75. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission that comfortably outweigh the claimed benefits.

Conclusion

76. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed and planning permission refused for the appeal scheme.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Miss Megan Thomas	QC
Mr Joe O’Sullivan	Head of Planning, AAH Planning Consultants
Mr Oliver Brown	Landscape Architect
Mr Stuart Wilson	Highways Consultant
Miss Ellen Lishman	Highways Consultant
Mr Andy Rudge	Heritage Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr William Allwood	Team Leader, Development Management.
Miss Maria Kitts	Senior Built Heritage Consultant, Essex County Council
Mrs Katherine Wilkinson	Strategic Development Engineer (Highways), Essex County Council

INTERESTED PARTIES

Mr Andrew Martin	Andrew Martin Planning (on behalf of Stebbing Parish Council and several local residents)
Cllr John Evans	District and Parish Councillor and Chair of Stebbing Neighbourhood Development Plan Steering Group
Cllr Merifield	District and Parish Councillor

DOCUMENTS SUBMITTED AT THE HEARING:

- Email from Stebbing Parish Council to the District Council in relation to the hedge adjacent to Crossing Point 2.



Appeal Decision

Inquiry opened on 17 March 2015

Hearing session held on 18 March 2015

Site visit carried out on 20 March 2015

by Mike Moore BA(Hons) MRTPI CMILT MCIHT

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

Decision date: 2 June 2015

Appeal Ref: APP/C1570/A/14/2221494

Land off Thaxted Road, Saffron Walden, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Kier Homes Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/13/2060/OP, dated 1 August 2013, was refused by notice dated 2 May 2014.
 - The development proposed is outline application with all matters reserved except access for residential development of up to 300 dwellings, pavilion building, extension to skate park and provision of land for open space/recreation use, including an option for a new primary school on a 2.4 hectare site.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry, an application for costs was made by Keir Homes Ltd against Uttlesford District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The Inquiry sat on 17, 18, 19 and 20 April 2015. A hearing session to consider matters relating to the housing land supply was held on 18 April 2015.
4. The application was submitted in outline with all matters reserved except access. Application drawing 267/179/003 Rev B is an indicative masterplan showing a possible layout for the proposed development. However, such details are reserved for future consideration. After the application was received by the Council, the stated description of development was revised by the appellant company to that recorded above. This was to include reference to the option for a new primary school. The application was determined by the Council in that context. I have considered the appeal on this basis.
5. After the appeal had been made the Council resolved not to defend its decision at the Inquiry. As such, it offered no formal evidence to the Inquiry other than on the matter of whether or not there has been a record of persistent under-delivery when determining the buffer to be applied in calculating the 5-year housing land supply. This was the only matter of disagreement between the

Council and the appellant company identified in their Statement of Common Ground.

6. At the Inquiry I was provided with a completed and signed planning obligation between the appellant company, the Council and Essex County Council, dated 9 March 2015 ('the s106 agreement'). This covers various matters including the provision of affordable housing, land for recreation, a link road and a bus service, the option for the school site, financial contributions towards healthcare, a cycleway scheme, public open space and education. I consider later, as appropriate, the provisions of the agreement.
7. After the Inquiry had closed, the Minister of State for Housing and Planning wrote to the Chief Executive of the Planning Inspectorate on, amongst other things, landscape character in planning decisions. In the light of the main issues in this case, further comments on the Minister's letter were sought from the main parties and I have taken the responses into account in my decision.

Main Issues

8. Based on what I have read, heard and seen and having regard to national and local planning policy on the location and provision of new housing, the main issues are:
 - the effects of the proposed development on:
 - a) the character and appearance of the area;
 - b) the efficient operation of the local highway network;
 - c) air quality in Saffron Walden;
 - d) the living conditions of nearby residents in terms of possible noise and disturbance;
 - e) the best and most versatile agricultural land; and
 - f) local infrastructure and services, including education and waste water treatment;
 - and
 - whether or not the proposal would provide a suitable location for housing, having regard to the principles of sustainable development.

Reasons

Background and Planning Policy

9. The development plan for the area includes the saved policies from the Uttlesford Local Plan (LP), adopted in 2005. The Council has recently withdrawn from examination its emerging draft Local Plan (DLP), following the conclusions of the examining Inspector ('the DLP Inspector'), dated 19 December 2014, which set out soundness issues that could not be overcome by modifications.
10. As the DLP has been withdrawn, the provisions of paragraph 216 of the National Planning Policy Framework ('the Framework') in terms of attaching appropriate weight to policies in emerging plans cannot apply. However, the DLP Inspector's conclusions were based on his assessment of the recent evidence put to him at the examination. Where relevant to this appeal the evidence and the conclusions are a material consideration to which I attach substantial weight.

11. The appeal site fell within a proposed allocation in the withdrawn DLP – Saffron Walden Policy 1. The DLP Inspector concluded that in strategic terms this was a sound allocation, although he identified some risks to its effectiveness in the way that it was being brought forward. The appeal site comprises the southern part of the allocation while the northern part (the 'Manor Oak site') has a resolution to grant planning permission subject to a section 106 agreement. The central section, however, has not been subject to a planning application related to the allocation.
12. The Framework indicates that relevant policies for the supply of housing are not considered up to date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. In this case there was no dispute between the main parties as to the sites that comprise the land supply and their deliverability.
13. The DLP Inspector concluded that it would be reasonable and proportionate to make an upward adjustment to the objectively assessed need for housing in the draft plan by around 10% to about 580 dwellings per annum (dpa). Although the DLP has been withdrawn, the Council has subsequently based its calculation of the housing land supply on this requirement and the appellants have not challenged this. No alternative figure was promoted at the Inquiry. The 580 dpa is based on the evidence presented to the DLP Inspector at the recent examination and I am satisfied on the evidence for this appeal that it is the appropriate yardstick against which to measure the land supply.
14. The Framework requires that in calculating the 5-year supply against the requirement there should be an additional buffer of 5%, increased to 20% where there has been persistent under delivery of housing. The DLP Inspector concluded that the housing delivery performance had not fallen significantly below appropriate targets for the years in question and therefore that the buffer did not need to be increased beyond 5%. This conclusion accorded with that of a number of Inspectors determining housing appeals in the District¹. However, in a more recent appeal decision² relating to Bannister Green, Felsted that Inspector took a different view. Using the annual dwelling requirement suggested by the DLP Inspector she concluded that, as the Council would not have achieved this delivery target for the last 4 monitored years and in only 6 of the last 13, there had been persistent under delivery and the 20% buffer should apply.
15. The evidence for the DLP examination shows that in the period 2001 to 2014 house completions exceeded the appropriate target in 7 years and fell below it in 6. If the higher requirement of 580 dpa is applied to the years since 2011 that would have been within the DLP plan period, then the targets would have been achieved in 6 years and missed in 7. However, variations about the annual requirement are to be expected. The Council has exceeded its cumulative requirement for 9 of the 10 years since 2004 even if 580 dpa is used as the target for recent years. The housing requirement for this past period has otherwise been derived from the former East of England Plan which emphasised that the targets were minima with a need to provide for an upward trajectory of completions. Nonetheless, taking account of the peaks and troughs of the housing market cycle it seems to me that the evidence does not support a conclusion of persistent under delivery.

¹ Including APP/C1570/A/14/2213863, APP/C1570/A/13/2208075 and APP/C1570/A/14/2212188

² APP/C1570/A/14/2226257

16. The Bannister Green Inspector's decision was issued after the full conclusions of the DLP Inspector were published. However, it relates to a hearing event that took place prior to this. The decision refers specifically to his summarised conclusions, which did not comment on the housing land supply, and not to the full version, which did. There is no evidence that the Bannister Green Inspector was aware of the full conclusions. The land supply would have been subject to thorough consideration and examination by the DLP Inspector in a way that cannot be replicated in the course of determining an individual appeal.
17. My conclusion is that there has not been persistent under delivery and therefore a 5% buffer is appropriate. In that context, on the evidence before me there is a 5-year supply of deliverable sites in the District and policies for the supply of housing are not out of date as a result of that consideration.
18. Separate from housing land supply matters, the Framework indicates that the weight to be given to relevant policies in existing plans should accord with their degree of consistency with the Framework. In this case the LP predates the Framework.
19. LP Policy S1 in combination with the Proposals Map defines development limits for the main urban areas such as Saffron Walden, including proposed urban extensions. Policy S7 defines the countryside as all those parts of the LP area beyond the Green Belt that are not within settlement boundaries. The appeal site lies outside the boundary for Saffron Walden and therefore is within the countryside, which Policy S7 seeks to protect for its own sake. Policy S7 applies strict control on new building. Development is only permitted if its appearance protects or enhances the particular character of the part of the countryside in which it is set or where there are special reasons why the development in the form proposed needs to be there.
20. The Council's Comparability Assessment examines the degree to which each LP policy is consistent with the Framework. It indicates that there are no consistency implications for S1, whereas S7 is only partially consistent. In the latter case this is because the policy strictly controls new building whereas the Framework supports sustainable growth and expansion of businesses and enterprises in rural areas. Other appeal Inspectors³ have concluded that Policy S7 is consistent with the Framework, at least in part. I agree that, although the Framework does not seek to protect the countryside for its own sake, Policy S7 would nevertheless embrace an approach that recognised its intrinsic character and beauty and sought to protect valued landscapes. To that extent, this Policy is consistent with the Framework and I can attach full weight to that aspect.
21. Defining development limits assists in deciding where policies for the countryside apply and in principle is compatible with the Framework. However, as the LP only covers the period to 2011 and the settlement development limits were set in that context, this limits the weight that can be attached to Policy S1.

³ APP/C1570/A/14/2213863, APP/C1570/A/13/2209678, APP/C1570/A/14/2212188, APP/C1570/A/14/2226257

Character and appearance

22. The appeal site includes two areas of land - to the north and south of Thaxted Road. It is intended that the land to the north would accommodate the housing while that to the south would include the recreational uses and the option for the primary school. The land is currently in use as arable fields. It abuts existing leisure and residential development on the edge of Saffron Walden.
23. The site is not covered by any special landscape designation but is situated within the 'Cam River Valley' landscape character area, as defined in The Landscape Character of Uttlesford District (2006) (LCA). However, it is located in a tributary valley of the River Cam. Thaxted Road is in the valley bottom with the land sloping upwards on the appeal site to the north and, more gently, to the south. There is a limited relationship with the main part of the river valley due to the separation resulting from the presence of Saffron Walden to the west and higher ground to the south-west and north-east. The regional scale assessment in the East of England Typology confirms this by showing the site as being in a Settled Chalk Valleys character type reasonably enclosed by Saffron Walden and the more elevated Wooded Plateau Farmlands character type.
24. While the LCA identifies this as a character area with relatively high sensitivity to change, these factors mean that the site is not highly visible in panoramic inter and cross-valley views. The LCA suggests planning guidelines that include ensuring that any development on valley sides is small-scale and responds to historic settlement patterns, form and building materials. In terms of the setting of Saffron Walden, the Council's Historic Settlement Character Assessment (2007) concludes that, in respect of the land between The Kilns development on Thaxted Road and existing housing at Rylstone Way, the effect of development would be neutral. In summary, the contribution of the appeal site to the landscape character is limited.
25. The locality is crossed by a series of public footpaths from which the development would be seen and it would also be visible from other public vantage points, including from Thaxted Road, and from adjacent dwellings, particularly at Rylstone Way. However, there is a significant amount of existing and committed development on the northern side of Thaxted Road, separated from the existing main urban edge by part of the appeal site. This includes existing residential development at The Kilns, with planning permission for up to 52 units, an Aldi discount foodstore (under construction as part of a planning permission that includes retail warehouse units and a garden centre), a civic amenity site, salt depot and light industrial development.
26. The appeal site is in a location where the countryside meets the town. The existing development is prominent on Thaxted Road and, when fully completed, will amount to a substantial urban built form that will have a very significant effect on the character of the area. Many views of the appeal site, especially the part to the north of Thaxted Road where the housing would be located, would be in the context of this development and that existing on the urban edge of the town. There would be a significant local change here as a result of the appeal proposals, with development on arable fields, but the indicative masterplan shows that an appropriate layout and landscaping within and

around the development could be achieved that would assist in mitigating its impact.

27. The outdoor sports and recreational facilities part of the scheme would retain a largely open character. In any event, LP Policy LC4 supports such development outside development limits, including associated buildings. The school, if required, would be well related to the settlement and reflect a need for more school places. Apart from the Manor Oak site, there has been no indication of another alternative location for the school, which would therefore accord with LP Policy LC3, which deals with community facilities outside settlements.
28. Although the Framework does not seek to protect the countryside for its own sake, it nevertheless recognises its intrinsic character and beauty. It encourages the re-use of previously developed land and seeks to protect and enhance valued landscapes. Outside designated areas, the impact of development on landscape can be an important consideration. The Minister's letter on these matters refers to a number of other appeal decisions where Inspectors have given this factor significant weight. Development must be suitable for the local context and the Inspectors concluded that it was not in those cases. In this instance, the context is one of limited wider landscape and visual impacts and an acceptable relationship with existing and committed developments. As such, I conclude that the proposed development would not have a significant adverse effect on the character and appearance of the area. It would not conflict with those aims of LP Policy S7 that seek to protect the intrinsic character and beauty of the countryside.

Highways

29. Access to both parcels of land comprising the appeal site would be achieved through a new signal controlled junction on the B184, Thaxted Road, close to the existing skateboard park. Off-site highway improvements to the capacity of junctions at Thaxted Road/Radwinter Road/East Street and Thaxted Road/Peasland Road are proposed to provide some mitigation for the traffic effects of the development. These would be secured under the s106 agreement. Concerns have been expressed about whether the topography at the first of these junctions would accommodate the improvements, whether a safe pedestrian crossing could be achieved and the possible effect on trees. Taking account of the detailed drawings and my own on site observations, I am satisfied that the works would be achievable to a safe standard and that only poorer quality trees would be affected.
30. The application is supported by transport assessments which include forecasts of base traffic and committed development traffic flows. They examine the effects of the development on ten junctions in Saffron Walden, most of which are in or adjacent to a conservation area. The majority of junctions are forecast to operate above capacity without the appeal development but with the proposals they show limited further adverse impacts. There has been no objection from Essex County Council as local highway authority, having regard to its own assessment of the withdrawn DLP.
31. In the light of concerns expressed by the Town Council and 'We Are Residents', the appellant company has undertaken further analysis that, amongst other things, provides for a 90/10 split in the distribution of traffic to the north or south on Thaxted Road, rather than the 70/30 split assumed in the original work. The analysis also incorporates additional committed developments to be

- in place by 2020. The highway authority's response to the application was based on the original work. The DLP Inspector's conclusion was based on the highways implications of the full allocation in the light of the highway authority's assessment of the DLP and other evidence, but there is no indication that he took account of the 90/10 split in respect of the appeal site.
32. This is not an unrealistic scenario as the committed developments include sites in the 5 year housing land supply. The town centre and main locations for jobs, services and facilities (including schools) are to the north in Saffron Walden. All the affected junctions are to the north.
33. There has been some element of double counting of employment growth in the further analysis and assumptions have had to be made about some committed developments for which there has been no transport assessment. A Tesco store extension included as a commitment will not take place, the proposed travel plan or modal shift may have some impact, as may 'peak spreading' but these have not been modelled. Nonetheless, opportunities for re-routing trips on the constrained network in Saffron Walden are extremely limited. Furthermore, although no allowance is made for highway improvements in the town, other than the junction improvements proposed by the appellants, it is unclear with the withdrawal of the DLP as to what these should be, the timescale for delivery and funding arrangements. It has not been demonstrated that these factors in totality would significantly change the outcomes of the further analysis.
34. In terms of the results, the accuracy of queue length predictions diminishes significantly as the ratio of flow to capacity and the degree of saturation exceed 100%. Nonetheless, it is clear that the extent of congestion in the original assessments has been underestimated. The cumulative effect of the proposed development and other commitments would be significant at some key junctions in terms of additional delays and queuing at important times of the day.
35. Through the s106 agreement, the appeal proposal would secure the southern part of a link road that is intended to run from Thaxted Road to Radwinter Road through the withdrawn DLP Saffron Walden Policy 1 allocation. The owners of the central element of the intended allocation had agreed a statement of common ground with other interested parties whereby their land would be brought forward for development during the plan period in a manner compatible with the adjacent parts.
36. The DLP Inspector was concerned that the function and specification of the link road and its benefits had not been explained. However, the traffic modelling evidence for the appeal shows that it would assist in providing relief to the Thaxted Road/Radwinter Road junction and the local highway authority indicates that the intention is to channel traffic away from the town centre, forming a new cross town route. This would be in conjunction with a range of junction improvements around the town but I have indicated above my misgivings about these. With the withdrawal of the plan and no planning application for the central section of the Policy 1 allocation, there is no clear timescale for the delivery of the full link road.
37. In the shorter term it is intended that the Manor Oak development should facilitate an interim link road by using existing roads in the Shire Hall industrial estate. The planning permission for that development has not yet been issued

while a s106 agreement is being negotiated. There may be matters to be resolved concerning the alignment on the Manor Oak site and the industrial estate roads are busy with parked vehicles.

38. Overall, I can attach only very limited weight to the provision made for the link road in the appeal scheme or to any benefits that might result from the full route in the light of the uncertainties about delivery.
39. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of that development are severe. Given the number of junctions in the town that would be affected and the existing peak hour congestion, it has not been satisfactorily demonstrated that this would not be the case here. My conclusion is therefore that the proposed development would have a materially adverse effect on the efficient operation of the local highway network. In that regard it would conflict with the aims of LP Policy GEN1 which, amongst other things, seeks to ensure that traffic generated by development is capable of being accommodated by the surrounding highway network.

Air quality

40. There is an Air Quality Management Area (AQMA) in Saffron Walden due to concerns about levels of nitrogen dioxide (NO₂). In the order of 6,000 residents live in this area. The Council has an Air Quality Action Plan (AQAP) which focuses on measures to reduce traffic congestion in the historic market town with its narrow streets. LP Policy ENV13 includes the aim of seeking to prevent long term exposure to poor air quality. The Framework aims to prevent the adverse effects of air pollution. It states that policies should take into account the cumulative effects on air quality from individual sites and that planning decisions should ensure that any new development in AQMAs is consistent with the local AQAP. In this case the appeal site is outside the AQMA but traffic from the development would have implications for NO₂ emissions on roads and junctions within it and is a material consideration.
41. Concentrations of NO₂ have exceeded the annual mean objective of 40 µg/m³ at several locations in the AQMA. Forecasts of NO₂ produced by the appellants, other promoters of developments in the town and on behalf of Essex County Council for consideration of the DLP show a range of possible predicted future values. Key variables include assumptions about the cumulative effects of developments and the rate at which new European standards on motor vehicle emissions will bring down levels of pollution. In the latter context, both 'with and without emissions reduction' scenarios have been examined. The appellants also undertook further modelling of the cumulative air quality impacts of the likely developments in Saffron Walden in line with their updated traffic flow forecasts, including the revised distribution of traffic from the site on Thaxted Road.
42. Most of the forecast NO₂ concentrations are due to existing traffic levels and background emissions. However, in combination with other developments and in the 'without emissions reduction' scenario the proposals would contribute in a small way to increases in NO₂ at several of the receptor locations. The official forecasts of emissions reductions have been shown in the past to be optimistic. Nonetheless, some decline is likely as measures are put in place to ensure that vehicles meet the standards in reality. Taken overall, it is reasonable to assume that actual reductions will fall somewhere between the

forecasts and the 'no reductions' position. In the light of this conclusion it is unlikely that there would be any new exceedences of the NO₂ objective.

43. Applying the Environment Protection UK guidance on the significance of the air quality impacts of the development proposals, they would be at worst a medium priority consideration. On the balance of the evidence before me I am not persuaded that the air pollution implications of the proposals would be so significant that they would amount to a reason to dismiss the appeal. While I have attached only very limited weight to the possibility of the link road, this would be likely to offer air quality benefits to the AQMA. There would also be some small benefits or mitigation from the contribution the proposals would make to the Wenden Road cycle route and a travel plan for the site. Although the AQAP focuses on reducing traffic congestion, taking all these factors into account I consider that the proposals would accord with its underlying aims.
44. I conclude that there would not be a material adverse effect on air quality in Saffron Walden. As a result, the proposals would not conflict with the objectives of LP Policy ENV13 or the Framework.

Noise and disturbance

45. The proposals include an extension to the existing skateboard park which is situated adjacent to the site, next to the Lord Butler Leisure Centre. The nearest housing is at Tukes Way and Peal Road, separated from the facility by a mainly open area. There is existing concern at noise from the skateboarding activities.
46. Matters of scale, layout and appearance are reserved and the design and size of the extension to the skateboard park would be part of a subsequent reserved matter application. In combination with any conditions which might be appropriate at that stage, depending on the design details, this should address any issues of additional noise from that source.
47. A construction method condition would control noise and disturbance during the building phase of the development as a whole. In general terms the relationship between the overall development and neighbouring housing can be addressed in the detailed design so as to avoid any significant harm to living conditions.
48. In this context, I conclude that the proposal would not result in unacceptable additional noise and disturbance to nearby residents. As such, it would not conflict with the aim of LP Policy GEN4 that seeks to prevent material disturbance or nuisance to surrounding occupiers.

Agricultural land

49. The Framework requires that the economic and other benefits of the best and most versatile agricultural land should be taken into account. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
50. LP Policy ENV5 only permits development of the best and most versatile land where opportunities have been assessed for accommodating development on previously developed land or within existing development limits. Where agricultural land is required, areas of poorer quality should be sought except

where sustainability considerations indicate otherwise. This accords generally with the thrust of the Framework.

51. The appellant's detailed report on the land north of Thaxted Road shows it to be some 74% Grade 3a and 26% Grade 2, which is defined as the best and most versatile. Some 80% of land within the District is Grade 2. In concluding that the Saffron Walden Policy 1 allocation was strategically sound, the DLP Inspector did not identify the agricultural land quality as an overriding factor. However, I have seen no comparative assessment of development locations in Uttlesford. As such, while the loss of the best and most versatile land would be modest in the context of the general quality of agricultural land in the District, this would be a disbenefit of the proposal to be weighed in the overall balance in my decision. In the circumstances it would carry only limited weight but would nonetheless conflict with the aims of LP Policy ENV5.

Local infrastructure and facilities

52. Amongst other things, the s106 agreement seeks to address the implications of the proposed development for some local infrastructure by way of financial contributions. The Council does not have an adopted Community Infrastructure Levy (CIL) and there is a limit on the pooling of contributions from planning obligations. However, the Council's approach is to secure the necessary improvements through site specific funding from larger developments such as the appeal proposal and there is no evidence that the pooling limit would cause difficulties in this regard.
53. The s106 agreement provides for financial contributions towards both primary and secondary education as well as the land for the primary school site option, should this not occur at the preferred location in the Manor Oak development. The contributions are necessary and proportionate based on the likely numbers of pupils that the development would generate. The development by itself would not justify the whole of the school site and the agreement includes a mechanism which allows for a deduction from the financial contributions to allow for this. A contribution towards capital costs of additional healthcare on specific projects, commensurate with the needs generated by the development, would also be proportionate and meet the Framework paragraph 204 and CIL Regulation 122 tests.
54. The transfer of land south of Thaxted Road to the Council (or another public body) for recreational purposes and the contribution of £500,000 towards improvements to the skateboarding facilities, sports pitches, running track, a pavilion/associated building or buildings and car parking are included in the s106 agreement. These features fall within the description of development for the appeal proposal. It has not been suggested that the recreational provision would be insufficient to serve the residential development proposed.
55. The Uttlesford Open Space, Sport Facility and Playing Pitch Strategy (2012) identifies a District-wide need for some, but not all, types of sports pitches. However, while local sports clubs identified specific issues and aspirations for their organisations, there is no overall quantitative needs assessment for further provision in Saffron Walden itself.
56. The financial contribution is based on the cost of levelling the land rather than any detailed calculation as to the amount of playing field provision or facilities required by the proposed residential development. Indeed, the appellants'

Regulation 122 Assessment concludes that the land provision is larger than that required to mitigate the proposed development but that the "additional provision facilitates achieving the long term aspirations for Saffron Walden and addresses the current highlighted deficit". I am in no doubt that the playing fields and other facilities would be a valued benefit for local people. However, I must apply the statutory tests in the CIL Regulations. These include that planning obligations are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind. I cannot be sure that the recreational land and contribution meet these requirements. As such, they cannot be taken into account in my decision.

57. While concern has been expressed about the capacity of the Saffron Walden Waste Water Treatment Works to accommodate the proposed development in combination with other proposals, Anglian Water has indicated that the works can treat flows from the whole DLP site. Subject to a foul water condition, there are no clear technical reasons to sustain an objection to the proposal on these grounds.
58. Overall, in the light of these considerations, I conclude that the proposed development would not have a significant adverse effect on local infrastructure and services. It would therefore accord with the aims of LP Policy GEN6 which seeks to ensure that provision is made for infrastructure made necessary by development.

Sustainability of location

59. The Framework requires that developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However, opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Saffron Walden is the principal town in a mainly rural District and has a wide range of services and facilities. I note that the DLP Inspector in finding the larger proposed allocation sound in strategic terms raised no locational concerns relating to sustainable transport and access to services.
60. The appropriate distance thresholds to apply when measuring pedestrian access to facilities, including whether these should be crow-fly or on the ground distances or taken from the site access or the centre of the site, were disputed. The distances to several facilities are further than desirable but there is a reasonable range within a preferred maximum according to Institution of Highways and Transportation guidelines. The existing leisure centre and an Aldi supermarket, under construction, are adjacent to the site and there are employment opportunities at Shire Hill industrial estate.
61. The town currently has a high percentage of journeys to work on foot, reflecting its compact character and the distribution of employment opportunities. The site is closer to the town centre than some other existing residential areas. However, from some parts of the appeal site the town centre would be further than the preferred on foot maximum. I walked the most likely route, unaccompanied, as part of my visit. It would be reasonably straightforward in my estimation, albeit the distance would deter those less mobile.
62. There are almost no dedicated facilities for cyclists in Saffron Walden and the configuration of the road network, with its junctions, narrow streets and parked

vehicles, does not provide a good environment for cycling. This accounts in part for a low proportion of trips by that mode. The appellant's agreed contribution to the Wenden Road cycleway facility would assist with trips to Audley End rail station but this relates to a rural lane, outside the town itself. However, it remains that most of the town is within a reasonable cycling distance of the site.

63. The section 106 agreement provides for a bus service from the town centre to be supported for the first 5 years of the development at a frequency that is not out of place in the context of a rural market town. The agreement requires that bus stops should be within 400m of any dwelling. While the service would only be assured for 5 years and does not have to be in place until prior to the occupation of the 50th house, this would provide an opportunity for it to establish.
64. I consider that the various sustainable transport measures in the section 106 agreement are justified and proportionate, meeting the tests in the Framework and CIL Regulation 122.
65. A draft framework travel plan was submitted with the planning application. It is common ground between the Council and the appellants that the provision of such a plan, aimed at promoting the use of non-car modes could be achieved through an appropriate condition. Any contribution that the travel plan will make in this regard is likely to be very modest.
66. In terms of access to services and facilities by sustainable transport modes, my conclusion is that, taking account of the opportunities available in a market town in a largely rural District, the site would provide a suitable location for housing. However, this is only one part of a consideration of its overall sustainability. The Framework uses a much wider definition, identifying three dimensions to sustainable development – economic, social and environmental, which I consider below.

Conclusions and planning balance

67. In terms of the economic aspect of sustainable development the proposals would provide employment during the construction period and new residents would support local services and businesses. However, the conclusion on the effect of the proposals on the efficient operation of the local highway network is a significant negative factor with adverse economic effects through congestion and delays.
68. The Framework seeks to boost significantly the supply of housing. However, based on the evidence put to me, there is a 5 year housing land supply and the evidence that this was likely to continue for at least 2 more years was not contested. The Council is preparing a new local plan which is intended to be adopted by 2017 in accordance with the Development Plan Scheme. The additional houses provided by the appeal proposals would be a social benefit but these factors moderate the weight that I attach to that consideration.
69. The s106 agreement provides for 40% of the housing to be affordable (up to 120 units). This accords with LP Policy H9. The most recently published Strategic Housing Market Assessment (SHMA) for the District (2012) shows that about 54% of total needs are for affordable housing. On the basis of the current best estimate of objectively assessed needs, over 300 affordable dpa

would be required. However, the Council has recently changed the need criteria for inclusion on its housing waiting list, resulting in a significant reduction in numbers, suggesting a lower affordable requirement. The definition of affordable housing is broader than just those on the waiting list, who are likely to include mainly those in need of social rented properties. Nonetheless, this tempers the weight that I attribute to the provision of affordable homes here as a social benefit to be weighed in favour of the proposals.

70. The proposed development would provide some improvements to education and health facilities which, while proportionate to the scheme, would also be likely to provide some benefits to existing residents. There would be no unacceptable harm to the living conditions of nearby residents in terms of noise or disturbance.
71. In respect of the environmental dimension, I have concluded that there would not be material harm to the character and appearance of the area or to air quality in Saffron Walden. However, the loss of the best and most versatile agricultural land has not been justified.
72. The relevant LP policies on highway impacts and agricultural land are not out of date. On the basis of the current evidence, the harm that I have identified in these respects in combination would be significant, outweighing the benefits that I have outlined. Although the DLP Inspector had found the larger Saffron Walden Policy 1 allocation to be sound in strategic terms, he also identified risks to its effectiveness. In any event, the appeal site forms only part of that allocation. On the basis of the detailed evidence before me, overall the proposals would not amount to sustainable development.
73. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

M J Moore

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robert Williams of Counsel instructed by Michael Perry, Assistant Chief Executive, Uttlesford District Council

He called

Alison Hutchinson BA(Hons) MRTPI Partner, Hutchinsons Planning and Development Consultants

FOR THE APPELLANTS:

Simon Bird of Queen's Counsel instructed by Mr Garth Hanlon of Savills (UK) Ltd

He called

Jonathan Billingsley MA BPhil CMLI Director, The Landscape Partnership

John Hopkins MSc CMILT MCIHT Director, Transport Planning Associates

David Walker BSc MSc PhD MIEMA MIEnvSc MIAQM CSci CEnv Equity Director, Peter Brett Associates LLP

Garth Hanlon BSc MRTPI Planning Director, Savills (UK) Ltd

FOR SAFFRON WALDEN TOWN COUNCIL AND 'WE ARE RESIDENTS':

Matthew Reed of Counsel instructed by Birketts Solicitors

He called

Dr Michael Bull BSc PhD FIAQM MIEnvSc CSci CEnv Director, Ove Arup & Partners Ltd

Bruce Bamber MA CMILT MCIHT Director, Railton TPC Ltd

Alan Storah BSc DipTP DipMS MRTPI Planning Consultant

INTERESTED PERSONS:

Keith Mackman Uttlesford District Councillor
Dan Starr 'We Are Residents'
Richard Freeman Church Street Residents Association
Mike Young Chairman, Wimbush Parish Council

Geoff Jones	Head Coach, WaldenJNR
Clare Thompson	Personal Trainer
Malcolm White	Former Clerk to Saffron Walden Town Council
Derek Jones	Chair, Saffron Walden Organisation for Sport
Chris Dodge	Development Officer, Saffron Striders Running Club
Ian McKernan	Chairman, Saffron Walden Rugby Club
David Peasgood	Chair, WaldenTRI
Ian Herd	Trustee and Chairman, Saffron Walden Skate Group and Hub Management Committee
Brad Howe	Skate Group Member
Rebecca Ilett	Trustee, Saffron Walden Skate Group and Hub Management Committee
Cameron Harris	Skate Group Member
Grace Mooney	Skate Group Member
Gill Haigh	Trustee, Saffron Walden Skate Group and Hub Management Committee
Jane Gray	Trustee and Secretary, Saffron Walden Skate Group and Hub Management Committee

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Section 106 agreement between the Council, Essex County Council and the appellants
- 2 Corrected section 106 agreement between the Council, Essex County Council and the appellants
- 3 Bundle of letters of support for the proposed development
- 4 Statement by Keith Mackman
- 5 Statement by Dan Starr
- 6 Statement by Mike Young
- 7 Statements by representatives of various sports organisations in Saffron Walden
- 8 Statements by members of Saffron Walden Skate Group and the Hub Management Committee
- 9 Statement of Common Ground – Matters of Disagreement between the appellants and Saffron Walden Town Council/We Are Residents
- 10 Extract from East of England Plan May 2008
- 11 Table showing cumulative delivery of housing against 10 year annual requirements submitted by the Council
- 12 Local Development Scheme February 2015
- 13 Minutes of Council Cabinet 17 February 2015
- 14 Extract from Landscape Character Assessment of Uttlesford District
- 15 Tables showing comparisons of traffic flows, committed development assumptions and traffic forecasts with and without mitigation submitted by the appellants
- 16 Summary of operational traffic assessments, including delays
- 17 Note on TEMPRO growth factors to 2020 from Mr Hopkins and email comments from Mr Bamber
- 18 Email 11 March 2015 from Essex County Council on the proposed link road and a travel plan
- 19 Email 20 March 2015 from Mr Hopkins on travel plan condition
- 20 Diagram showing links and junctions in Saffron Walden

- 21 Proposed cycle facility, Wenden Road, Saffron Walden: scheme outline plan and Highways Panel minutes 6 January 2015
- 22 Local Air Quality Assessment: Results of further modelling of 2020 opening year using 2013 and 2016 emission factors submitted by Mr Walker
- 23 EPUK Guidance Figure 1: Steps for Local Authority to Assess the Significance of Air Quality Impacts of a Development Proposal
- 24 Regulation 122 assessment of planning obligations submitted by appellants
- 25 Letter from NHS Property Services to Council 17 September 2013
- 26 Uttlesford Open Space, Sport Facility and Playing Pitch Strategy January 2012
- 27 Letter from Council to We Are Residents concerning sports and open space provision 9 May 2014
- 28 Council's Developer Contributions Guidance Document January 2015
- 29 Comments on Affordable Housing in Saffron Walden submitted by the appellants
- 30 Note on changes to the Council's housing waiting list
- 31 Email from appellants to Council concerning decision not to submit a second application

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- 32 Draft conditions agreed between the appellants and the Council following the conditions session at the Inquiry
- 33 Council's comments on Minister's letter to PINS Chief Executive, dated 9 April 2015
- 34 Mr Storah's comments on Minister's letter to PINS Chief Executive, dated 17 April 2015
- 35 Mr Hanlon's comments on Minister's letter to PINS Chief Executive, dated 17 April 2015

PLANS

- A1-A4 Application plans