



Appeal Decision

Site Visit made on 16 November 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2022

Appeal Ref: APP/Z1510/W/21/3276315

Land to the west of Prayers Hill, Sible Hedingham, 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 Land Allocation Ltd and EHA Farms Ltd against the decision of Braintree District Council.
 - The application Ref 19/01908/OUT, dated 4 October 2019, was refused by notice dated 17 December 2020.
 - The development proposed was originally described as 'outline planning application for the development of up to 90 dwellings with all matters reserved except for access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved except for access which is to be considered at this stage. I have determined the appeal on this basis, and while I have had regard to the submitted plans, I have treated aspects pertaining to the layout, scale, appearance and landscaping of the development as indicative.
3. The description of development in the banner heading above is taken from the application form, but the Council's decision notice gives a revised description of 'outline planning application for the development of up to 73 dwellings with all matters reserved except for access'. This reflects the number of dwellings shown on the indicative layouts submitted, and is, in essence, the description entered by the appellant on the appeal form and used within their evidence to describe the proposal. I have therefore determined the appeal having regard to this revised description.
4. The Council's first reason for refusal cites conflict with Policy CS8 of the Core Strategy 2011 ('CS'), but from the commentary within the reason and the Council's appeal statement, it appears that it is Policy CS9 of the CS which concerns the Built and Historic Environment that would be of more direct relevance here.
5. However, since the Council determined the application but before the appeal was submitted, Policy CS9 of the CS along with Policies CS1, CS4 and CS11 which were listed on the decision notice have been superseded by the adoption of the Shared Strategic Section 1 Local Plan 2021 ('Section 1 LP'). The adopted version of the Section 1 LP also made some changes to policies and their numbering from those within the draft iteration referenced in the reasons for refusal. The main parties have been able to address these changes in policy as

part of their submissions. I am therefore satisfied that no prejudice would be caused by my consideration of the appeal in light of the Section 1 LP, and I make no further reference to the superseded policies of the CS.

6. My attention has been drawn to the draft Section 2 Local Plan ('Section 2 LP'). The Council indicates that this is at examination stage and that hearing sessions have concluded with consultation on main modifications expected in Autumn 2021. While the plan is at a fairly advanced stage, it is yet to be adopted and is therefore subject to change. In addition, I have not been provided with details of unresolved objections to the plan. These factors limit the weight that I give to its policies within my decision.
7. In response to the Council's third reason for refusal, the appellant has prepared a Bat Survey Report dated August 2021 ('BSR'). This details the results of further surveys indicating that the site is used by a number of species of bats, and goes on to consider the effect of the proposal on the identified species which include protected species of national conservation concern, noting the loss of hedgerow and lighting disturbance as concerns. However, it recommends replacement/compensatory planting and management of lighting both during and after construction to mitigate potential adverse impacts. The Council confirms that it is satisfied with the content of the BSR, and because it does not materially change the nature of the development for which permission is sought, I do not consider that prejudice would be caused by my taking it into account. Subject to appropriately worded conditions which I agree with the Council would be necessary to secure effective mitigation as recommended by the BSR, I am satisfied that it would be possible to ensure that development would not adversely affect protected species, addressing the third reason for refusal. I have considered the appeal on this basis.
8. The Council's fourth reason for refusal refers to the absence of an agreement to secure a range of planning obligations. During the course of the appeal, the appellant submitted a signed Unilateral Undertaking ('the UU') under section 106 of the Town and Country Planning Act 1990. This includes obligations which the Council advised during the appeal were still considered to be necessary. I return to this matter below.

Main Issues

9. In light of the above and the evidence before me, the main issues are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) the effect of the proposal on the setting and significance of heritage assets.

Reasons

Character and Appearance

10. The appeal site includes a gently sloping field with hedgerow boundaries, as well as a section of Prayers Hill which runs to the east. It sits a little way outside of the village envelope of Sible Hedingham as defined within the development plan, and is therefore within the countryside for the purposes of planning policy. The appellant accepts that the proposal for development here would be contrary to Policy RLP2 of the Local Plan Review 2005 ('LPR') which states that new development will be confined to areas within town development boundaries and village envelopes. There is also no dispute that there would be conflict with Policy CS5 of the CS which seeks to limit development outside

settlement boundaries to uses appropriate to the countryside in order to protect and enhance landscape character, biodiversity, geodiversity and the amenity of the countryside.

11. The Sible Hedingham Village Design Statement notes the countryside around the village as being characterised by outlying Greens and scattered farmsteads with associated arable land. Closest to the appeal site, buildings within the countryside are typically positioned on large plots and comprise scattered individual properties or irregular, small linear groups, often surrounded by rolling open fields or vegetation. As a consequence, there is a loose, informal appearance to development, and I find that buildings are appreciated as sitting within the countryside distinct from nearby settlements. Together with the enclosure provided by belts of trees and hedgerows which often mark boundaries and line sections of roads including Prayors Hill, this provides for a spacious and distinctly rural quality to this part of the countryside.
12. In landscape terms, my attention has been drawn to the Landscape Character Assessment 2006 for the area which indicates that the site is part of the Colne River Valley Landscape Character Area ('LCA') described as having a strong unified rural character. In addition, I note landscape sensitivity analyses that have been carried out for the Council, and summaries within the appellant's Landscape and Visual Impact Assessment highlight this part of the landscape as being of medium to high overall visual sensitivity, medium landscape character sensitivity, and medium landscape value.
13. Forming part of the open arable land setting to Sible Hedingham, and bound by hedgerows and vegetation, the appeal site is representative of many of the characteristics of the LCA, and I consider that it contributes positively to the rural character and appearance of the countryside setting around this part of the village. The layout, appearance, scale and landscaping of the development are reserved for future consideration. However, it is apparent that the dwellings and associated parking, access and gardens would spread development across a considerable proportion of the current undeveloped site, transforming it to a housing development. In itself, this would result in an unmistakable loss of openness. The proposal for up to 73 dwellings would also result in a considerable increase in associated activity on and in the vicinity of the site.
14. The appellant comments that the scale and massing of properties would be in keeping with existing development. Be that as it may, the indicative layout suggests that dwellings would be set on fairly modest plots and that they would be relatively close together in comparison to other buildings in this part of the countryside. I appreciate that the details of the development are not fixed, but from the evidence before me I am not convinced that it would be possible to afford significantly greater spacing while accommodating the quantum of development applied for on the site. Nor do I consider that there would realistically be scope to configure dwellings in small groups with woodland planting around as has been suggested within the appellant's Landscape Statement to mitigate effects of development on the character of the area. In combination with the spread of development over the large site, I find that the relatively tight-knit pattern and density of development would be urbanising and would contrast unsympathetically with the scattered arrangement of buildings in spacious surroundings which characterise this part of the landscape. It would not therefore respect the rural character of the local

landscape which the appellant acknowledges is an important part of the setting to nearby settlements.

15. I recognise that there are areas of broadly similar density within Sible Hedingham. However, the site is set apart from the village envelope, and intervening open parcels, buildings in spacious surrounds and vegetation currently signify a gentle transition between this part of the settlement and surrounding more open countryside. Irrespective of the provision of landscape buffers or strengthening of boundaries, the proposal would lead to a marked shift of much more intense urban development onto the site, leapfrogging awkwardly into the countryside. In doing so, it would result in a conspicuous and incongruous intrusion beyond the periphery of the village, harmfully distorting its overall form and historic pattern. Having regard to the characteristics of the proposal, I cannot therefore agree with the appellant that it would nestle comfortably at the village edge or form a logical extension to it.
16. Moreover, this part of Prayors Hill is narrow and lined closely with reasonably dense hedgerows and vegetation, or otherwise by open parcels punctuated occasionally by scattered buildings or groups. It lacks footways, and at the time of my visit, there were also very low numbers of vehicles passing the site. I acknowledge that my observations of traffic levels represent a snapshot, but the overall impression was one of tranquillity, and notwithstanding some buildings, the predominant character on approaching or leaving Sible Hedingham along Prayors Hill is verdant and distinctly rural.
17. Fairly long stretches of hedgerow and vegetation would be removed along both sides of Prayors Hill in order to provide for suitable access and for footways. Irrespective of the species mix which the appellant considers to be of low landscape value, the existing vegetation adds considerably to the verdant and rural quality of Prayors Hill. I note new planting along the frontage of the site and within the development which would result in an overall increase in lengths of hedgerows, but this would not offer comparable enclosure to views along the street. The effect would be localised, but together with the introduction of footways which would urbanise the narrow road, I consider there would be a notable reduction in the rural character of Prayors Hill, further exacerbating the visual impact of development beyond the village envelope.
18. The suggested retention and enhancement of boundary vegetation and new planting would provide for containment of development within the site, and would help to screen it to some viewpoints. However, this would not alter the harm to the enclosed rural character of Prayors Hill. Furthermore, screening would be partial, and it was clear from my visit that development on the site would be readily apparent in views from Prayors Hill and Wethersfield Road where it would intrude on existing filtered views towards open countryside beyond. Based on my observations from the surrounding area, I also concur with the appellant's landscape evidence which confirms that the development would be partly visible from sections of nearby rights of way.
19. In these views, the development would often be seen together with nearby buildings on Prayors Hill and Wethersfield Road, but its uncharacteristic density and large spread across the site would stand out uncomfortably against the more spacious and scattered pattern of these neighbours. Irrespective of the detailed scale, design and external materials of the dwellings and the potential for landscaping, I find that the proposal would integrate poorly with nearby

buildings and with the settlement envelope. I therefore agree with comments in the appellant's Settlement Gap Analysis that the scale of the proposed development does not relate well to the surrounding building groups and that it would not assimilate into the landscape as they do.

20. In addition, the site is part of the gap between Sible Hedingham and Highstreet Green. Despite some development between the settlements, the wide spacing presently around and among existing buildings maintains an appreciable sense of separation overall. This impression would not be entirely undermined by the proposal given that the appeal site makes up a relatively small part of the open gap. However, the encroachment of urbanising development outwards from Sible Hedingham onto a currently open site would result in a degree of coalescence which does not currently exist, diminishing the perception of distinction between the settlements. Opportunities for fixed views of the settlement edges together would be very limited, but the impact would be readily experienced when travelling along Prayers Hill, and would also be appreciable in some glimpsed views from rights of way to the south, albeit at some distance.
21. Having found that the characteristics of the proposal would relate poorly to other development nearby, I consider the assessments of the effect of development within the appellant's landscape evidence to give undue emphasis to the presence of other buildings in the vicinity of the site. Accordingly, I consider the appellant's position that the effect of development on the wider Colne River Valley LCA would be of negligible magnitude and significance to be an underestimate.
22. I appreciate that the site is not part of a protected landscape, and the evidence before me does not indicate that it would comprise valued landscape in the terms of the Framework. The visual impacts of the development would also be relatively limited in their geographic extent, but that does not mean that they would be unimportant. For the reasons above, I find that the awkward intrusion and encroachment of the development onto the site would distort the existing settlement pattern and cause an unmistakable and unsympathetic urbanisation of this part of the countryside. In my opinion, the proposal would fail to respect the landscape and the distinctiveness of its surroundings, and it would cause significant harm to the rural character and appearance of the local landscape and area. It would not therefore maintain the intrinsic character and beauty of the countryside.
23. For these reasons, the proposal would conflict with Policies RLP9, RLP80 and RLP90 of the LPR, Policy CS8 of the CS and Policies SP3 and SP7 of the Section 1 LP which together broadly seek development that recognises, reflects or enhances local distinctiveness, landscape character and the character of its surroundings and that integrates successfully with the local landscape. It would also be contrary to the Framework insofar as it seeks development that is sympathetic to local character and requires recognition for the intrinsic character and beauty of the countryside. This is in addition to the conflict with Policies RLP2 of the LPR and Policy CS5 of the CS as a result of the location of development in the countryside.
24. Policy SP3 of the Section 1 LP provides that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role. Given the separation to the Sible Hedingham

village envelope, I am not persuaded that the proposed development would clearly adjoin the settlement. In any event though, Policy SP3 goes on to stipulate that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. For the reasons set out above, the proposal would not achieve these aims, and therefore I do not consider that it would be supported by Policy SP3.

Heritage Assets

25. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. There is no similar statutory protection for the setting of conservation areas, but the Framework requires an assessment of the significance of any heritage assets affected by development, including any contribution to that significance made by their setting.

26. In this context, the glossary to the Framework outlines that significance concerns the value of a heritage asset because of its heritage interest, and that significance derives not only from an asset's physical presence, but also from its setting. It further defines setting as the surroundings in which an asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a 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.

Church of St Peter (Grade II Listed Building)*

27. The Church of St Peter sits in an elevated position on the edge of Sible Hedingham within a churchyard containing a large number of mature trees. It is an attractive building constructed partly from flint rubble with some Roman tile, and is recorded within the listing description as dating mainly from the 14th Century, although with some rebuilding and addition in the 16th Century and much restoration in the 19th Century. It is one of the earliest surviving buildings within the village, and the aesthetic and historic interest of the Church including as a result of its surviving form and fabric contribute greatly to the special interest and significance of the listed building. In my view, it has further interest as a parish church serving the local community, and I agree with the appellant's Heritage Statement that its position at the north end of and overlooking the earliest and original part of the village, having been the main focal building during the development of the settlement, adds to its significance.

28. Given that its position relative to the village contributes to its significance, it seems to me that the countryside beyond the village therefore provides necessary context and allows an appreciation of the historic situation of the Church between the village and its rural hinterland. The appeal site may not have a direct associative relationship with the Church or form part of its immediate setting, but it is part of the surrounding countryside and is located on the immediate approach to the Church from the north. On this basis, I find that the site does contribute positively to the significance of the Church as part of its wider setting.

29. In addition, I saw that there are some longer range views towards the Church across the appeal site from rights of way that link Wethersfield Road to Prayors

Hill. These views are partial, mainly of the upper part of its west tower, and often filtered or intermittent given the presence of vegetation, but nevertheless allow an appreciation of both the form of the Church and its landmark position at the edge of the village.

30. The development would be apparent in the foreground of the Church from these vantage points, and there would also be opportunities for views taking in the development together with the Church from both Wethersfield Road and Prayors Hill. Although I was not able to view the site from the Church tower, there would additionally be likely to be some reciprocal views from it of the development on the site.
31. Noting the suggested height of the development as sitting below the treeline, I am satisfied that existing views towards the Church and its visibility within the wider landscape would not be obscured. However, I have already identified that the proposal would be urbanising, causing significant harm to the character and appearance of the landscape and this part of the countryside. It would therefore erode the wider historic rural setting to the Church. The encroachment of relatively high density development onto undeveloped agricultural land beyond this part of the village edge would also distort the settlement pattern of Sible Hedingham, undermining the historic position of the Church to the north of and overlooking the historic core of the village.
32. The Church is most clearly seen as a whole from within Sible Hedingham to the south, and I have not been directed to any views from within the village where development would be seen behind the Church. Nevertheless, I find for these reasons that there would be clear harm to the setting of the Church, so detracting from the ability to appreciate and understand the asset and its significance. Having regard to the contribution that this setting makes to the overall significance of the building and the scale of the development as part of this setting, I consider the moderate adverse impact it would have on a portion of the Church's setting would cause less than substantial harm to its significance.

Prayors Hill Cottage (Grade II Listed Building)

33. Prayors Hill Cottage is positioned close to Prayors Hill to the south east of the main part of the appeal site. It is a distinctive building of timber frame and panel plastered construction including a central red brick chimney stack and an external chimney stack partly incorporated within a later extension. I agree with the appellant's Heritage Statement that it derives significance and special interest as a listed building through its architectural value, as well as its historic and evidential value as a building of at least 17th century date. Further historical value and aesthetic interest result from the relationship of the building with its garden.
34. I have no firm reason to doubt the appellant's comments that the Cottage appears to have been associated with an adjacent smithy, and that its historic and functional placement is linked to its roadside location allowing access for both local and passing trade. It may not therefore have a historic functional relationship with surrounding agricultural fields including the appeal site, but as a building that sat clearly outside of Sible Hedingham within the countryside, it seems to me that it still draws some significance from its position somewhat detached from the village within generally rural surroundings.

35. Opportunities to understand and appreciate Prayors Hill Cottage from the appeal site are restricted to some degree by vegetation screening, although the Heritage Statement confirms there are some views where cover thins, particularly in winter months. Nevertheless, in affording an understanding of the historic position of the cottage in countryside outside of Sible Hedingham, I consider that the site makes a positive contribution to the significance of the listed building.
36. There would be likely to be some, albeit limited and filtered, views of the development behind Prayors Hill Cottage from Prayors Hill, as well as from the listed building itself. In addition, the development would be appreciated together with the listed building when travelling along Prayors Hill. The spread of fairly intense, urban development out from Sible Hedingham onto the appeal site would considerably alter the historic rural setting to Prayors Hill Cottage, and would lead to an impression of it being subsumed into suburban development.
37. There would be consequent detriment to the ability to experience and understand the listed building within its context as being in a rural location separate from the wider settlement. In my judgement, the harm to its setting would be appreciable. However, the fabric of the building and its immediate setting and relationship with its plot would not be altered, and I find that the harm to its significance would overall be less than substantial.

Prayors Farmhouse and Barn (Grade II Listed Buildings)

38. Prayors Farmhouse and Barn are located to the opposite side of Prayors Hill/Church Street from the appeal site and are part of a complex of agricultural buildings which sit just outside of Sible Hedingham. From the evidence before me, their significance results in large part from their historic, architectural and aesthetic interest as examples of a 17th century or earlier house and an associated 17th/18th century barn, as well as their group value forming part of the same farmstead. The significance derived from their setting relates principally to their immediate setting and relationship with the village edge and the historic farmstead plot. There is no direct functional relationship between these assets and the appeal site, and little direct intervisibility. Nevertheless and despite the loss of the original function of the buildings themselves, the generally rural character of the surrounding landscape provides an understanding of the historic context of the farmstead sitting on the periphery of the settlement, and I find that the site is part of this wider setting. The role that the appeal site plays in the wider setting is small, but I consider it still makes a limited contribution to their significance.
39. The development would not obscure views of these listed buildings, but would erode their surrounding rural context. In combination with the distortion of the settlement pattern and relationship of Sible Hedingham with the surrounding countryside, this would adversely affect the ability to understand and interpret their historic position as agricultural buildings sitting just outside of the built up part of the village. In view of the modest role of the site as part of the wider setting in contributing to their overall significance and the degree of separation, I consider that the harm to the significance of the listed buildings caused by development would in both cases be limited, but would nevertheless be less than substantial harm in the terms of the Framework.

Sible Hedingham Conservation Area

40. The Sible Hedingham Conservation Area ('CA') is in two discrete parts, with the appeal site closest to the Church Street part. The Sible Hedingham Conservation Area Appraisal and Management Plan 2011 ('CAAMP') comments that the character of the CA is dominated by the Church of St Peter. It notes a large number of listed buildings as well as a Scheduled Monument, and highlights the diversity and quality of the buildings together with prevalent walls and railings, mature trees and open spaces as adding to the character and appearance of the area. I agree, and find these qualities to contribute to the significance of the CA. In addition, I consider that the CA derives further significance from its historic interest as a rural settlement with medieval origins, and its subsequent evolution and expansion which the appellant's Heritage Appeal Statement notes has produced the morphology of the present-day settlement.
41. I observed that buildings within the CA closest to the appeal site are typically arranged with an inward looking focus. Nevertheless, the immediate rural setting to the village allows for an understanding and appreciation of its significance, providing historical context for the village as a rural settlement and adding to its significance. The topography of the area and screening by vegetation significantly limit visibility between the appeal site and the CA, and I note the CA has a more open relationship with fields to the west and south, but the contribution that the site makes to the immediate rural setting to the village, and to the Church as a focal building within the CA, is still clearly appreciable on approaching or leaving the village via both Prayors Hill and Wetherfield Road. In my view, the CA can not reasonably be described as almost wholly divorced from the site as suggested by the appellant. The contribution that the site makes to the experience and significance of the CA overall is small, but that is not to say that it is of no importance or meaning.
42. The development would not adversely affect important views identified within the CAAMP, nor trees that are noted as playing a particular role in adding to the CA's quality. However, it would urbanise part of the rural setting to the CA, disrupting the existing sense of a gentle transition from the built-up part of the settlement to the countryside beyond. It would also alter the historic settlement pattern by bringing more intense development beyond the Church to this side of Prayors Hill, intruding into the surrounding agrarian landscape. This would be readily perceived on approaching or leaving the CA, detracting from the experience of the asset. I note there have been other changes to the morphology of the settlement, but I consider the development proposed would cause further detriment of the ability to understand the historic form and interest of the village on which the CA is centred.
43. Given the visual and spatial separation between the proposal and the CA and that the harm would be localised, I consider that the overall impact on its significance through development within its setting would be fairly limited, but would still result in less than substantial harm in the terms of the Framework.

Heritage Conclusions

44. For these reasons, I find that the proposal would cause less than substantial harm to the significance of the Sible Hedingham Church Street CA, and to the significance of the Church of St Peter, Prayors Hill Cottage and Prayors Farmhouse and Barn listed buildings, by causing harm to each of their settings.

45. Accordingly, there would be conflict with Policy SP7 of the Section 1 LP which includes requirements for development to respond positively to local character and context; to preserve and enhance the quality of existing places and their environs; and to protect and enhance assets of historical or natural value. There would also be conflict with Policies RLP95 and RLP100 of the LPR which outline criteria including that development does not harm the setting of listed buildings, or the character, appearance or essential features of Conservation Areas including from development affecting their setting. LPR Policies RLP95 and RLP100 are generally consistent with the Framework in seeking broadly to conserve and enhance the historic environment. However, they do not reflect the Framework requirement to balance less than substantial harm to the significance of heritage assets against the public benefits of development. I return to this matter as part of the overall planning balance below.

Other Matters

46. The Council refers to uncertainty as to whether the site would be classified as Grade 3a (good quality) agricultural land or Grade 3b (moderate quality) agricultural land. However, it suggests that if the site were Grade 3a and therefore considered 'best and most versatile agricultural land' which Policy CS8 of the CS advises should be protected, there is an abundance of such land in the District. The loss of Grade 3a land would weigh against the proposal, but the Council therefore considers that the impact on provision would be limited and a matter of negligible weight. Even if the site is Grade 3b and the proposal would not result in loss of best and most versatile agricultural land though, this would not be a benefit of the proposal. In this context, and because it would not in any event alter my overall conclusions, it has not been necessary to consider this further as part of my decision.

47. The appeal site is some distance from the village centre where the majority of services and public transport links are located. The UU includes a contribution towards surface improvements to Byway 31 which would provide a route from the site to Hedingham Secondary School and Sixth Form. A footway is also proposed to connect the site to the Wethersfield Road junction, but beyond this link, pedestrians would need to navigate either steps and fairly steep paths through the churchyard, or narrow sections of Church Street lacking in footways in order to continue journeys into the main village centre. In combination with the overall distance involved, I agree with the Council that this would be likely to discourage some occupiers of the site from walking, and there would be a degree of reliance on private vehicles to access day to day services. Trips would be relatively short, and walking would certainly be an option for some occupiers of the site such that I find any harm would in reality be very slight. Nevertheless, I do not therefore consider that the site could reasonably be described as having 'good' access to shops, services and facilities as the appellant asserts.

48. Given that the draft Section 2 LP is not yet adopted and is therefore subject to change, I afford limited weight to a potential amendment to include the former Tanner's Dairy located to the opposite side of Prayors Hill within the Sible Hedingham village envelope. Similarly, while I note a proposal for 54 dwellings on that site, the evidence before me indicates that this does not currently benefit from planning permission. Moreover, each case must be considered on its own merits. As an existing developed site, development at Tanner's Dairy would not be directly comparable to the appeal site which is undeveloped and

open, and the potential for future development here does not therefore alter my conclusions on the main issues above.

49. I have had regard to representations made by interested parties which raise additional concerns including regarding traffic levels, highway safety, harm to biodiversity, pressure on local infrastructure, flood risk and impacts on neighbouring living conditions. However, while I note the strength of feeling, none of the matters raised alter my conclusions on the main issues.

Planning Obligation

50. The Community Infrastructure Levy Regulations 2010 ('CIL Regulations') and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.

51. In summary, the appellant's UU provides for 30% on site affordable housing with a one third/two thirds split of shared ownership and rented homes; provision of on site play and open space/amenity areas; and financial contributions towards education, health care, highway improvements, and sports and allotments. It also includes provision for skylark surveys and, in the event that they are found to be present, provision of compensatory habitats.

52. The obligations within the UU are given by Abphia Limited rather than the appellant as was the case in drafts provided to the Council for comment. However, the appellant has provided details indicating a transfer of the registered title to Abphia Limited dated 30 September 2021, and while the official copy of the register of title for the land indicates that there are currently applications pending which have not been completed against the title, I am satisfied that the obligations would be enforceable against the landowner.

53. With regard to the detail of the obligations, the Council has prepared a CIL Compliance Statement which contends that the obligations would satisfy the relevant tests within the CIL Regulations. In light of the supporting information and evidence that is before me, I have no reason to reach a different view.

54. I have noted drafting issues highlighted by the Council in relation to the Education contribution contained at Schedule 2 of the UU. These are unfortunate, but I do not consider the non-sequential numbering of paragraphs or erroneous reference within paragraph 3 to other information that is also to be submitted would harm its meaning or effectiveness. Similarly, while paragraph 1.4 does not reference clause 11 which establishes the mechanism to resolve disputes as was intended, this process would in any event apply. I share the Council's concern that reference within paragraph 6.1 to paragraph 206 rather than 2.6 which establishes the trigger point for payment of 50% of the contribution could result in some room for uncertainty or dispute. However, this would be limited to additional payments that would be sought in the event of a late payment, and I do not consider this so fundamental to the effectiveness of the obligation overall in securing what is intended that the obligation should be disregarded.

55. On this basis, I consider that the UU would address the fourth reason for refusal, and I have therefore taken the obligations secured into account as material considerations.

Benefits of the Development Proposed

56. At the time the Council determined the application, it accepted that it could not demonstrate a five year supply of housing referring to a supply position of 3.73 years. Against this fairly significant shortfall, the proposal for up to 73 dwellings on the site would make a relatively small, albeit important contribution to reducing the deficit, and I consider this would attract significant weight as a public benefit of the proposal.
57. At appeal stage, the Council has provided a copy of a Housing Land Supply statement published in May 2021 and advises that as of 31 March 2021, it now has a 5.34 year supply of housing. The appellant casts doubt on some of the assumptions behind this statement, including the reliance on sites with outline planning permission or resolution to grant permission as part of the claimed deliverable supply, and suggests that the housing land supply position is fragile at best. In any event, the existence of a five year supply is not a ceiling on development, and the supply in excess of the required level would be small. Even if I were to accept the Council's position, I find in the context of objectives within the Framework including to significantly boost the supply of homes that the delivery of housing on the site would be an important public benefit attracting great weight.
58. In addition, the CS acknowledges that any feasible new supply of affordable housing is unlikely to meet identified needs. The provision of 30% of the dwellings on the site as affordable homes with a mix of rented and shared ownership tenures in accordance with policy requirements would be an important public benefit of the proposal, and I give it significant weight.
59. There would be direct and indirect economic benefits of the development, both short-term during construction and longer-term on occupation. These would include employment opportunities in construction and the supply chain which the appellant suggests would amount to 226 jobs. Expenditure by residents would further help to support local services and facilities and contribute to the economy, with spending power estimated by the appellant to exceed £1.9M. I attribute significant weight to these benefits.
60. I am mindful that the Planning Practice Guidance makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority. The appellant refers to New Homes Bonus payment to the Council, but I have not been provided with evidence that any benefit arising would be directly related to the development. In addition, while I note that there would be additional Council tax receipts, this would reflect increased demand for services from the development. These are not therefore matters to which I afford weight in favour of the proposal.
61. Open space would be provided on the site to serve the development, and would be accessible to existing local residents. Future occupiers would also have some access to local services and facilities and public transport links within Sible Hedingham. However, I have found there would still be some reliance by occupiers on private vehicles and I do not consider the accessibility of the site or provision of open space to constitute a significant benefit of the proposal.
62. The development could support a biodiversity net gain including through planting of native species or species of known value to wildlife, but this would depend somewhat on the detail of reserved matters and enhancement

measures which would be secured by condition. The extent of any gain is not therefore currently clear which limits the weight that I afford to this benefit.

63. The site is not within an area at risk of flooding, and I have no reason to doubt that dwellings could offer a suitable quality of accommodation. However, I am not persuaded from the evidence before me that these are positive benefits in favour of development. I also note the appellant's suggestion that the development would contribute towards carbon savings, but this is said to be on account of compliance with building regulation requirements which would apply in any case, and would not therefore be a benefit of the scheme.

Planning Balance

64. I have found that the proposal would cause less than substantial harm to the significance of the Church of St Peter, Prayors Hill Cottage, Prayors Farmhouse and Barn listed buildings. The Framework outlines that great weight should be given to the conservation of designated heritage assets, and the harm in each case attracts considerable importance and weight. In addition, there would be less than substantial harm to the significance of the Sible Hedingham Church Street CA. While there is no statutory protection for the setting of Conservation Areas, I additionally give great weight to this harm in light of the advice within the Framework.
65. I have carefully considered the public benefits of the proposal noted above. However, and even if I were to find that the Council did not have a five year supply of housing, I find in this context that the weight to the public benefits would not be sufficient to outweigh the less than substantial harm to the significance of the Church of St Peter and Prayors Hill Cottage individually, nor the collective harm to heritage assets noted above. The development would therefore conflict with the aims of the Framework as it would fail to sustain the significance of the CA and listed buildings, and public benefits would not outweigh the harm.
66. The proposal would also be contrary to Policies RLP2, RLP9, RLP80, RLP90, RLP95 and RLP100 of the LPR; CS5 and CS8 of the CS; and SP3 and SP7 of the Section 1 LP. Together with Policy SP4 of the Section 1 LP which identifies how housing targets are to be met, I consider that these are the most important policies for determining the appeal.
67. The Framework indicates that where the policies which are most important for determining an application are out-of-date, the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework would be engaged. This provides that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) 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.
68. The appellant asserts that Policies RLP2 of the LPR and CS5 of the CS are inconsistent with the Framework and that they are out of date. Whether or not the Council currently has a five year supply of housing, these policies relate to settlement boundaries that no longer reflect current housing requirements. This limits the weight that I give to the conflict with these policies on account of the location of the development outside of any defined settlement boundary.

Insofar as it seeks broadly to protect and enhance the landscape character and amenity of the countryside however, Policy CS5 accords generally with requirements within the Framework to protect and enhance the natural, built and historic environment; and to recognise the intrinsic character and beauty of the countryside. The conflict with Policy CS5 in these regards is therefore a matter to which I give some weight.

69. I have also found that Policies RLP95 and RLP100 of the LPR are not fully consistent with the Framework given the absence of heritage balancing exercises. However, I have in this case concluded that the public benefits of the proposal would not outweigh the harm, and because they reflect the overall aim of the Framework to conserve and enhance the historic environment, I afford significant weight to the conflict with these policies.
70. In terms of the other policies which are 'most important', neither party has suggested that they are inconsistent with the Framework such that conflict with them would warrant anything less than full weight.
71. In any event, I have found that policies within the Framework that protect designated heritage assets provide a clear reason for refusing the development proposed. Footnote 7 of the Framework therefore makes it clear that the presumption in favour of sustainable development at paragraph 11d) would not apply. This would be the case even if I were to find that the most important policies for determining the appeal were out of date on account of their consistency with the Framework, or if they were deemed out of date following a conclusion that the Council did not have a five year supply of housing.
72. Moreover, the proposal would cause significant harm to the character and appearance of the area in addition to the harm to heritage assets. It would be contrary to requirements within the Framework for development that is sympathetic to local character and history, including the surrounding built environment and landscape setting; and to recognise the intrinsic character and beauty of the countryside. These matters together attract substantial weight. Even if I were to set aside the Council's assertion that it now has a five year supply of housing, and giving significant weight to the benefit of the delivery of up to 73 dwellings, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework and reflected locally at Policy SP1 of the Section 1 LP. Neither do I find that there are material considerations sufficient to justify a decision otherwise than in accordance with the development plan.

Conclusion

73. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR