



Appeal Decision

Inquiry Held between 24 September and 1 October 2019

Site visit made on 26 September 2019

by A J Mageean BA (Hons) BPI PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/C1570/W/19/3223694

Land to the North of Wicken Road, Newport, 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 Mr David Hill against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1026/OP, dated 12 April 2018, was refused by notice dated 14 September 2018.
 - The development proposed is outline application for up to 74 dwellings plus access, open space and landscaping with all matters reserved save for access.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Newport Parish Council (NPC) was awarded Rule 6(6) party status and presented planning evidence in support of its objection to the proposals. Originally the evidence submitted included air quality and highway matters. However, following receipt of an appeal decision relating to land to the south of Wicken Road¹ (WRS decision) in September 2019, on which all parties were invited to comment, NPC withdrew their evidence relating to air quality and highway matters.
3. The application was submitted in outline with all matters accept access reserved for subsequent approval. As part of the appeal documentation the appellant has provided an Illustrative Masterplan and a Framework Plan. These provide an alternative site design to the indicative layout set out in the Design and Access Statement. I have treated these drawings as providing an illustration of how the site could be developed.
4. Prior to the inquiry, the appellant provided a draft Section 106 obligation under the Town and Country Planning Act 1990 to provide for the infrastructure required to mitigate the impacts of development. The completed Section 106 agreement was provided immediately after the event. The Council indicated that this would overcome the second reason for refusal in so far as it relates to securing affordable housing and contributions towards healthcare and education. This reason for refusal also refers to the provision of off-site highway improvements. I am satisfied that, should planning permission be granted, this matter could be addressed by way of a planning condition.

¹ APP/C1570/W/18/3209655

5. The Section 106 agreement includes a financial contribution towards a Site Access and Management and Monitoring Strategy (SAMMMS) for Hadfield Forest Site of Special Scientific Interest. The SAMMMS is still under consultation and has not been adopted by the Council as yet. It is not yet clear as to whether the SAMMMS provisions will apply to the appeal site. Consequently the S106 has been drafted so that it would apply if necessary.
6. The Uttlesford Local Heritage List was adopted by the Council in October 2018, after the decision notice was issued. As a result, No's 41-47 and No's 49-51 Wicken Road located adjacent to the appeal site are included in the Local Heritage List as not-designated heritage assets.

Main Issues

7. Having regard to the above and the evidence before me, the main issues are:
 - The effect of the proposed development on the character and appearance of the area, with particular reference to the rural setting of Newport;
 - The effect of the development on the setting of the Newport Conservation Area, the Grade I listed Church of St Mary the Virgin and non-designated heritage assets; and,
 - Whether there are any other considerations, including the housing supply situation, which would indicate that the proposals should be determined other than in accordance with the development plan.

Reasons

Character and appearance

Landscape character

8. Newport is mostly located within a shallow basin which follows the valley of the River Cam. Two tributaries, Bury Water and Wicken Water feed in from the higher ground to the east and west. The appeal site occupies the north and north west facing southern slope of the Wicken Water Valley. It is 4.97ha in size and is a broadly rectangular shaped agricultural field located adjacent to the main western edge of Newport, outside the settlement development limits as defined by the Uttlesford Local Plan 2005 (LP).
9. This area is located within the Cam Valley Landscape Character Area in both the County (2002) and District Landscape Character Assessments (2006) (LCA). The site and its vicinity exhibit some of the key characteristics identified in the District LCA, including being within a rolling, open landscape of chalky boulder clay with wide views from higher ground, and well vegetated river banks with shrubs and trees and water meadows along the winding narrow river corridor. This assessment suggests that overall the Cam Valley has relatively high sensitivity to change, with new development potentially being visible within panoramic inter and cross-valley views, and sensitive characteristic including the intimate views from lower slopes to the wooded river valley floor.
10. The quality and function of landscapes adjacent to the settlement were assessed as part of the Newport Historic Settlement Character Assessment 2007 (HSCA). The appeal site falls within Sector 4. It is described as 'a wedge of land rising gently from the River Wicken to the Wicken Road, the main western approach to

the village. This is an open quality landscape with a band of trees on the north side'. In terms of the general function of the landscape, reference is made to the fact that the urban edge is 'crisply defined...by the Wicken Road and School Lane and the land provides an important close relationship with the historic conservation area and the open countryside'.

11. Since the publication of this study there have been some significant changes to the site context. Firstly, the Newport Conservation Area Appraisal and Management Proposals 2007 (CAAMP) recommended that as the 20th Century housing developments in the area to the north of Wicken Road and east of School Lane are of little architectural or historic importance, the boundary of the Newport Conservation Area should be re-drawn to exclude them. As a result, the connection of the appeal site to the Conservation Area (CA) has been reduced to modest points at its north east and south east corners.
12. Additionally, the recent development to the north of Bury Water Lane, which occupies the northern slopes of the Wicken Water Valley, has altered this landscape. This comprises a number of separate schemes, the largest and most visible of which is known as Wicken Lea. This has visibly reduced the sense of open countryside to the west of the settlement. In this regard I agree with the WRS Inspector in that due to its location, form and materials this appears as a disjointed intrusion into the rural landscape to the west of the settlement. Additionally, the extent of development in this area has required the widening of School Lane to allow for the addition of pavement to one side, reducing the sense of enclosure in what was previously a sunken rural lane.
13. As a result, the influence of built form is now apparent to the north, south and east of the appeal site. Nonetheless, the site remains a significant part of the substantial wedge of land abutting the settlement here, and continues to represent a clear edge to this part of the village. Therefore, the findings of the LCA, CAAMP and HSCA continue to be of relevance to this appeal.

Valued landscape

14. The National Planning Policy Framework (the Framework) paragraph 170a) states that 'valued landscapes' should be protected and enhanced. This should be 'in a manner commensurate with their statutory status or identified quality in the development plan'. In this case the site does not have statutory status and is not identified in the development plan. Therefore, on the face of it, these provisions do not apply. There was some discussion at the inquiry about whether the strict application of this principle was appropriate, particularly for Councils such as Uttlesford where no local landscape designations have been made, as only nationally designated landscapes would be protected.
15. In considering this point, I have reviewed the landscape value of the site and its immediate context using the criteria set out in GLVIA3, Box 5.1. Starting with landscape quality, the site has typical farmland character. Whilst there is some loss of hedgerow, there are no obvious detractors, or indeed special features. The scenic qualities of the site are influenced by its topography, mostly falling from the south to the north and north west, down to the valley floor and woodland area. This provides for interesting and changing viewpoints, including the view east from footpath PROW 41_21, which runs directly to the north of the site, towards the settlement and specifically the Church tower of St Mary the Virgin. The tower emerges before the visibility of modern development in the foreground. From the

high points on Wicken Road, there are cross valley views to higher land to the north west and the rural landscape on the other side of the Cam Valley to the east. Detractors include the development to the north of Bury Water Lane and east of School Lane, the frontage development along the southern side of Wicken Lane, which is effectively on the skyline, and the intermittent visibility of the M11 motorway to the west.

16. This landscape is not rare, though it is an example of a small valley with an intact floor close to the historic centre of a settlement. In terms of conservation interests, it is agreed that the site is part of the setting of the CA and Grade I listed Church. I also understand that Wicken Water has a local wildlife designation. The site has some recreational value in that PROW 41_21 connects with a wider network. Whilst the site itself is not publicly accessible, an informal route runs from Wicken Road to connect with PROW 41_21, and it appears that both are well used. In terms of perceptual qualities, there is some disturbance from the M11 and Wicken Road. However, as PROW 41_21 is in the valley bottom adjacent to the woodland, it has relatively peaceful and intimate qualities, whilst also being close to the centre of the settlement. The site and immediate area is not known to have any associative qualities.
17. Overall, my view whilst the site does exhibit some locally valuable attributes, particularly due to its close association with the historic settlement, many of its features are typical of much of the countryside around settlements like Newport. Therefore, even if I were to accept that the strict application of the provisions of 170a) is not appropriate, these elements in combination are not sufficiently distinct in themselves to identify this area as a valued landscape. Nonetheless, the site has qualities identified in the LCA, as I will explore in further detail below.

Effect of development - landscape

18. Whilst in outline form, the appeal scheme is accompanied by an illustrative layout which shows dwellings with a density of 24 dph, with 1.83ha of green infrastructure. In addition, it is suggested that the 1.46ha strip of land to the north of the site, which contains PROW 41_21, could be managed for habitat creation. In analysing the effects of the development, I am aware of the suggested mitigation measures, insofar as can be considered at outline stage. These include the enhancement of perimeter trees and hedgerow, with further structural planting across the site. Green infrastructure could allow for development to be set back from the junction of School Lane/ Bury Water Lane, and also from the School Lane/Wicken Road junction, with modest setback also from the School Lane and Wicken Road frontages. The visualisations provided in support of the scheme give some sense of the effect of development, though these have limited weight at this outline stage.
19. The main parties agree that some level of landscape and visual harm would result from the development, but disagree about the nature and degree of harm. The Council and appellant have assessed the scheme against the relevant landscape planning guidelines set out in the District LCA which, whilst somewhat generalised, is a helpful starting point. I have also had regard to the sensitivity evaluation of the Cam Valley within the County LCA. The appeal scheme would fall into the category of 'small urban extension', for which the landscape sensitivity is 'moderate'. That is, there may be some adverse impacts on elements such as distinctive physical and cultural components or key characteristics, but

developments may be capable of being absorbed and should be considered on their own merits.

20. Looking at the first of the District LCA guidelines, to 'conserve and enhance the landscape setting of settlements', development of the site would result in the permanent loss of a field which provides a relatively open landscape setting close to the historic core of the village. The illustrative material demonstrates that some views to the Church tower from along PROW 41_21 could be maintained by designing them into the scheme. However, these views would be contained by built form, eroding their rural qualities. Also, whilst the edge to Wicken Road could be improved by reinforcing the broken hedgerow and rationalising informal parking, this would be at the expense of further containment of the western approach to the settlement by built form, and loss of its distinctive rurality.
21. Turning to whether the scheme would 'maintain cross-valley views', such views are primarily possible from the brow of the hill on Wicken Road. To the east and north east, the view across the village is to the higher land of the rural area beyond, which appears much closer than it is in reality. This includes land which is part of Shortgrove Hall Park and Gardens, though to the untrained eye it is difficult to pick out this feature. The presence of these wider landscape views may not be immediately apparent in comparison with closer elements, including the open expanse of the appeal site. However, they provide a strong sense of the settlement being contained by the landscape. This view may be of lesser quality and magnitude than views of the settlement and its rural context gained from viewpoints on higher ground to the east of Newport. However, this part of Wicken Road is the only point from the west of the settlement from which such an appreciation can be gained. The appellant's visualisation indicates that the central part of this view to the east along Wicken Road would be retained. However, the reduction in the expanse of this view would significantly increase the sense of urban containment.
22. Views from Wicken Road to the gently rising ground of the higher level plateau to the north west would still be possible, though this would be delayed until beyond the built form of the development. At present such views are associated with the Wicken Road edge of the CA, with the CAAMP noting how at this point 'the buildings cease and the space dramatically opens out providing fine views northwards over fields to the countryside beyond'. This effect has been reduced by the intrusive form of the Wicken Lea development to the north. Nonetheless, this is to an extent masked by the poplar trees of the woodland area, with views from this point to open land to the north west remaining. These views would be largely contained by the development and the rural connection eroded.
23. The LCA guidelines also suggest that any new development on valley sides should be small scale and respond to historic settlement patterns. Whilst development on valley sides is not in itself out of the ordinary, the scale and location must be carefully considered. In this case the development would not be small scale, though not disproportionate when considered in relation to other developments. Wicken Lea is of a similar scale and on the northern valley side, with all parties agreeing this has a harmful effect on the landscape setting of the western side of Newport. Furthermore, National Planning Policy Guidance (NPPG) advises that 'the cumulative impacts of development on the landscape need to be carefully

considered². The appeal scheme would have the effect of further eroding the relationship of the historic settlement with the open countryside to the west.

24. The expansion of Newport has generally occurred to the west, though this has mostly been restricted to lower level and flatter areas. Whilst the scheme would not extend any further west than the existing houses along Wicken Lane, the westernmost portion of this is frontage development only and does not justify the loss of a significant rural wedge. If the site was developed, the value of the remaining narrow area of the valley floor would be undermined by the loss of the undeveloped character of the valley side.
25. In landscape terms these effects would be largely localised with limited impact on the LCA as a whole. However, at the settlement level my view is that the site has medium to high value in landscape terms, and agree with the LCA assessment that it has a high sensitivity to change. The parties agree that initially at least the magnitude of change as a result of this development would be medium to high, with a major/moderate adverse effect. Whilst the appellant's view is that this would diminish to a moderate/minor adverse effect at 15 years post-completion, my view that as the site is in a highly visible location this would remain at a moderately adverse effect.

Effect of development - visual

26. The parties agree that the visual envelope of the site is quite tightly drawn. The main differences in findings relate to the effects on the users of Wicken Road and PROW 41_21. The users of Wicken Road travelling east towards Newport currently experience the enclosed nature of the Road as it passes along the valley floor, opening out as it reaches the high point. At this point the houses on the southern side and roadside parking are immediately apparent. However, there are open views across the site to the valley bottom and tree belt, with Wicken Lea in the distance, along with views east to the Church and open land beyond Newport. Overall this provides a strong sense of the rural context for the settlement.
27. The appeal development would create a more abrupt start to the settlement. Whilst the distinctive view to the Church tower would remain, the sense of rural context would be eroded. As Wicken Road is a main approach to the village, its sensitivity is medium to high, and the magnitude of change would also be at this level. The overall effect of the development would be moderate to major adverse.
28. Whilst the users of School Lane have already experienced some recent change to its character, the effect of the appeal scheme, even if slightly set back from the Road and the hedge reintroduced, would be to severely erode its rural setting and remove its role as a settlement edge. The visual effects would be moderate to major adverse.
29. Turning to the effects on the users of local footpaths, the most significant impact would be on PROW 41_21. The current kinetic experience of walking through fields towards the village would alter, with the change in character from distinctly rural to edge of settlement. This would be exacerbated by the effect of the rising topography of the site adding to the sense of enclosure by built form. Whilst the rural nature of this route is undermined to some degree by the distinct hum of the M11, this diminishes closer to the settlement. Mitigation measures including the provision of adjacent greenspace and the retention of views through to the Church

² NPPG Natural Environment Paragraph: 036 Reference ID: 8-036-20190721

would not address the fundamental change in nature of this route. My view is that the sensitivity of this route is medium to high, and that the magnitude of change would also be at this level. The overall effect of the development would be moderate to major adverse.

30. PROW 41_25, a low level route to the west of the appeal site, would also be effected by views of dwellings running down the hillside towards the valley bottom. Whilst Wicken Road dwellings can be seen on the skyline, the appeal scheme would have the effect of significantly extending the perception of the built form of the settlement to the west. The appellant's visualisations illustrate that this effect would to some degree be mitigated by landscaping.
31. From the furthest viewpoint to the north west of the site on the other side of the M11, PROW 41_1, the site is apparent in the foreground of the settlement, though is not prominent. As a result, the effect of the development would be much less discernible, particularly due to the presence of the tall poplar trees in the woodland area. However, this is a commercial plantation whose permanence is not guaranteed.
32. The Council does not challenge the appellant's assessment that for residential receptors along Wicken Road and School Lane the sensitivity is medium to high, and that the magnitude of change would also be at this level. The overall effect of the development would be moderate to major adverse, diminishing as landscaping establishes. I agree with this appraisal. For other residential receptors in Meadowford and Bury Water Lane the effects would be less significant.

Conclusion on character and appearance

33. The landscape and visual effects of the development would be localised in extent, given the agreed modest visual envelope. Whilst the site sits on a modest valley side which is not distinctive in itself, by virtue of its setting close to the historic settlement core, and the opportunities for changing short and medium range views afforded by its topography, the site makes an important contribution to locally distinctive qualities. Notwithstanding that the proposed development could be sensitively designed and a be relatively low density scheme, these qualities would be severely eroded by the development. In this regard I agree with the conclusions of the HSCA that development in this sector would 'seriously diminish the sense of place and local distinctiveness of the settlement'.
34. Given the close proximity to the WRS site, comparisons were drawn. However, having also visited that site my view is that there is a clear distinction between the two in terms of topography, orientation and distance from the historic core of the village. The conclusions on landscape effects are inevitably quite different.
35. I conclude that this development would have a significant adverse effect on the landscape character and appearance of the area. There would be conflict with saved Policy S7 of the LP, which seeks to protect all parts of the Plan area which are not within settlement boundaries, requiring that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set.
36. The Council's reason for refusal also makes reference to saved Policies GEN2 and ENV3. Saved Policy GEN2 sets out a series of design criteria. Many of these relate to detailed matters, including compatibility with the scale, form, layout, appearance and materials of surrounding buildings. Such considerations are not

within the parameters of an outline application in which appearance, landscape, layout and scale are reserved matters. However, criterion b) refers to development not being permitted unless 'it safeguards important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures'.

37. In the present case the setting of the site includes important views into and out of the settlement. In my opinion these are environmental features which should be considered at this stage. Specifically, it would be unreasonable to seek to apply this aspect of the Policy to a reserved matters application in which the principle of development had already been established. This view differs from previous Inspectors, though it does not appear that the relevance of criterion b) has been given specific consideration. My view is therefore that saved Policy GEN2 b) is relevant to this case, and that there is conflict.
38. Saved Policy ENV3 refers to the protection of traditional open spaces and other visually important spaces. The parameters of this policy are somewhat vague, though the supporting text clarifies that such spaces are of high environmental quality, important to the character of the locality of towns, and villages may include village greens, commons or narrow tongues of agricultural land. Normally such areas are protected by ensuring that they lie beyond defined development limits. Within settlements the most significant of these areas are identified on individual inset maps to ensure their protection.
39. The appeal site is outside development limits and therefore not specifically identified as an ENV3 space. Notwithstanding the fact that the site does not have the status of a valued landscape, I have found that it does make an important contribution to the distinctive character of the locality by virtue of its location close to the settlement core. In this sense it is a 'visually important space'. Therefore, the provisions of ENV3 apply, which allow for consideration of whether the need for development outweigh amenity value.
40. The proposal would also be contrary to the emerging Uttlesford Local Plan (eLP) Policy C1 and Policy SP10 relating to countryside and landscape protection, as the site remains an unallocated site outside the development limits of Newport.

Heritage assets

Newport Conservation Area

41. Until the 20th Century Newport was mainly an agricultural community. The Newport Conservation Area (CA) reflects the settlements distinctive linear form and contains a large number of historic buildings located mainly along High Street, with a cluster contained in the area between the Church and High Street. These vary in character and age, dating from the medieval period through to some Victorian buildings of note, including Parsonage House on Wicken Road. To the west the CA includes the 19th Century development along Bury Water Lane and Wicken Road. A range of open spaces and trees contribute to its verdant and open character.
42. I have noted that the quality of views north from the Wicken Road limb of the CA has diminished in recent times, particularly due to the prominent form of the Wicken Lea development. Nonetheless, quality views of the rural area to the west and north west remain and contribute to the rural setting of this part of the CA. I have also acknowledged that the linear form of the historic settlement is best

appreciated in views from the east. Furthermore, the eastern side of Newport contains farms with a more direct association with the rural landscape. There is no suggestion that the appeal site itself has any connection with nearby farms. However, overall, there remains value in the views from Wicken Road and their association with the open nature of the appeal site in clearly establishing the rural context of the CA to both the east and the west.

43. The northern corner of the appeal site also reaches up towards the Bury Water Lane limb of the CA. This area of trees and open land around Wicken Water is where PROW 41_21 enters the village. The CAAMP describes this as a key point linking the countryside with the village, though in fact views out beyond the appeal site are somewhat constrained by its rising topography and the Wicken Road properties on the skyline.
44. Overall, the open nature of the appeal site is of some significance to the setting of the CA in providing a rural connection to the west of the settlement. This close association is perhaps best appreciated in views west from the Church tower which, whilst not publicly accessible, contribute to the significance of this setting. As such, I agree with the HSCA that development here would have a detrimental effect on the adjacent CA and its relationship with the farmland.
45. The appeal scheme could be sensitively designed to incorporate set back from Wicken Road, Bury Water Lane and School Lane, and with open areas adjacent to the junctions of Bury Water Lane/School Lane and School Lane/Wicken Road. Nonetheless, the open field would be dominated by development and this direct rural connection would be lost. The parties agree that this would cause less than substantial harm to the setting of the CA, using the terminology of the Framework paragraph 196, either at the 'lower' or 'low' end of the spectrum. So do I.

Church of St Mary the Virgin

46. The heritage value and significance of the Grade I listed Church of St Mary is derived mainly from its historic and architectural importance as a well preserved example of a medieval parish church. Also, as a spiritual focal point for many centuries, the Church holds great communal significance for the Newport parish.
47. The setting of the Church also contributes to its heritage significance, with the list description indicating that it is graded for its topographical value. It is at a relatively high point in the village such that its tower is prominent in local views within the historic core and visible from higher land in the surrounding countryside. The Church tower has therefore been a local landmark for many centuries, having a functional role for both villagers and those living in the surrounding rural area which contributes to its communal and evidential value.
48. The Church is separated from the appeal site by 20th Century development on the site of the former Parsonage Farm, such that the direct connection of the Church with its rural hinterland has been lost. Nonetheless, the agrarian character of the approach to Newport from the west provides a sense of the historic rural settlement with the Church as its focal point. In these views the rolling topography means that the tower appears at relatively close range in views from PROW 41_21 and Wicken Road. Other vantage points closer to the Church enable a better appreciation of its architectural and historic significance, and the more distant views from higher ground to the east provide more of a sense of the Church within the linear form of the settlement. However, each of these elements of setting contribute to the significance of the Church.

49. Historic England advice on *The Setting of Heritage Assets* (2017) suggests that the significance of tall structures such as church towers is unlikely to be affected by small scale development, unless that development competes with them. The precise meaning of this part of the guidance is unclear. However, it suggests that even if small scale development has an impact, this is unlikely to affect heritage values unless impacting on designed or associative views. As the appeal scheme would not be small scale, by extension, it is reasonable to conclude that greater consideration must be given to impacts on heritage significance. The relatively close range views of the top of the Church tower alongside the appeal field does support its association with the western approaches to the historic settlement. Whilst the existence of PROW 41_21 is unclear prior to the 1897 OS Map, the route of Wicken Road has historic provenance.
50. The appeal scheme would not block views to the Church from along Wicken Road adjacent to the site, though it would change the open context within which these views are experienced to an essentially urban one. The submitted illustrative material suggests that it would be possible to retain two views through to the Church tower from PROW 41_21, though the kinetic experience of the tower appearing across the field would be lost.
51. Overall the elements of setting identified make a relatively modest contribution to the heritage significance of the Church. The harm identified would be at the lower end of the less than substantial spectrum. However, noting the high listed status of the Church and the value of the western approach, this would not be at the lowermost end of the spectrum.

Non-designated heritage assets

52. The Local Heritage List includes No 41-47 Wicken Road, a terraced row of 19th Century brick and slate buildings with a series of front facing gables. Next to these properties are No 49-51, a pair of 3 storey semi-detached Victorian villas, with many original features. Due to their position on rising ground these properties are prominent in the local streetscape. Both sets have heritage interest from their aesthetic and group value, though at a relatively low level.
53. They are located opposite the south eastern corner of the appeal site, and whilst they are not of rural character in themselves and views across are somewhat filtered by intervening vegetation, this open setting enables an appreciation of their qualities. The development of the appeal site would permanently alter this setting and cause minor, low level harm to both groups.

Conclusions on heritage assets

54. I have found that there would be harm to the setting of the Newport Conservation Area, the Grade I listed Church of St Mary the Virgin and non-designated heritage assets. This would conflict with saved LP Policy ENV2 which states that development which adversely affects the setting of a listed building will not be permitted. There would also be conflict with eLP Policy EN1 relating to the protection of the historic environment, Policy EN3 relating to development in the setting of conservation areas, Policy EN4 referring to development affecting listed buildings and Policy EN6 seeking to protect non-designated heritage assets.
55. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is engaged as a result of the harm identified to a listed building. I am required to have special regard to the desirability of preserving those aspects of

the Church's setting that contribute to its significance. Section 72 of the Act relating to conservation areas is not engaged when considering setting. Nonetheless the Framework does require consideration of the setting of designated heritage assets. Paragraph 196 requires that where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I will return to this point in the planning balance. Finally, Framework paragraph 197 refers to the effect of development on non-designated heritage assets, stating that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Other considerations

56. Statute requires that planning decisions are determined in accordance with the development plan, unless material considerations indicate otherwise. In this case a number of other matters must be given careful consideration.

Housing need and supply

57. There is a significant shortfall in the supply of housing land for the District, with the Council only being able to demonstrate a 3.29 year supply as at March 2019. This has worsened from the 3.46 year supply position set out in the Housing Supply Assessment of October 2018. This does not necessarily reflect a worsening supply situation on the ground, as the most recent figure reflects the updated NPPG requiring a change to the household projection figures from the 2016 to 2014 based figures. However, it is clear that the current LP was based on a housing requirement which is now hugely dated, with settlement boundaries predicated on this.
58. Published data indicates that the Council has delivered 147% of its requirement over the past three years, and in this sense it appears that it has made significant improvements in the delivery of homes. This has been achieved in part by permitting development on land outside development limits in recent years, and bringing forward land allocated in the eLP, as can be seen with the development of land to the north of Bury Water Lane in Newport. As such, in both the planning application and appeal processes there has been some 'flex' of settlement boundaries, where possible and appropriate. Nonetheless it remains that there is a significant shortfall in the supply of housing land.
59. As the Council is unable to demonstrate a 5-year supply of housing land the most important policies for determining the application are out of date in the terms set out in paragraph 11d) and footnote 7 of the Framework. Thus, planning permission should be granted, unless the effects on areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This anticipates that a level of harm will potentially be acceptable. This balancing will be considered in the final section.

Role of Newport in supporting housing growth

60. Newport is recognised as a 'key rural settlement' in the LP, and as a 'key village' in the eLP. It benefits from a range of services including a primary and secondary school, a main line railway station, regular bus services to nearby towns and villages and a range of other day to day community services and facilities. In

these terms Newport is, in principle, a sustainable location for residential growth. In this regard there is correlation with the Framework paragraph 78 which seeks to support sustainable development by locating housing where it will enhance or maintain the vitality of rural communities.

61. There is no doubt that Newport has experienced a substantial amount of housing development in recent times. I understand that since 2011, around 522 dwellings have been permitted in Newport, this includes all the allocations in the eLP and, when complete, will represent a very significant increase in the local population.
62. The local view, expressed by NPC and interested parties who spoke at the inquiry, is that the capacity of Newport for further growth is greatly constrained by existing infrastructure. Further, the cumulative impacts of recent growth are relevant considerations. However, the WRS Inspector did not find that a scheme for 150 dwellings would have led to unacceptable air quality, nor that it would have been detrimental to the safe operation of the local highways network. On these points, and in relation to the operation of local services more generally, there is no compelling evidence before me to suggest that local capacity has been reached. Overall, there is no evidence that further appropriately located housing could not be accommodated in Newport.

Emerging Local Plan

63. The Council is currently reviewing its development plan with examination hearings having taken place in July 2019. I understand that substantial objections to many policies remain unresolved, including to fundamental aspects of the spatial strategy and the delivery of proposed Garden Communities (GC), which would be the focus for growth. Further, one of the three proposed GC straddles the boundary between Uttlesford and the North Essex Authorities (NEA). The examination of the NEA Local Plan has identified the need for further work in relation to the proposed GC, including the availability of funding for strategic infrastructure and the financial and environmental viability of the proposed communities. At this stage the eventual date of adoption of that plan is unclear.
64. The Framework paragraph 48 advises that weight may be given to policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of relevant policies with the Framework. In the circumstances outlined above, my view is that limited weight can be attached to conflict with relevant emerging policies SP10, C1, EN1, EN3, EN4 and EN6 at the present time.
65. This does not accord with the WRS decision, in which the Inspector gave moderate weight to the relevant policies of the eLP. However, I understand that this view was based on evidence heard in February 2019 at which time, whilst objections on many topics were noted, it appeared the eLP had reached a relatively advanced stage in the preparation process. NPC maintain that moderate weight is appropriate, additionally referring to the fact that the strategy of growth through major new settlements is supported by government. As such, the current issues are associated with delivery rather than principle. However, a substantial element of housing supply for the district is based on this strategy. In the absence of clarity on delivery matters at this time it is not possible to give any more than limited weight to these provisions.

Neighbourhood Plan

66. A Neighbourhood Plan for Newport, Quendon and Rickling (NP) is at Regulation 16 consultation stage and will be subject to independent examination in due course. Whilst I recognise that the NP has assessed the suitability of the appeal site and other sites for development, at this stage it can be afforded limited weight.

Development Plan Policy

67. The Framework paragraph 213 states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
68. The policies most important in determining this application are those set out in the reason for refusal. Saved Policies H1 and S3 are not referred to. H1 sets out the housing requirement for the plan period 2000-2011 and S3 identifies the development limits for 'key rural settlements' such as Newport. These policies have set the context for saved Policy S7 and have directly contributed to the current housing land supply situation by constraining development to within defined settlement boundaries. However, my view is that whilst saved Policies H1 and S3 are of contextual relevance to this case, and are noted as such in the Council Officer Report and Statement of Case, they are not the 'most important' in determining the application.
69. Saved Policy S7 has three main elements: the identification of settlement boundaries as 'development limits'; the protection of the countryside beyond these boundaries 'for its own sake'; and, where development is permitted, requiring that its appearance protects or enhances the particular character of the countryside within which it is set. In relation to the first element, the housing requirement figures on which the settlement boundaries are based are out of date and there is currently a significant shortfall in housing supply. As a result settlement boundaries have had to 'flex' to accommodate additional growth. In this respect there is inconsistency with paragraph 59 of the Framework and the need to significantly boost the supply of housing.
70. The protection afforded to the countryside, acknowledged as 'most of the district' is more restrictive than the approach taken in paragraph 170b) of the Framework which refers to 'recognising' intrinsic character and beauty, as distinct from the protection afforded to valued landscapes. The supporting text to saved Policy S7 refers to the fact that the protection of the countryside should not prevent the evolution of economic activity that is part of life in rural areas and is in sympathy with its character. Examples of development that may be permitted include affordable housing and other facilities to meet local community needs.
71. Whilst not representing a blanket ban on development, the circumstances under which development will be permitted outside defined settlements are greatly restricted. Therefore, whilst there is some recognition of the need to support sustainable rural communities, this is not as explicit as in the Framework paragraph 78. As such there is further inconsistency. This restrictive aspect of saved Policy S7 has been similarly identified as inconsistent in most of the raft of other appeal decisions referred to by the parties, dating from between 2015 and a few days before the current inquiry. This point was also recognised by the Council in the NPPF Compatibility Assessment undertaken in 2012.

72. Turning to the third element of this Policy, the protection and enhancement of countryside character, this does broadly correspond with the Framework objective of conserving and enhancing the natural environment, which appears in a number of places in the Framework (paragraphs 8c), 20d), 28 and 170b)). Allied to this point, whilst the basis of the settlement boundaries is out of date, they have provided a starting point for distinguishing between settlements and the surrounding countryside. Furthermore, it is relevant to note that saved Policy S7 is the only policy within the LP reflecting the Framework provisions for the recognition of the landscape qualities of the countryside. On this basis saved Policy S7 is partly consistent with the Framework.
73. The element of saved Policy S7 valuing countryside character and beauty has been identified as consistent with the Framework in most of the other appeal decisions cited by the parties. The one clear exception to this is a 2017 decision where the Inspector focused particularly on the restrictive nature of Policy S7 in the context of a housing shortfall, estimated at 3.1-4.2 years³, in reaching the view that saved Policy S7 was not consistent with the Framework.
74. There was some discussion at the inquiry about the effect of the housing land supply position on the weight to be afforded to the conflict with policy. My view is that ascribing weight to conflict should be based on two main elements: the first is the degree of consistency with the Framework, as referenced in paragraph 213. As noted in my reasoning above, this can incorporate housing supply considerations, where relevant. Second, the level of harm that has been identified in relation to the specific conflict with that policy must be considered. The conclusion on the weight to be given to such conflict is then reviewed as part of the overall planning balance. This determines whether the adverse effects of development in terms of the conflict with the development plan would significantly and demonstrably outweigh the benefits, including housing supply and other positive aspects associated with the development, when assessed against the policies in the Framework taken as a whole.
75. The previous decisions referred to present a range of slightly different approaches to the matter of weight to conflict with policy. Using my approach, the weight to be afforded to the conflict with policy can vary on a case by case basis. Specifically, the nature and qualities of the site under consideration will play a part. This to some extent explains the variety of conclusions reached on the consistency and weight attached to saved Policy S7 in previous decisions.
76. The contextual factors relating to the WRS decision are very similar to the current appeal. That inspector concluded saved Policy S7 was broadly consistent with the Framework, particularly in terms of supporting the environmental dimension of sustainable development. No reference was made to the fact that the operation of settlement boundaries has contributed to the housing supply situation. Significant weight is then given to this Policy prior to considering the nature of conflict. My approach differs in that the case-specific weight to be given to the conflict with policy is part of the planning balance.
77. Saved LP Policy ENV2 requires that development proposals that adversely affect setting will not be permitted. This reflects the presumption in favour of protecting listed buildings as set out in Section 66 of the Act, and the Framework paragraphs 193 and 194. This strict protection does not make provision for the Framework

³ APP/C1570/W/16/3166101

paragraph 196 exercise of balancing less than substantial harm against public benefits. In this regard saved Policy ENV2 is partly inconsistent with the Framework. This view differs from the Takeley Inspector's⁴ conclusion of overall inconsistency. However, the basic accordance of this Policy with the statutory presumption remains.

78. I agree with the Council's Compatibility Assessment that there is broad consistency between the Framework and saved Policies GEN2 promoting good design and ENV3 valuing trees and open spaces.

Planning Obligation

79. The completed Section 106 agreement sets out arrangements for the provision and management of open space, play areas, SUDS and green infrastructure. It also sets out affordable housing obligations. Arrangements for contributions to early years and childcare, primary education, secondary education are set out, as are contributions to healthcare. Provision for a SAMMMS contribution is made, if required. A CIL Compliance Statement confirms that, with the exception of the SAMMMS contribution, these provisions meet the tests of the CIL Regulations. On the basis of the evidence before me I am satisfied that, with the exception at this stage of the SAMMMS contribution, these provisions are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related to it in scale. I am satisfied with the form, drafting and content of the agreement and have therefore attached weight to its provisions, as appropriate.

Benefits of development

80. The appeal scheme would provide for up to 74 new homes, a benefit in terms of the Government priority of boosting the supply of homes which attracts significant weight in favour of the scheme. This benefit is increased by the current level of unmet housing need in the District. I have also noted that housing development in this location would contribute to the Framework paragraph 78 requirement to enhance or maintain the vitality of rural communities. However, as there is no specific evidence of the need for development in order to revitalise services or amenities, the benefit of development in supporting a rural community is qualified.
81. There is no guarantee that this housing could be delivered within 5 years. However, the appellant has suggested conditions reducing the time limit for subsequent reserved matters applications and the commencement of development. Whilst the appellant is a site promoter not a developer, evidence of developer interest in the appeal site is presented. Furthermore, evidence of a track record of typically 1-2 years between outline permission to commencement on site is also presented. All in all, this evidence is compelling.
82. The scheme would comply with the current saved Policy H9 requirement for 40% affordable housing, that is 30 units. House prices in Uttlesford are significantly above both Essex and national averages meaning that many households are unable to afford market housing. This provision would allow a wider range of household types, including young families, to access the housing market. It supports the Framework objective of creating mixed and balanced communities and carries significant weight in favour of the development.

⁴ APP/C1570/W/18/3213251

83. There would be economic benefits associated with the development, including temporary employment during the construction period and the additional economic activity and spending power brought by new residents. There would also be New Homes Bonus payments to the Council. The increase in Council tax revenue would be tempered by the need for additional spend on the provision of local services. As some of these benefits are short term and all are generally a common outcome of housing development, they attract modest weight.
84. The scheme would provide 1.83 ha of green infrastructure and public open space. This would include areas of 'village green' type space adjacent to the eastern boundary of the site, including a children's play area. An additional 1.46 ha strip adjacent to the woodland and containing PROW 41_21 would be managed. Additional footpath connections could be created and improved. Whilst these provisions would link to the Framework aims around healthy communities and sustainable travel, they would mainly mitigate the effects of the development and are directed primarily at the new residents. As such there would not a significant benefit to the community of Newport in terms of new or enhanced facilities. Such provisions should be afforded modest weight.
85. There would be biodiversity gains through additional planting and habitat creation, including the suggested meadow planting along the northern strip. Such provision weighs modestly in favour of the development.

Planning balance and conclusions

86. Looking firstly at the provisions of the development plan, I have found that the appeal scheme would have a significant adverse effect on the landscape character and appearance of the area. In this regard there would be conflict with saved Policies S7, GEN2 and ENV3. I have found saved Policy S7 to be partly consistent with the Framework in terms of the importance of conserving and enhancing the natural environment, and I therefore attach significant weight to this aspect of the conflict with this Policy. The essence of this aspect of the conflict with saved Policy S7 is reflected in the conflict with saved Policies GEN2 and ENV3, to which there is no suggestion that less than full weight should apply. Saved Policy ENV3 allows for consideration of whether the need for development outweighs the amenity value of the site. This balancing is considered below.
87. As the provisions of saved Policy S7 which seek to constrain development to within settlement boundaries and protect the countryside for its own sake are inconsistent with the Framework, I attach limited weight to this aspect of the conflict with Policy.
88. I have also found that there would be some harm to the setting of a listed building and the setting of the CA. In both cases I have found harm to be at the low/lower end of the less than substantial spectrum. As I have found saved Policy ENV2 to be partly inconsistent with the Framework I attach moderate weight to the conflict with this Policy. Nonetheless it remains that I am required to give great weight to such harms, and note particularly the high status of the listed Church and the disproportionately greater weight such harm should be given. There would also be minor harm to the setting of two non-designated heritage assets.
89. Turning to consider the provisions of the Framework, the less than five year supply of deliverable housing land engages paragraph 11d). The first leg, 11d)i, states that policies that provide a clear reason for refusing permission include those that relate to designated heritage assets. However, in this case the low level of less

than substantial harm identified would be outweighed by the significant weight that I give to the benefits of 74 units to housing supply, particularly in terms of affordable housing, and the modest benefits attached to economic and environmental considerations. My view is therefore that the application of heritage policies alone does not provide a clear reason for refusing the development. Therefore 11d)i is not engaged.

90. Next, 11d)ii requires consideration of whether the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The scheme would, for the reasons set out above, significantly erode the close relationship between the settlement of Newport and its rural hinterland, undermining this locally distinctive feature and resulting in a significant adverse impact on the local landscape. This would be coupled with the less than substantial harm to designated and non-designated heritage assets. Overall, whilst the benefits I have identified would make a substantial contribution to the social and economic objectives of the Framework, this would not outweigh this harm when considered against the provisions seeking to protect the environment.
91. I conclude that the identified conflict with the development plan taken as a whole is not outweighed by material considerations. Therefore, the appeal should be dismissed.

AJ Mageean

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Estelle Dehon of Counsel,
supported by Isabella Buono

Instructed by the Council's Solicitor

She called

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Michelle Bolger Expert Landscape Consultancy

Adrian Gasgoyne FSA
MCIfA

Head of Place Services, Essex County Council

Karen Denmark MRTPI

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FOR THE APPELLANT:

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He called

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Jenny Wigley of Counsel

Instructed by Newport Parish Council

She Called

Geffrey Gardener
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Gardner Town Planning

INTERESTED PERSONS:

Judy Emanuel
Neil Hargreaves
Marion Hadfield
Mark Bain
Howard Bowman
David Mayle
Anthony Gerard

Deputy Chair Newport Parish Council
District Councillor
Local resident
Local resident
Chair Newport Parish Council
Local resident
District and Parish Councillor

DOCUMENTS

- 1 List of appearances on behalf of the appellant
- 2 List of residents wishing to speak
- 3 Unsigned planning obligation relating to Land at Wicken Road
- 4 Correspondence relating to the proposed contribution to the Hatfield Forest SSSI
- 5 Planning Obligation Summary
- 6 Appeal decision APP/C1570/W/19/3226302, dated 23 September 2019
- 7 Final sheet of document CD9.02
- 8 Liz Lake Associates LVIA, A3 size
- 9 Council Landscape Proof of Evidence Appendices, A3 size
- 10 Opening statement on behalf of the appellant
- 11 Opening statement on behalf of Uttlesford District Council
- 12 Opening statement on behalf of Newport Parish Council
- 13 Speech by Judy Emanuel, including supporting documents
- 14 Essex Wildlife Trust Analysis of Accessible Natural Greenspace Provision
- 15 Newport Quendon and Rickling Neighbourhood Plan 2018-2033
- 16 Site Assessment Process and Evidence
- 17 Speech by David Mayle
- 18 Newport Transport Study, Railton TCP Ltd July 2019
- 19 Suggested conditions
- 20 Speech by Marion Hadfield
- 21 Speech by Cllr Neil Hargreaves
- 22 Photographs from Mr Bain
- 23 Speech by Cllr Howard Bowman
- 24 Speech by Cllr Anthony Gerard
- 25 Suggested site visit route map and itinerary
- 26 Extract of 'The Victoria County History of Essex: Newport' (2015), A Truck and others, p60-61 and associated Tythe map.
- 27 Supplementary Air Quality Inquiry Note, prepared by Malcolm Walton.
- 28 Revised list of suggested conditions