



Appeal Decision

Hearing Held on 14 January 2020

Site visit made on 14 January 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 18th August 2020

Appeal Ref: APP/Z1510/W/19/3236460

Halstead Hall, Mount Hill, Halstead CO9 1SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Catchpole of Stow Healthcare Group against Braintree District Council.
 - The application Ref: 18/01481/FUL, is dated 10 August 2018.
 - The development proposed is described as 'demolish outbuildings, extend and refurbish existing redundant building to form 25 bed dementia unit and erect bin and cycle stores, erect 30 bungalows and layout associated car parking, drainage and landscaping'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr R Catchpole of Stow Healthcare Group against Braintree District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal results from the Council's failure to reach a decision on the information submitted by the appellant. There is no formal decision, as jurisdiction over that was taken away when the appeal was lodged. After the appeal was lodged, the Council considered the application at its Planning Committee and resolved that it would have refused the application. To this effect, the Council has suggested the wording it would have used had it made a formal decision. I have taken this into account, together with the assessment and conclusions submitted in the statement of the Council, which sets out its concerns regarding the proposed development.
4. The Council is currently in the process of preparing a new Local Plan. The main parties set out within their statement of common ground that the emerging Local Plan does not form part of the Development Plan and there is uncertainty as to when further progress will be made with it. As such, the main parties agree that the emerging Local Plan (eLP) should be afforded little or no weight. Having regard to the Planning Practice Guidance, I agree with the conclusions of the main parties as to the weight to be afforded to these emerging policies.

5. At the hearing, the appellant tabled a revised plan, drawing number 1544-PL002 Rev D. This revised plan included a pedestrian footpath together with a reduced number of dwellings, namely 26 units. However, in my view the resultant changes were substantial and did materially alter the scale and nature of the development proposed. Accordingly, I could not be satisfied that no party's case within the appeal would not be prejudiced by my consideration of the revised plan. Therefore, the revised plan did not form part of the discussion at the hearing.
6. In respect of securing contributions towards necessary infrastructure, it was agreed between the parties that these matters could be secured by a planning obligation to include revised amounts taking account of up to date formulae. A planning obligation in the form of a unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) dated 24 January 2020 was submitted before the hearing which was subsequently closed in writing on the same date. I deal with the provisions of the planning obligation below.
7. The Council contend that they can demonstrate a five-year supply of housing land. The appellant disputes this. This matter is considered further below.

Main Issues

8. The main issues are:-

- i) whether the appeal site is a suitable location for the proposed development having regard to the settlement strategy and the accessibility of services and facilities;
- ii) the effect of the proposed development on the landscape character of the countryside and the character and appearance of the surrounding area;
- iii) the effect of the proposed development on the living conditions of the future occupants of the proposed dwellings, with particular regard to daylight and security;
- iv) the effect of the proposed development on protected species;
- v) whether the proposed development is 'enabling development' and necessary to the viability of the works to Green Lodge as a specialist dementia care unit and, whether the proposed development makes adequate provision for affordable housing; and
- vi) whether the Borough of Waverley has an adequate supply of land for housing.

Reasons

Settlement strategy

9. The development plan for the area consists of the saved policies of the Braintree District Local Plan Review (LP), adopted 2005, which covers the period 1996 to 2011 and the Braintree District Core Strategy (CS), adopted 2011, which covers the period 2009 to 2026.

10. LP Policy RLP2 sets out, among other things, the Council's spatial strategy for the district and seeks to direct new development to areas within the town development boundaries and village envelopes. Outside those areas, only development that is consistent with countryside policies will be permitted. CS Policy CS5 has similar aims, in that it strictly controls development outside of settlement boundaries to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
11. It is common ground that the appeal site falls outside of any settlement boundary and thus, in policy terms, is located within the countryside.
12. At the hearing, the Council confirmed that, despite being located beyond the settlement boundary, part of the scheme relating to the provision of a specialist care dementia unit within the countryside, could in principle accord with LP Policy RLP21. As such, the settlement strategy conflict relates solely to the proposed dwellings. It therefore follows, that in the absence of anything to suggest that the proposed dwellings would be consistent with countryside policies, the scheme would conflict with LP Policy RLP2 and CS Policy CS5, the requirements of which are set out above. The Council also cite a conflict with eLP Policy LPP1, however, for reasons explained above, I attribute only very negligible weight to this conflict.

Accessibility of services and facilities

13. The Council deem the services and facilities within Halstead to be sufficient to meet the day to day needs of future residents. However, it is the Council's case that the location of the appeal site beyond the settlement boundary results in the site being physically divorced from those services and facilities. Thus, there would be an undue reliance on the use of private motor vehicles.
14. The route to Halstead would be along the A131, which I observed at the time of my site visit, received a frequent flow of traffic. I appreciate that my visit provided only a snapshot of highway conditions, however, I have seen nothing to suggest that these conditions were not typical of everyday traffic flows. The majority of the route from the appeal site to the centre of Halstead, approximately 1.5 kilometres, taking the appellant's measurements, which have not been disputed by the Council, consists of footways together with street lighting.
15. However, the initial part of this route is devoid of any footway for approximately 76 metres, taking the council's measurements, which have not been disputed by the appellant. Notwithstanding this, the availability of a wide grass verge on the opposite side of the road would provide a reasonably flat and safe route where there would be an opportunity for pedestrians to avoid vehicular conflict. In addition, the A131 is a relatively straight single carriageway road with good visibility in both directions providing opportunity for future occupants to cross the road reasonably safely.
16. Moreover, the Council have recently approved a housing development of approximately 292 dwellings at St Andrew's Park, located roughly opposite the appeal site on Mount Hill. The distance incurred in accessing Halstead's services and facilities is roughly the same from the approved scheme as it would be from the appeal site. To my mind, the nature of the route and the distance involved would not be likely to discourage all journeys on foot and by bicycle.

17. In addition, I am advised that the nearby bus stop receives a bus service that operates an hourly service towards Braintree and Halstead, commencing at roughly 8am until 6pm on Mondays to Saturdays. A more frequent service is available a little further away at White Horse Avenue. Given the frequency of the services and the relatively close proximity of the bus stops, which are well defined, I find that some journeys by bus would be an option. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. Albeit future residents would be likely to depend on a private motor vehicle to reach some essential day to day services and facilities in Halstead and nearby larger settlements, there would at least be some choice to use accessible modes of transport to access local services and facilities.
18. Accordingly, I conclude that the proposal would not significantly undermine the aims of CS Policy CS7 insofar as this policy seeks to reduce the need to travel and reduce the impact of a development upon climate change.

Character and appearance

19. It is the Council's case that, when viewed in isolation, the extension and restoration of Green Lodge would not amount to adverse harm to the landscape character of the countryside and the character and appearance of the surrounding area. Green Lodge is positioned centrally within the appeal site and is not readily visible from the nearby highway network, albeit some partial views from the wider countryside and farmland exist. Moreover, it is read alongside the existing backdrop of built form of Halstead Hall. As such, I see no reason to disagree with the Council's view. Therefore, the following part of this sub-heading is made with reference to the proposed dwellings on an area of land which forms part of the curtilage to Halstead Hall.
20. CS Policy CS8 stipulates that development must have regard to the character of the landscape and its sensitivity to change and, where development is permitted it will need to enhance the locally distinctive character of the landscape according to the Landscape Character Assessment. LP Policy RLP80 states that new development should not be detrimental to the distinctive landscape features and habitats of the area.
21. In landscape terms, the appeal site forms part of the Gosfield Wooded Valley landscape character area, F1, as identified within the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006). The key characteristics of which include gently undulating landform together with a strong pattern of large and small woods, regularly shaped arable fields bounded by thick hedgerows and mature hedgerow trees, open character and many small farmsteads and occasional villages.
22. The appeal site consists of a roughly rectangular open area of uncultivated and semi overgrown grassland. Mature belts of trees and vegetation border the appeal site along its edges and serve to separate it from the wider part of the appeal site, the adjacent highways and a neighbouring farm. The appeal site is reasonably contained by mature vegetation and is fairly typical of the landscape character of the area. As such, I find that it makes a moderate contribution to the rural character of the surrounding area.
23. The Braintree District Settlement Fringes Evaluation of Landscape Capacity Analysis, describes the site as falling within parcel 6d, a location identified as

having a relatively high sensitivity to change. The proposal would introduce onto the site some 30 dwellings, gardens, fences, roadways, vehicles, lighting and associated domestic paraphernalia. As such, the appeal site's present rural character would inevitably be lost and would be subsumed by a very different urban character that would result from any new residential development of this scale.

24. Notwithstanding this, new housing development lies roughly adjacent to the eastern boundary on the opposite side of the A131 and has had the effect of extending the south western fringe of the settlement of Halstead. Given the presence of other built form within the wider appeal site and the extensive well-established belts of trees and vegetation along its edges, I find that this part of the appeal site is relatively enclosed, separate and distinct from the farmland and open countryside that lies beyond it.
25. I have no doubt that the majority of the existing trees and vegetation bordering the appeal site could be retained. Moreover, these could be enhanced by better and more active management. The appeal site has sufficient space for new planting and landscaping, and the inclusion of the landscaped central area to include a collecting basin and attenuation pond would provide an enhancement to the landscape character of the site.
26. Due to the existing vegetation and trees, inter-visibility within the wider appeal site is limited and as a result, views of the proposed dwellings from the north and north-east would generally be concealed by Halstead Hall, Green Lodge and the existing vegetation. Views from the south and south-west would be partial and glimpsed through gaps in the vegetation and the vehicular access. However, these views would be largely limited to motorists travelling along the adjacent highways and nearby occupants of neighbouring dwellings. Any partial views would be seen as a backdrop to the existing built environs and as such would not appear out of keeping with the semi-rural edge of village character.
27. Longer range views from the wider countryside to the south and south west would be seen in the context of the expansion of Halstead. Moreover, extensive tree cover is representative of the wider landscape character. The retention and enhancement of these important landscape characteristics would, to my mind, enable the proposed scheme to be reasonably well assimilated within the wider environment and not significantly detract from it.
28. Notwithstanding my findings above, the oval arrangement of dwellings facing inwards towards a central green area of open space is in my view untypical of layouts within the locality. The appellant drew my attention to a similar Almshouse arrangement of dwellings adjacent to the hospital which I was able to observe on my site visit. Whilst I accept that there are similarities between that development and the appeal proposal, the two sites are considerably distant from one another.
29. Moreover, nearby dwellings are typically arranged to face the highway or alternatively, they are positioned within cul-de-sac arrangements. Whilst the proposed dwellings would include the use of traditional materials and be constructed as single storey dwellings, the inclusion of steeply pitched roof structures would add to the overall visibility of the dwellings. Taken together with wide expanses of garden fencing to enclose private amenity areas, the dwellings would appear out of keeping with the prevailing character of the surrounding area.

30. Overall, the proposed development would not result in material harm to the wider landscape character of the area and thus it would accord with CS Policy CS8 and LP Policy RLP80 insofar as these policies require development to have regard to the character of the landscape and its sensitivity to change. However, by reason of its layout and design the proposed dwellings would fail to preserve the character and appearance of the area. Thus, it would conflict with CS Policy CS9 and LP Policies RLP9, RLP10 and RLP90. Among other things, these policies seek to promote and secure the highest possible standards of design and layout in all development in order to respect and respond to local context and distinctiveness.
31. The Council also cite a conflict with eLP Policies LPP37, LPP50, LPP55 and LPP71, however, for reasons explained above, I attribute only very negligible weight to this conflict.

Living conditions

32. By reason of their spread of canopies, a number of trees along the site's boundaries markedly overhang the appeal site. The rear gardens would be of an adequate size to meet the minimum standards of the Essex Design Guide (2005). However, given that the proposed dwellings adjacent to Russell's Road would not be set back by a sufficient distance, in my view the trees would cause heavy shading that would be likely to significantly reduce light levels to the windows within the rear elevations of the proposed bungalows and private amenity areas. This effect would be amplified during the summer months when foliage is dense.
33. In my view, this effect would have the potential to make these rooms and the private amenity areas unduly gloomy. The associated living conditions of the future occupiers would therefore be likely to suffer from a lack of sufficient light.
34. The appellant states that some future occupants may prefer darker properties and that the effect of the nearby trees would be apparent to a prospective purchaser. The provision of a central green space could provide an alternative area for future occupants to utilise, however, there is little detail before me concerning this element of the proposed scheme. Moreover, this area of public open space does not justify poor design nor the harm I have identified above.
35. The appellant intends to actively manage the trees. However, I accept that it is likely that there would be some future pressure from the occupants of the proposed dwellings for the trees to be lopped, topped or felled, the result of which would be to substantially reduce their amenity value and the contribution they make to assimilating the proposed development within the wider landscape setting.
36. The Council's case, in part, concerns the security of the private amenity areas of the proposed dwellings adjoining the outer edge of the appeal site. However, there is little evidence before me to demonstrate that these dwellings would be susceptible to instances of crime. Moreover, the Police express no apparent concerns with the layout. Mitigation measures such as proposed lighting, boundary treatments and physical security measures would be capable of being addressed by an appropriately worded condition requiring the detail of such measures.

37. Accordingly, I conclude that the proposal would have an unacceptable effect on the living conditions of future occupants of the dwellings with regards to inadequate daylight. The proposal would fail to accord with CS Policy CS9 insofar as it requires high standards of design to create an environment which will contribute towards quality of life.
38. The Council also cite a conflict with eLP Policies LPP37 and LPP55, however, for reasons explained above, I attribute only very negligible weight to this conflict.

Protected species

39. Circular 06/2005 states that the presence of a protected species is a material consideration when a proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to state that it 'is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposal, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.'
40. The planning application was accompanied by a bat survey (BS) that indicated the presence of an active bat roost within Green Lodge. Accordingly, in accordance with Bat Conservation Trust's (BCT) guidelines¹ the appellant's ecologists recommended that a number of dawn and dusk emergence and re-entry surveys should be undertaken. The Council's concerns also relate to the requirement of a preliminary assessment of the roost potential within the trees proposed to be removed as part of this proposal. At the hearing, the appellant's ecologist submitted that none of the aforementioned surveys had been undertaken.
41. I am mindful that the results of the dawn and dusk emergence and re-entry surveys would have determined whether a European Protected Species Licence would be required for this scheme, and, that given the effluxion of time, this licence would have likely expired. However, the information gained from the additional survey is required to clearly explain the likely impacts to protected species arising from the proposed development and how these would affect biodiversity within the vicinity. Furthermore, given the absence of information, there is no clear assessment of any mitigation measures that would be required to address the specific effects, nor how these would be secured nor their likely effectiveness.
42. I note it is the appellant's desire to retain the main roof structure to Green Lodge and enhance the bat roost. Whilst a worsening condition of dereliction may reduce the potential of the building being used as a roosting place for bats, there is no clear evidence before me that this has occurred.
43. The Council's concerns also relate to the absence of a tree roost survey. Whilst the appeal scheme has been designed to mostly avoid the loss of trees, some trees would inevitably be removed. Whilst these have been assessed as moderate or low amenity value, there is no evidence before me to substantiate that they would not provide a roost for bats.
44. I have given consideration to an appropriately worded condition to require further surveys. However, taking the precautionary principle enshrined in the Habitats Regulations 2017, I consider that given the potential for protected

¹ Bat Survey Guidelines for Professional Ecologists: Good Practice Guidelines (3rd edn)

species within the appeal site, it needs to be clearly demonstrated why the proposed development would not have a detrimental effect on the local habitat.

45. Without any evidence to the contrary, I therefore conclude that the proposed development would be likely to have an adverse effect on protected species, namely bats. Therefore, I consider the proposal would conflict with LP Policy RLP84 and CS Policy CS8 insofar as these policies state that development which would have an adverse effect on protected species will not be permitted. In addition, the proposal would conflict with the Framework's aims to protect and enhance biodiversity.
46. The Council also cite a conflict with eLP Policy LPP70, however, for the reasons given above, I attribute only very negligible weight to this conflict.

Affordable housing, enabling development and viability

47. CS Policy CS2 requires new development within Halstead to provide a target of 30% affordable housing. In addition, it also stipulates that economic viability will be taken into account where it is proved necessary to do so. The supplementary text to this policy indicates that economic viability will be a material consideration.
48. The proposal would provide 30 dwellings and the refurbishment and extension of Green Lodge to form a twenty-five bed dementia unit. All proposed dwellings would be for sale on the open market, albeit they would be restricted to occupation by persons of at least fifty-five years of age. As such, it is the appellant's view that the dwellings would satisfy the exemption provisions of paragraph 64(b) of the Framework insofar as the proposal would provide specialist accommodation for a group of people with specific needs. The Framework advises that this may include purpose-built accommodation for the elderly.
49. I am advised that the proposed dwellings would be capable of meeting the changing needs of future occupants. However, there is little information before me detailing the extent of how the dwellings could adapt to a variety of changing needs. It has not been put to me that the dwellings would benefit from the use of any communal health and social facilities within the wider appeal site, nor access any care facilities as and when these are required. To my mind, notwithstanding there being limited provision of similar types of dwellings within Halstead, there is no good reason before me as to why this type of elderly persons accommodation should be exempt from making a contribution towards a need for affordable housing. Albeit it may be true that there is a need for such type of accommodation, there is no suggestion that this need is greater than the need for affordable housing for elderly persons.
50. The appellant contends that the Viability Assessment (VA) it has undertaken as part of the application process demonstrates that the renovation and extension of Green Lodge as a dementia care unit would not in itself be financially viable. To enable this part of the proposal, open market units are proposed and as a consequence the provision of 30% affordable housing would not be possible. Whilst it is the Council's case that 'enabling development' is solely reserved for heritage assets, it is nonetheless accepted by the Council on the basis of its own VA, that the proposed development of Green Lodge would generate a loss and thus some open market dwellings would be needed to bring forward the

dementia care unit proposal. The Council's calculation broadly suggests that five market units would be necessary.

51. Setting aside the wide and varied differences concerning issues of viability between the parties for a moment, the appellant has provided a UU which, among other things, prevents occupation of any market housing unit prior to the expenditure of at least 25% of the estimated cost of the Green Lodge works. A further clause precludes the occupation of more than twenty dwellings until at least fifty percent of the estimated costs have been expended. Whilst these provisions would, in part, ensure that some works to Green Lodge would be undertaken, there is no mechanism within the UU to ensure that the remainder of the works beyond 50% of the estimated costs would be spent.
52. I am cognisant that the financial outlay for undertaking fifty percent of the works to Green Lodge would not be insignificant and I note the appellant's intention to construct the proposed scheme in its entirety. Nonetheless, it would be open to the appellant to construct all of the dwellings and not to undertake any further works to Green Lodge beyond 50% of the estimated costs.
53. Even if I were minded to find in favour of the appellant's case regarding the other issues concerning viability, in the absence of any provision within the UU to compel the appellant to construct the entire dementia care unit I find there is a lack of adequate safeguard to secure the use of the dementia care unit. Accordingly, on the basis of the evidence before me I am unable to consider whether any wider benefits associated with the provision of a specialist care facility justify the proposed development without the provision of affordable housing.
54. Accordingly, I conclude that the proposed development fails to make adequate provision of affordable housing. Thus, the proposal would be contrary to CS Policy CS2, the requirements of which are set out above.

Supply of land for housing

55. The Council's view of the housing land supply position for the 5-year period 2018-2023, is set out in the Position Statement published in August 2019 (Position Statement). The requirement figure of 4,598 dwellings, is agreed between the parties. Against this figure, the Position Statement shows a maximum supply of 4,737 units, a surplus of 139 units. In terms of years' supply, this equates to 5.15 years.
56. The requirement within the Framework is for a supply of sites that are deliverable. The meaning of 'deliverable' in this context is set out in the Glossary to the Framework, and further clarified in the Planning Practice Guidance (the PPG). Following the changes to the Framework in July 2018, sites for more than minor development, which do not have detailed planning permission, can only be considered deliverable where there is clear evidence that housing completions will be achieved within the 5-year period.
57. I note that the Council's Position Statement was revised following a number of appeal decisions² in which the Inspector concluded the supply position was

² APP/Z1510/W/16/3162004 Land off Stone Path Drive; APP/Z1510/V/17/3180729 Land east of Gleneagles Way; APP/Z1510/W/18/3209711 Woodpecker Court, Poole Street, Great Yeldham.

- 4.15 years having found that there was not clear evidence of deliverability in relation to 10 sites.
58. Notwithstanding these previous appeal decisions, it is the Council's position that a number of the sites, which were excluded by the previous Inspectors, should now be included within their housing supply figure based on additional updated evidence. Subsequently, at the hearing, the Council provided an up to date position for those schemes.
59. Since the previous appeal decisions, the scheme at Ashen Road for 16 units had been granted full planning permission. No constraints to the scheme were identified and the appellant agreed that there was adequate evidence to support the deliverability of that scheme. I see no reason to take a different view.
60. In addition, land to the east of Sudbury Road, has a full planning permission for 218 units. Construction of approximately 73 units had already commenced, albeit, the Council conceded a delay to the delivery of 33 units planned for 2019/20 and thus no units would be delivered during that year. As a result, an additional 8-13 units, approximately, are envisaged to be delivered in each later year of the trajectory. There was disagreement between the parties as to the annual build rate and whether all the units could be delivered within the five-year period. The appellant gave evidence of its own more conservative assumptions as to the lead-in time and the annual build rate based upon its own experience of these and national delivery rates. However, the appellant's considerations do not take account of specific circumstances of individual sites and is therefore not a substitute for site-specific information and knowledge; the Council's revised trajectory having been informed on account of information provided to the Council by the site manager.
61. Accordingly, notwithstanding there being some delay to the scheme, the annual build rate does not seem unrealistic. On the basis of the available evidence, I find that it has been demonstrated that housing completions will be delivered during the five-year period on this site. Thus, I am minded to include the entire 218 units within the Council's supply figure.
62. Land north east of Inworth Road has an outline permission for 165 dwellings. Notwithstanding the submission of a reserved matters application, this remains to be determined by the Council. It follows a previous reserved matters application that was deferred for alterations to the layout of the scheme. The Council's evidence concerning the progress of the application and intended timescale for approving the application was ambiguous. Although estimated dates and numbers are presented within the trajectory, these are now of some age and have not been revised to take account of the situation with the reserved matters applications.
63. In addition, there was no indication or breakdown of any advance works that are likely to be needed on site, for discharging conditions, site preparation and installing infrastructure. To my mind, I can see little if anything that amounts to clear evidence that any completions can realistically be achieved by 2020/21. As such, having regard to the presumptive effect of the Framework's definition, these circumstances would justify excluding Inworth from the current supply in its entirety. The effect of this would be to reduce the Council's deliverable supply by 165 dwellings.

64. For land to the west of Panfield, this large strategic site assumes the delivery of 200 dwellings within five years. A resolution to grant planning permission for 189 dwellings was passed by the Council in July 2019. However, a section 106 planning agreement remains to be completed. The Council's evidence at the hearing was that the planning obligation would likely occur in the 'spring' albeit the nature of the delay to the legal agreement was unclear. The Council conceded that the number of units to be delivered in the early part of the trajectory, 2020/21, would fall below the expected figures, although, in their view, the involvement of two developers would enable units to be delivered at an expedited rate in the following year.
65. In this case, there is no clear evidence of any real progress since the resolution to grant planning permission in July 2019. There is no corroborative evidence to support the Council's optimistic view of an expedited annual build rate. In any event, even if I were to accept the Council's best case scenario, there would inevitably be a lead in period before any completions were concluded. In my view, there is no clear evidence before me that there is a realistic prospect of any units being capable of delivery during 2020/21. The Council's assumptions are not necessarily unrealistic, but neither have they been shown to be clearly realistic; for the site to be deliverable, the evidence would need to be more convincing and more up to date. For the remaining units with outline planning permission, the Council were uncertain as to the likely timing of a reserved matters application. This casts considerable doubt on their deliverability within the five-year period. Thus, the evidence justifies excluding Panfield in its entirety from the Council's current supply.
66. In view of my findings above, it is clear that the Council's five-year supply must fall below the number that is required within that period. However, it remains necessary for me to get an approximate view of the shortfall's likely full extent. In light of this, I have considered the remaining disputed sites, albeit more briefly.
67. The remaining sites each have an extant outline planning permission. However, two sites have opted to pursue full applications for planning permission. The Council have resolved to approve one of these schemes, however, this is subject to the negotiation and preparation of a planning obligation. Limited information concerning the progress and timeframe for the legal agreement was presented to me at the hearing. In addition, for two sites there is little corroborative evidence from each site's current developer as to when the reserved matters or a full application will be brought forward. I am mindful that there is an outstanding objection to one scheme for which revised plans are being considered by the developer, and that whilst the planning obligation is similar to that of the outline planning permission, the scheme has been altered from 22 to 17 units.
68. None of these circumstances make it impossible that these sites could contribute to the supply of housing land, however, that is not the test of deliverability. To justify including sites of these types it would be necessary to produce clear and specific evidence, in sufficient detail, to show that sites were available, suitable and achievable, with a realistic prospect of delivery within the required timescale. On the evidence before me, none of the remaining sites can currently justify being included within the five-year supply. The effect of this is to reduce the deliverable land supply by a further 293 units.

69. Taking into account the deductions that I have identified above, totalling 658 units, the Council's deliverable supply is reduced to 4,079 units. Against the agreed requirement figure of 4,598 units, this amounts to a supply in the region of 4.4 years

Planning Obligation

70. Aside of the matters discussed above, the agreement also secures various financial contributions including healthcare, allotments and public open space. In general, the financial contributions were based on formulae adopted by the Council and were consistent with policy and addressed the additional pressure that would result from the additional population from the proposed scheme.
71. In my view, the obligations provided would comply with paragraph 56 of the Framework and the statutory tests contained in Regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010. I therefore take account of these obligations in my decision.

Planning Balance

72. For the reasons set out in this decision, I have found the proposed development would conflict with LP Policy RLP2 and CS Policy CS5 with regard to the Council's spatial strategy for the district. It would also conflict with CS Policy CS9 and LP Policies RLP9, RLP10 and RLP90 due to its impact on the character and appearance of the surrounding area, with CS Policy CS9 due to its impact on the living conditions of future occupants of the dwellings, with LP Policy RLP84 and CS Policy CS8 due to its likely impact on protected species, and CS Core Policy CS2 because of an inadequate supply of affordable housing. Aside of LP Policy RLP21 which is permissive of the provision of specialist care outside of the settlement boundary, there are no other development plan policies that weigh positively in favour of any development on this site. The appeal proposal therefore generally fails to accord with the development plan as a whole.
73. In addressing the planning balance, an absence of a 5-year housing land supply triggers paragraph 11(d) of the Framework. As such, the Framework dictates that where the policies which are the most important for determining the application are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
74. Since there is less than a 5-year supply of housing land, it follows that LP Policy RLP2 and CS Policy CS5 must be considered out of date. I therefore afford this conflict limited weight. In addition, albeit future occupants of the dwellings would be likely to depend on a private motor vehicle to reach some essential day to day services and facilities within Halstead and in nearby larger settlements, there would be some choice available to use accessible modes of transport to access local services and facilities. Thus, the proposal would not significantly undermine the aims of the development plan which seeks to avoid undue reliance on the private motor vehicle.
75. In terms of benefits, given my finding that the Council can only demonstrate a housing land supply in the region of 4.4 years, the contribution of 30 dwellings weighs substantially in favour of the proposal. The additional housing would

support the vitality of Halstead through spending within the local economy and its support for services and facilities. This is a matter that weighs moderately in favour of the proposal. Costs and jobs associated with the construction of the proposed scheme would be for a temporary period and thus I consider these to be a modest benefit of the proposal. Permanent jobs in the region of thirty full-time posts that would be generated through the operation of the specialist dementia care unit would also be a moderate benefit weighing in favour of the proposal.

76. The Council state that it has not been adequately demonstrated that there is a need for this type of specialist accommodation within the district. However, no specific policy has been brought to my attention which requires the need to be evidenced. Moreover, the appellant has drawn my attention to an appeal decision at Whyke Lodge³ which concerned the provision of specialist dementia care. I note the Inspector's findings in that particular appeal determined that demand for appropriate accommodation and care was a material consideration of significant weight.
77. In the appeal case, I have been provided with letters of support from the County Council and Care England. Whilst the appellant makes reference to the Greater Essex (Southend, Essex and Thurrock) Dementia Strategy (2015-2020), there is no detailed analysis before me concerning the demand for, and any lack of dementia care bedspaces locally. Notwithstanding this, I note the comments of Care England that, in general, there is an inadequate provision of specialist dementia care and that due to demographic change this is likely to result in a significant increased need in the coming years. As such, I find that the provision of a 25-bedroom specialist dementia care unit weighs significantly in favour of the proposal.
78. I have found that the proposal would not result in material harm to the wider landscape character of the area. The absence of harm weighs neither for nor against the proposal.
79. However, in terms of harm, the proposal would have a materially harmful adverse impact on the character and appearance of the area and the living conditions of future occupiers of the dwellings. In addition, it would also result in harm to protected species and fail to make adequate provision for affordable housing. Overall, this would conflict with the social and environmental objectives of sustainable development and in my view, the benefits of the proposed scheme are significantly and demonstrably outweighed by the combination of the adverse impacts.
80. The scheme therefore does not constitute sustainable development. It follows that the conflict with the development plan is not outweighed by the other material considerations.

Other Matters

81. It is part of the appellant's case that the restoration of Green Lodge would improve and preserve a building of architectural merit. However, the appeal building is not identified as a building of heritage importance. On the basis of the limited evidence before me, I am unable to reach a fixed conclusion as to

³ APP/L3815/W/18/3196022 Whyke Lodge, 115 Whyke Road, Chichester

whether the appeal building should be considered as a non-designated heritage asset.

82. The appellant submits that the proposed design would complement the character of the existing care home and the Council have raised no concern in this respect. In addition, the Council have not cited any harm arising from flood risk and highway safety. The proposal would meet the minimum standards for parking. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
83. I have had regard to a number of letters provided in support of the appeal proposal however, support for the proposed scheme cannot outweigh general planning considerations. In this instance, it does not outweigh the harm I have identified above.
84. The parties dispute whether part of the site amounts to previously developed land. However, even if I were minded to accept the appellant's position, this would have no bearing on my findings above.
85. The appeal site falls within the zone of influence of the Blackwater Estuary SPA and Ramsar sites. The proximity of these European sites means that determination of the application should be undertaken with regard to the requirements of the Habitats Regulations 2017. However, as the appeal is failing because of the harm which has been identified in relation to the main issues, the development is not going ahead and therefore any harm to the SPA/Ramsar would not occur. Therefore, I do not need to give any further consideration to this matter in this appeal.

Overall Conclusion

86. I have had regard to all the other matters raised, but none leads me to any other conclusion than the planning permission should be refused. The appeal is therefore dismissed.

E Brownless

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Roger Catchpole	Managing Director Stow Healthcare
Melville Dunbar	Architect, Melville Dunbar Associates
Paul Munson	Chartered Town Planner, C/o Melville Dunbar Associates
Paul Coleman	Daniel Connal Partnership, Construction Costs Estimate
Jamie Purvis	BNP Paribas
Martin Taylor	Planning Director, Lichfields
Harry Bennett	Lichfields
Adam Hastings	Landscape Assessment
Patrick McKenna	Ecological Consultant
Paul Allen	Tree Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Melanie Corbishley	Planning Case Officer, Braintree District Council
Alex Evans	Planning Policy Officer, Braintree District Council
Kieran McGrath	Tree and Landscape Officer, Braintree District Council
Neil Jones	Planning Case Officer, Braintree District Council
Andrew Golland	Viability Assessment Consultant for Braintree District Council

DOCUMENTS

- 1 Notification of appeal
- 2 Notification of hearing
- 3 Policies CS1, CS2, CS10, CS11 of the Braintree District Core Strategy (2011)
- 4 Appeal Decision APP/J3720/A/11/2153222 Land off Manor Road, Stratford upon Avon
- 5 Appeal Decision APP/Z1510/W/18/3209711 Woodpecker Court, Poole Street, Great Yeldham
- 6 Appellant's Unilateral Undertaking

PLANS

- A Drawing Number 1544-PL002 Rev D Site Layout Block Plan