



Appeal Decision

Hearing Held on 27-29 July 2020

Site visit made on 3 August 2020

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24th September 2020

Appeal Ref: APP/V0510/W/20/3245551

Land Between 27 and 39 Sutton Road, Witchford

- 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 Manor Oak Homes Ltd and Mr & Mrs Eade against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00966/OUM, dated 3 July 2019, was refused by notice dated 8 November 2019.
 - The development proposed is the construction of up to 70 dwellings, together with associated public open space, landscaping, highways and drainage and infrastructure works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was made in outline with approval for access sought, and appearance, landscaping, layout and scale reserved for future determination. I have dealt with the appeal on the same basis. I have, however, had regard to indicative plans which show layout and landscaping.
3. A planning obligation was submitted in draft form, discussed at the Hearing and subsequently finalised. Furthermore a supplemental deed relating to the provision of bus shelter installation and maintenance contributions was submitted following the close of the Hearing. I have taken both obligations into account.

Main Issue

4. The main issue is the effect of the proposed development upon the landscape character and appearance of the area.

Reasons

Site and Area Description

5. The site is surrounded by open fenland farmland with scattered hedgerows and drainage ditches forming field boundaries and a limited number of trees. Sutton Road forms the main route through the village and the appeal site is located in proximity to the junction of Sutton Road with the A142, a busy main road which bypasses the village to the north.

6. Linear development runs along Sutton Road, including 2 new bungalows opposite the site and a new dwelling at Briery Farm to the west. Dwellings are mostly set back from the road with generous front gardens with grassed verdant boundary treatments. Infill development is also apparent along this stretch of Road and I am aware that a number of 'in-depth' developments have also been approved along Sutton Road/Main Street, although these have not all been built out. Witchford becomes more built up, when travelling east along Sutton Road which then becomes Main Street towards the village core.

Proposal

7. The proposed residential development of up to 70 dwellings, 30% of which would be affordable housing, would take vehicular access from Sutton Road. The indicative plans detail open space to the eastern side of the site, with built development across the remainder of the site, including behind Nos 17-27 and reinforcement of the vegetation at the existing hedged site boundaries.

Planning Policy Context

8. The development plan includes the East Cambridgeshire Local Plan 2015 (LP). Following the determination of the application by the Council, the Witchford Neighbourhood Plan (WNP) was examined, approved at referendum on 19 March 2020 and subsequently made on 21 May 2020. Accordingly, this also now forms part of the development plan.
9. LP Policy GROWTH1 sets out the housing requirement for the District. Policy GROWTH 2 of the LP sets out the locational strategy which focusses development on the main settlements and larger villages. More limited development within development envelopes in small villages, including Witchford, is supported. Development outside of envelopes is restricted to a number of exceptions and where there would be no significant adverse impact to the character of the countryside.
10. Policy SS1 in the WNP also sets out a spatial strategy, again restricting development outside of development boundaries, subject to certain exceptions.
11. LP Policy ENV1 seeks to respect the character areas and protect, conserve and enhance (amongst other things) the settlement edge, and wider landscape settings. Policy ENV2 seeks to secure high quality design requiring that development relates well to the context of its surroundings and respect the landscape of the area including important views in and out of settlements. WNP Policy LC1 seeks to protect settlement character and Policy H3 relating to design requires that schemes should complement and enhance local character by retaining or enhancing the special qualities of Witchford and its setting as described in the WLA.
12. The appeal site is located outside of the development envelope as set out in both the LP and the WNP. None of the specified exemptions apply and it is accepted by the appellant that the proposal would conflict with the spatial strategy as adopted by these policies.

Landscape and Visual Baseline

13. The site is located in 'The Fens' National Located to the western edge of Witchford, the site is a single arable field of around 3.25 hectares. It is bounded by hedgerows to the southern and western boundaries and a fence to

the east, separating the site from a paddock to the rear of a residential dwelling. Its northern boundary runs partially along Sutton Road between Nos 27 and 39 with a hedgerow and drainage ditch and extending behind Nos 17-27. There is a small cluster of trees towards the south eastern corner of the site and some ridge and furrow, albeit this is not very pronounced. The site gently slopes upwards to the south eastern corner.

14. Character Area, 'Lowland Village Farmland' in the regional East of England Assessment and within the 'Witchford Southern Slopes' as set out in the Witchford Landscape Appraisal 2018 (WLA) which was produced as part of the evidence base for the WNP. In brief, key characteristics include expansive flat landscapes of arable fields bounded by hedgerows and drains with 'island' settlements which rise above the fens. The Witchford Southern Slopes character area as defined by the WLA as forming the south facing slopes of the Witchford Fen Island ranging from c.13m AOD to c.5m AOD.
15. Policy Map 8 within the WNP denotes views towards the settlement and out to the wider landscape across the appeal site. This map also identifies the site as part of landscape which extends into the village. The supporting text to the WNP notes that such areas are valuable for helping reinforce the small scale, rural character of the village. The WLA also defines the site as a gateway into the village which marks the start of built form, but considers that it is weakly defined.
16. In terms of value, the appellant's assessment considers this to be low-medium, whereas the Council considers it to be medium. The Council also put forward the argument that the site constitutes a 'valued landscape' in terms of paragraph 170(a) of the National Planning Policy Framework (the Framework), a matter disputed by the appellant.
17. Based on what I have read, heard, and seen, the intrinsic value of the site in landscape terms relates to its open and undeveloped nature as an arable field with predominantly vegetated boundaries and gently sloping nature with some limited ridge and furrow features. The site therefore positively contributes to the fundamental fenland qualities of the countryside in this location.
18. It also acts as a transitional area between the wider rural environs of Witchford and urban fringe development along Sutton Road, particularly on entry to the settlement from the A142 where the appeal site forms an open rural gap between the linear developments along the highway. However, as Witchford is evolving with consented infill sites and the larger scale 'in-depth' developments, the transitional character along Sutton Road is changing and will become more urbanised. In this regard, while the site is and will become more heavily influenced by the planned expansion of Witchford, the site also represents one of the few remaining landscape gaps in the street scene.
19. Taking the above into consideration, I consider the site has medium landscape value as it contains features that contribute to the local, regional and national landscape character. However, while the site is identified in the WNP as part of an area where the landscape extends into the village and will be one of the few remaining gaps, the specific landscape features it exhibits are not particularly scarce in the surrounding area. The site clearly has intrinsic value but I do not therefore consider that it is a 'valued landscape' for the purposes of the Framework.

20. In terms of the visual baseline of the site, summer photographic views were provided in the appellants LVIA Assessment submitted with the original application, and helpfully updated as part of the hearing to provide winter photographs as a worst-case visual scenario.
21. The site is most visible when travelling east along the A142 and along Sutton Road. Views of the site are more contained when the site is viewed from Sutton Road when travelling west towards the A142, but part of the site abutting the highway appears as a visual break in the ribbon development between No 27 and the new dwelling adjacent to Briery Farm. Longer distance views are also taken of the site from the north, from Old Fen Baulk Road, a track, and from a footpath which runs along Catchwater Drain.
22. While Witchford is an island village and the appeal site falls within the southern slopes LCA in the WLA sloping down towards the lower fenland landscapes, the site is on gently rising ground between the 12m and 14m contour lines which then plateaus and the falls away further south of the appeal site towards Grunty Fen Catchwater Drain.
23. The topographical changes highlighted above are thus influential in terms of the visibility of the site in the wider landscape. Views from the south looking north towards the site are not particularly expansive, particularly from New Road, a farm track and public right of way, due to the topography and the field boundaries at the appeal site and well as to adjacent fields as established tall hedgerows intermingled with trees. However, a settlement edge is apparent with some existing developments being more visible due to a lack of boundary landscaping, or the rooftops of dwellings are experienced, at various vantage points along this track above hedgerow planting.

Landscape and Visual Effects

24. Having established the baseline, I now turn to the effects of the proposed development. As an edge of settlement site and taking account of the change in the settlement pattern of Witchford from the consented schemes, the site would relate to the existing settlement and would present as a logical extension to Witchford.
25. However, the 'in-depth' development of the site for up to 70 units at this gateway area to the village would create more of a distinct edge between urban and rural character, even if the future layout sought to retain the characteristic set back of dwellings fronting Sutton Road. There would be a resultant loss of the transitional character in this location.
26. This effect would be visible from the north and particularly visible when entering the village from the west, due to the rising topography within the site. Landscaping would help soften the newly created urban edge of the Witchford, particularly along the western boundary of the site. However, this would not mitigate this transformation to any substantial degree and the shift between urban and rural would be abrupt and distinct. The attenuation pond area towards the front of the site as indicated on the masterplan would not, in my view, help to preserve the landscape gap in the street scene and this would be all but lost.
27. Longer distance views of the development from the south, looking north towards the site from New Road which is an unmade track, would largely be

curtailed due to topography and intervening hedgerows and field boundaries. Here, the indicative landscaping treatments, once matured, would be more successful in mitigating the visual effects when viewing the site from the south, and any glimpsed views would be of rooftops but would be experienced within the context of other such views of the settlement, including the future consented schemes.

28. Taking the above together, the proposal would form an obvious extension of the settlement along Sutton Road, and would involve the irreversible change in the land use from open arable to residential development. The greatest effects would be experienced when travelling east along the A142 and Sutton Road, towards the village centre as the main thoroughfare and gateway into the village, but in the wider landscape, these effects would be more limited, particularly from the south.

Conclusions on landscape character and appearance

29. Consequently, the proposal would, on balance, have a moderately adverse effect on the landscape character and appearance of the area. This would be contrary to LP policies ENV1 and ENV2 and WNP Policies LC1 and H3. As set out above, in more general terms there is also conflict with the spatial strategy as set out in GROWTH 2 (LP) and SS1 (WNP). Lastly, there would be conflict with the Framework which recognises the intrinsic character and beauty of the countryside and seeks to ensure that decisions contribute to and enhance the natural environment.

Other Matters

Whether paragraph 11 of the Framework is engaged

30. At the time of making their decision, the Council was unable to demonstrate a 5 year housing land supply. However, the Council published an updated 'Five Year Land Supply Report' on 21st April 2020 which concludes that they are now able to demonstrate an adequate supply of housing.
31. The appellant considers that the so called 'tilted balance' under paragraph 11 d) of the Framework is engaged. This can be triggered where there is no five-year supply of deliverable housing or where the most important policies when taken as a whole are not consistent with the Framework. The appellant took both points and these were debated at the Hearing.

Housing Land Supply

32. The parties' positions on housing land supply were divided on a great number of matters and a number of different scenarios for the calculation were presented in the Statement of Common Ground and discussed at the Hearing.

The local housing requirement

33. The most fundamental issue relates to the methodological approach in calculating the basis of the local housing requirement. By way of background, the Council published a report on the 21 April 2020 which applies the standard method as set out in Planning Practice Guidance (PPG) for the calculation of its housing land supply. The LP reached its 5th anniversary of adoption on the same date. Prior to the publication of this report, and at the time of making their decision on this application, the Council considered that they could only

demonstrate a 3.70 year supply based upon their LP housing requirement figure in Policy GROWTH 1.

34. The Framework states that Councils should identify and update annually a supply of specific deliverable sites against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old (paragraph 73). Footnote 37 to this makes clear that this is unless these strategic policies have been reviewed and found not to require updating. PPG is similar and advises that in other circumstances i.e. where the plan is older than 5 years or has been assessed and requires review, *"the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method."*¹
35. In applying the standard method, the Council now considers that it can demonstrate a 6.60 year supply for the 5 year period between 1 April 2019-31 March 2024. The basis for this change was the publication of the Second Review of the LP which was also published on 21 April 2020. This report concludes that Policy GROWTH 1 requires updating because of its out of date housing requirement. It should be noted that the Council undertook a First Review in October 2019 which at that time concluded that there was no need to update the LP. The difference between the old and the new supply calculations is due to a backlog in the delivery of housing not being included in the standard method calculation, and instead a buffer of 20% is applied.
36. The appellant has challenged this and consider that the Council's approach effectively backdates the application of the standard method to a point where the plan was only 4 years old and to where the LP housing requirement should apply. They also assert that the Council are using the standard method as an opportunity 'to wipe the shortfall slate clean' citing concerns regarding the limited time taken between the first and second reviews.
37. A number of legal cases and appeal decisions were put before me on this issue. This includes two Secretary of State decisions at Woburn Sands, the first one of which was quashed and then redetermined.² In the original decision, the Council considers that the approach taken by the Secretary of State endorses the method currently taken by the Council, as the base date was also within 5 years of the local plan housing requirement whereas the point the decision was taken was over 5 year from the adoption of the local plan and as such the standard method was applied. The decision was quashed in respect of housing land supply, and more specifically on grounds which challenged conclusions made against deliverability. The Council considers that while the decision has no legal effect, the errors on supply do not 'infect' the conclusion on the requirement methodology which is relevant to this appeal. The second case did not address this point, principally due to the passage of time and updated evidence.
38. A separate recent appeal decision³ at Ely was also cited by the Council where the Inspector accepted the Council's updated position on housing land supply. Finally separate recent linked decisions⁴ at Witchford was submitted in evidence, but not relied upon by the appellant, whereby the Inspector gave

¹ ID: 68-005-20190722

² CD5.11, CD5.13, Hearing Document 2.

³ CD5.12

⁴ CD5.17

limited weight to the Council's updated position, citing a lack of evidence relating to consultation and testing.

39. Each application and appeal must be determined based on their own merits and I cannot simply rely on the approaches of previous Inspectors and the Secretary of State as definitive one way or the other on this issue. In any case, the Ely decision, the issue of housing land supply wasn't a matter put in issue and the Witchford decisions did not analyse this matter to any great detail. I am also aware that the Witchford linked decisions are subject to legal challenge and the Secretary of State is submitting to judgement in respect of these.⁵ The original Woburn Sands decision was quashed but in any case I agree with the appellant that there was no specific challenge to the application of the standard methodology to a base date which pre-dated the 5th anniversary of the plan in this in any case. Accordingly, it is therefore a matter of my reasoned judgement in terms of the application of the relevant paragraphs of the Framework and the PPG in light of these particular circumstances arising from this appeal.
40. The facts are clear; the LP is now over 5 years old, the Council has undertaken 2 reviews of this, the latter of which concludes that GROWTH 1 (which sets out the housing requirement) is out of date and requires updating. However, the base date for the calculation is within a period when the LP and its housing requirement was less than 5 years old. The Framework and PPG do not offer any assistance in terms of how to deal with such very particular circumstances and both parties presented logical arguments in support of their favoured methodological approach.
41. As I stated at the Hearing, the proper forum for determining the precise position on housing land supply is as part of the plan making process or via Annual Position Statements. Both are subject to formal examination and a greater level of scrutiny than can be achieved as part of a single s78 appeal.
42. However, my view is as follows. The LP is clearly now over 5 years old and, coupled with the Council's Second Review, there is an identified need to review housing figures in the District. Through an update to the Framework, the Government introduced the standard method in 2018 with further refinements in 2019 to make assessing the minimum number of homes needed in an area easier, more transparent, and standardised across the country. This also includes a means of dealing with under-delivery, through the application of a buffer which is calculated annually by the Government as part of the Housing Delivery test.
43. In the near future, this is a matter which would no longer be for debate as the need to use the standard method will be more 'cut and dry' and it would automatically kick in. At the present time, there is a mis-match of the base date taking us within 5 years of the LP adoption, and I can appreciate the appellant's frustrations in this regard. However, the Council are entitled to review the LP as they see fit, and while it may prove more favourable to the authority to undertake the calculation in this way, there is no evidence that the Council are seeking to 'game the system' (as it was put to me) by ignoring the backlog, they are simply seeking to apply the Government's standard method which has a mechanism via the housing delivery test to address historic shortfall.

⁵ As confirmed by Hearing Documents 14-17.

44. In light of the above, I consider that it is therefore appropriate to use the standard method for the purposes of assessing this matter as part of this appeal.

The supply side of the equation

45. This leads me to now consider the supply side of the equation. Notwithstanding their concerns regarding the methodology, the Council's supply calculations were contested by the appellant. Specifically they consider that even applying the standard method, the Council is only able to demonstrate a 4.63 year supply (as opposed to the Council's 6.60 year figure) due to annual projected household growth base dates period and a lack of deliverability of a number of sites.

Base date

46. On the first matter, I agree with the appellant that the 'current year' is 2020 and that should be the base date when calculating the projected annual household growth over a 10-year period in line with the PPG. This is a minor point that the Council were content to accept, acknowledging that this would favour the Council slightly in any case as the projections between 2020-2030 would be slightly lower at 429.3, giving an overall calculation of local housing need as 497 dwellings and a 5 year requirement as 3581 units.

Deliverability

47. As set out in the Framework, in order for a site to be deliverable, it must have a realistic prospect that housing will be delivered on the site within five years. A total of 25 sites were in dispute between 2-180 units in size. Windfall sites are also contested. In total, this would amount to a difference of 1454 units in the overall calculation. Most of these sites had outline consent or were allocated in the LP, and in such cases the Framework requires that they can be considered deliverable and included within calculations where there is clear evidence that housing completions will begin on site within 5 years. PPG provides examples on what evidence may be used to justify this.
48. I have concerns regarding the basis on which a number of the sites have been classed as deliverable by the Council and rather than forensically examine sites on an individual basis, I have identified a number of broad key themes in this regard.
49. The onus is on the Council to provide that clear evidence and at the Hearing, the Council acknowledged shortfalls in their methods of evidence collection as the dataset via 'Survey Monkey' could not be interrogated nor could tangible evidence from developers be produced at the Hearing for many of the sites, with the Council citing data protection issues. I have therefore limited evidence to support claims made that some sites are deliverable due to the limited evidence supplied - for example the sites monitoring form 18/19 or discussions held at the (now withdrawn) Local Plan EIP held in late 2018. I simply cannot be certain that the evidence the Council seeks to rely on exists or where it may exist, whether it is robust. This falls considerably short of the 'clear evidence' test as required in the Framework.
50. A number of small sites of around 2-30 units have been included simply by virtue that they are allocated or have outline consent and due to their small size, could be built out relatively quickly. While I note that this is

acknowledged by paragraph 68 of the Framework, this factor alone would not meet the 'clear evidence' requirement.

51. Two other sites are included by the Council on the basis of being allowed on appeal as a result of there not being a 5-year housing land supply. The suggestion is that it would be perverse not to include the contribution of such sites in the forthcoming 5 years. But while lack of supply can be enough to tilt the balance in favour of an appeal, that should not be taken to be confirmation that a site is deliverable without further evidence.
52. In combination, all of these factors would reduce the deliverable supply figure as claimed by the Council and the overall supply figure would be less than the 6.60 years as currently claimed.
53. That said, I consider that the appellant has also been somewhat strict in relation to timescales. The Council has provided some evidence at certain sites which post-date 1st April 2019, including, for example, the submission and subsequent approval of reserved matters. PPG advocates the use of latest available evidence and while the Inspector of the Woolpit Decision⁶ was critical on this matter in their decision of September 2018, subsequent decisions by other Inspectors and the Secretary of State⁷ consider it acceptable that evidence can post date the base date in support of deliverability.
54. Moreover, in terms of windfall sites, an allowance of 150 units has been factored into the calculation which is 50 units per annum 2021-2024. The appellant argues that the Framework definition of deliverable is explicit in its expectation of evidence for individually identifiable sites and that a windfall allowance does not allow for this.
55. I disagree as paragraph 70 of the Framework is clear that where an allowance is to be made for windfall sites as part of the anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. The Council's Housing Land Supply report provides an analysis of windfall development over 17 years, and has sought to avoid double counting with sites included in the commitment data. I consider this to be a robust approach which meets the compelling evidence test.
56. It is thus very difficult for me to glean an accurate picture, based on the above. There are a number of variables at play with a relatively large number of sites and no obvious examples which would clearly tilt the calculation one way or another above or below the 5 year threshold. At my request the parties provided an addendum to the Housing Land Supply Statement of Common Ground (SOCG) following the close of the hearing.⁸ This presented updated information which excluded those sites with outline consent or allocation only sites, but included sites where 'retrospective' evidence could be taken into account.
57. This was produced without prejudice to the cases of each party on derivability and in itself is somewhat of a blunt instrument as there are still sites where parties could not agree and there may be variances for specific sites that I identify separately which change the sums. However, based on the standard method even when using the appellant's lower estimated figures and without

⁶ CD 5.16

⁷ CD 5.15 and 5.13 which references other cases

⁸ Hearing Document 7

windfall development included, this exercise has established that the Council could demonstrate a 5.39 year supply. It would be 5.60 years when accounting for windfall sites.

Conclusions – Housing land supply

58. Overall, this is a matter with a great number of variables. But based on the above, I consider that the standard methodology is the most appropriate methodology to use and, taking into account a reduced number deliverable sites in the supply due to a lack of evidence, the supply figure of 5.39-5.60 seems to me to be the most reasonable to base my findings on.
59. Thus, it is my view that the Council is able to demonstrate a 5-year housing land supply in the context of this appeal, albeit on a more marginal basis than claimed. The so-called 'tilted balance' in Framework paragraph 11d) is not triggered for this reason.

Most Important Policies/Out of date

60. The parties agreed that LP Policies GROWTH 2, GROWTH 5, ENV1 and ENV2 and NP Policies SS1, LC1 and H3 are the most important policies for the purposes of this appeal. The appellant also considered that LP Policy GROWTH1 should be recognised as being in the most important 'basket' of policies.
61. LP Policies ENV1 and ENV2 and WNP Policies LC1 and H3 relate to landscape character, design and context. While ENV1 and ENV2 predate the current version of the Framework, the general principles of safeguarding landscape quality, sensitive design and high standards accords the design and landscape paragraphs of the Framework. I thus consider these policies to be up-to-date. Given the very recent examination and subsequent making of the WNP, LC1 and H3 are up-to-date in relation to the Framework and I note that the Examiner was satisfied that the WNP meets the basic conditions, including having regard to national policy.
62. GROWTH 5 simply repeats what paragraph 14 of the 2012 Framework stated. While the general presumption in favour of sustainable development remains valid, it is out of date as it does not align with paragraph 11 of the updated Framework (2019). In any case, while the main parties were in agreement that this is a 'most important' policy, I consider that in the context of its broad and generic nature, I have some concerns as to whether GROWTH5 would meet this test for this appeal.
63. The main focus of the debate in respect of whether the most important policies can be regarded as being up to or out of date related to GROWTH2, SS1 and GROWTH1. The appellant submits that GROWTH2 is intrinsically linked to GROWTH1 and as such should be afforded reduced weight. The same argument is applied to SS1 as it does not seek to allocate sites, and as the settlement envelope has already been breached.
64. LP Policy GROWTH2 and WNP Policy SS1 set out the locational and spatial strategy. GROWTH1 sets out the housing requirement for the LP and as per the Council's Second Review of the Plan,⁹ this is considered to be out of date.

⁹ CDA4.3

This review considers that other strategic policies, including GROWTH2 is not in need of updating.

65. GROWTH2 seeks to 'strictly control' development outside of development envelopes having regard to the need to protect the countryside. It could be argued that the Framework is more holistic in its approach to rural housing and does not couch the need to protect the countryside in such stringent terms, although recognition of intrinsic character and beauty of the countryside is a theme embedded in paragraph 170 of the Framework. That said, the policy offers a number of exceptions, including affordable housing, re-use or replacement of buildings etc which is in accordance with paragraphs 77-79 of the Framework. On balance, I therefore consider this policy to be up-to-date.
66. SSP1 focusses main development within the settlement envelope. The WNP does not allocate sites but recognises existing commitments which will deliver c330 dwellings during the plan period. The settlement envelope has been extended to reflect this. Again, this policy sets out exceptions for development outside of the envelope and again in line with the conclusions of the Examiner, this is clearly not out of date for the purposes of my decision.
67. The issues around the spatial strategy and housing supply were considered by the Examiner of the WNP who recognised the unusual situation with the WNP and the LP which, at the time of writing, could not demonstrate a 5 year housing land supply and was thus out-of-date in its housing requirements. The Examiner concluded that the level of development in SS1 is far in excess of both recent development rates and what was the planned strategy for Witchford in the LP and has been embraced as part of the spatial strategy in recognition of the changed circumstances relating to the housing figures of the LP. The Examiner was also satisfied that the sites will contribute to the future development needs of the parish over the plan period.
68. As I consider that the Council is able to demonstrate a 5 year housing land supply, and as GROWTH1 is out of date, my considerations are not dissimilar. The WNP does not specifically allocate sites, but the amount of development set out within Policy SS1 would equate to around a 33% increase of dwellings in the parish, plus windfall, in excess of the requirement in the LP. Accordingly, while GROWTH1 may be out-of-date, Policy SS1 is not and is still relevant to my decision as an up-to-date policy.
69. In terms of the appellant's arguments regarding whether the settlement envelope of the WNP is out of date and was so at the time it was made. Site 18/01821/FUM is located outside of the boundary, but this was approved as a rural exception scheme for 100% affordable housing. Other sites may have also been approved or allowed at appeal.¹⁰ In any case, it is inevitable that the boundary may not always accurately reflect development on the ground or permissions granted, but that in itself would not render it to be out of date for the purposes of paragraph 11d.
70. The WNP Examiner also noted that while GROWTH1 may have been challenged as being out of date, the same is not true of the locational strategy set out in GROWTH2. On this point, the Examiner notes that "*the locational strategy [of the LP] focusses development on Ely, Littleport and Soham and larger village*

¹⁰ Notwithstanding the fact that at least one is subject to an application for legal challenge whereby the SoS is submitting to judgement, as confirmed by the Council in Hearing Documents 14-17.

centres which remains the plan objective even in circumstances where a 5 year housing supply cannot be delivered. Witchford under the locational strategy is not required to accommodate more than small scale development within the development limits.” I find no reason to disagree with that stance, as a matter which was examined as part of the WNP process.

71. I am therefore satisfied that status of GROWTH1 as an out of date policy would not render GROWTH2 or SS1 out of date.
72. The appellant drew my attention to the different process of examining a local plan and a neighbourhood plan, and considered that the latter was not subject to the same degree of rigor in assessment. While I acknowledge the process is different, the WNP has attained the same legal status as the LP and forms part of the development plan. I note that there is an outstanding legal challenge to the WNP, however those details were not put before me and in any case parties were in agreement that the outcome of this shouldn't affect the issues in hand for this appeal.
73. To sum up, of the policies identified as most important, I have found that ENV1, ENV2, LC1, H3, GROWTH2, SS1 are not out of date. Policy GROWTH1 and GROWTH5 should be given reduced weight as they are not consistent with the Framework. While there was not agreement between parties as to whether GROWTH1 is 'most important' and I have my own concerns regarding whether GROWTH5 would meet that test, even when considered together, I am satisfied that the basket should not be regarded as out of date.

Conclusions –on whether paragraph 11 of the Framework is engaged

74. Overall, I conclude that paragraph 11d of the Framework, is therefore not engaged for any reason. Therefore the decision should be based upon the policies in the development plan, following the approach in the Framework.
75. I now turn to my assessment of issues raised by local residents.

Highway Safety

76. The submitted evidence relating to transport demonstrates that the development can be accommodated without significant impact on the existing transport network. In spite of the proximity of the proposed access to the junction with the A142 as a major trunk road, I consider that there would be no adverse effects relating to highway safety. My views are consistent with the conclusions of the Highways Authority in this regard.

Accessibility to services and facilities

77. Local facilities include pre-school, primary school and secondary school facilities, post office and general store, a hairdressers, a public house, a vets and a take-away. Other community facilities include a Parish Church and a Baptist Church, sports facilities and play areas. The main settlement of Ely, with a larger range of services and facilities, is 3 miles away.
78. The site is an edge of settlement development and in terms of sustainable transport, there is a bus service which is a Monday-Saturday service at 2 hourly intervals during daytime hours. There is a cycle path and pedestrian access to the village centre and the development would secure the extension of a 2m wide footpath to join with the existing footway outside of No27.

79. For a village of its size, Witchford is reasonably well served in terms of local services and these are mostly within walking or cycling distance of the site. For longer distance trips to Ely, it is inevitable that there will be some use of the private car. However, while the bus service is limited, proposed upgrades to the existing bus stops as set out in the supplemental planning obligation would go some way to make the bus service more desirable to use, not only by future residents but existing residents in who live in proximity to the bus stops. On balance, I consider that there would be no harm arising from accessibility matters.

Flood Risk

80. Concern was raised with regard to surface water drainage and a risk of flooding to properties along Sutton Road. Environment Agency maps were also produced within evidence to support this matter which shows a high risk of surface water flooding. However, a flood risk assessment has been undertaken which has assessed the site specific conditions and proposes a number of mitigation measures. Anglian Water, the Environment Agency and the Lead Local Flood Authority have also raised no objection.
81. Matters relating to surface water drainage and foul water can be dealt with by condition to ensure that further details are submitted and approved. Furthermore the planning obligation also makes provision for a sustainable urban drainage scheme. I therefore consider that the development would not give rise to adverse effects in respect of flooding.

Archaeology

82. The site is in an area of archaeological potential. Based on the submitted evidence, I consider this can be appropriately secured by conditions relating to a programme of archaeological works. I note that the County Archaeologist takes the same view.

Educational Provision

83. There is a clearly evidenced need for education places at Witchford. While I appreciate the issues with school catchments and parental choice, it is my view that the contributions set out within the Planning Obligation are justified and related to the development which will secure future provision. This would be unaffected by the legal challenge relating to CD5.17 and (as evidenced in Hearing Documents 14-17) as there is a mechanism to provide contributions to Cambridgeshire County Council in the absence of the any future expansion of Rackham Primary School tied to that appeal decision.

Other issues

84. Other issues relating to residential amenity, energy efficiency would be dealt with as part of any reserved matters application. A number of conditions were proposed in respect of the latter, including the provision of electric vehicle charging points for each property, but these would not be necessary at this stage.

Overall Planning Balance and Conclusion

85. Notwithstanding my findings on housing land supply, the Government's objective is to significantly boost the supply of homes which weighs in favour of

- the development proposals before me. The development would also provide for 30% affordable housing, as secured through the planning obligation, which also weighs in favour of the development.
86. Construction works would create significant levels of employment and the provision of housing and would increase local spending which would contribute towards the local economy. Again, these are positive matters in the planning balance.
87. The site is of limited ecological value and, as recognised by the Council, biodiversity enhancements to the site could be secured by planning condition. However, such benefits are tempered slightly at this stage as details of the net gains would only be established by any future application.
88. Bus stop improvements would help to mitigate some of the effects of the development and would be able to be used by other local residents and thus would be a limited local benefit. Other issues such as the provision of open spaces, educational contributions, SUDS and highways works would be neutral in the balance.
89. However, for the reasons set out above, the proposal conflicts with the locational policies in the WNP and the LP and leads to harm to the landscape character and appearance.
90. The development plan is the starting point for decision making and here this comprises the LP and the recently made WNP. The Framework is clear that where a planning application [or appeal] conflicts with an up-to-date development plan, permission should not usually be granted.
91. The landscape harm and the associated policy conflict with the WNP and the LP are determinative in this case and outweigh the planning benefits of the scheme. Thus, for the reasons set out above, I conclude that the appeal should be dismissed.

C Searson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Paul Tucker QC	Kings Chambers
Ms Lydia Voyias	Associate Savills (UK) Ltd
BA (Hons) MPlan MRTPI	
Mr William Main	Manor Oak Homes
Mr Ben Wright	Director Aspect Landscape Planning Ltd
BA (Hons) DIP LA CMLI	
Mr. Jonathan Dixon	Director Savills (UK) Ltd
BA (Hons) MA MRTPI FRSA	
Mr Martin Andrews	Drainage and Highways consultant
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FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel	No5 Chambers
Richard Kay	Strategic Planning Manager
BA(Hons) DipTP MA	
Alison Farmer	Chartered Landscape Architect
BA(Hons)MLD CMLI	
Barbara Greengrass	Planning Team Leader
BSc (Hons) MSc Town and country Planning MRTPI	
Cllr Bill Hunt	Local District Councillor & Chair of Planning Committee

INTERESTED PERSONS:

Natalie Blaken	Planning Director at Nupremis Cambridge Limited
Ian Allen	Witchford Parish Council
Stuart Braybrooke	Representative of the Residents of Sutton Road
Dr Clare Beddoes	Local Resident
Sue Baker	Local Resident

HEARING DOCUMENTS*

1. Written transcript from Cllr Bill Hunt.
2. *Wavendon Properties Ltd v SSHCLG and Milton Keynes Council* [2019] EWHC 1524 (Admin).
3. Extracts from GLVIA – pages 83-85.
4. Agreed site visit walking route map.
5. Submissions on the housing land requirement by Paul Tucker QC on behalf of the Appellant 29 July 2020.
6. Short submissions on the methodology to be used for housing land supply by Jack Smyth on behalf of the Council 29 July 2020.
7. Agreed addendum to the HLS SOCG.
8. *CEG Land Promotions II Ltd v SSHCLG and Aylesbury Vale District Council* [2018] EWHC 1799 (Admin).
9. *Solo Retail Ltd v Torridge District Council and TJL UK Ltd* [2019] EWHC 489 (Admin).
10. Email dated 29 July 2020 containing suggested wording of a condition relating to landscape.
11. Comparison tables of landscape and visual effects (appellant and Council) and accompanying combined viewpoints location plan.
12. Copy of completed s106 agreement dated 10 August 2020 covering affordable housing, open space land, SUDS, wheeled bin contribution, education contribution.
13. Copy of completed s106 supplemental deed dated 10 August 2020 covering bus shelter provision contribution.
14. Email dated 25 August 2020 from the Council regarding an application to quash decisions APP/V0510/18/3213834 and APP/V0510/19/3227487.
15. Email dated 26 August from the appellant in response to 14 (above).
16. Email dated 16 September 2020 from the Council regarding the draft Consent Order in respect of 14 (above).
17. Email dated 18 September 2020 from the appellant in response to 16 (above).

* NB these include documents and correspondence submitted after the hearing closed.