



Appeal Decision

Hearing held on 1 and 3 February 2022

Site visit made on 9 February 2022

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2022

Appeal Ref: APP/H2265/W/20/3254563

Land at Ashton Way, West Malling, ME19 6HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Gladman Developments Limited against Tonbridge and Malling Borough Council.
 - The application Ref 19/02856/OA is dated 29 November 2019.
 - The development proposed is outline planning application for up to 75 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Station Approach. All matters reserved except for means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form to the Council on 4 December 2019. The Council declined to validate the application and under Article 5(2) of the Town and Country Planning (Development Management Procedure) (GDMP) (England) Order 2015 requested the submission of reserved matters from the appellant for layout, scale, appearance and landscaping, including boundary treatments. The reason given was to enable the Council to “*fully and properly consider the full impacts of the development on both designated and non-designated heritage assets and the full impacts arising from necessary noise mitigation measures (both internal and external) given the proximity of the development to the A228 and railway line and when considering the conclusions of the submitted noise assessment*”.
3. The appellant chose not to submit this information and having regard to Article 37(2)(d)(ii) of the (GDMP) lodged an appeal for non-determination. The Council have confirmed that they do not dispute the validity of the appeal.
4. Following submission of the appeal the National Planning Policy Framework (the Framework) was revised on 20 July 2021. As a result, the Inspectorate sought comments from the parties as to whether the publication of the revised Framework raised any issues in relation to the determination of this appeal. In response the appellant submitted a “Design Principles Document” and a revised Development Framework Plan (ref 9167-L-02-H) as part of their appeal submission. The parties agree that the plans that are relevant to the determination of the appeal are the Site Location Plan 9167-L-01, Proposed

Site Access Arrangements 1683/02E and the Development Framework 9167-L-02-H.

5. As the application was not registered by the Council the normal process of consultation did not occur before the appeal was lodged and so the Inspectorate undertook a process of consultation following receipt of the appeal. I am satisfied that this process has now been complied with in accordance with the provisions of the General Development Management Procedure Order and I have taken into account the comments submitted as a result of this consultation.

Main Issues

6. Accordingly, the main issues for the appeal are:
 - the effect of the proposal on the significance of heritage assets (these have been identified as The St Mary's Abbey Complex, West Malling Railway Station, Church of St Mary the Virgin, West Malling Conservation Area, The Lavenders, St Leonards Tower and Eden Farm Oast House);
 - the effect of the proposal on the character and appearance of the area; and,
 - whether or not the proposal would deliver an acceptable residential environment for future occupiers with regard to the effects of noise.

Reasons

Background

7. The appeal site lies outside any defined settlement confines and therefore lies within designated countryside.
8. The Development Plan for the area comprises the Tonbridge and Malling Local Development Framework Core Strategy (CS) which was adopted in September 2007, saved policies from the Tonbridge and Malling Borough Local Plan 1998 (LP), the Development Land Allocations Development Plan Document (DLA DPD) which was adopted April in 2008 and the Managing Development and the Environment DPD (MDE DPD) which was adopted in April 2010.
9. These plans predate the introduction of the Framework. Furthermore, the Council and the appellant agree that a five-year supply of housing land cannot presently be demonstrated in the Borough. The current supply is estimated to be between 2.2 and 2.58. The Council and the appellant agree that as a result, policies in the adopted plan are out of date and that the "tilted balance" in paragraph 11dii of the Framework is engaged unless any restrictive policies in the closed list at footnote 7 of the Framework apply. As the parties disagree as to the effects of the proposal on heritage assets they disagree as to whether the tilted balance should be engaged in the determination of this appeal.

Heritage Assets

Designated Heritage Assets

10. The appeal site comprises a grassed field which lies within the open countryside adjacent to West Malling railway station. The A228 Ashton Way is located to the immediate south of the site. A small cluster of residential dwellings which includes Eden Farm Oast House lies to the immediate west of

the site. A number of other heritage assets lie within relatively close proximity of the site. These include the St Mary's Abbey Complex, the Church of St Mary the Virgin, The Lavenders, St Leonards Tower and West Malling Conservation Area.

11. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest when considering whether to grant planning permission for development which affects the setting of a listed building. The Act also requires special attention to be had to the desirability of preserving or enhancing the character and appearance of Conservation Areas. This duty is reflected in the Framework which subsequently goes on to categorise any harm to the significance of a heritage asset as either '*substantial harm to or total loss of significance of an asset*' or '*less than substantial harm to the significance of an asset*'. The Framework also advises that, when considering the effects of a proposal on the significance of a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
12. The St Mary's Abbey Complex is a Scheduled Monument which includes eleven listed buildings, five of which are Grade I and two Grade II*. The complex is located around 600 metres to the west of the appeal site. The Abbey buildings within the precinct are internally focused, providing seclusion within a specific enclosed space. I noted on site that the Abbey complex, which is surrounded by a high stone wall, has a distinct character which separates it from the town, the stone precinct wall marking the extent of the scheduled area.
13. The historic surroundings of the complex and the relationship of it to the town and surrounding landscape also contribute to the significance of the group as the development of the Abbey is interlinked with the development of the settlement. The founding of the Benedictine Abbey in the 11th Century would have stimulated and supported the growth of West Malling during the medieval period. As land to the south and east was originally part of the Abbey's holdings, and farmed in association with it, it remained undeveloped, and the town grew to the north and west. The spatial relationship of the Abbey with the surrounding rural hinterland remains evident in the juxtaposition of Abbey and surrounding countryside that exists today, and the pattern of Town-Abbey-Countryside is an intrinsic part of the historic character of the settlement and the setting of the Abbey complex.
14. The Abbey and all of its component parts are of exceptional interest and are of national significance. I have considered the extent to which that significance is derived from its rural setting. The distance of the proposed development from the asset would mean that there would be no inter-visibility between the proposed development and the Abbey buildings, due to the surrounding wall, the intervening vegetation and the buildings of Eden Farm and the Oast Houses. However, whilst the immediate rural setting of the Abbey would be undeveloped, its extent would be little more than a field's depth between the Abbey and substantial urban form. In this regard the development would have an intrusively urbanising effect on the countryside setting. As the countryside setting contributes to how the asset is appreciated, it follows that this would also result in harm to the significance of the asset, although this is likely to be towards the more limited end of the spectrum.

15. It was put to me at the hearing that noise and disturbance from the development, along with light intrusion would also impact upon the quiet character of the Abbey complex. I take into account the distance of the proposal from the asset, and the presence of other noise and intrusion in the landscape around the site, in the form of the railway and the busy A228. In this context I consider it very unlikely that the development would give rise to additional disturbance that would intrude upon the tranquillity of the inward focussing Abbey complex.
16. West Malling Conservation Area extends to cover a large proportion of the settlement, to within around 200m of the site along Swan Street and Lavenders Road. Both roads have a rural feel with high stone walls and established trees and vegetation. The land to the east of the Conservation Area, forms part of its wider rural setting and consists largely of open pasture fields bounded by hedges and trees. The Abbey, and its immediate setting, is clearly distinct from the town with the countryside coming up to the edges of the Conservation Area providing an almost abrupt backdrop to the Abbey environs. This is less distinct in the environs of the appeal site with sporadic buildings providing a more gradual transition to open countryside, which is itself intruded upon by the urbanising influence of the railway and the A228. Nevertheless, the origins of the settlement and its historic growth north and west are reflected in the largely open aspect the town has to the south.
17. In the same way as I have concluded that there would be harm to the Abbey complex, the introduction of a new residential development to the Conservation Area's wider rural setting on the south-east would be at odds with this pattern of growth. The immediate agricultural setting of the Conservation Area would also be eroded. However, having regard to the extent of both the Conservation Area, and its setting, this would cause only limited harm to the significance of the asset.
18. The Church of St Mary the Virgin is a Grade II* listed building which lies around 800m from the appeal site to the south of West Malling. It contains Norman remnants with 13th, 14th, 15th, and 18th Century additions and its significance lies in its historic and architectural interest and in its value as a community building. Glimpsed views of the spire are available from the site. The proposed development, in diminishing the rural character of the countryside around the village, would cause some harm to the wider rural setting of the asset. However, having regard to the extent of the wider setting of the asset and the extent to which that setting already comprises substantial elements of built form, the proposal would have no discernible impact on the significance of the asset.
19. West Malling Railway Station is a Grade II listed building which sits immediately opposite the appeal site outside the confines of West Malling. The station building is constructed in red brick with gothic arched windows and steep gables on the upper floors. The immediate setting of the asset comprises the station forecourt and modern station parking which is encircled by modern railway and other structures. It is relatively well preserved, and its significance is derived from its status as a good example of a station building of its period, the position of which in open countryside outside the settlement being indicative of how the railways developed during the late Victorian period.

20. The proposal would introduce built form within the wider setting of the asset and would diminish the rural character of this setting. However, I consider that the wider rural setting contributes in only a limited way to the asset's significance and so the proposal would cause only very limited harm to the significance of the asset.
21. The Lavenders is a Grade 2 listed building which lies around 250m to the west of the proposed development site. It is an early 19th Century dwelling that has since been very significantly extended to facilitate its current use as a residential care home. The immediate setting of the asset is made up of the large extensions and original residential gardens to the front of the building from which some of the remaining detail of the original building can be appreciated. This immediate setting would not be impacted by the proposed development and any available views of the original asset from the direction of the development site across the intervening open fields would be largely obscured by the intervening Eden Farm Oast House. Accordingly, the proposal would not impact upon the significance of this asset.
22. St Leonards Tower is an early Norman keep which is a Scheduled Monument. It lies over 800m north-east of the site. Due to the distance from the asset, and the intervening vegetation and built form there is no intervisibility between the site and the asset and there is no known historic association between the asset and the site. Accordingly, the proposal would not impact upon the significance of this asset.

Conclusion on Designated Heritage Assets

23. The proposal would cause harm to the setting and thereby the significance of the St Mary's Abbey Complex. It would also cause limited harm to the significance of West Malling Conservation Area and very limited harm to the significance of West Malling Station. Having regard to the extent of harm, the number of assets and the significance of those assets I consider that together this would amount to "less than substantial harm" as set out in Paragraph 202 of the Framework. The Framework directs that where less than substantial harm is identified it should be weighed against the public benefits of the proposal.
24. The Framework also directs that in considering the impact of development on heritage assets, great weight should be given to the asset's conservation, and that the more important the asset, the greater the weight should be. Any harm to, or loss of, significance should require clear and convincing justification.
25. The development would provide up to 75 houses, in an area with an acute deficit of housing. 40% of that housing would be affordable. I attribute great weight to the cumulative loss of significance of a number of heritage assets, albeit limited individual harm in some cases to that significance. However, I attribute greater weight to the provision of housing, including affordable housing in this case. The impact on designated heritage assets does not therefore, on its own, provide a clear reason for refusing the application and paragraph 11d(i) of the Framework is not engaged. I return to this matter in my consideration of the planning balance, below.

Non-Designated Heritage Assets

26. Eden Farm Oast House lies immediately to the west of the development site. It comprises 4 large roundel kilns arranged around a stowage barn. The building appears on the 1862-1975 Ordinance Survey and is considered by the Council

to be a non-designated heritage asset. The building has been converted to residential use and the changes to the structure, along with the provision of a domestic curtilage has diminished some of the building's original agricultural character. Nevertheless, the building still retains a strong agricultural appearance and the view of the profile of the cowls above the roundels when seen across open fields is indicative of the agricultural history of the area. In this regard, the open setting of the building is an important attribute in how it is appreciated which contributes much to the significance of the asset.

27. Although the proposal is in outline form it is accompanied by a Development Framework Plan which shows development likely to be located to the south of the site in the immediate setting of the asset. Although this is only indicative, having regard to the number of dwellings proposed and the size of the site, I am of the view that at least some of those dwellings would be located close to the oast house. The provision of 70 dwellings in this location would be clearly visible and would obscure available views of the asset from Station Approach. Furthermore, although part of the open setting of the asset would remain across adjoining fields, the extent of this would be severely eroded by the development and, in remaining views, the built form of the new houses would substantially diminish the existing rural backdrop, "surburbanising" the setting of the asset. This would substantially diminish the significance of the asset.
28. Policy SQ2 of the MDE DPD relates to locally listed buildings. However, as the Council advises that this building is not on a local list the policy is not relevant. The Framework sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
29. In this case, the proposal would cause a large degree of harm to the setting of the oast house. I take account of the fact that oast houses are not uncommon in the Kent countryside. Nevertheless, this example is particularly handsome, and its location in close proximity to the town, whilst maintaining a rural setting, adds value to it as an example of its type. Taking account of the status of the building as a non-designated heritage asset, I attribute only moderate weight to this harm in the planning balance.

Character and Appearance

30. West Malling has a tightly knit village centre with some outlying disparate development including the school and church along Swan Street. The station sits outside the village, accessible by foot but nonetheless outside the village envelope. The busy A228 is also a notable feature, due to both its noise and its elevated form and it creates a physical and perceptual barrier in the landscape. As outlined above the appeal site is an open field which sits adjacent to the station, within the narrow band of countryside that lies between the A228 and the town.
31. The site is well screened to the south by established vegetation, much of which sits at a higher level than the site. To the east established vegetation on Station Road only partly screens the site. Open views are available from the north and west, where The Lavenders and properties grouped around Eden Farm Oast House form the most prominent features in the fieldscape. Due to the relative proximity of the town the urban edge of West Malling is visible in most views in and around the site, as is the railway station. Nevertheless,

despite some intrusive elements, the countryside retains a largely open character and the existing collection of buildings around the oast house, despite the introduction of residential curtilages, do not appear out of place in the fieldscape. As such, the small collection of fields which lie between the A228, and West Malling retain a rural appearance which contrasts sharply with that of the nearby town.

32. The proposal comprises 75 dwellings with access from Station Road. The application is in outline form, with all matters other than access reserved, but an indicative Development Framework Plan accompanies the proposal, along with a "Design Principles" document which seeks to set out the broad principles that will guide development of the site.
33. Due to the topography around the site, its development would have no notable impact on the wider landscape. Nevertheless, in closer range views, across fields from the north and the west, built form comprising 75 dwellings on the site would be clearly apparent. From Station Road and from the A228, due to the likely height of the dwellings, development would be clearly visible above and through the boundary planting. Given that the site is currently perceived as open countryside, the development would entirely change the appearance of the site.
34. This change would also very substantially alter the character of the countryside in this location. Only a relatively narrow band of undeveloped field would remain between the town and the station and A228. Even if open space was located to the north of the development adjacent to the remaining field, as shown in the Development Framework Plan, due to the limited extent of remaining undeveloped land, the rural character of the site and land around it would be diminished to the extent that it would no longer be perceived as rural or open countryside. This would cause very significant harm to the character and appearance of the area.
35. I have considered to what extent such change could be ameliorated or mitigated, and whether there are any factors which would lessen the extent to which the change would be perceived. Additional planting could soften the appearance of residential development. However, taking account of the amount of development proposed and the likely remaining undeveloped land around it, this would not lessen the effect of the proposal on the character of the area.
36. The appellant advises that development of the site would take into account guidance in the Kent Farmsteads Guidance, amongst other things, and that the layout and design could use the form of local farmsteads to establish character within the development. The indicative layout in the design principles document refers to an L shaped farm cluster arrangement, with focal buildings at the entrance to the site and the road into the site being directed towards the oast house on the adjacent land, visually connecting the oast house building with the courtyard arrangement. It also refers to the road being narrowed to provide a more rural character and the footway separated from the road with a grass verge. The document also shows a rustic design treatment to the buildings.
37. However, the development would extend over a much larger area than would be typical of a farmstead and the indicative layout provided shows a broadly suburban layout. I therefore see little in the submission to convince me that a

development of the scale proposed could authentically reflect the form and appearance of a farmstead development or that adopting the guidelines within the Kent Farmsteads Guidance would significantly ameliorate a development of this scale.

38. During the hearing it was put to me that historically development has often occurred in rural locations around stations, in a manner that was distinct from the nearby town, and that, as such, development in this location need not be out of character. However, I am of the view that typically, such development would either have occurred when the railway was introduced, often in the form of station workers cottages, or will have grown incrementally with the station as a focus.
39. In this case, due to the number of dwellings proposed in a single development, and the large amount of parking and modern structures that have evolved around the station, the co-location of this development alongside the station would be unlikely to reflect or be comparable with the urban form that arises as a result of historic growth around stations. Furthermore, I see nothing in the indicative layout to lead me to the view that the development would recognise the station as a focus around which development would be designed. I therefore give no credence to the view that due to the proximity of the station the impact of the development on the character and appearance of the area would be somehow lessened.
40. I take into account both the fact that the Council appear to accept that the development of the site is not inappropriate in principle¹ and that as the proposal is in outline form the proposed layout plans are only indicative. Be that as it may, having regard to the extent of development that would be likely to arise in the case of a scheme for 75 dwellings, and the evidence that has been put to me, I am of the view that the proposal would cause very significant harm to the character and appearance of the countryside in this location.
41. The development would therefore conflict with Policy CP24 of the LP which requires development to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. It would also conflict with Policy SQ1 of the DLA DPD which requires new development to protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. In these regards the policies are consistent with the Framework, which seeks development which is sympathetic to local character and history, including the surrounding landscape setting, and seeks to resist development that fails to take the opportunities available for improving the character and quality of an area and the way it functions and so I attribute considerable weight to them.

The Effects of Noise

42. The proximity of the A228, and the railway line, which serves regular commuter trains, raises concerns regarding the effects of noise for future residents. The Council consider that the intrusive nature of noise from these sources may impose constraints on layout or building form that restrict the form of development on site. Accordingly, given the proximity of listed buildings, the Council considered it necessary to secure details of layout before

¹ Verbal evidence of Mr Batchelor at the hearing.

considering the merits of the scheme. This issue was at the heart of the validation dispute which led to the appeal.

43. Following receipt of an updated noise survey² which was based on an indicative layout, the Council conceded that if the appeal were to succeed, living conditions could be protected by the imposition of conditions limiting internal noise levels within dwellings. During the hearing I was presented with details of noise profiles across the site which demonstrated that only a limited part of the site, which is located adjacent to the A228, in the south-eastern portion of the site, would be likely to require any mitigation measures in the form of fencing, triple glazing or trickle vent ventilation to windows on an elevation facing the road. Furthermore, I was advised that in relation to railway noise, any noise condition could include measures to mitigate against infrequent peak noise events such as from noise from overnight freight trains.
44. I am therefore satisfied that subject to appropriate conditions, the proposed development would provide appropriate living conditions for future occupiers, consistent with guidance in the Framework which states that new development should achieve a high standard of amenity for existing and future users.

Other Matters

Highway Safety

45. Local residents have expressed concerns regarding the impact of the proposal on highway safety in the locality. Although the site is within easy walking distance of the town centre for most people, I accept that some trips into town by residents will be made by car. I noted on site that Swan Street is narrow and constrained in width in places by parked vehicles. I also noted that during school pick up time vehicles congregated around the school, impeding the free flow of traffic along Lucks Hill.
46. The application was supported by a traffic impact assessment³ which calculated the likely traffic generated by the development. It used assumed rates of trip generation based on similar development in the locality and nationally and used traffic counts to predict the direction of movement of vehicles from the site. It also took into account the impacts of other proposed development on highway network capacity in the locality, including during the morning peak when school drop-offs would occur. The effects of the proposal on three junctions, including the Lucks Hill junction were assessed and further revised following initial comments from Kent County Council (KCC) as Highway Authority. This found that the proportion of additional trips generated would lead to a marginal worsening of conditions for the Ashton Way (south) junction during the evening peak. It found no significant impact at Lucks Hill.
47. Having regard to the extent of effects which would occur on a limited part of the highway network, and the advice of KCC, I am satisfied that the cumulative effects of the proposal on the highways network would be very small. The number of additional vehicles using Swan Street and Lucks Hill would be unlikely to have a detrimental impact on highway safety. I have reviewed the accident records for the vicinity of the site and concur with KCC that the development is unlikely to exacerbate any pre-existing highway safety issue. Consequently, the proposal would not conflict with advice in the Framework

² Noise technical Note dated 9 September 2021

³ Transport Assessment – Ashley Helme ref 168312

which advises that development should only be prevented on highways grounds, if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This matter does not weigh against the proposal in the planning balance.

Agricultural Land

48. The proposal would lead to the loss of agricultural land. I am advised that the land comprises the Best and Most Versatile (BMV) agricultural land and note that the site area is less than 3 hectares. The Framework directs that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality, but this relates to plan making not to decision making. The appellant has not supplied such an assessment, but the Framework does not require a sequential test for planning applications, and it would be unreasonable to require it. Neither does the Framework define what "significant" development might comprise but the site falls well below the threshold for consultation⁴. Taking account of the amount of land in question, I do not consider that a significant loss of agricultural land would arise in this case and the matter does not therefore weigh against the proposal in the planning balance.

Other Matters

49. Some residents have raised concerns in relation to the impacts of the proposal on local wildlife and ecology. The submission is supported by an ecological appraisal which concludes that the hedgerows and existing trees on site are important as foraging and nesting habitats for wildlife and as such should be retained wherever possible. The majority of the site comprises intensively grazed semi-improved grassland, which is considered to be of low intrinsic and conservation importance, with no rare or notable species recorded. The proposal would involve the removal of a small section of plantation along the site boundary to facilitate access. Having regard to the extent of vegetation proposed for removal, and the potential for additional planting and habitat creation within the site, I do not consider that this loss need cause an overall deficit of wildlife on site as a result of the proposed development.
50. I note concerns from residents in relation to the provision of education infrastructure. As I return to below, the development would be supported by a legal agreement requiring that contributions are made to mitigate the impact of the development on school provision in the Borough. This matter does not therefore weigh against the proposal in the planning balance.

The Planning Balance

51. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the provisions of the Development Plan unless other material considerations indicate otherwise.
52. The Framework indicates in paragraph 11d that where the policies which are most important for determining the application are out of date, the presumption in favour of sustainable development will apply. This requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against

⁴ Schedule II of the General Development Procedure Order

the policies in the Framework taken as a whole. The Framework is a material consideration in the determination of this appeal.

53. The proposal would cause very significant harm to the character and appearance of the area and accordingly would conflict with Policy CP24 of the LP and Policy SQ1 of the DLA DPD. This is a matter to which I attribute substantial weight.
54. It would also cause harm to the setting of a number of designated heritage assets. The Framework directs that considerable weight should be given to the asset's conservation and accordingly, having regard to the number of assets and the nature of the harm that would occur, I attribute this matter moderate weight. The proposal would also cause harm to the significance of a non-designated heritage asset. Having regard to the extent of harm that would occur and the significance of the asset I also attribute this matter moderate weight.
55. The development would provide up to 75 homes in an accessible location, in an area with an acute deficit of housing land. 40% of that housing would be affordable. Having regard to the extent of the deficit in housing provision in the Borough, the number of dwellings to be provided and the proportion of those that would be affordable, this is a matter which carries substantial weight.
56. The proposal would bring some temporary economic benefits through construction and would generate additional spend by new residents, who would also help to sustain local services and I attribute these benefits some moderate weight.
57. The proposal has the potential to provide a net gain in biodiversity within the site. However, I have no indication of the extent of these benefits at this stage and so I cannot attribute the matter any more than very limited weight.
58. The Scheme would include public open space and provision for play. This is intended to primarily meet the needs of future occupiers of the site and, given the location of the site, outside the settlement, I consider it to be of limited use for other residents. I therefore attribute no weight to this provision as a planning benefit.
59. The legal agreement accompanying the proposal, includes financial contributions towards community infrastructure, including education, healthcare, waste and social services which are all required to mitigate the impacts of the scheme. Having regard to the constraints of the CIL Regulations which precludes contributions which are not necessary to mitigate the impacts of the scheme, it seems to me that if these contributions gave rise to any benefits to other members of the community these would be likely to be peripheral, small in scale and by their nature difficult to quantify. Indeed, I have been provided with no quantification of the benefit these contributions would make to existing members of the community and this limits the weight I am able to attribute to them.
60. It was also put to me at the hearing that the proposal would provide improvements to pedestrian connectivity. Most of the highways works proposed are intended to mitigate the impacts of the scheme but it was suggested that the improvement of crossing facilities at the Swan Street junction represented a benefit. The works would amount to the provision of

tactile paving at the junction. Having regard to the existing provision at this junction and the extent of that proposed, I consider this to have no tangible benefit to connectivity and attribute the matter no weight in the planning balance.

61. Taken together and when considered in the round, the adverse impacts of granting outline planning permission in respect of the very substantial harm to the character and appearance of the area and the identified harm to heritage assets would significantly and demonstrably outweigh the identified benefits of the scheme.

Conclusion

62. The proposal would not therefore amount to sustainable development when assessed against the Framework, taken as a whole. For the reasons given I therefore conclude that the appeal be dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christian Hawley, *of Counsel* - instructed by Gladman Developments Limited

Sian Gulliver BA (Hons) MA MRTPI – Planning Manager, Gladman Developments

Gail Stoten BA (Hons) MIfA FSA – Executive Director (Heritage), Pegasus Group

Timothy Jackson BA (Hons) DIP LA, CMLI – Director FPCR

Gary King MIOA, MICEH – Sharpes Redmore

FOR THE COUNCIL:

Mr John Fitzsimons, *of Counsel* - instructed by Tonbridge and Malling Council

Mr Paul Batchelor - Senior Planning Officer, Tonbridge and Malling Council

Debbie Salter – Conservation Officer, Tonbridge and Malling Council

OTHER PARTIES

Mr Keith Mann - West Malling Parish Council

Mr John Dean – Local Resident

Mr R Roud – Local Resident

DOCUMENTS SUBMITTED DURING THE HEARING:

ID01 Appellant opening statement

ID02 Appellant 5 year housing land supply analysis

ID03 West Malling Parish Council Parking Capacity Survey 2016

ID04 Appellant and LPA agreed site visit locations for Inspector

ID05 Heritage Position Summary Table

ID06 Character and appearance matters note

ID07 List of appearances on behalf of the appellant

ID08 Part 1 Kent Farmsteads Guidance 2014

ID09 City and Country Bramshill Limited v Secretary of State for Housing,
Communities and Local Government

ID10 Former Broke Hill Golf Course, Sevenoaks Road, Sevenoaks ref
APP/G2245/W/21/3273188

PLANS

Location Plan 9167 L 01

Proposed Site Access Arrangements 1683/02 Rev E

Development Framework Drawing no 9167-L-02 rev H