



## Appeal Decision

Hearing held on 1 August 2023

Site visit made on 1 August 2023

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 November 2023**

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**Appeal Ref: APP/C1570/W/23/3317874**

**Land South of Stortford Road, Little Canfield, CM6 1SR**

- 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 Welbeck Strategic Land IV LLP against the decision of Uttlesford District Council.
  - The application Ref: UTT/21/3272/OP, dated 1 November 2021, was refused by notice dated 15 December 2022.
  - The development proposed is described as: Erection of up-to 90 dwellings, including affordable housing, together with access from B1256 Stortford Road, sustainable drainage scheme with an outfall to the River Roding, Green Infrastructure including play areas and ancillary infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with approval sought for access, but with matters relating to appearance, landscaping, layout, and scale reserved for future approval. Within the context of reserved matters, 'Access' means the accessibility to and within the site, for vehicles, cycles, and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The application was accompanied by a drawing showing the junction between the Stortford Road and the proposed estate road. This drawing also showed the position of a proposed light controlled crossing, the position of two proposed footway links to Stortford Road, the position of a proposed new bus shelter and a footway/cycleway link within the site connecting with the new vehicular access. A landscape parameters plan was also submitted as part of the application. It is stated in the Design and Access Statement that this is to fix the land use areas so that assessments including heritage and landscape have certainty to the extent of the developable areas and the treatment of important landscape areas. The plan also shows the position of the internal estate distributor road. The appellant's Planning Statement sets out that this plan was submitted for approval as part of the application.
3. The Council originally refused planning permission for three reasons, the third of which was that the application had no mechanism to secure infrastructure requirements in respect of affordable housing, health care facilities, and education facilities. In addition, no mechanism was proposed to secure the mitigation measures required to offset the impacts on Hatfield Forest Site of Special Scientific Interest and National Nature Reserve. A substantive agreed

draft of a Section 106 agreement to address these points was submitted before the hearing opened. The Council stated that they were satisfied that the draft Section 106 agreement would address their concerns in respect of these matters, and it was agreed at the hearing that this point was no longer in dispute. The Section 106 agreement was subsequently finalised and signed after the hearing closed.

4. Also following the close of the hearing, the Council submitted further evidence in respect of the alleged unauthorised deposit of waste at Crumps Farm near to the appeal site. The appellant was given the opportunity to comment on this and made further representations. I have had regard to these points in determining the appeal.
5. As the proposal relates to the setting of a number of listed buildings, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

### **Main Issues**

6. The main issues in this appeal are:
  - The effect of the development on the character and appearance of the countryside in the vicinity of the appeal site; and
  - The effect of the proposal on the setting of nearby listed buildings;

### **Reasons**

#### *Character and appearance of the countryside*

7. The appeal site comprises of approximately 5.21 hectares of land to the south of the B1256, Stortford Road, adjacent to the settlement of Little Canfield. It is currently rough grassland with the current use given on the planning application form as grazing land. The site is broadly rectangular although the curtilages of two dwellings, known as Baileys and Squires Cottage, and a number of small paddocks form an enclave on the northern edge, adjacent to Stortford Road, for approximately half the length of the site frontage.
8. Immediately to the south of the appeal site lies the Flitch Way, a Bridleway following the track bed of the former Bishop's Stortford, Dunmow, and Braintree Branch railway. Beyond the Flitch Way is an area of former quarry workings at Crumps Farm which have subsequently been used for landfill and which have been partially restored. Just beyond the eastern boundary of the appeal site are a group of buildings at Crumps Farm and the access to the former quarry. Further east is the wooded course of the River Roding and a group of houses at Canfield End.
9. To the west of the appeal site is the main built up area of Little Canfield and Takeley which lies to both the north and south of Stortford Road. To the north of the appeal site, on the opposite side of Stortford Road, a scattering of buildings are adjacent to the Road with open countryside in agricultural use beyond.
10. It is not in dispute that the appeal site is located in the countryside for the purposes of the policies in the development plan. In areas of countryside in the district, Saved Policies S7 and S8 of the Uttlesford Local Plan 2005 (the Local Plan) operate. Policy S7 sets out that the countryside will be protected

for its own sake and that there will be strict control over new development which will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set, or there are special reasons why the development in the form proposed needs to be there. Policy S8 defines a Countryside Protection Zone (CPZ) around Stanstead Airport where planning permission will only be granted for development which is required to be there or is appropriate to a rural area. Policy S8 sets out that, in particular, development will not be permitted if it would result in coalescence between the airport and the existing development in the countryside or it would adversely affect the open characteristics of the zone.

11. My attention has been drawn to a number of appeal decisions that consider the status of these policies and which draw varied, yet broadly similar, conclusions.
12. Policy S7 is related to settlement boundaries and site allocations in a plan which was setting out housing policies to 2012. It also predates the publication of the National Planning Policy Framework (the Framework) which requires the intrinsic character and beauty of the countryside to be recognised but does not require it to be protected for its own sake. As such, there is a degree of inconsistency between Policy S7 with the more recent national policy in the Framework.
13. There are similarities in the wording of Policy S7 and S8. However, they serve different purposes as set out in the supporting text to the policies which, whilst not part of the policy itself, sets out how the policy is intended to be implemented. Policy S7 relates to the District as a whole and seeks to preserve the countryside and restrict development within the countryside to development which is either appropriate to a rural area or needs to be in a countryside location. Policy S8 is a more nuanced planning control in relation to maintaining open countryside around the airport. Although the Framework takes a less restrictive approach to development than these policies, it nonetheless seeks to protect and enhance the countryside and natural environment, and to make effective use of land in urban areas. Policy S8 recognises the intrinsic character and beauty of the countryside, which is consistent with the Framework. In this respect, the policies are not wholly out of date.
14. At the hearing the appellant opined that the development was required to be in the countryside as the age of the local plan and the Council's lack of a five year housing land supply meant looking at sites adjacent to existing settlements to meet housing requirements. Whilst this may be the case, Takeley and Little Canfield are not the only settlements in the district and this argument would be equally applicable to settlements outwith the CPZ, which in this location operates in conjunction with the more general policies in Policy S7. There are some locational advantages to the site due to the proximity to Great Dunmow, Bishops Stortford and the airport. However, there is nothing in the evidence or in what I heard that would lead me to conclude that the appeal site is a unique location in this respect. No other evidence has been put to me that would indicate that there are special reasons that the proposed development needs to take place in the countryside or is required to be within the CPZ. The proposal would therefore conflict with the terms of Policies S7 and S8 these respects.

15. As the appeal site is located to the east of the principal built up area of Little Canfield and the airport lies to the north west of the settlement of Little Canfield and Takeley, the development of the appeal site would not result in coalescence between the airport and existing development in the sense of closing the gap between them.
16. It is common ground that the appeal site is not within a valued landscape as contemplated by paragraph 174 of the Framework. Nor is the site covered by any local landscape designations, with the exception of the CPZ identified by Policy S8. In the vicinity of the appeal site the landscape is a mix of arable fields of varying sizes interspersed with blocks of woodland and scattered buildings and groups of buildings. To the west and north west of the appeal site it is dominated by the built up area of Little Canfield/Takeley. The Flitch Way is a linear feature cutting through the area broadly parallel to the B1256, whilst the wooded course of the River Roding runs from north to south. South of the Flitch Way is an extensive area occupied by partially restored former quarry workings. At the time of my visit this was enclosed by a high timber fence. In the area roads are frequently bounded by hedgerows of varying heights and continuity.
17. The appeal site is located in an area identified in the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment, September 2006 as the Broxted Farmland Plateau. The key characteristics of this are identified as gently undulating farmland with a large open landscape with tree cover appearing as blocks on the horizon or as scattered trees along field boundaries, dispersed settlements and few large villages, some sunken lanes and moats, halls, and historic farmsteads scattered over the area.
18. The appellant argues that there are none of these features present on the appeal site and that as the site is largely enclosed and semi-rural in character, this limits the effect on the landscape. Although this may generally be the case, the site is nonetheless still an open area that contributes to the large open landscape character. I accept that there is a degree of screening around the site from existing hedgerows and trees and I saw when I visited the site that there is limited intervisibility between it and other parts of the landscape character area. However, I also noted that roadside and field boundary hedgerows are a common feature in the area and result in similar degrees of enclosure. The condition and appearance of these hedgerows indicates that they would have been present as a feature when the 2006 Landscape Assessment was carried out and were a factor in the conclusion that the area comprises a large open landscape. As openness is a key factor in considering both Policy S7 and Policy S8, to avoid repetition I have considered these policies together in respect of this point.
19. In terms of the effect on the open characteristics of the CPZ, the appeal site is currently an area of open land, last used as grazing land. Although the CPZ is extensive, the appeal proposal would undoubtable physically reduce the openness of this area due to the presence of up to 90 dwellings where there are presently none.
20. The submitted LVIA accepts that there would be a large adverse visual effect from the development in near vicinity of appeal site, although qualifies this as an inevitable consequence of a development on this scale.

21. The appellant suggests that the proposed development would be perceived as a logical and natural extension to the existing settlement edge, mirroring the settlement's morphology and urban characteristics in term of massing, layout, building heights and density. The proposed development would extend the present linear form of the settlement along Stortford Road and although no details of design, scale, or layout have been submitted for approval, I am satisfied that it would be possible to design a layout that reflects the approach to the built environment that can be seen within the settlement. That said, I am not persuaded that the proposal would be seen as a logical or natural extension to the settlement. At present there is a very distinct, albeit slightly abrupt, eastern edge to the settlement where the densely built up modern development ends and the historic, dispersed, development set amongst agricultural fields along Stortford Road begins. The appeal scheme would result in a narrow finger of development extending out from the settlement to the south of Stortford Road. In addition, the main developed area of Little Canfield lies to the north of Stortford Road. Development on the appeal site would appear dislocated from the main built up area of the settlement.
22. The appeal scheme proposes new areas of landscaping including hedgerow improvements and new hedge planting along the site boundary with Stortford Road (as indicated on the Parameters Plan). More detail is indicated on the illustrative masterplan drawing, however, this is indicative only and does not form part of the application. Consequently, I can give little weight to this latter drawing.
23. I saw when I visited the site that at the edge of the main built up area where there are existing established hedgerows and dwellings of a similar height, two storeys, to those proposed on the appeal site, that these buildings are visible above the hedgerow along Stortford Road. Additionally, the submitted Parameters Plan does not indicate either hedgerow improvements or new hedge planting on the boundary with the paddocks between Squires Cottage and Baileys. This boundary is currently largely open with the southern boundary of the paddocks being formed by a mix of low hedge and timber post and rail fencing. Even if new planting was proposed on this section of the boundary, this would take some time to mature. This being the case, the new development would be both readily perceptible and prominent from Stortford Road, which is a principal route through the area, and would undermine the open character of the area.
24. The built form of Little Canfield and Takeley comprises a linear development along the B1256. The development of the appeal site proposal would further extend this built form along one side of this main road. Although there is a scattering of buildings along Stortford Road to the east of Little Canfield towards the River Roding and Canfield End there is, nonetheless, a very clear edge to the settlement beyond which there is a markedly different, and more obviously open, character.
25. The submitted Parameters Plan shows some elements of green infrastructure, or open space, located adjacent to Stortford Road and at the entrance to the site. There is also a surface water detention pond proposed at the east end of the site. These proposals echo similar features which are present along the B1256 as it runs through the built up area of Little Canfield and Takeley. However, I observed that they were very much a characteristic of the built up area rather than of the countryside around and that the presence of houses

beyond was obvious. Whilst this feature would soften the edge of the development adjacent to Stortford Road, I do not find that it would sufficiently mitigate the loss of openness or sufficiently maintain the open character of the area to compensate for the scale of loss that would be caused by the proposed development.

26. The effect would be less apparent from the Flitch Way as this is set at a slightly lower level than the appeal site. The combination of low banks and the presence of an overgrown hedgerow containing a large number of trees and other undergrowth provides a degree of screening, particularly when these are in full leaf, as they were when I visited the site. Views would still be filtered when the trees were not in leaf but at these times the presence of the development would be more noticeable.
27. I recognise that this harm would be restricted to the near vicinity of the appeal site and that the effect would be less apparent in longer views. Nevertheless, Stortford Road is a principal public route through the area and the effect would be very evident from here to a large number of receptors.
28. Policy S7 has to be read as a whole. It is permissive of development that needs to take place there or is appropriate to a rural area. However, development that meets these criteria must also either protect or enhance the particular character of the part of the countryside within which it is set, or there must be special reasons why the development in the form proposed needs to be there. The supporting text sets out that examples of development that may be permitted in principle include appropriate re-use of rural buildings, suitable farm diversification, outdoor sport and recreation uses, and affordable housing and other facilities to meet local community needs. Whilst this is not an exhaustive list, there is nothing which would indicate that a large residential development of the type proposed would be appropriate in a rural area in the context of Policy S7 and, as set out above, there are no persuasive evidence that residential development on this scale needs to take place in the countryside. The appeal proposal would therefore not comply with Policy S7 taken as a whole, notwithstanding that the effect of the proposal on the landscape character would be limited to the near vicinity of the appeal site.
29. The appeal proposal would not result in coalescence with the airport. Nevertheless, it has not been demonstrated that the development is required to be within the CPZ, and I have found that the proposal would adversely affect the open characteristics of the zone. Consequently, the proposal would conflict with Local Plan Policy S8.
30. I therefore conclude that the proposed development would cause harm to the character and appearance of the countryside in the vicinity of the appeal site. It would not comply with the relevant requirements of Policies S7 and S8 of the Local Plan. The Council's reason for refusal also cites local plan Policy GEN2. Policy GEN2 is a general design policy which sets out a number of criteria against which new development will be assessed. The proposal was submitted in outline with details of appearance, landscaping, layout, and scale reserved for future approval. As there are no details to assess against this policy, I do not consider that it is wholly relevant at this stage. I find no conflict with Policy GEN2, however, this does not alter my overall conclusion.

*Effect on heritage assets*

31. There are no designated heritage assets within the appeal site boundary and the appeal site is not within a conservation area. However, there are a number of Grade II listed buildings adjacent to and close to the appeal site boundary. In addition, the Flitch Way and Crumps Farm, both also adjacent to the appeal site boundary, are considered by both parties to be non-designated heritage assets (NDHA).
32. The reason for refusal refers specifically to the listed buildings Warren Farmhouse [List Entry No. 1097450] and Warren Yard [List Entry No. 1097454] but also states that the harm alleged is not restricted exclusively to these buildings. The Councils submitted evidence also addresses the Lion and Lamb Public House [List Entry No. 1054810]; Baileys [List Entry No. 1334090]; Squires Cottage [List Entry No. 1367097]; Hawthorns [List Entry No. 1334088]; West and East Cottage [List Entry No. 1054815] and The Flitch Way as an NDHA.
33. The appellant's evidence in relation to the listed buildings is limited to Warren Yard and Warren Cottage [List Entry No. 1054758], Warren Farmhouse, Bailey's and Squires.
34. The appellant suggests that the Council have wrongly identified Warren Cottage as Warren Farmhouse. However, it is clear from the Council's evidence which buildings are being referred to and at the hearing the Council confirmed that it did not have any concerns regarding the setting of Warren Cottage due to the intervening courtyard/farmyard and the building at Warren Yard.
35. The appeal proposal would not directly affect the fabric of any of the nearby listed buildings but would have an effect on their settings. The Framework clearly defines the setting of a heritage asset as the surroundings in which such an asset is experienced. The glossary confirms that significance can be derived from a setting as well as the asset's physical presence.
36. Both parties agree that the appeal site was historically associated as a landholding of the farm known as The Warren, with the farmstead comprised of the buildings now known as Warren Cottage and Warren Yard. The evidence indicates that this farm has a lengthy history with Warren Cottage being late fifteenth or early sixteenth century with Warren Yard being a later addition in the seventeenth and eighteenth centuries. Although the appeal site was most recently farmed from Crumps Farm, it is recognised by both parties as an important part of the setting of Warren Yard in particular and contributes to the understanding of its significance.
37. The other listed buildings in the area are, with the exception of the Lion and Lamb public house, domestic properties of varying ages with the earliest dating from the fifteenth century, Squires Cottage and Hawthorns, with Baileys dating from the sixteenth century and Warren Farmhouse and East and West Cottages dating from the seventeenth century.
38. The main section of the Lion and Lamb public house dates from the early part of the nineteenth century although the rear range is earlier, dating from the sixteenth century, indicating a longer history of a building on the site.
39. The evidence from the Tithe Map and Apportionments shows that in addition to the buildings at the Warren and the appeal site, Warren Farmhouse, Bailey's,

Squires Cottage, Hawthorns, and East and West cottage were also owned by the same landowner, as was Crumps farm. There is therefore some historical connection between the appeal site and all of these buildings through common ownership and the Council suggest that at least some of the dwellings, in particular, Warren Farmhouse may have been occupied by rural workers on the farm. The evidence for this latter point is less conclusive, although the historic Ordnance Survey maps show subdivisions within some of the buildings, which may possibly indicate that they were used as smaller units of occupation. Nonetheless the historical ownership association is present. The buildings are experienced as a series of separate holdings dispersed along the road, which are seen in sequence separated by open paddocks or fields. As such they illustrate an important aspect of the historic settlement pattern in the area.

40. Collectively the significance of these buildings, so far as it is relevant to this appeal, is as examples of the prevalent local vernacular, and the insight they give into the historic settlement pattern and the agricultural history of the area with the Lion and Lamb being an isolated roadside inn.
41. The Flitch Way is accepted by both parties as being an NDHA. It is a long linear feature formed of the line of the former Bishop's Stortford, Dunmow, and Braintree Branch railway which operated from 1869 until 1971. From the evidence, its significance is derived from its archaeological and historic interest informing the historic development of, and past human activity in, the district. The predominantly rural landscape through which it passes contributes to the significance of the asset and the understanding of its historic context.
42. Although both parties identified Crumps Farm as a NDHA neither has attributed any particular significance to the building or identified any harm that would arise to the setting of this NDHA from the development. Based on what I have read and from what I saw when I visited the site, I have no reason to find differently.
43. The map evidence indicates that until the latter part of the twentieth century the area between Smiths Green and the appeal site was sparsely developed with pockets of ribbon development along Stortford Road and small numbers of buildings to the north. The current built up area to the west and north west of the appeal site has developed over the last 30 years or so which has materially altered the character of the area. In particular the setting of Warren Yard has been much eroded by more recent development.
44. It is common ground that the effect of the appeal scheme on the setting of some of the Listed Buildings would amount to less than substantial harm. In particular the Appellant accepts that the proposals will result in less than substantial harm to Warren Yard, Bailey's and Squire's Cottage. The Council do not consider that the setting or significance of the Lion and Lamb public house would be affected by the proposal but suggest that there will be an adverse effect on the setting of all of the other listed buildings.
45. Although no longer farmed from the former farm based at Warren Cottage and Warren Yard, the appeal site is the last remaining vestige of the agricultural history of this former farm and, consequently, is very important in understanding the building in context and appreciating its significance. The development of the appeal site for housing would sever this last remaining link and significantly alter the context within which the building is experienced from a semi-rural character to an urban setting, due to the extent of the proposed

development to the east of Warren Yard. As a result, the setting of Warren Yard would be further eroded by the proposed development, effectively removing the countryside setting altogether and the loss of historical connection and association with the appeal site. This would be harmful to the setting of the listed building.

46. Similarly, the setting of Squires Cottage and Baileys would be fundamentally altered. Whilst not necessarily having a direct functional historical link with the appeal site, they nonetheless have a historical association through ownership and the evidence indicates that the area of paddocks between these two properties was owned and occupied by the same owner as the appeal site. At present these buildings are experienced as part of a sequence of buildings and open fields/paddocks which illustrate the historic settlement pattern of the area. The appeal proposal would result in a new housing area surrounding these two buildings and the loss of this historic context that contributes to the understanding of the buildings. As such it would be harmful to the setting of these two buildings.
47. The setting of Warren Farmhouse would be less affected by the proposed development due to its location north of Stortford Road. Although this building is located close to the more recent development within the settlement, I saw when I visited the site that it is nevertheless perceived as being outside of the main built up area. The removal of part of the hedgerow to allow access to the appeal site and the introduction of an engineered feature in the form of a highway junction close to this building would diminish the appearance of the countryside setting that contributes to its significance.
48. Hawthorns and West Cottage and East Cottage are located opposite the eastern end of the appeal site. At this location the submitted Parameters Plan illustrates a surface water detention pond within an open area and this is set adjacent to an area of land associated with Crumps Farm which is beyond the appeal site boundary. In this context, although the built area of the proposed development would impinge on the setting of these listed buildings and would reduce the perception of their countryside setting, this reduction would however not degrade the setting to such an extent that it would be harmful, and the overall effect would be neutral.
49. I therefore find that the proposed development would cause harm to the setting of the nearby listed buildings at Warren Yard, Warren Farmhouse, Baileys, and Squires Cottage.
50. The Flitch Way adjoins the entirety of the southern boundary of the appeal site. I saw during my site visit that where the Flitch Way runs to the rear of the existing built up area, its character is notably different from the section which runs past the appeal site. This is in large part due to the presence of houses backing directly onto the boundary with the former railway and infrastructure elements such as roads and detention ponds being in proximity and being highly visible despite the presence of trees and vegetation alongside the route.
51. As set out above, there would be some visibility of the proposed development from the Flitch Way. The submitted Parameters Plan indicates the principal estate road running close to the southern boundary of the site. It also indicates that additional hedgerow improvements of a minimum 2 metres in depth would be introduced between the existing hedge/tree line and the estate road. This would assist in reducing the intervisibility although the development

would still be clearly visible at the point where the existing public right of way footpath from Stortford Road joins the Flitch Way and in the vicinity of Crumps Farm beyond the appeal site boundary where the vegetation adjacent to the Flitch Way is sparser. As users of the path would be aware of the presence of the development within its setting this would alter the experience of using the path.

52. That said, the NDHA and its associated immediate setting is extensive, running approximately 25 kilometres from Bishops Stortford to Braintree. Whilst I did not walk the entire length of the route, a significant section of it runs broadly parallel to roads that I drove to and from the appeal site. It was evident that whilst there are sections of the route which are adjacent to built up areas, the greater proportion still runs through open countryside. The appeal proposal would only affect what is a relatively short section, adjacent to a section where the setting has already been impacted by development.
53. I accept that the appeal proposal would extend this existing negative effect. However, within the context of the overall extent of the NDHA this small increase would not diminish the ability to understand or appreciate the significance of the NDHA to an extent that would be harmful. Therefore, the effect would be a neutral one.
54. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
55. The appeal proposal would cause harm to the setting of multiple designated heritage assets that form a loose group around the appeal site, which is an important part of their settings and the understanding of their significance. The loss of significance would not be total but would be permanent. I would therefore concur with the main parties that, in this case, the harm would be less than substantial but, nonetheless, of considerable importance and weight.
56. In these circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant is of the opinion that the proposal would provide the following benefits: provision of additional housing, the specific provision of affordable homes, biodiversity net gain, provision of a controlled crossing on Stortford Road, improved access to Flitch Way, open space and play area available to the local community, better appreciation of Warren Yard as a heritage asset, job creation during the construction period and increase expenditure in local shops/services.
57. The appeal proposal would provide up to 90 new houses including up to 36 affordable houses. At the time of the hearing although there was some disagreement over the Council's five year housing land supply position it was agreed by the parties that housing land supply should be given substantial weight. Although the Council advised after the hearing that it could now demonstrate a five year housing land supply, the Framework seeks to substantially increase the supply of housing and this point can still be given substantial weight.

58. The proposal would increase the biodiversity value of the site which is currently in large part rough grassland with bounding hedges. The submitted evidence makes clear that the estimated net gains are based on the illustrative masterplan and a number of assumptions. The illustrative masterplan is not part of the application and notwithstanding the information shown on the Parameters Plan, which does form part of the application, the details of the scheme are not fixed and may be subject to change. Whilst I accept that the development would most likely improve the biodiversity value of the site, in the absence of any specific detail only moderate weight can be given to this.
59. Although the proposed development would potentially increase expenditure in the local economy from an increased number of residents, there is no evidence before me that existing services are at risk of being lost or that the proposal would encourage or facilitate the provision of additional shops services or facilities. As such I give only moderate weight to this point.
60. There is no substantive evidence before me which would indicate that the proposal would result in new jobs during the construction phase, but I recognise that it would certainly maintain existing jobs during the construction period with the associated economic benefit of that. This would weigh moderately in favour of the scheme.
61. The provision of new separate cycle route and re-surfacing of the existing public right of way footpath at the west end of the site would improve access to bridleway by providing an improved walking surface and allowing cyclists to However, this would be at the expense of creating a new, engineered, feature which I have found would contribute to harm to the setting of the neighbouring listed building. Consequently, this is a neutral point.
62. The provision of a light controlled crossing would increase pedestrian and cyclist safety in crossing Stortford Road. Due to its proposed position at the very edge of the main built up area of the settlement this would be more of a benefit to the future occupiers of the proposed development in accessing shops and facilities in the village rather than a benefit to existing residents. That said it would facilitate access to the existing public right of way footpath that crosses the site as there is presently no footway on the south side of Stortford Road at this point and the footpath emerges onto the highway verge. This therefore attracts moderate weight.
63. Whilst the development may provide additional public open space and a children's play area, such provision might be expected in a development of the size proposed to serve the future residents. In addition, there is nothing in the evidence which would indicate that there is a shortfall of either public open space or children's play facilities in the village. I therefore give little weight to this point.
64. The listed building at Warren Yard can be viewed from existing public right of way and from what I saw when I visited the site, I am not persuaded that either the provision of the landscaped entrance feature or the new cycleway would better reveal the significance of, or improve appreciation of, the heritage asset particularly as this would be at the expense of the loss of a key part of its setting. I give little weight to this point.

65. There are undoubtedly a number of public benefits which would flow from the proposal, and which would weigh in its favour, most notably the delivery of new housing.
66. Against this, the appeal proposal would fundamentally and permanently alter the setting of the listed buildings of Warren Yard, Baileys, and Squires Cottage. It would also permanently alter the setting of Warren Farmhouse to a lesser degree but still one which would diminish the understanding of its historic context.
67. Although the submitted Parameters Plan sets out the location of open spaces and landscaping within the site and elements of this seek to emulate the pattern of fields and paddocks in the area, as I have set out above these would not sufficiently mitigate the loss of openness in the area or sufficiently maintain the open character of the area; The expansion of the built up area around the listed buildings at Baileys and Squires Cottage would be clearly perceptible and would fundamentally change their current countryside setting.
68. Similarly, the Parameters Plan illustrates a proposed landscape buffer at the site entrance. Whilst this would provide some visual relief and avoid built development immediately adjacent to Warren Yard there is, however, no firm detail on this. The illustrative details indicate an inevitably more formal appearance to this area with new footpath links crossing it and given the engineered edge formed by the access road, this area would be perceived as more akin to formal public open space than as a remnant of an agricultural field.
69. From the limited details of the proposal that are before me for consideration, the proposed development would neither enhance the setting of the listed buildings, nor would it minimise the harm.
70. Whilst the provision of new housing including affordable housing can be given substantial weight, considerable importance and weight must be given to the conservation of heritage assets. In this case the proposed development would cause harm, both individually and collectively, to the settings of a number of listed buildings which form a loose group and whose settings are interlinked. No clear and convincing justification has been established for this harm. In this case, I find that the identified benefits of the scheme, neither individually nor cumulatively, would not outweigh the harm that it would cause to the designated heritage assets.
71. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II listed buildings of Warren Yard, Warren Farmhouse, Bailey's, and Squires Cottage. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and conflict with policy ENV2 of the local plan that seeks, among other things, to ensure that the setting of listed buildings is not adversely affected by new development. As a result, the proposal would not be in accordance with the development plan.

## **Other Matters**

72. My attention has been drawn to matters relating to unauthorised landfill operations that appear to have occurred on land to the south of the appeal site beyond the Flitch Way at Crumps Farm. I am advised that this is being investigated by Essex County Council, the Minerals and Waste Planning

Authority and the Environment Agency in terms of potential breaches of planning control and or the environmental permit. This land is not involved in the appeal proposal, and I have to proceed on the basis that the environmental permitting regime and any planning enforcement proceedings are operating as they are supposed to.

73. The information I have been provided with suggests that unauthorised disposal of household waste has occurred on the neighbouring site and that there is off-gassing occurring within the site boundary. However, there is no substantive evidence which indicates that this is occurring elsewhere beyond the boundary of the Crumps Farm site or on the appeal site. The information provided indicates that these unauthorised operations have occurred some distance to the south of the appeal site and there is nothing which has been put to me that would indicate that there are pathways for gas migration from the neighbouring site to the appeal site.
74. A representative of the Waste Planning Authority participated in the hearing and neither the Minerals and Waste Planning Authority, nor the Environment Agency have raised any concerns in respect of residential development on the appeal site.
75. The Local Plan predates the publication of the Framework and the policies which are most important to determining this appeal are not wholly in conformity with the Framework. Local Plan Policy S7 which seeks to protect the countryside for its own sake is more restrictive than the Framework's requirement to recognise the intrinsic character and beauty of the countryside. It also refers to settlement boundaries which were drawn up to meet housing allocations to 2012. However, it does make allowances for certain types of development to occur in the countryside and, in this respect, it is consistent with the Framework. Although the Policy is out of date in certain respects, moderate weight can still be given to the conflict with this policy.
76. As set out above Local Plan Policy S8 is a more nuanced planning control in relation to maintaining open countryside around the airport. There is nothing in the evidence which would indicate that the rationale for this policy is no longer relevant, and the policy recognises the intrinsic character of the countryside. Consequently, significant weight can be given to conflict with this Policy.
77. Policy ENV2 seeks to ensure the protection of listed buildings and their settings. Although the Policy does not make reference to the balancing exercise required by the Framework, it is nonetheless consistent with the requirement of the Framework to sustain and enhance heritage assets and give great weight to their conservation. As such, significant weight can be given to the conflict with this Policy.
78. The Framework sets out that where the policies which are most important for determining the application are out-of-date planning permission should be granted unless either the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

79. Footnote 7 to the Framework sets out that amongst the policies referred to in Paragraph 11 d) i. are those relating to designated heritage assets. I have found that the appeal proposal would cause less than substantial harm to the setting of several designated heritage assets and that as a result the proposal does not comply with the Framework in this respect. Irrespective of whether or not the Council can demonstrate a deliverable five year supply of housing land, the presumption in favour of sustainable development would therefore not apply in this case.
80. Although the lack of a planning obligation to secure the infrastructure requirements in respect of affordable housing, health care facilities and education facilities and mitigation measures required to off-set the impacts on Hatfield Forest Site of Special Scientific Interest and National Nature Reserve formed a reason for refusal, a planning obligation was provided during the appeal process. The Council confirmed at the hearing that it was satisfied that the obligation addressed the matters in the reason for refusal and that this was no longer being pursued. The planning obligation was signed after the hearing closed.
81. As a result of this, Reason for Refusal 3 cited on the Decision Notice is no longer a principal disputed matter. Given that I am dismissing the appeal for other reasons, it is not necessary to consider this matter or the planning obligation in any further detail beyond noting that the planning obligation would secure the delivery, among other matters, of affordable housing.
82. I have had regard to the points raised by various interested parties. However, nothing in these would lead me to a different overall conclusion.
83. Section 38(6) of the Planning and Compulsory Purchase Act requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal would cause harm to the character and appearance of the countryside in the vicinity of the appeal site and would not comply with the relevant requirements of Policies S7 and S8 of the Local Plan. I have also found that the proposal would cause harm to the setting and significance of a number of listed buildings and would conflict with Local Plan Policy ENV2. These are both important matters and as such the proposal would conflict with the requirements of the development plan when taken as a whole.
84. Although these policies are not wholly consistent with the Framework, they are not entirely out of date and significant weight can be given to the conflict with Policies S8 and ENV2 in particular. The Framework seeks to significantly boost the supply of housing and seeks to ensure the provision of affordable housing. The appeal proposal would achieve both these aims. However, boosting the supply of housing is not an objective to be pursued at all costs with the Framework also requiring great weight to be given to the conservation of heritage assets; a clear and convincing justification of any harm to or loss of significance of a designated heritage asset; and that the intrinsic character and beauty of the countryside should be recognised. The proposed development would both permanently erode the open character of the countryside and result in lasting harm to the significance of four listed buildings.
85. There are undoubtably some benefits to the proposal over and above providing additional housing. However, from the evidence before me and from what I

heard at the hearing, none of these, either individually or collectively, would be material considerations sufficient to indicate that planning permission should be granted for a proposal which conflicts with the policies of the development plan.

### **Conclusion**

86. For the above reasons, I therefore conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                  |                                                     |
|------------------|-----------------------------------------------------|
| Robert Walton KC |                                                     |
| David Barnes     | Star Planning and Development (planning consultant) |
| John Trehay      | tor&co (heritage consultant)                        |
| Richard Burton   | tor&co (landscape consultant)                       |
| Jennifer Liu     | Wellbeck Strategic Land                             |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                 |                                                      |
|-----------------|------------------------------------------------------|
| Madelaine Jones | Senior Planning Officer, Uttlesford District Council |
| Charles Welham  | Planning Policy Officer, Uttlesford District Council |
| Thomas Muston   | Built Heritage Consultant, Essex County Council      |
| Tom McCarthy    | Principal Planner, Essex County Council              |

### **INTERESTED PARTIES:**

|                     |                                                    |
|---------------------|----------------------------------------------------|
| Cllr Geoff Bagnall  | Uttlesford District Council                        |
| Cllr Neil Reeve     | Uttlesford District Council                        |
| Cllr Jeremy Fulcher | Little Canfield Parish Council                     |
| Josh Stafford       | Local resident                                     |
| Greg Cook           | Local resident                                     |
| Sandra Reynolds     | Friends of the Flitch Way and Associated Woodlands |

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Heritage Effects presented by the parties
2. Landscape and visual effects
3. Policies and appellant's claimed planning benefits weighting
4. R (on the application of James Hall and Co. Ltd. v Bradford Metropolitan District Council v Co-Operative Group Limited, Dalehead Properties Limited [2019] EWHC 2899 (Admin)
5. Statement by Sandra Reynolds of Friends of the Flitch Way and Associated Woodlands