



Appeal Decision

Inquiry held on 2-5 and 9 August 2016

Site visit made on 9 August 2016

by **P W Clark MA MRTPI MCI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 September 2016

Appeal Ref: APP/A2280/W/15/3132141

Land West of Hoo St Werburgh

- 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 Taylor Wimpey Strategic Land against the decision of The Medway Council.
 - The application Ref MC/14/3405, dated 14 November 2014, was refused by notice dated 2 April 2015.
 - The development proposed is the erection of up to 475 dwellings including affordable housing, commercial floorspace (Use Classes A1/A3/A5, up to 200 sq m), sports pavilion (Use Class D2, up to 200 sq m), associated public open space, multi-functional green infrastructure, outdoor sports facilities, access, parking, infrastructure, landscaping, attenuation and earthworks.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Inquiry sat on 2, 3, 4, 5 and 9 August 2016 but was held open until 11 August 2016 to allow for a s106 agreement to be signed and delivered. This provides for 25% of the dwellings to be affordable housing in accordance with a specified dwelling mix.
3. It also provides a bus service contribution to secure improved Sunday bus services to Hoo St Werburgh (Hoo), a public transport contribution to secure real time information at two bus stops serving the development and a 24-week bus season ticket for each completed dwelling. There would be provision of primary and secondary accesses to the site, the addition of a filter lane to the Main Road Hoo/A228 roundabout, footway improvements along Main Road Hoo, a footway/cycleway along Ratcliffe Highway, and a contribution towards increasing the capacity of the A289 Four Elms roundabout. Waste collection bins would be provided on site and a contribution made to a new waste compactor at a Council waste facility.
4. It would also contribute to community facilities including the village hall in Pottery Road and youth facilities, make a healthcare contribution towards the expansion of general practitioners premises in Hoo and contributions towards the provision of nursery, primary and secondary education facilities in Hoo and for apprenticeships in the Peninsula Ward of The Medway Council. It would

- arrange for the management and maintenance of open space once provided on site and would contribute towards management of public usage of nearby Special Protection Areas (SPAs). It would provide for the Council's costs of making the agreement and for a contribution to the costs of a monitoring officer. Compliance with the CIL Regulations is certified by the Council in Inquiry Document 15 and I have no reason to disagree with that assessment.
5. The application is made in outline. Some details of access are submitted for approval now. Further details of pedestrian and cycle access to the site and all access within the site and details of appearance, landscaping, layout and scale would be submitted for approval later, if permission is given.
 6. No screening opinion has been sought or issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). Instead, in accordance with regulation 4(2) the appellant elected that the proposal is EIA development by the unilateral submission of an Environmental Statement following a Scoping Opinion requested on 19 May 2014 and issued by the local planning authority on 13 June 2014. Amongst all other material considerations, I have had regard to the information provided by the Environmental Statement in making my decision on this appeal.
 7. The Environmental Statement includes four Parameter Plans, covering Land Use (drawing M10 revision G), Building Heights (M11 revision D), Residential Density (M14) and Structural Planting (M15). In accordance with decisions of the courts¹ these parameter plans must be applied by condition, if permission is granted, so as to establish an envelope within which the detailed design and discharge of reserved matters can proceed, irrespective of whether or not they would be otherwise required to make the development acceptable.
 8. The proposed development lies within 1.5km of the Medway Estuary and Marshes SPA, SSSI and Ramsar site. It is also about 4.4km from the Thames Estuary and Marshes SPA, SSSI and Ramsar site. If it were not that I have dismissed the appeal for other reasons, consideration would have been needed to determine whether an Appropriate Assessment under the Habitats Regulations is required.
 9. To the north of the site is a listed building, Mill House. The proposal would have no effect on the preservation of the building itself but special regard must be had to the desirability of preserving its setting. Chapter 9 of the Environmental Statement identifies the view from the building down to the Medway as part of its setting. I am not so convinced because setting is the surroundings in which a heritage asset is experienced; this building is not experienced from the Medway. It can be experienced as a speck on the skyline when seen from Cockham Farm ridge. Its significance as a wayside dwelling derives more from its relationship with the Ratcliffe Highway and from a degree of isolation but, in any event, the proposal's parameters plans and the conditions which would impose them, would retain views of the heritage asset from the Cockham Farm ridge and would retain the isolation of the building and so would preserve its setting.
 10. At the eastern end of the appeal site is a row of trees protected by a tree preservation order. Conditions could be imposed which would require their

¹ R v Rochdale MBC ex parte Tew and Others [1999] 3 PLR 74 and R v Rochdale MBC ex parte Milne [2000] EHW 650 (Admin)

retention and so, their existence does not give rise to any issue. Many other matters (such as archaeology, ground contamination, flood risk, ecological protections and noise from the A228) are also not an issue because the main parties are agreed that they could be dealt with by condition in the event of the appeal being allowed.

Main Issues

11. There are three main issues

- Whether the site is in a location which is or can be made sustainable
- The effect of the proposal on the character and appearance of the locality
- The balance between adverse impacts of development and its benefits.

In a sense, these three issues are all elements of the overriding question, which is whether the proposal represents sustainable development.

Reasons

Sustainable location

(i) Principles

12. There are three dimensions to sustainable development; economic, social and environmental. A sustainable location is not synonymous with a sustainable development but it contributes to all three dimensions; to the economic role by characterising land which is in the right place; to the social role through the provision of accessibility to local services; and to the environmental role by using natural resources in transport prudently, minimising waste and pollution.
13. One of the government's core planning principles is that planning should actively manage patterns of growth to make the fullest use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable. This appeal proposal is sufficiently significant to warrant Environmental Impact Assessment and so this principle should apply to its consideration.
14. The principle is elaborated in the National Planning Policy Framework (NPPF). Recognising that circumstances vary depending on the nature and location of the site, paragraphs 29, 32, 34 and 38 advise that decisions should take account of whether the opportunities for sustainable transport modes have been taken up so as to reduce the need for major transport infrastructure and should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes should be maximised. A mix of uses should be promoted in order to provide opportunities to undertake day to day activities including work on site and, where practical, key facilities such as primary schools and local shops should be located within walking distances of most properties.

(ii) Hoo

15. In general terms, Hoo is recognised as a sustainable location. Paragraph 3.4.79 of the Medway Local Plan adopted May 2003 identifies Hoo as the preferred location for a significant increase in housing due to the presence of a

wide range of services. The Council's *State of Medway* report, January 2009 regards Hoo as one of the two most sustainable of its rural communities. The inclusion of "Hoo and extended Hoo" as one of the major mixed use development options within the (now withdrawn) Medway Core Strategy process during 2013 is also testament to the perceived sustainability of the location in general terms.

16. However, because of the way the village has developed over time, its centre is now eccentric to the extent of the village and is located towards its eastern end although some facilities, particularly schools, are found away from its centre, towards its western end. Moreover, the western boundary of the village is relatively impermeable, penetrated only by Main Road itself and by one footpath connection from its north-western corner at Vidgeon Avenue to surrounding countryside but not directly to the site. In consequence, although the site juxtaposes the western boundary of Hoo, it has little or no connection with it. Consequently, the verdict of "sustainable location" does not automatically or readily transfer from the village to the site.

(iii) The site

17. The appeal site consists of six fields. They are given the references F1 to F6 on Figure MDC9b (drawing number L103) in Mr Chard's proof of evidence. For the purposes of analysis, I will use those references. Only fields F1, F2, F4 and F5 are envisaged to be used for built development.
18. Vehicular, pedestrian and cycle access is readily achievable directly from Ratcliffe Highway and Main Road Hoo at the west end of the site to fields F1 and F2 but vehicular access to fields F4 and F5 can only be obtained indirectly from those western accesses. Pedestrian and cycle access is additionally available to fields F4 and F5 from a southern access to Main Road Hoo passing between the building campus of the Hundred of Hoo Academy and its playing fields. This would also provide the most direct access to Main Road Hoo for bus services for those two fields. But it does not itself provide for use by buses and so there would be no route for them through the site. Consequently, they would remain outside the site. For the same reason, the most direct access from the other two fields to a bus service is outside the site at the southern boundary of field F1.
19. The site extends for approximately a kilometre away from its abutment with the rear gardens of houses in Aveling Close and Knights Road and so its accessibility varies within the site. This is graphically illustrated in figure 16 of the Design and Access Statement accompanying the application and in figure 2, table 4 and drawing 70007737-SK-001 revision A provided within Mr Blacker's proof of evidence and table 1-4 in the Statement of Common Ground on Highways.

(iv) Work

20. In terms of day to day living, the availability of work is probably one of people's main considerations. Other than at the nearby schools, little or no employment opportunity would be provided on site or within an acceptable, let alone desirable², walking distance. So, other than for homeworking, the

² Using the commonly accepted *Guidelines for Providing for Journeys on Foot* of the Institution of Highways and Transportation. References in paragraph 4.4.1 of the government's *Manual for Streets* to "walkable neighbourhoods" as having a range of facilities within about 800m walking distance or to superseded guidance in

development would give rise to a need to travel to find work. In terms of this activity, the proposal would thus be contrary to the advice of NPPF paragraph 34.

21. Putting that aside for a moment, NPPF paragraph 34 also seeks the maximisation of the use of sustainable transport modes. These are defined in NPPF Annex 2 as including walking and cycling, low and ultra low emission vehicles, car sharing and public transport.
22. There is no indication at this outline stage that the scheme would offer particular encouragement to ultra low emission vehicles such as through the provision of electrical vehicle charging points, though such could probably be required through condition when details are submitted at reserved matters stage. The promotion of car sharing is proposed as part of the submitted outline Travel Plan, which can be secured by condition.
23. National Cycle Route 179 passes along Main Road Hoo to the south of the site and connects with National Cycle Route 1 providing a route to the railway station at Strood within acceptable cycling distance and to local employment locations in Strood, Rochester, Chatham and Gillingham. On my site visit I saw that these are supplemented by cycle paths alongside the main A228 and A289 roads by which access can be gained to the Medway City Estate which provides a concentration of employment opportunities within an acceptable cycling distance. But for the intervening hill, it would appear that all parts of the site are well located to maximise the use of cycling as a sustainable transport mode for journeys to work.
24. But cycling does not appeal to all. For those using a bus to get to work, Mr Blacker's table 4 confirms that although the whole site would be within an acceptable walking distance of a bus stop, little more than half would be within the desirable walking distance which would maximise the use of this sustainable transport mode. Most of fields F1 and F2 would be within a desirable walking distance of a bus stop but most of fields F4 and F5 would not. Overall, the paucity of local employment giving opportunity to walk to work, the limited appeal of cycling and the limited access to public transport would mean a high degree of reliance on car travel for the journey to work.

(v) *Schools*

25. Schooling is prominent amongst many people's day to day needs. The site adjoins the grounds of the Hundred of Hoo Academy and those of the Hoo St Werburgh Primary School. Yet, because of the extent of these grounds, the wide extent of the proposed development itself and its lack of connectivity to Aveling Close/Knights Road, table 1-4 in the Statement of Common Ground on Highways shows that most of the proposed development on fields F1 and F2 would lie beyond the acceptable, let alone desirable, walking distance to both primary and secondary schools, even following the construction of the proposed primary school on the Hundred of Hoo Academy site. Consequently, these parts of the proposal would give rise to a need to travel, contrary to the advice of NPPF paragraph 34.

now cancelled *Planning Policy Guidance 13 Transport* that walking offers the greatest potential to replace short car trips particularly those under 2km are not inconsistent with the IHT's categorisations of "desirable", "acceptable" and "preferred maximum". These can be understood as categorisations which indicate situations which positively encourage walking, are neutral, or in which it is tolerated.

26. Although development on fields F4 and F5 would mostly be within an acceptable walking distance to both primary and secondary schools once the Hundred of Hoo Academy develops its primary school, very little would be within the desirable walking distance which would encourage this mode of travel. Because of the lack of connectivity, all would be beyond an acceptable walking distance to Hoo St Werburgh Primary School.
27. The distances involved are well within reasonable cycling limits but the practicalities of access to bus routes mean that public transport has little to contribute to the journey to school. In consequence the development is likely to give rise to a fair degree of reliance on car travel for the journey to school, notwithstanding the circuitous vehicular routes involved compared with the walking or cycling routes. Previous comments about the encouragement of ultra low emission vehicles and car sharing for the journey to work apply equally to this journey purpose.

(vi) Shopping

28. Shopping for food is less of a daily activity than once it was but it is still an important consideration in people's day to day needs. The Council is sceptical of the viability of the small commercial unit proposed to be provided and, indeed, the only evidence the appellant adduced in support of the feasibility of that element of the proposal was from a specialist real estate operator who confirmed that the proposal would be too small for their needs. Nevertheless, the appellant was willing to accept a condition requiring its provision in shell form and I accept that, if so provided, there is likely to be a local entrepreneur who would take it on as a corner shop, even if no national operator were interested.
29. That would provide a local shopping facility within a desirable walking distance of development on fields F1 and most of F2 and within an acceptable walking distance of the rest of field F2 and parts of field F4. But the lack of connectivity to Aveling Close/Knights Road means that the remainder of the development on field F4 and that on all of F5 would be well outside any acceptable walking distance to the next nearest convenience shop at Crescent Stores and so the daily shopping needs of residents on those parts of the site would give rise to a need to travel.
30. The distances involved are well within reasonable cycling limits but the practicalities of access to bus routes mean that public transport has little to contribute to the journey to local shops. In consequence the development is likely to give rise to an element of reliance on car travel for daily shopping from the residents of fields F4 and F5. Previous comments apply about the encouragement of ultra low emission vehicles and car sharing for this journey purpose.
31. Larger retail facilities for a weekly shop and for such less frequently required services as medical facilities are found in the centre of Hoo but that is well beyond acceptable walking distances, let alone the desirable distances which would encourage that sustainable travel mode. The distances involved are well within reasonable cycling limits but for those using a bus, Mr Blacker's table 4 confirms that although the whole site would be within an acceptable walking distance of a bus stop, little more than half would be within the desirable walking distance which would maximise the use of this sustainable transport mode. Most of fields F1 and F2 would be within a desirable walking distance of

a bus stop but most of fields F4 and F5 would not. In consequence the development is likely to give rise to an element of reliance on car travel for weekly shopping and for other necessities from the residents of fields F4 and F5. Previous comments apply about the encouragement of ultra low emission vehicles and car sharing for this journey purpose.

(vii) Leisure

32. In contrast, the site would be relatively well-accessible to leisure facilities with generous open space, play and sporting facilities either being provided on site or easily accessible at the Hundred of Hoo swimming pool close by. Accordingly, the development proposed would give rise to little need to travel for the purposes of this activity.

(viii) Summary – sustainable location

33. In cross-examination, Mr Blacker, the appellant's witness confirmed that table 6 of his evidence (accepted by the Council as table 1-4 in the Statement of Common Ground on highways) showed that a point representative of field F5 was beyond a maximum walking distance to 7 out of 16 identified local facilities, that a further 4 facilities were beyond an acceptable walking distance and that only 1 was within a desirable walking distance. A point representative of Field F4 was also beyond a maximum walking distance to 7 of the identified 16 facilities and a further 2 were beyond an acceptable walking distance. Only 1 was within a desirable walking distance. A point representative of Fields F1 and F2 was beyond a maximum walking distance to 6 of the identified 16 facilities and a further 6 were beyond an acceptable walking distance. Only 2 were within a desirable walking distance. In my view only those parts of the site within a desirable walking distance of a facility are likely to maximise the use of this sustainable mode of travel.
34. In summary; although the development would minimise the need to travel for leisure purposes from all parts of the site it would give rise to a need to travel to work from all parts of the site; to school from fields F1 and F2; to local shops from fields F4 and F5; and to all other local facilities from all parts of the site. It would be capable of promoting sustainable travel modes such as car sharing and ultra-low emission vehicles but so would any other new development anywhere, so that is not an indication of a sustainable location. It is well located for cycling but only fields F1 and F2 are well-located for public transport use.
35. It is not surprising therefore that tables in section 6 of the submitted Transport assessment predict that the development³ would give rise to 132 pedestrian, 14 cyclist, 12 bus passenger and 325 vehicular trips in the morning peak hour. In giving evidence in response to my question, Mr Blacker, the appellant's expert volunteered the advice that in a sustainable location, the modal split would be 60% by car but that here, 70% before mitigation⁴, was typical.
36. The relative dependency on car travel which would result from this appeal proposal is significant, particularly for the journey to work, because Hoo relies largely on a single road (the A228) and, in particular, a single roundabout (the

³ Based on assessing 500 rather than 475 dwellings

⁴ The quoted figures actually indicate 67% but any prediction is necessarily approximate. Mitigation is understood to refer to the Travel Plan and to the improvements to public transport services included within the s106 agreement.

“Four Elms” roundabout at the junction of the A228 and A289) for its vehicular connection to the wider world. Anecdotal but uncontroverted evidence explains the consequences which occur when, as occasionally happens, the A228 is blocked, closed or partially reduced in capacity. The submitted Transport Assessment confirms that the Four Elms roundabout is currently overloaded at peak hours, although Medway Council has a programme to address this issue, with developer funding (to which the current appeal proposal would contribute).

37. I conclude that although the development is not in an utterly unsustainable location, the almost complete absence of on-site employment, the relative paucity of nearby off-site employment, the extent of the site in conjunction with the absence of bus service penetration through it and the poor pedestrian connectivity with immediately adjoining parts of Hoo, combine to produce a location which would not be made adequately sustainable. The harm which would result from the consequent high dependency on car travel is significant.
38. Comparison is made with the Council’s approval of a development at Peninsula Way Chattenden which is said to be in an even less sustainable location than the appeal site. That scheme is not before me for decision but in any event, even if all other things were equal, harm which would result from a high dependency on car travel from a development of 131 units is about one quarter of the harm which would result from a high dependency on car travel from a scheme the size of that which I am considering.
39. The appellant correctly points out that the reason for refusal which gives rise to this issue is not supported by a reference to a development plan policy. The Council has explained that it was misled by its (then) understanding of case law current at the time it took its decision into believing that it should not make reference to the relevant policy BNE25 in the Medway Local Plan adopted May 2003. Amongst other matters, this requires permissible development to offer a realistic chance of access by a range of transport modes. The proposal would conflict with this element of that policy.⁵
40. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Advice in the NPPF is a material consideration. The substantive matters set out in preceding paragraphs are also material considerations. There are further material considerations yet to be considered. I now turn to these.

Character and appearance

(i) Landscape Appraisals

41. As an outline application in which details of appearance, landscaping, layout and scale would be submitted for approval later, if permission is given, the differences between the parties in relation to this issue focus on matters of

⁵ In her closing speech, Miss Ellis for the appellant points to a reference to sustainability access requirements in section (i) of policy BNE26 in paragraph 3.4.79 of the plan to suggest that there is no warrant for now attributing weight to BNE25 as a policy telling against the scheme because of its transport element. But policy BNE26 specifically applies to business development and its section (i) makes no reference to sustainability access requirements, whereas section (i) of BNE25 does. At the time of the Inspector’s report into the Local Plan, what is now policy BNE25 was BNE26. A possible explanation of the anomaly is that a reference to BNE26 in the written justification remained without modification when the plan was adopted and should be read as a reference to section (i) of policy BNE25.

impact upon the landscape in principle. In accordance with modern professional practice, both parties based their submissions on this issue by reference to the precepts set out in the Natural England publication *An approach to Landscape Character Appraisal* and to the *Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)* published by the Landscape Institute and Institute of Environmental Management and Assessment and with reference to published character appraisals and assessments seeking to follow those principles.

42. In considering submissions applying these methods, four matters need to be borne in mind. Firstly, the Natural England publication advises that the term landscape applies equally to natural, rural, urban and peri-urban areas. In other words, the fact that an area is developed, or is proposed to be developed, does not mean that it ceases to be a part of the landscape or is necessarily inimical to it.
43. Yet, the Landscape Assessment of Kent October 2004, to which the parties refer, defines its landscape character areas by reference to whether they are developed or not. Likewise, the Medway Landscape Character Assessment 2011 (MLCA), to which both parties refer, excludes developed areas from consideration as landscape character areas as the plan on page (iv) of its Executive Summary indicates.
44. In other words, these assessments are not so much landscape assessments as countryside assessments in which there appears to be an inbuilt presumption that development is harmful. This reflects previous government advice, set out in the now superseded Planning Policy Statement 7 which promoted continued protection of the open countryside, without qualification. Both these studies predate the advice in NPPF (March 2012), which is that planning should recognise the intrinsic character and beauty of the countryside. This is a more nuanced approach, requiring a discerning analysis of character and beauty, rather than an unquestioning protection. Quotations from, or reference to these studies need to bear in mind that they predate NPPF advice.
45. Secondly, the technique is hierarchical. As paragraph 5.50 of GLVIA3 advises, effects on landscape should be considered at the site level (within the site itself), at the level of the immediate setting of the site, at the scale of the landscape type or character area within which the proposal lies and on a larger scale embracing several such areas. However the terminology of effect is the same regardless of the landscape unit being considered, so an effect which is classed as major at the site level may be classed as insignificant at the regional level (the big ripple in a small pond effect).
46. Thirdly, the technique uses language in a particular way, encompassing both landscape effects, which are physical changes (such as earthmoving) and visual effects (ie effect on views). In common parlance, it is the latter which most people would refer to as effects on the landscape. Fourthly, although landscape assessments often refer to finite geographical areas with boundaries depicted on maps, in practice the boundaries between different character areas or types are often blurred and a site assigned to one character area may in fact display characteristics typical of an adjoining area.
47. None of the above comments invalidates the usefulness of the GLVIA3 technique as a systematic method of analysing what could otherwise be a very subjective topic. But it is not planning policy and findings reached with the

help of the GLVIA3 method are an aid to a planning decision, not a substitute for it. The following reasoning is written with those considerations in mind.

(ii) Loss of greenfield land

48. Firstly, the obvious needs to be stated. The site is currently in agricultural use. Although the proposal would keep some features of the landscape such as trees, hedgerows and the stream which divides fields F1 and F2, there would be a transformational change from undeveloped to developed land, with some earthmoving to form level platforms for the construction of houses. In the jargon of the experts the effect would be "high adverse for the area of the site" (Mr Etchells's paragraph 6.3.2) or "Major Adverse (significant) effect at year 1 for the agricultural fields" (Appellant's Environmental statement paragraph 7.154). This does not align with the eighth of the government's twelve planning principles set out in NPPF paragraph 17. This advises that planning should encourage the effective use of land by reusing land that has been previously developed (brownfield land).
49. The Medway Local Plan adopted in 2003 defines the site as countryside, which indeed it is. Both by definition and by inspection, the proposal would be contrary to policy BNE25 which would permit development in the countryside only if it maintains and wherever possible enhances the character, amenity and functioning of the countryside (certain other stipulations also apply which the Council accepts should be disregarded and which I agree are irrelevant).

(iii) Intrinsic character and beauty

50. The parties dispute whether the site should be described as urban fringe or rural fringe. It certainly fringes built up areas at Hoo and at Chattenden and the two roundabouts at the south-western extremity of the site display urban features such as street lighting. But, although there are reports of fly-tipping along Ratcliffe Highway, no more than the usual detritus lining the edges of a rural road was apparent on my site visit.
51. There is a depot of some kind at Riversview, a field away from the north-east corner of the site and coaches parked at Sundown, an otherwise residential property sited between the appeal site's fields F3 and F6. Although not screened, these seem well contained within their curtilages, not spreading out beyond their boundaries and are the kind of businesses not uncommon in rural areas.
52. None of the agricultural land is derelict. And, as paragraph 15.29 of the appellant's Environmental Statement observes; "Despite being located on the edge of an urban area, the agricultural potential of the site is not prohibited by trespass." It suffers from the noise of the A228 and is recorded as being in an area of low to least tranquillity on CPRE maps but overall, the impression I received from both formal and informal visits to the site is that it comprises uncorrupted rural land.
53. There is no suggestion that the site itself has any special landscape qualities or that its development would lead to the loss of landscape features on the site which are rare or significant. There is no public right of access and, notwithstanding the standard letters objecting to the development signed by a

thousand or so names⁶, little evidence that the land is valued (in the sense implied by NPPF paragraph 109) any more than any other ordinary piece of countryside.

(iv) Characteristics of the Landscape areas

54. The appellant's landscape expert is criticised by the Council's landscape expert for evaluating the significance of the development in terms of its quantitative percentage of the extent of the two locally defined Medway Landscape Areas in which it sits, pointing out that evaluation should be based on the characteristics of the landscape areas which are affected. But in truth, provided the development remains below the contour line and building heights suggested in the submitted parameter plans, so that the visual barrier would remain between north and south provided by the complex of hills and valleys at Chattenden noted in the description of the Hoo Peninsula recorded in the Landscape Assessment of Kent, those local landscape characteristics would largely remain, as the following commentary demonstrates (based on the descriptions in the MLCA).
55. The Deangate Ridge area would still comprise an elevated ridge with a reduced area of medium scale farmland with undulating arable fields. It would still provide a green buffer separating and screening RSM Lodge Hill Camp from Hoo St Werburgh. The undeveloped belt between Batcliffe Highway and the A228 would continue to provide an attractive setting for the latter which would remain a major transport artery with its landscape effects unchanged. Development around the fringes of Hoo and Chattenden would remain prominent in many views but to a larger extent. Conditions could require the retention of the hedgerows which would still provide as human a scale to the developed as to the undeveloped part of the landscape. It would continue to include an increased set of recreational facilities and associated buildings. The golf course would remain unchanged as would the stream linking Chattenden and Hoo.
56. The Hoo Farmland character area would still demonstrate undulating arable farmland with large open fields, a fragmented hedgerow network and sparse tree cover in its undeveloped area south of Main Road. Infrastructure would still be prominent in views. The ribbon development at Broad Street detracting from rural character would remain and be supplemented by the development itself transforming the site from a rural to an urban character. The long open views from elevated ground would remain, as would the hidden feature of the stream and the Saxon Shore Way.

(v) Organic development

57. What the MLCA analysis of Hoo Farmland does not tell us but which can be seen on site is that the long open views from elevated ground encompass both the site and the existing developed area of Hoo. That view of an extensive built up area is part of the landscape character. The development proposed would intensify the extent of development in the view but is not inconsistent with its existing character.

⁶ Some of these, on inspection, appear to be duplicate copies of the same signature but this observation does no more than correct the precise number quoted in the Council's committee report. It does not detract from the fact that there are approximately one thousand individually signed copies of a circular letter objecting to the development on grounds of increased strain on infrastructure amongst other matters. Loss of farmland and wildlife is briefly mentioned but there is no suggestion that the countryside is otherwise valued.

58. Hoo itself originated at the eastern end of a valley or bowl formed by Deangate Ridge to the north and west and Cockham Farm Ridge to the south. Over time it has expanded northwards up the slopes of the Deangate Ridge almost as far as the ridgeline and up the valley to the west as far as the site. There is a small area which lies south of the unnamed stream (known locally as The Brook) at the historic centre of the village as do Broad Street Cottages, formerly a separate wayside settlement but now linked tenuously to Hoo's western extremity. Otherwise, the built up area of Hoo now lies mostly to the north of The Brook (which flows west to east in the valley) and west of the crossroads which forms the centre of the village.
59. Other than Field F1 which lies in the valley bottom south of the stream, the site would be located on the northern slopes of the valley rising up towards the Deangate ridge. Because of its position on the hillside, the development would be clearly visible from across the valley, from the Cockham Farm ridge and from the A228 road as it descends the hill from Chattenden and crosses the valley floor. But the rest of Hoo is already visible from the Cockham Farm ridge. Accordingly, in terms of character and appearance, the proposed development of the site would be consistent with an organic extension of Hoo further up the valley. Indeed, the development of fields F4 and F5 would extend no further westwards than the existing development of Broad Street cottages and the Hundred of Hoo school playing fields.

(vi) The wider picture

60. The Landscape Assessment of Kent records "the larger settlement of Hoo St Werburgh" in its description of the Hoo Peninsula and in its recommended Landscape Actions suggests new landscape elements may need to be created around new settlements, to include large-scale residential uses. The National Character Area profile: 113, North Kent Plain records that the area has a strong urban influence, with several built-up areas and that these occupy a substantial part of the area with significant development around the Medway towns. One of the listed key characteristics is that of large settlements and urban infrastructure, often visually dominant in the landscape. Its fourth Statement of Environmental Opportunity includes planning for a framework for new development along major transport routes. The A228 must be regarded as one of these. It follows that the aggrandisement of Hoo would not necessarily be inconsistent with the findings of these larger scale landscape analyses.

(vii) Coalescence

61. NPPF paragraph 58 advises that planning policies and decisions should aim to ensure that developments establish a strong sense of place. It is a concern of the MLCA to reinforce local distinctiveness. Open countryside, particularly on the fringes of urban areas is said to have an important role to play in buffering, separating and protecting the local identity of different communities. Although the MLCA is not intended as a policy making document in itself, it is one of its "General Themes and policies" to resist the threat of coalescence and maintain separation and openness between rural settlements.
62. This concern is not translated into a general policy within the Medway Local Plan but it is an aspect which underlies policy BNE25. Although it is one of the functions of designated Areas of Local Landscape Importance (ALLIs) to act as green lungs and buffers, helping to maintain the individual identity of urban neighbourhoods and rural communities, the absence of an ALLI designation

does not mean that land does not serve that function. As paragraph 3.200 of the Inspector's report into the Objections to the Medway Local Plan (13 February 2002) makes clear (policy BNE26 became policy BNE25 in the adopted plan); "PPG7 (¶ 2.14) and KSP Policy ENV1 say that the countryside should be safeguarded or protected for its own sake and this is repeated in the supporting text (¶ 3.4.68) to Policy BNE26. To my mind, this includes its landscape, and its function as a "green lung" and in many cases as a "buffer" between settlements."

63. Specifically, in relation to the appeal site, the Local Plan Inspector recognised in paragraph 3.369 of his report that "the area helps to maintain the separation of Chattenden and Hoo, acts as a "green corridor" between the settlements and helps to protect the area from development pressures" whilst also recognising that it had negative attributes which meant that it "does not have the landscape characteristics and quality necessary for designation" as an ALLI.
64. In contrast to Hoo, Chattenden originated on top of the saddle of land which connects the Deangate and Cockham Farm ridges. It has since spread down towards the valley bottom but, when seen from Cockham Farm ridge or from the A228 (Mr Chard's appeal site context photographs 10 and 15), fields F2 and F1 still provide a clear degree of separation between the two settlements. Notwithstanding the suggestion that most of field F1 be laid out as a sports ground, that would still give an impression of urbanisation, as do the floodlit playing fields of the Hundred of Hoo school. The existing landscaped bund on the south side of Main Road and the additional landscaping on the north side suggested in this appeal would provide severance rather than true separation.
65. The landscaping of field F3 would provide a pleasant setting for the A228 but driving along it would still give an impression of continuous urbanisation from the summit of the hill at Chattenden as far as Sundown and Coronation Bungalow on the Deangate Ridge. So, it follows that if the appeal proposal were to proceed, the sense of separation between Hoo and Chattenden would be lost.

(viii) Summary – character and appearance

66. In summary I conclude that there would be a degree of harm to character and appearance resulting from the proposed development. That harm would comprise the intrinsic harm of utilising a greenfield site but not one that is designated or recognised in any way as special in its own right. The westwards extension of Hoo across fields F4 and F5 would be entirely consistent with recognised landscape features provided the development remains below the height identified by the appellant and so would cause no additional harm but the development of fields F1 and F2 would compromise their function as providing the perceived separation of Hoo and Chattenden and so would cause some additional harm.
67. The proposal would therefore conflict with Medway Local Plan policies BNE1 (which, amongst other matters, requires the design of development to be appropriate in relation to the character appearance and functioning of the natural environment), BNE25 (which, amongst other things, would only permit development in the countryside if it were to maintain and wherever possible enhance the character, amenity and functioning of the countryside) and S4 (which amongst other matters requires development to respond appropriately to its context).

Other matters

68. Paragraph 112 of the NPPF advises that account should be taken of the economic and other benefits of the best and most versatile agricultural land. Some correspondents are under the impression that the site comprises Grade 1 agricultural land. The Medway Core Strategy Further Considerations of Major Mixed Use Development Options (September 2013) considered the development of the site as part of a much larger area of land. This larger area included a considerable extent of Grade 1 land but Chapter 15 of the Environmental Statement clearly demonstrates that this appeal site is not so graded.
69. It also demonstrates that although the appeal site represents 9% of the extent of the farm business of which it form part, it only represents a 7% reduction in the value of its business, reflecting the lesser economic impact of its poorer quality. As already noted in consideration of character and appearance, the loss of agricultural land does not align with the eighth of the government's twelve planning principles set out in NPPF paragraph 17 advising that planning should encourage the effective use of land by reusing land that has been previously developed (brownfield land) but there is no additional economic case to be made based on the land's productivity.
70. There are also representations to the effect that this site ought not to be developed because there are other sites near Hoop where the balance of planning advantage may be preferable. Such a "beauty parade" may be appropriate in the context of a local plan examination but a s78 appeal is taken on a different basis, namely whether the proposal is acceptable or not in its own right.
71. Third parties made many representations about the provision of infrastructure and services. In so far as the s106 agreement does not respond adequately to these matters, they could be dealt with either by conditions or by the routine commissioning of services from statutory undertakers as provided under other legislation so, although I have taken account of them they are not an outstanding issue which requires further reporting in this decision.

The planning balance

72. Both parties agree that the Council cannot identify a five-year housing land supply but disagree about the size of the shortfall. The difference between them is in decimal places.
73. One point of difference is objectively assessed need. The council uses a figure of 1,281 dwellings per annum based on its Strategic Housing and Economic Needs Assessment update, November 2015, in turn based upon DCLG 2012-based projections, adjusted for subsequent mid-year population estimates but not for transferred requirements from neighbouring authorities. For a variety of technical reasons the appellant uses a figure of 1,489.
74. The parties both agree that the Council has a persistent underdelivery and so a buffer of 20% should be used when calculating the Council's housing requirement in accordance with the recommendations of NPPF paragraph 47. A second point of difference between the parties is whether this buffer should be applied to previous shortfalls or not. I note that most recent decisions taken

by the Secretary of State add any under supply to the OAN before applying the buffer⁷.

75. Mr Edwards's evidence highlights a potential third point of difference, which has not been explored. That concerns the supply side of the housing land supply equation. But I note that both parties are agreed that time should not be spent arguing these points in this section 78 appeal. I concur that it is for a local plan examination to determine such matters and so for the purposes of this appeal I simply note both and record that Medway's current five-year housing land supply can be taken as between 2.21 and 2.79 years. There is therefore a coincidentally symmetrical shortfall of between 2.79 and 2.21 years' requirements.
76. The appeal proposal therefore represents about 37% of one year's supply or, since its construction would be spread over 7-10 years (both figures are used in the Environmental Statement), about 2.24% of the Council's five-year requirement. That is a measure of the significance of its benefit.
77. As noted earlier, planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations in this case include the fact that the development plan is dated, having been intended to guide development only until 2006. That is reinforced by the advice in NPPF paragraph 49 that relevant policies for the supply of housing should not be considered up to date because of the lack of a five-year housing land supply.
78. That does not mean that development plan provisions should be ignored but consideration does need to be given to their continued relevance. NPPF paragraph 215 advises that degree of consistency with the Framework is a relevant consideration. Reference to the provisions of the NPPF has been made in this decision where appropriate. Another consideration is whether there is currently valid evidence which supports the continued application of the policies. Reference to such material as IHT advice, GLVIA3, the various landscape assessments and the local plan inspector's report has also been made where appropriate.
79. Other material considerations include the benefits of the development proposed as well as other advice contained in the NPPF such as the advice that the purpose of the planning system is to contribute to the achievement of sustainable development and that the policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the government's view of what sustainable development means in practice.
80. The benefits which would arise from the development are largely undisputed. The Statement of Common Ground affirms that the proposed scheme would provide for the following economic and social benefits (their quantification which I have added in parentheses is asserted in table 7.1 of Mr Edwards's evidence and in Inquiry document 17 and is not contradicted):
 - Economic output generated by future residents (typically, 559 economically active residents generating an economic output of £21.9m per annum)
 - Local commercial expenditure by future residents (£8.3m per annum)

⁷ E.g. APP/N4720/A/13/2200640 (Thornhill Estates), APP/T3725/A/14/2221613 (Barwood Strategic Land) and APP/R0660/A/13/2197532 and 2197529 (Stapeley)

- Construction employment opportunities (79 construction jobs)
- Provision of new homes
- Provision of commercial floorspace (up to 200 sq m)
- Provision of sports facilities (3.2 times the quantity required by the application of Local Plan policy L4 and open space generally 5 times the policy requirement)
- Proposed infrastructure improvements

81. The infrastructure improvements do no more than ameliorate the impacts of the development, so they neutralise harm rather than add benefit. Information about economic activity in the local area is not provided within which to set a context for the first three of these benefits but, in any event, they are benefits dependent on the fourth bullet point and would arise in equal significance in conjunction with any residential development in the Medway area. Information is provided within the Statements of Common Ground by which the significance of the fourth bullet point can be evaluated and so I use that as a proxy for evaluating the others.

Conclusion

82. The benefits are therefore substantial. And they are present, as indicated by the appellant's willingness to accept conditions which would require an early start to be made on development. But that temporal circumstance is also an indication of the limits which need to be ascribed to the benefits. They are substantial because, at the present time, the Council has not identified a five-year housing land supply and it is unlikely to be able to do so until it has concluded the preparation of a new local plan. The benefits are substantial but time-limited in the sense that a new local plan can be expected to identify an adequate five-year supply in due course.
83. That period cannot be known but, it can be expected to be time-limited whereas any harm arising from the development would endure for its lifetime; conventionally housing is designed for a sixty years life cycle but, in practice, once built, it usually lasts much longer.
84. There is harm to character and appearance; harm in principle from the use of greenfield land and some harm resulting from the coalescence of Hoo and Chattenden caused by development on Fields F1 in particular and, to a lesser degree on field F2. But, the use of greenfield land for housing in Medway is inevitable as the Council's Local plan Issues and Options report makes clear; this site has no special or unusual character and so I regard its loss as moderately harmful. The fundamental landscape function of the Deangate and Cockham Farm ridges in providing structure to the landscape would not be compromised, so I regard the coalescence element of harm to character and appearance as relatively minor. Clearly, although harm to character and appearance would be an enduring harm, on its own it would not outweigh the benefits of the development.
85. But, add in the harm which would be caused, in the local context, by the high dependency on car travel resulting from the failure to make the site as sustainable a location as Hoo village itself and the balance is different. This too would be an enduring harm which I have found to be significant. The

combination of harms would outweigh the temporal advantages of bringing forward housing now. In consequence, the proposal cannot be said to be a sustainable development. That being so, the presumption in favour of sustainable development cannot apply. Notwithstanding the consequences of the advice in NPF paragraph 49 that the housing supply policies are not up to date, there are insufficient material considerations to warrant a decision other than in accordance with the development plan and so, I dismiss the appeal.

P. W. Clark

Inspector

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robert Williams Instructed by Jan Guyler, Head of Legal Services,
the Medway Council

He called
Jon Etchells MA BPhil Director, Jon Etchells Consulting Limited
CMLI
Caroline Allen BA DipTP Planning Consultant

Thomas Stubby attended the site visit

FOR THE APPELLANT:

Morag Ellis QC Instructed by Huw Edwards, Planning Partner,
Barton Willmore LLP

She called
Andrew Blacker MSc Technical Director, WSP/Parsons Brinckerhoff
MCIT MILT
Matthew Chard Landscape Planning and Design Partner, Barton
BA(Hons) DipLA(Hons) Willmore LLP
MAUD CMLI
Huw Edwards MSc Planning Partner, Barton Willmore LLP
MRTPI

Richard Jones participated in the discussion of potential conditions

INTERESTED PERSONS:

Michael Williams Vice-chair, Hoo St Werburgh Parish Council
Cllr Peter Hicks Strood Rural Ward Councillor

DOCUMENTS submitted at Inquiry

- 1 Statement of Common Ground signed and dated 1 August 2016
- 2 Housing Supply Statement of Common Ground signed and dated 29 July 2016
- 3 Figure MDC-16 Illustrative sections
- 4 Extract from Local Plan Proposals Map
- 5 Extract from SLAA reference 0713
- 6 Extract from SLAA reference 1084
- 7 The Kent Thames Gateway Landscape July 1995
- 8 Draft s106 agreement
- 9 Statement of Common Ground on Highways signed and dated 2 August 2016
- 10 Cllr Hicks's proof of evidence
- 11 Extracts from GLVIA 3rd edition
- 12 Appeal decision APP/A2280/W/15/3012034
- 13 Andrew Blacker's supplementary evidence
- 14 Second draft s106 agreement
- 15 CIL compliance checklist
- 16 Tree Preservation Order
- 17 Note on open space provision

- 18 [2016] EWHC 421 (Admin)
- 19 [2016] EWHC 1198 (Admin)
- 20 Useful references

DOCUMENTS submitted following Inquiry

- 21 s106 Agreement dated 10 August 2016

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