



---

## Appeal Decision

Inquiry Held between 30 April and 3 May 2019

Site visit made on 2 May 2019

**by A J Mageean BA (Hons) BPI PhD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 21 June 2019**

---

**Appeal Ref: APP/P0240/W/18/3217688**

**Land at Hillfoot Road, Shillington**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Canton Ltd against the decision of Central Bedfordshire Council.
  - The application Ref CB/18/03287/FULL, dated 28 August 2018, was refused by notice dated 28 November 2018.
  - The development proposed is the erection of 19 dwellings, provision of public open space, new accesses off Hillfoot Road, landscaping, re-arrangement of parking provision on Hillfoot Road and all associated ancillary works.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A completed Section 106 agreement dated 23 April 2019, addressing the provision of affordable housing and financial contributions towards education and leisure facilities, as well as other matters, was submitted to the inquiry. On this basis the Council confirmed that the second reason for refusal had been satisfactorily addressed.
3. Revised plans seeking to address the concerns of the Council's highways consultee were submitted with the appeal. The alterations proposed involve minor changes to the layout of the scheme. I am aware that further consultation with local residents on the basis of these revisions was undertaken by the appellant. This has not resulted in any substantive concerns being expressed about the changes themselves. Moreover, I am satisfied that the changes involved could be addressed via conditions should the appeal be successful. As a result I have considered the appeal on the basis of the amended plans.
4. There is some inconsistency in references to the dwelling mix across the appeal documentation. This was confirmed as being as set out in the 'Planning Layout' 17549/4001, and would comprise 2 one-bed dwellings, 11 three-bed dwellings and 6 four-bed dwellings.
5. The Examination of the Central Bedfordshire Local Plan (eLP) commenced in May 2019. The parties agreed that for the purposes of this appeal its provisions should be given no material/limited weight.

## **Main Issues**

6. The main issues are as follows:

- Whether the proposal would preserve or enhance the character or appearance of the Shillington Conservation Area and the setting of the Grade I listed Church of All Saints;
- The effect of the proposal on the character and appearance of the area, with particular reference to its location within the open countryside outside the settlement envelope, and its role as an area of open space; and,
- Whether any harm in relation to the above main issues and any conflict with the development plan is outweighed by other material considerations.

## **Reasons**

### *Effects on designated heritage assets*

i. Shillington Conservation Area

7. The Conservation Area (CA) defines the historic core of Shillington, focused on the medieval parish church and tight 18<sup>th</sup> and 19<sup>th</sup> century development around it. Beyond this, the village of Shillington comprises the historic core and the six 'Ends' which loosely surround it. This structure evolved during the Mediaeval period when, in addition to development around the Church, smaller satellite groups of properties developed around the various manors held by absentee lords. These so called 'Ends' are dispersed around the roughly figure of eight shaped framework of roads, with the village core represented by the CA at its centre. The Ends are also connected to each other and the centre via the dense network of footpaths permeating the area.
8. The CA itself includes some of the agricultural fields adjoining the village's northern and western fringes, thereby offering a buffer of space around the base of the knoll of the Grade I listed Church of All Saints. These are identified within the adopted Shillington Conservation Area Appraisal 2006 (CAA) as 'significant landscape spaces'. This abrupt edge between the built form and landscape beyond provides a sense of drama which is crucial to the CA character. More generally, the CA is defined by its evolved character as a village core within an essentially rural setting, though this distinct identity has been eroded somewhat by contemporary residential infilling.
9. The appeal site is located directly to the north east of the centre and is a remnant agricultural field known locally as Thomas Meadow. It is privately owned with public access only via the public footpath running diagonally across it. The site has not been managed in recent years, and as such it appears somewhat neglected and overgrown, particularly the hedge on the western boundary fronting Hillfoot Road. There has been visible encroachment of contemporary housing development close to its eastern and southern sides.
10. The site is somewhat separated, though not fully detached, from the fields further north by the overgrown enclosures adjacent to New Walk and the property known as 'The Gables'. The connection of the village core to the rural hinterland is clearly better reflected in the dramatic break between built form and countryside on the western side of the CA. Nonetheless, this quality remains

in evidence at the appeal site, reinforced by the dominant and impressive south western view of the elevated Church, and also the connections to the footpath network within the fields further north.

11. The site is on the edge of the centre and is unremarkable in itself. Nonetheless it does provide a sense of relative openness and tranquillity in contrast to the tight historic core. As such its CAA designation as a 'significant landscape space' is, in my view, justified. Furthermore, it provides an example of 'the contrast between the network of verdant, quiet pedestrian routes and the busier character of the roads mainly fronted by buildings' identified as a characteristic quality in the CAA.
12. The CAA refers to the fact that this site has 'remained undeveloped has prevented coalescence with its northern satellite, Hillfoot End'. The extent to which this is in fact correct is debateable, given that development associated with Hillfoot End now extends south to all but connect on the western side of Hillfoot Road. Nonetheless, the site provides an important and substantial gap on the eastern side of the road.
13. The proposed development of 19 dwellings would introduce built form following the south eastern, eastern and around two thirds of the northern boundary of the site, along with two access roads, one for each arm. A significant area of open space would be retained between these arms, along with the existing footpath. This would provide publicly accessible greenspace, thereby opening up the opportunity for new views, including to the Church. The size of development has been considerably scaled back from earlier schemes in order to respond to concerns including harm to the CA.
14. Nonetheless, it remains that the character and appearance of the site would be considerably altered by the sense of enclosure generated by built form around much of its perimeter, by the introduction of infrastructure including access roads and lighting, and by the formalisation of the space itself, including managed elements such as water attenuation features. Overall there would be a significant loss of openness and tranquillity, elements of importance to the character of the space and wider CA.
15. The design of the dwellings themselves is not at issue between the parties, and I recognise that the layout of the scheme has sought to ensure that the dwellings would relate positively to the open space. Furthermore, whilst details of landscaping have yet to be agreed, it is clear that the low-key landscape scheme proposed would address the somewhat shabby appearance of the site. Nonetheless, this formalisation of the status and appearance of the space would alter and cause harm to its currently informal and modest nature. This change would also alter and cause some harm to the experience of views to the Church, by changing the current balance between built form and informal space which currently serves to highlight the prominence of the church as the heart of the village.
  - ii. Church of All Saints
16. The appeal site is some 200m from the Grade I listed Church, aptly described in the Village Design Statement (VDS) as 'the outstanding feature in the village landscape, built on a hill rising abruptly from the surrounding land'. This impressive structure was built almost entirely in ironstone in the 14<sup>th</sup> Century, although the red brick upper part was rebuilt in 1750 following the earlier

collapse of the steeple. Its special interest and significance derive in the main from the architectural and historic interest of its form and fabric, its prominence over the centuries as a focal point for the community, and its associations with local historical figures.

17. Historic England guidance on assessing the effect of development on the setting of heritage assets refers to development within the wider setting of tall structures such as church towers. Development is unlikely to impact on their heritage values unless it competes with them, or impacts on their significance, for instance by impacting on a designed or associative view<sup>1</sup>.
18. In this case I consider the appeal site to fall within the Church's wider setting. When viewed from the Church itself the appeal site is partly visible from limited points within the Churchyard, though is largely hidden behind built form. In this sense the appeal parties agreed that the photograph on the cover of the Parish Plan in which the appeal site is clearly seen, which was apparently taken from the Church tower, is not a representative view. Therefore, whilst an important part of the Church's setting is its rural hinterland, the contribution of the appeal site in this regard is limited.
19. I have recognised the contextual change to the way in which views of the Church would be experienced from within the appeal site. I agree that the reduction in the degree of openness within the site would channel views to the Church from the footpath. However, my view is that this scheme would not in itself have a harmful impact on the setting of the Church in terms of its significance or the ability to appreciate it. Indeed there is some limited merit in the appellant's argument that new views may be introduced from the open space which could add to the public's experience of the asset.
20. The response from Historic England on this particular matter is ambiguous. It refers to both the CA and the Church, with the summary suggesting that the development would have 'a harmful impact on their significance'. However, references specifically to the Church are limited to the observation that the current scheme would have less of an impact on its setting than previous proposals. In contrast concern with the erosion of the qualities which make a positive contribution to the CA are clearly expressed.
21. Whilst I conclude that the proposal would have a neutral effect on the setting of the Church, I have found that it would not preserve or enhance the character or appearance of the CA. In this regard there would be conflict with Policies CS15 and DM13 of the Central Bedfordshire Core Strategy and Development Management Policies 2009 (CSDMP) which, taken together seek to protect, conserve and enhance the district's heritage, assessing proposals against Conservation Area appraisals. Whilst the CAA in this case is somewhat dated, there has been little change in the CA since its publication and therefore its provisions are not diminished in value due to age.
22. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In this case I conclude that the scheme would cause harm due to the erosion of the qualities of this space which contribute to the character and appearance of the CA. Recognising that the need to take into account the relative significance of the

---

<sup>1</sup> The Setting of Heritage Assets, Historic England Good Practice Advice in Planning Note 3 (Second Edition), p7.

element of the heritage asset affected, my view is that this harm is less than substantial in the terms of the National Planning Policy Framework (the Framework) paragraph 196. The requirement under this policy to weigh such harm against the public benefits of the proposal is considered below.

*Development on open space outside the settlement envelope*

23. The appeal site is outside the Settlement Envelope (SE) for Shillington. As open space close to the village it is relevant to consider the contribution of the site in terms of its recreational role, as well as landscape and visual amenity value, before considering the effects of the appeal scheme.
  - i. Recreational role
24. The Council's Leisure Facilities Strategy (undated) identifies the appeal site as an area for informal recreation. This designation also appears in the Central Bedfordshire Open Space, Sports and Recreational Needs Technical Paper, prepared as part of the eLP. However, as it is private land, the usability of the site is restricted to the public footpath running across it.
25. The Framework glossary definition refers to open space as being of public value in terms of offering important opportunities for sport and recreation, and acting as visual amenity. The question of whether the two limbs of this definition, that is sport/recreation and visual amenity, are meant to be conjoined or can be separately applied is of relevance to this case.
26. My view is that the glossary definition is provided in support of paragraphs 96 and 97 within the 'Promoting healthy and safe communities' section of the Framework. These paragraphs read together establish the need for high quality open spaces and opportunities for sport and recreation based on robust assessments of need, and such provision should generally be protected from development. As such the sport and recreation element of the glossary definition is of primary importance. In this sense it does not appear that the intention was to allow the visual amenity element to be detached as a stand-alone test of the value of open space.
27. The sport or recreational role of the appeal site itself is limited to the footpath, with the wider site providing an open setting for this route. Nonetheless, recognising that the footpath connects this part of the village to a wide network of public footpaths, the site does have some basic public value in this regard.
  - ii. Landscape and visual value
28. The site lies within Landscape Character Area 8D 'The Upper Gravenhurst-Meppershall Clay Hills' within the Central Bedfordshire Landscape Character Assessment 2015 (LCA). This is a medium scale landscape with a strong sense of elevation and distant views across adjacent vales, with stone church towers forming landmarks often crowning the higher ground. It is described as predominantly farmland with irregular, medium to large fields, some pasture with horse paddocks close to settlements, hedgerows and hedgerow trees in mixed condition.
29. As a small former pasture field which has been neglected for some years, the site itself exhibits few of the key characteristics of the LCA. In this regard the fields some short distance to the north of the appeal site are more representative of the LCA landscape. Historical maps illustrate that, in two

dimensional terms, the appeal site has retained a strong connection with these fields and that it represents the southern extent of this rural hinterland as it extends towards the historic core. This connection has been eroded by the formalisation of the historic route of 'New Walk' as a driveway to a number of properties along this route. This includes 'The Gables' which appears to be a former small holding that has been redeveloped as a residential unit within a large domestic garden.

30. As such recent change, including the residential development close to the southern and eastern boundaries of the site, has established a degree of physical enclosure, and has highlighted the close relationship of the site with the village core. Whilst the appellant estimates that 66% of the perimeter of the site is bound by existing development, this includes the Victorian terraced properties along the western side of Hillfoot Road which are set back behind the road, parking area and hedging, creating a less solid edge.
31. Views of the appeal site are largely restricted to those immediately adjacent to the site boundaries. Similarly, from within the site many views are contained and short range. The close proximity of built form is evident to the south and east, with a range of dwellings backing onto the space. Of note is the large dwelling close to the north eastern corner of the site which draws the eye from along the footpath. Nonetheless the hedgerows along the northern boundary adjacent to the disused field parcels, whilst overgrown, do frame the view north and suggest of the rural connection beyond. At the time of my site visit when wildflowers were appearing, the site itself was overgrown but reasonably attractive, though I am aware that at some times of the year the site will appear somewhat unkempt and shabby, and that the hedge along the Hillfoot Road boundary appears particularly unruly.
32. Beyond the site itself, in addition to views of the Church, from the north eastern portion of the footpath it is possible to gain distant views of the Chiltern Hills in the AONB some 2-3 miles south. Whilst such views are not prominent, and certainly incidental when compared with other impressive views across this area from elsewhere in the village, they nonetheless help to anchor the site in this wider setting.
33. Overall the site does retain some sense of rurality in landscape and visual terms. When assessed against the range of factors that can help in the identification of valued landscapes, in many respects the site has little to commend it above 'ordinary countryside'. Nonetheless, some elements, particularly the footpath and the openness of the site in the village context which offers a sense of calm tranquillity when moving away from Hillfoot Road, along with external views, suggest that the site has local landscape value. However this is not sufficiently distinctive or special to identify it as having the higher status of a 'valued landscape', in terms of the Framework paragraph 170.
34. The LCA makes specific reference to the fact that 'the identity and character of individual small settlements is vulnerable to further expansion and infill (for instance at Shillington in joining the small hamlets known as 'Ends')'. Proof Plan DM5 illustrates the location of more significant portions of the road network around the village 'Ends', where ribbon development would erode the clarity of rural separation. Nevertheless, whilst the degree of separation between Hillfoot End and the village core has been substantially eroded with development on both sides of Hillfoot Road extending close to the north western corner of the

appeal site, the appeal site provides an important gap on the eastern side of the road, preventing complete coalescence.

35. Whilst the provisions of the eLP are of no more than limited weight in this appeal, it is relevant to consider why the appeal site is not part of the proposed 'important countryside gap' to the north. This spans the agricultural and pastoral land between Woodner End and Upton End, and is seen as important in terms of preventing coalescence between these two Ends, whilst also protecting the open character in this part of Shillington. My understanding is that this designation would have a similar role to Green Belt in preventing the visual or physical coalescence of nearby settlements, though at a somewhat less strategic level. Whilst the appeal site is loosely connected to the area identified, the fact that it is not proposed for inclusion within this designation does not undermine its role in providing a buffer of green space locally.

iii. Effect of the development

36. The dwellings would extend across part of the northern and south eastern sides of the retained central space. Details of the landscape strategy have yet to be finalised, though the appellant suggests that this would include formalisation of the footpath with a native hedge separating it from the southern access road, tree planting to both frame and punctuate the main area of managed grassland, a smaller wildflower meadow in the north eastern corner, and water attenuation measures.
37. Therefore whilst 0.81ha of managed public open space (POS) would be provided, the context and the semi-rural nature of this space would be altered. In landscape terms the proposals would provide for the enhancement of this area, which would in basic terms improve the quality of elements such as the intermittent hedgerows. Nonetheless, along with the introduction of dwellings, access roads and other infrastructure, the overall formalisation of the character of this space would be of major significance.
38. In visual terms the sense of openness would be reduced with the immediacy of built form and its associated infrastructure being much more apparent in local views. The visibility of much of the northern hedgerow would be lost, eroding the connection with the rural area to the north. The dominant view of the Church would be retained, however the more incidental views of the Chiltern Hills, providing a modest degree of connection with the wider landscape, would be lost to built form.
39. Around 104m or 81% of the Hillfoot Road frontage would remain open, with the southern dwellings set in from this frontage, meaning that in visual terms the appeal scheme would not fully infill the site. As such it would not in absolute terms represent the 'ribbon' or 'infill' development referred to in the LCA as being harmful to historic character and individual identity. However, the nature of this design composition, with dwellings facing onto the formalised space and access roads from the north and south, would significantly erode the currently informal and significantly sized semi-rural 'gap' in built form provided by the site. As such the undeveloped character of this remaining area of separation between Hillfoot End and the village core would be undermined.
40. Given the magnitude of change proposed so close to the village core, mitigation measures would not be effective in managing the impact of change locally.

iv. Conclusion on open land

41. I have found that whilst in recent times the site has been neglected, as a semi-rural space close to the village core its openness and peaceful character are of value locally, retaining some separation from Hillfoot End. It does also contribute modestly to recreation provision. The appeal scheme would retain a large open area and the footpath, though its appearance would be formalised, with front facing dwellings addressing the space as part of the overall design composition. There would be harm to the character of the space which would effectively be 'suburbanised' through the introduction of access roads and the intensification of its use, thereby effectively extending the village envelope.
42. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the area, with particular reference to its location within the open countryside outside the SE, and its role as an area of open space. In this regard it would conflict with CSDMP Policy DM4 which regards development outside SE's as being inappropriate development in the countryside. More specifically I have found that the proposal would erode the role of the site as a semi-rural landscape buffer. In this regard there would be conflict with the supporting text to Policy DM4 which states that the SE's serve to prevent coalescence between settlements, and that in 'places like Shillington they also protect the separate character and identity of the various 'Village Ends'.
43. There would also be conflict with those elements of CSDMP Policies CS14 and DM3 which seek to promote high quality development which is appropriate to in scale and design to its setting and respects the varied character and local distinctiveness. CSDMP Policies CS16 and DM14 relating to Landscape and woodland are also referred to by the Council. These Policies seek to protect and enhance landscape quality, with the LCA used to determine landscape sensitivity and opportunity for enhancement. However, given the limited contribution of the site to landscape character per se, I have not identified harm in these regards.

**Other Matters**

*i. Framework paragraph 196 considerations*

44. I have concluded that the proposed development would cause harm to the character and appearance of the CA, a designated heritage asset. In accordance with the Framework paragraph 196 this less than substantial harm should be weighed against the public benefits of the proposal.
45. The scheme would make a contribution to housing supply in Shillington. On this matter the parties disagree as to whether Central Bedfordshire Council is able to demonstrate a 5-year housing land supply. The appellant's position is that housing land supply is to be calculated using the local housing need figure (based on the 2014 projections), whereas the Council's view is that it should be calculated using the most up-to-date Strategic Housing Market Assessment (SHMA). However, the parties agree that the deliverable supply figure is 9,187 and this has been used for the respective methods of calculation. On this basis the appellant's calculations indicate 3.60 year supply and the Council's SMHA indicates 5.71 years supply.
46. In addition, the main parties agree that the unmet housing needs of Luton are a material consideration of significant weight. The eLP plans to deliver 7,350



homes over the plan period to contribute to meeting that unmet need, in addition to its own local housing need. This equates to 367 homes per annum.

47. I have given careful consideration to the evidence on housing land supply. However, noting the position in relation to Luton, even if I were to take the appellant's position that there is presently a 3.60 year supply, this scheme for 12 new market homes would make only a modest contribution to the apparent deficit.
48. The scheme would supply also 7 units of affordable housing. This provision would comply with the requirement of CSDMP Policy CS7 that schemes of over 4 units should provide 35% affordable housing. The Council's figures relating to affordable housing need are derived from the SHMA assessment. When annualised this indicates a surplus of 63 units. The appellant's figures from January 2019, which were not challenged, relate to the current situation in which there are 1,717 applicants on the Council's waiting list for affordable housing. Of these 22 currently live in Shillington, with a further 297 indicating that Shillington is one of their preferred locations. Whilst it is desirable to provide homes for those in need within their own communities, affordable housing need should be considered at a district level. Given the current waiting list this consideration carries some weight in the planning balance.
49. The scheme would provide around 0.81ha of accessible POS, with the retention, widening and surface improvement of the existing footpath, currently described by the Rights of Way Officer as a 'mud track'. The extent of the proposed accessible area is at this stage unclear as the requirements for water attenuation have not been fully articulated, though it is clear that this would be of reasonable size. It would also benefit from natural surveillance by virtue of the properties facing onto the space. In this sense the scheme would support the creation of safe and accessible places identified as a priority at paragraph 91 b) of the Framework.
50. The Council's Leisure Facilities Strategy sets out that the required level of provision of informal space is available within the parish. However, the main allocated spaces are located around 2 miles to the south of Shillington. As the village does not appear to have a village green of significant size, this part of the appeal scheme could make a useful contribution, with clear social and environmental benefits.
51. The scheme would bring some economic and social benefits in terms of investment in the site and its infrastructure, and the household spend brought by its residents. It is also reasonably well located in relation to service provision and would make a contribution to the viability of the settlement. However, these benefits would not be unique to the development of this site and as such attract limited weight.
52. Finally, 5 additional parking spaces would be provided along Hillfoot Road. This would contribute to addressing local residents' concerns about parking in the village and be a benefit of modest weight.
53. Pulling these considerations together, the public benefits of the scheme include the provision of additional housing in an authority where, if the appellant is correct, a five year supply of housing land is not currently in place, and the provision of affordable housing in an area in which there is need. Given the modest scale of this scheme such considerations attract modest to moderate

weight. The provision of a large area of POS in an area in which such space is in limited supply would be unique to this scheme and attracts significant weight. Other benefits including the provision of parking are of modest weight.

54. The Framework paragraph 193 states that when considering the impact of proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation, irrespective of the level of harm identified. Therefore, whilst less than substantial harm is identified, this should not be equated with less than substantial planning objection, particularly where the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area would not be met. Therefore, harm to significance requires clear and convincing justification.
55. In this case the harm to the character and appearance of the CA relates to the disruption of the balance between built form and informal space. The scheme would undermine this relationship by substantially eroding the open and to a large degree unspoilt nature of this space, close to the heart of the village. Whilst this relationship has to some degree been weakened by development nearby, the current scale of this space is important in enabling the identification and appreciation of the historic form and development of the village and its 'Ends'. It is therefore an important component of the character of the CA which should be protected. Whilst the public benefits taken together are significant, they would not outweigh the harm to this designated heritage asset, to which I must give considerable importance and weight. Development should therefore be resisted.

*ii. Planning Obligation*

56. The completed Planning Obligation secures matters relating to affordable housing, contributions towards education, contributions towards off site play equipment and off-site sport and recreation provision, and a management plan for the POS. Whilst I have referred to affordable housing and the POS above, the other matters are necessary to secure compliance with CSDMP Policy CS2, and comprise either mitigation measures or are directly related to the development. As such they do not amount to positive benefits. As the appeal is to be dismissed on other substantive issues it is not necessary for me to look at the Obligation in detail.

*iii. Consistency with the Framework*

57. The Framework footnote 7 indicates that where local planning authorities cannot demonstrate a five year supply of housing land the provisions of paragraph 11 d) apply. That is where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits. However, as I have identified harm in relation to policies seeking to protect designated heritage assets, these provisions do not apply as such policies provide a clear reason for refusing the development. The application therefore falls to be determined in accordance with the usual Section 38(6) test, that is in accordance with the development plan unless material considerations indicate otherwise.
58. It is not necessary to undertake the paragraph 11 d) assessment of which are the most important policies for determining the application, and whether or not they are out of date. Nonetheless, the Framework paragraph 213 sets out that,

regardless of the age of policies, due weight should be given to existing policies according to their degree of consistency with the Framework. I agree with the parties that CSDMP Policies CS14, CS15, CS16, DM3, DM13 and DM14 are generally in conformity with the provisions of the Framework.

59. However, I have considered the consistency of CSDMP Policy DM4 with the Framework. The parties agree that there is conflict with Policy DM4, as the scheme would be outside the SE for Shillington. This policy sets out the type of development acceptable within, and in some instances adjacent to, the SE's. The SE's themselves define the boundaries between settlements and the surrounding countryside.
60. The Council acknowledges that a qualitative differentiation of land outside SE's is not part of Policy DM4. This Policy does not, therefore, reflect the provisions in the Framework paragraph 170 which, whilst continuing to recognise the intrinsic character and beauty of the countryside, sets out the protection for valued landscapes in a manner commensurate with their status. As such the weight attached to Policy DM4 should be reduced. This view is reflected in a number of recent appeal decisions.
61. My attention has been drawn to a recent High Court judgement<sup>2</sup> in which it was found that an inspector had not adequately addressed the reasoning behind the weight to be attached to Policy DM4. More specifically, the justification for departing from two previous appeal decisions with the same factual and policy backgrounds had not been presented.
62. However, the circumstances of this case do not hinge on the weight attached to Policy DM4. Specifically, the finding of heritage harm which is not outweighed by public benefits is sufficient to dismiss the appeal. There is also conflict with Policies CS14 and DM3 seeking high quality design which respects local context in relation to the same main issue. Therefore, even if I were to attach no material weight to Policy DM4, this would not affect the outcome. It is not necessary, therefore, to reach a view on this matter.

### **Conclusion**

63. I have identified harm and conflict with the development plan in relation to both the character and appearance of the CA, and the development of an open space outside the SE. Further, even if I were to attach no material weight to conflict with Policy DM4, there remains conflict with Policies CS14 and DM3 in relation to the same main issue.
64. The harm identified to the CA is not outweighed by the public benefits of the scheme, which include the provision of a POS which could function as a village green. The additional harm found to the character and appearance of the village context adds further to the weight against the proposal, even taking into consideration the benefits proposed.
65. Overall, the conflict with the development plan taken as a whole would not be outweighed by other material considerations. Therefore the appeal should be dismissed.

*AJ Mageean* INSPECTOR

---

<sup>2</sup> Gladman Developments Ltd v SoSCLG and Central Beds Council [2019] EWHC 127 (admin)

## APPEARANCES

### FOR THE APPELLANT

Mr A Tabachnick QC, he called: Mr A Crutchley	Director EDP, consultant on heritage matters
Mr D McInerney	Director EDP, consultant on landscape matters
Mr R Murdock Mr J Freeman	Consultant, Woods Hardwick Transport Consultant, Woods Hardwick

### FOR THE COUNCIL

Mr A Booth QC, he called: Mr J Lee Mrs A Myers Mr P Hughes Mrs M Viciana	Consultant, ORS Landscape Planner Consultant, PHD Planners Conservation Officer
--	--

### INTERESTED PARTIES

Mrs S Stapleton Cllr A Graham Mrs McCormic Mrs Palmer	Shillington Parish Council Ward Councillor Local Resident Local Resident
--	---

### DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening statement from Mr Booth on behalf of the Council.
2. Revised statement of agreed conditions.
3. Completed Section 106 agreement.
4. Closing submission on behalf of the Council.
5. Closing submission on behalf of the Appellant.