

Decision Notice and Statement of Reasons

Site visit made on 01 February 2024

Hearing held on 01 February 2024

By Luke Simpson BSc MSc MRTPI

A person appointed by the Secretary of State

Decision date: 29 February 2024

Application Reference: S62A/2023/0025

Site address: Land North of Eldridge Close, Stickling Green, Clavering, Essex CB11 4FZ

- The application is made under section 62A of the Town and Country Planning Act 1990.
 - The site is located within the administrative area of Uttlesford District Council.
 - The application dated 12 October 2023 is made by Mr David Rich-Jones (Richstone Procurement Ltd) and was validated on 07 November 2024.
 - The development proposed is Outline planning application with all matters reserved except access for up to 28 dwellings (class C3) including public open space, sustainable drainage systems, landscaping and associated infrastructure and development.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) The proposed development would be located in the countryside, contrary to the Local Plan strategy for the location of new development. There are no specific development plan policies which are supportive of the principle of development. Future occupiers of the proposal would have very limited access to services and facilities and even when travelling further afield to meet their day-to-day needs they would be heavily reliant on the private motor vehicle. The proposal would therefore result in significant social and environmental harm and the site is not therefore a suitable location for the proposed residential development. As such, the development conflicts with Saved Policies S7 and GEN1e of the Uttlesford District Council Local Plan (2005) and National Planning Policy Framework (2023) Paragraph 109. The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 2) The proposed development would be completely at odds with the prevailing linear layout of the settlement and it would have a harmful visual impact on the soft transition that the site currently provides between the countryside and the settlement. This harm would be clearly apparent across the proposed access, from Eldridge Close and from the Public Right of Way. Whilst the proposal is for outline permission, this harm is inevitable given the number of dwellings proposed. The proposal would therefore conflict with Saved Policies S7 and GEN2 of the Uttlesford District Council Local Plan (2005) and National Planning Policy Framework (2023) Paragraphs 116c and 128d. The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Statement of Reasons

Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Uttlesford District Council (the Council) was designated on 8 February 2022 in respect of applications for planning permission for major development.
3. Following screening by the Planning Inspectorate under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), it was found that the proposed development would not be of a scale or nature likely to give rise to significant adverse effects. Therefore an Environmental Impact Assessment was not required and I am satisfied that the requirements of the Regulations have been complied with.
4. The application was valid on 7 November 2023. The Inspectorate consulted on the planning application up until 15 December 2023. Responses were received from the following consultees:
 - Essex County Council (ECC) Lead Local Flood Authority
 - National Highways
 - Clavering Parish Council
 - ECC Infrastructure Planning Officer
 - NHS Herts and West Essex Integrated Care Board
 - Natural England
 - Environment Agency
 - Heritage and Conservation Officer
 - Environmental Health

- Housing Strategy, enabling and development officer
 - ECC Highway Authority
 - Affinity Water Ltd
 - Essex Police
 - SSE Utility Solutions Ltd
 - ESP Utilities Group Ltd
 - NATS Safeguarding
 - ECC Minerals and Waste
 - MAG Highways and Safeguarding
 - UK Power Networks
 - Cadent Gas
 - Landscape Officer
 - Historic England
 - Thames Water
5. In addition, 27 responses were received from local residents all either outlining concerns or explicitly objecting to the proposed development. Furthermore, several representations have been received from Keep Clavering Rural.
6. In response to consultation on this application, Uttlesford District Council submitted an officer report and minutes following a planning committee meeting on 13 December 2023. In applying the test at Framework Paragraph 11dii the Planning Officer concluded that the alleged harm caused by the proposed development would not significantly and demonstrably outweigh the overall benefits of the scheme, when assessed against the policies in the Framework. However, the minutes of the committee meeting advise that Members, having considered and discussed the Officer Report, retained the same objections as outlined in the decision notice of the previously refused planning application (reference UTT/22/1578/OP). These reasons are as follows:
- The proposal introduces a sizeable residential development to an area of open countryside. The development would appear out of character with the site and street scene within Clavering, and therefore and be harmful to the rural character of the area. The development would not be appropriate in the rural area and there are no justifiable reasons as to why the development, in the form proposed, needs to take place there. As such the proposals are contrary to Uttlesford Local Plan Policies S7, GEN2 (adopted 2005) and the NPPF.

- The proposals by reason of its inappropriate size and scale would amount to the significant loss to best and most versatile ('BMV') agricultural land contrary to Policy ENV5 of the Uttlesford District Council Adopted Local Plan and Paragraph 174(b) of the National Planning Policy Framework.
 - The application does not include a mechanism such as a S106 legal agreement to secure:- i. 40% Affordable Housing, ii. 25% of Affordable housing being First Homes iii. ECC Education Contribution, iv. Provision and management of Public Open Space, v. Pay the Council's reasonable legal costs, vi. Pay the monitoring fee, As such the proposal is contrary to Policies H9 and GEN6 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
7. I carried out an unaccompanied site visit, on 01 February 2024, which enabled me to view the site, the surrounding area and the nearby roads and public rights of way.
 8. On 23 January 2024, I published an Issues Report, prepared under the provisions of the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013. This included a description of the development, consultation details and explored the main issues to be considered in relation to the application. In addition to that report, I set out an agenda for the public hearing. This was held on 01 February 2024 at the Council Chamber, Uttlesford District Council, London Road, Saffron Walden, CB11 4ER. The hearing was attended by members of the public, representatives from Keep Clavering Rural, representatives from Clavering Parish Council, a Ward Councillor, Officers of Uttlesford District Council and representatives of the applicant.
 9. After the hearing I received a certified copy of a Unilateral Undertaking (UU) under section 106 (s106) of the Town and Country Planning Act 1990 from the applicant. This includes a range of obligations, including library, education and healthcare contributions. Also included are commitments to provide 40% affordable housing on-site and provisions pertaining to open space. This is addressed under 'planning obligations'.
 10. In December 2023 the Government published a revised version of the National Planning Policy Framework (the Framework). I invited the main parties to provide further representations in this regard and I have taken these into account. As a result of the revisions, the Council provided me with an updated Housing Land Supply (HLS) Position during the hearing. This undated document confirms that the Council can currently demonstrate a HLS of 4.5 years. The applicant does not contend this position.
 11. The proposal is for outline planning permission with all matters reserved except for access. The applicant is seeking planning permission for the following plans:
 - Site Location Plan 18/17/20;

- Existing Site Plan 18/17/21; and
 - Illustrative Site Plan 18/17/22 (insofar as it shows the proposed access from Eldridge Close into the site).
12. All other plans have been submitted for indicative purposes.
13. I have taken account of all written and oral representations in reaching my decision.

Main Issues

14. The main issues are:
- Whether the site is a suitable location for the proposed development with particular regard to the Council's strategy for the location of residential development and the access of the site to services and facilities.
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on best and most versatile agricultural land.
15. The Issues Report included two additional issues. The first related to the absence of a s106 agreement, which has now been provided and is addressed under 'Planning Obligations'. The second referred to the planning balance to be applied. For the avoidance of doubt the 'planning balance', far from being demoted from the main issues, has its own section within this report.

Reasons

Planning History and Background

16. An appeal was dismissed on 23 August 2021 for a proposal which sought outline planning permission for 9 dwellings on the appeal site (The Previous Appeal)¹. This appeal is referenced throughout this decision.
17. The applicant subsequently applied for outline planning permission for 32 dwellings. The Council refused planning permission under reference UTT/22/1578/OP. The applicant has lodged an appeal which is pending determination.
18. There is an existing residential development to the south of the application site at Eldridge Close. This development was granted planning permission at appeal in 2012². The reserved matters were also subsequently approved on appeal.

¹ PINS Reference: APP/C1570/W/21/3267624

² PINS Reference: APP/C1570/A/12/2175071

Location and Principle of Development

19. The application site comprises an agricultural field located outside of, but adjacent to, the settlement boundary of Clavering (Hill Green) as defined within the Local Plan³. As such, for planning purposes, the proposed development would be located within the countryside.
20. To the south of the application site is Eldridge Close, which is a relatively recently constructed development formerly comprising previously developed land. To the east is a linear row of detached dwellings. A large employment building is located to the south-east. Beyond the existing tree line, the countryside opens out to the West and north-west, with adjacent land comprising predominantly of agricultural fields.
21. Local Plan⁴ Policy S7 applies to development in the countryside. It states in part:

'In the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. This will include infilling in accordance with paragraph 6.13 of the Housing Chapter of the Plan. There will be strict control on new building. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there'
22. The proposed development would not constitute infilling within the terms of Policy S7 as the application site does not comprise a small gap between small groups of houses (see Local Plan Paragraph 6.14). Indeed, the application site is physically and functionally distinct from the built-up areas which surround it on two sides. There are no other policies in the Local Plan which are permissive of this type of development in the countryside and none that indicate that such development is appropriate to a rural area. For these reasons the proposal would conflict with Local Plan Policy S7.
23. Policy S7 also states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. The effect of the proposal on character and appearance is considered under the subsequent main issue. Policy S7 does not explain what is meant by the term 'special reasons'. Nonetheless, this report also considers the extent to which there are other material considerations which may warrant development in this location.
24. Policy S7 takes a more restrictive and less positive approach to residential development in the countryside than is advocated within the Framework. In particular, Framework Paragraph 83 states in full:

³ Clavering (Hill Green) Inset Map - Uttlesford District Council Local Plan 2005

⁴ Saved policies of the Uttlesford District Council Local Plan 2005

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'

25. Whilst the Framework does recognise that housing can be located in rural areas it also emphasises the importance of ensuring that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Within this context Framework Paragraph 109 also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
26. Furthermore, the Local Plan text which precedes Policy S7 sets out the overall strategy for the location of new development, effectively identifying a hierarchy of locations for new development having regard in part to existing services and facilities. In addition, Local Plan Policy GEN1 criterion e) requires that new development 'encourages movement by means other than driving a car'.
27. For these reasons, in terms of establishing the acceptability of the principle of development, it is also relevant to determine whether the site is accessible to services and facilities, both within the settlement and in other settlements further afield. It is also necessary to consider whether existing services and facilities would benefit from the proposed development and whether there are means by which future occupiers would be able to utilise sustainable modes of transport to access such services and facilities.
28. The application site is located within Stickling Green or 'Hill Green' as denoted by the Local Plan Proposals map. This area has a separate Local Plan defined settlement boundary to Clavering, which is located further to the south. Notwithstanding this distinction, the two built up areas defined on the Local Plan Proposals map physically blend into one another when travelling along Clatterbury Lane.
29. Within the vicinity of the application site there are a small number of services and facilities within a relatively short walking distance. These include the Cricketers Public House, Clavering Village Hall, a Gym and a cricket club. Future occupiers of the proposed development would no doubt benefit from the close proximity of these facilities and in particular, the various services and facilities available at the village hall.
30. Despite this, future occupiers would need access to a much wider range of services and facilities to meet their day-day basic needs. Clavering offers a Primary School, a village shop and a post office. However, most of these facilities are a significant walking distance from the application site, with the shop and post office located more than 2km away. Furthermore, to access these services and facilities on foot, future occupiers would have to travel along a footway which is very narrow in places and which is not lit for significant stretches. For these reasons future occupiers would be unlikely

to access them on foot, particularly in the darker winter months. Whilst some may choose to cycle, this is not a mode of transport which would be suitable for everyone.

31. Overall, the site has poor access to services and facilities, with only a small number located within easy walking distance and few if any options to travel to neighbouring settlements by sustainable means. As such, the proposed development would conflict with Local Plan Policy GEN1 which requires in part that development encourages movement by means other than driving a car. The proposal would also conflict with Framework Paragraph 109, which states in part that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
32. I accept that Paragraph 109 also states that sustainable transport options vary between rural and urban areas. Given my conclusions, it is inevitable that future occupiers would need to regularly travel to surrounding settlements to access supermarkets, doctor's surgeries, dentists and secondary schools (amongst other services and facilities). However, in this case, there are no bus stops within a reasonable walking distance and little if any evidence of viable options for travel by alternative means of sustainable transport.
33. Furthermore, whilst there would be some economic and social benefits associated with support for local services and facilities, these would be limited, given that there are very few services and facilities within close proximity to the application site. Whilst the previous Inspector found that the site's limited access to services and facilities did not warrant dismissing the Previous Appeal, they were considering a lower quantum of development where the harm associated with the overreliance on the motor vehicle would be lower. Furthermore, given that the appeal decision does not refer to specific services and facilities or their locations, it is not clear exactly which of them the Inspector asserted would be supported by the proposal, nor is it clear whether those services and facilities still remain. As such, I have undertaken my own assessment of services and facilities based on the evidence before me.

Character and Appearance

34. The existing site comprises an agricultural field which provides a rural setting for the adjacent residential development to the south and east. That said, the site is relatively contained by existing mature planting on its western and northern and eastern boundaries. As a result, it is not particularly open but it still plays an important role in providing a soft transition between the open countryside and the more urban form of the settlement. This importance is emphasised by existing public views attainable from the PRoW which passes through the site.
35. The surrounding settlement is characterised by residential and employment development. Along Clatterbury Lane to the east, residential development is laid out in a linear manner. This largely reflects the layout of development throughout the settlement and south into Clavering. This is an

important part of the local settlement character given that it provides a link between the built up area of Clavering and Stickling Green.

36. There are some areas which run counter to this prevailing settlement character, including Eldridge Close directly to the south of the application site. Eldridge Close comprises development in depth with a more clustered and modern layout. Whilst it is part of the character of the settlement it stands out as an exception.
37. The applicant is seeking outline planning permission with all matters reserved except for access. Nonetheless, an indicative layout has been provided and a development comprising up to 28 dwellings would inevitably involve development in depth. Whilst the development could be laid out with a linear form within the site itself, when viewed in the context of the surrounding residential development it would not have a linear character and it would therefore be at odds with the prevailing character of the settlement.
38. The fact that Eldridge Close does not respect the linear pattern of development does not justify the proposal. This is because, in contrast to Eldridge Close, there is a Public Right of Way which runs through the site. Even if re-routed this would afford either direct or transitional views of the existing residential development in conjunction with the proposal. In contrast, there are few if any views where the development in-depth at Eldridge Close is visible or obvious in conjunction with the rest of the settlement. Secondly, the application site is almost twice the size of the Eldridge Close site and is set back further from the public highway. As such, the harm to the settlement character would be far more striking.
39. I accept that the effect of the proposal on landscape character would be less significant, given the visually contained nature of the application site. Indeed, as outlined in the Applicant's Landscape and Visual Impact Assessment, the site contains none of the significant landscape features identified within the Langley Chalk Upland (H3) character area. However, there would still be some visual harm associated with the loss of a gradual transition between open countryside and the urban form of the settlement. This harm would be visible from the PRow, from Eldridge Close and across the access into the site.
40. In considering the previous appeal, the Inspector concluded that the proposal would detract from the open character of the countryside which forms the setting for the settlement. They also concluded that the development would be at odds with both the traditional development that contributes to the overall character of the village. Those conclusions are consistent with my findings but it is important to note that they were based on a far lower quantum of development. In this instance, the increased number of dwellings proposed only serves to increase the harm to settlement and landscape character.
41. Whilst landscaping and planting could mitigate some of the harm, the harm would be most visible from the PRow and across the access, these are two areas where it is very difficult to envisage a successful mitigation of the

visual impact. Indeed, the illustrative proposals do not indicate that planting would completely eliminate the harmful visual effects of the proposal and this is consistent with the conclusions reached in the LVIA.

42. I note that the Council's landscape officer did not object to the proposal, concluding that the contained nature of the site would result in a medium/low impact on the wider landscape. However, the response provided does not focus on the effect of the proposal on settlement character and in relation to landscape character the findings are not dissimilar to my conclusions.
43. I accept that the density of residential development varies locally. However, it is not the density of the development which causes the harm. Indeed, the harm would result from the inevitable effect of development in-depth jarring with the prevailing linear character of the settlement and the associated erosion of the soft transition between the countryside and the settlement. For these reasons, the proposal would be harmful to the character and appearance of the area and it would conflict with Local Plan Policy S7 and GEN2, which collectively require that new development protects countryside character and is compatible with surrounding buildings.
44. For the same reasons the proposal would conflict with Framework Paragraph's 116c and 128d which outline that development should respond to local character and that decisions should take account of the desirability of maintaining an area's prevailing character, respectively.

Effect on BMV Land

45. It is common ground that the application site comprises grade 2 agricultural land. The Framework definition of Best and Most Versatile Agricultural Land (BMV Land) is 'land in grades 1, 2 and 3a of the Agricultural Land Classification.' As such, the site comprises BMV agricultural land.
46. Local Plan Policy ENV5 States in full:

'Development of the best and most versatile agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.'
47. Insufficient evidence has been submitted to demonstrate that opportunities have been assessed for accommodating development on previously developed sites or within existing settlement limits. Similarly, there is no substantive evidence that poorer quality agricultural land has been considered. As such there would be a conflict with Policy ENV5. Nonetheless, these policy requirements are particularly onerous and they do not reflect the more nuanced approach to BMV set out within the Framework.

48. Framework paragraph 180b states in part that plans and decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.
49. Framework Footnote 62 clarifies that, for plan making purposes, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.
50. The application site comprises a relatively small and narrow strip of agricultural land which is farmed for arable purposes. Whilst the land is clearly in use and appears to be productive, it is a very small area when considered in conjunction with the much wider network of fields to the west. Furthermore, Local Plan Paragraph 5.9 acknowledges that 80% of the District is classified Grade 2 agricultural land.
51. Taking all of these factors into consideration, I do not consider that the proposed development comprises 'significant' development of agricultural land. It therefore accords with the Framework in this regard. This is a material consideration which outweighs the conflict with Local Plan Policy ENV5. Incidentally, ENV5 does not differentiate between development that is 'significant' and that which is not. It is therefore inconsistent with Framework Paragraph 62 and the weight afforded to the conflict with this policy is reduced in any case.

Other Matters

Heritage

52. There is an obligation under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision-taker to have special regard to the desirability of preserving the listed buildings, their settings and any features of special architectural or historic interest.
53. There are two listed buildings located on Clatterbury Lane both of which are approximately 100 metres from the application site. They are:
- Old Home: Grade II Listed (List Entry No. 1306508); and
 - Peacocks: Grade II Listed (List Entry No. 1322475).
54. Old Home is an 18th Century clay lump building. It primarily derives its significance from its well-preserved architectural features including its thatched roof, casement windows, and chimney stack. To the extent that the rear of the building does contribute to the setting, this is limited up to the boundary of the appal site which is heavily screened by mature planting. For these reasons there would be no harm to this heritage asset as a result of the proposal.

55. Peacocks similarly derives its significance from its well-preserved historic architecture. It comprises a 17th-18th Century timber-framed building with key features of significance including the thatched roof, which is half hipped with a chimney stack. This building is even more physically divorced from the site, given its location on the opposite side of Clatterbury Lane. As such, there would be no harm to its significance as a result of the proposal.
56. The site is not within a conservation area and there would be no harm to any heritage assets as a result of the proposal. The proposed development therefore accords with Local Plan Policy ENV2 and the relevant provisions of the Framework in relation to heritage assets.

Highways

57. Interested parties have raised concerns with regard to the adoption of the proposed internal road by the highway authority, noting that Eldegridge Close has not yet been adopted. However, whether or not the internal access road is adopted is not indicative of any adverse impact on highway safety. Indeed, the Local Highway Authority has not raised any objection, subject to conditions. For these reasons I do not consider that the proposal would have an adverse impact on highway safety. It would therefore accord with Local Plan Policy GEN1 insofar as this policy relates to highway safety.

Drainage

58. Interested parties outlined that there are existing problems with the foul and surface water drainage network at Eldridge Close and in the surrounding area, based in part on the assertion that this network is privately owned. Whether or not that is the case, there is no substantive evidence before me to indicate that there would be any such problems with the proposed development, subject to appropriately worded conditions pertaining to foul and surface water drainage. The proposed development therefore complies with Local Plan Policy GEN3.

Biodiversity

59. A Preliminary Ecological Appraisal was undertaken and submitted by the applicant as part of the planning application. This concludes that the site contains features which offer potential habitats for roosting and foraging bats and nesting birds. However, subject to the retention of trees and hedgerows the PEA concludes that the proposal would be unlikely to result in significant adverse effects on protected species. Indeed, subject to conditions pertaining to construction and ecological management the proposed development would not result in an adverse impact on biodiversity. It would therefore accord with Local Plan Policies GEN7 and ENV8.

Living Conditions

60. The proposal is for outline planning permission and there is sufficient room within the application site to accommodate a layout which would not result in an adverse impact on neighbouring living conditions in terms of loss of light, privacy or overbearing impacts. Any effect from lighting could be addressed through an appropriately worded planning condition. Similarly, parking provision could be conditioned such that there would not be a proliferation of on-street parking causing a nuisance to neighbouring occupiers.

Emerging Local Plan

61. The Council has published and consulted on the draft Regulation 18 Local Plan (ELP)⁵⁵. Clavering is identified within the ELP as a 'Larger Village'. However, it is not clear, given the absence of a proposals map, whether or not the residential development which is adjacent to the application site would be included within any revised settlement boundary. At present, as already highlighted, there are two distinct settlement boundaries for Clavering.
62. Draft Core Policy 19 outlines that 1000 dwellings will be delivered through non-strategic allocations over the plan period, of which 111 will need to be delivered in Clavering. Despite this, there is no indication that the application site will comprise a non-strategic allocation.
63. The weight to be afforded to the ELP is limited given that there are no consultation responses before me. Indeed, there is no evidence to indicate whether there are any unresolved objections to its policies. Nonetheless, the ELP does demonstrate that there is a pressing need for the delivery of housing throughout the District and in particular within Clavering.

Other Consultation Responses

64. I note that there have not been any objections from statutory consultees. I also accept that the Council's Planning Officer recommended approval. However, neither of these considerations alter my findings which are based on the evidence before me.

The Planning Balance

65. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is one such material consideration.
66. Framework Paragraph 11d sets out what the presumption in favour of sustainable development means for decision-taking. Paragraph 11d

⁵⁵ Uttlesford Draft Local Plan 2021-2041 - Regulation 18: Consultation November 2023

explains how to apply this presumption in instances where the policies which are most important for determining the application are out-of-date.

67. The most important policies for determining this application are out-of-date for several different reasons. Firstly, the Council has confirmed that since the publication of the Framework, its revised HLS position is 4.5 years. For this reason alone, Framework Paragraph 11d applies. Furthermore, the Council has failed the Housing Delivery Test, with 58% delivery under the 2022 measurement published in December 2023.
68. In addition, as already explained, Policy S7 and Policy ENV5 are both inconsistent with the Framework. These policies are the most important for determining this application because they relate directly to the principle of development. As such, the weight to be afforded to the conflict with Local Plan Policies S7 and ENV5 is limited given their inconsistency with the Framework.
69. There are no policies in the Framework which direct refusal within the terms expressed under Framework Paragraph 11di. As such, Framework Paragraph 11dii is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
70. I have already concluded that the proposed development would have poor access to services and facilities and that it would result in an over-reliance on the private motor vehicle. As such, the proposed development would conflict with Framework Paragraph 109. I attribute substantial weight to this conflict given that it relates to the principle of development.
71. In addition, the proposed development would have a significant and enduring harmful impact on existing settlement character and it would have a harmful visual impact on the transition between the rural character of the countryside and the settlement. It would therefore conflict with Framework Paragraphs 116c and 128d. I attribute significant weight to this conflict given the important role which the site plays in providing a soft transition and that which linear development has in linking the two urban areas of Clavering and Stickling Green.
72. There would be social and economic benefits associated with the provision of 28 dwellings, 40% of which would be affordable. These benefits can be afforded greater weight given the current HLS shortfall. The applicant also indicated that they would be satisfied with a planning condition requiring earlier delivery of the proposal. This too would be an added benefit given the latest HDT results. The proposal is also capable of providing a broad mix of homes to cater for a wide range of housing needs in accordance with Framework Paragraph 60. These benefits can therefore be afforded significant weight in light of the emphasis within the Framework on significantly boosting the supply of housing.
73. In addition, the proposal would result in an efficient use of land, given that a significant number of dwellings would be delivered on a relatively small

site. This is a benefit of moderate weight. However, it should be noted that the Framework's emphasis on the efficient use of land should not be read in isolation of its other policies. Indeed, the increase in the number of dwellings proposed is also associated with the increase in the harm which would arise when compared to the previous proposal, contrary to Framework Paragraph 128d.

74. There would be other social, economic and environmental benefits associated with biodiversity enhancement, provision of open space, support for employments during construction, the economic benefits associated with increased population, improvements to the public right of way and incorporation of energy efficiency measures. These are all benefits which are consistent with the Framework. However, these are not the main benefits of the proposal and as such I afford them moderate weight.
75. In conclusion, the benefits are relatively wide ranging and they can be afforded significant weight collectively. Notwithstanding this, the harm would be substantial and enduring, with significant social and environmental consequences. For these reasons, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Planning Obligations

76. Given that I am refusing planning permission it is not necessary to consider whether the planning obligations set out comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL regs). Nonetheless, for the purpose of undertaking the planning balance (and considering the various benefits of the proposal) I have assumed that all obligations meet the tests. This represents a best-case scenario for the applicant. It is also consistent with the Council's latest position.

Conditions

77. The Council and a number of consultees have recommended and requested conditions to be imposed should the application be permitted. Having reviewed these conditions, I conclude that they would not overcome or otherwise outweigh the harm set out in my reasoning above.

Conclusion

78. The proposed development conflicts with the development plan taken as a whole. There are no material considerations which indicate a decision other than in accordance with the development plan. Indeed, the approach at Framework Paragraph 11dii also indicates that planning permission should not be granted. Planning permission is therefore refused.

Luke Simpson

Inspector and Appointed Person

Informatives:

- i. In determining this application no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>