



Appeal Decision

Hearing held on 11 and 12 August 2026

Site visit made on 12 August 2026

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16th September 2026

Appeal Ref: 6006475

Land between Copper Lodge and The Cloth Hall, Water Lane, Smarden, Ashford, Kent TN27 8QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Julian Wilkinson, Cantium Land and Development Ltd, against the decision of Ashford Borough Council.
 - The application Ref is PA/2025/0824.
 - The development proposed is for 35 dwellings, together with all associated landscaping and infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above I have used the address given in the appellant's appeal form as this better identifies the site location.
3. A revised National Planning Policy Framework (the Framework) was published on the 17th of August, after the hearing had closed. The hearing was re-opened for a period of time to provide the main parties an opportunity to make comments as to whether or not the changes to the Framework had any implications for this appeal. The revisions to the Framework and the comments made have been taken into account in this decision.
4. A draft planning agreement under Section 106 of the Town and Country Planning Act 1990 was submitted prior to the hearing. The Council agreed at the hearing that the submitted wording would satisfy its requirements and once signed would resolve the last reason for refusal. A signed, completed version of this same Section 106 Agreement has been submitted in accordance with the timescale agreed and I am satisfied that this resolves the reason for refusal. I will consider the planning agreement later.
5. The Council's statement of case states that following additional information on archaeology as part of this appeal, the Council is satisfied that its concerns have been addressed, subject to appropriate conditions, and it no longer wishes to defend the reason for refusal concerning archaeology. I see no adequate reason to disagree, and it is not necessary to consider this as a main issue.

6. The appellant's appeal submissions included proposed amended plans relating to the internal layout and configuration of the development in an effort to narrow differences with the Council in relation to the reason for refusal on the living conditions of future occupiers. The proposed amendments included siting and design changes to four pairs of dwellings referenced in the Council's decision notice. It would include smaller house types for two dwellings and adjustments to the siting and garden sizes/layout for the other dwellings. Plot 26 would be removed from the scheme, and its land reallocated to nearby garden areas and to create a small communal garden.
7. Whilst the proposed amended plans had similarities with the appeal proposal, there were notable differences. The Council objected to the proposed amended plans, and I reviewed the situation in the light of the case made by the appellant and the comments of the Council.
8. The appeal process is not the place to develop a scheme, and the proposed amended plans were not the plans before the Council when it made its decision, and they had not been consulted on. I therefore could not be certain that accepting them would not prejudice the Council or other parties, including nearby occupiers, from being able to consider them properly. Furthermore, the removal of a dwelling would fundamentally alter the description and quantum of development.
9. Due to all these factors, and taking full account of the procedural guide¹, I advised the parties in my pre-hearing note that I did not accept the proposed amended plans, and they were not discussed at the Hearing. The appeal is, therefore, determined based on the plans that the Council made its decision on.
10. At the start of the hearing, Mr Mitchell introduced the Smarden Heritage Protection Group which he advised had been primarily formed in response to the proposed development. He commented that the group had produced an updated Smarden Conservation Appraisal and a Conservation Area Management Plan which had been submitted to the Council. It was agreed between the main parties at the hearing that these documents carried little weight as they had not been through any formal consultation or consideration by the Council.

Main Issues

11. The main issues are:

- The effect of the proposal on designated heritage assets, including the Smarden Conservation Area and nearby Listed Buildings;
- The effect of the proposal on the character and appearance of the site and surrounding area, with regard to landscape character; and
- Whether or not the proposal would provide suitable living conditions for future occupants with regard to outlook and privacy.

Reasons

Designated heritage assets

12. The appeal site forms part of a large field which adjoins the settlement of Smarden. It has a boundary with Water Lane to the north, and to the east is a track

¹ Procedural Guide: Planning appeals- England. For appeals relating to applications dated on or before 31 March 2016.

running to the cemetery/water works. Beyond this track is The Cloth Hall and its grounds. The River Beult lies just to the south of the appeal site and to the west is mainly open countryside.

13. There is general agreement between the parties that the appeal site lies within the setting of the Smarden Conservation Area and four referenced listed buildings. There is disagreement as to the extent to which the site contributes to their significance, and the level of impact arising from the proposal. My decision has been made taking account of the statutory duty under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Furthermore, Policy HE4 of the Framework states that any harm to or loss of significance of a designated heritage asset, (including from development within its setting) should have clear and convincing justification.
14. The Glossary of the Framework explains that significance derives not only from a heritage asset's physical presence, but also from its setting. It describes the setting of a heritage asset as the surroundings in which an asset is experienced. The Historic Environment section of the Planning Practice Guidance (PPG) goes on to explain that although interconnected views are important in assessing impacts on setting, account should also be taken of the way in which we experience an asset in its setting which may be influenced by environmental factors from other land uses in the vicinity. Also, it references the importance of the historic relationship between places. As an example, it states that 'buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each'.
15. The Cloth Hall is listed Grade II*. The list description mentions that the hall dates from the 15th century and is a mainly timber-framed building with a tiled roof. It describes the form of the building, the arrangement of features and its architectural detailing, which includes external loft doors and a hoist beneath a projecting hip.
16. Based on the evidence, including my visit and the discussion at the hearing, the building's origins are as a Wealden farmhouse which was part of an agricultural land holding. Later, it was adapted to a cloth hall, and retains key features associated with its important function within the local cloth trade, a function which continued for a number of years. The building's long-standing connection with agriculture appears to have continued until relatively recently. The hall has maintained an important role within the community which is reflected in its size and architectural quality, illustrating the wealth and status of its occupants.
17. The building's significance for the purposes of this appeal, is mainly derived from its age, historic fabric, architectural features, and its role within the agricultural community. The building's significance also derives from its evolving function, including its long-standing association with farming and its time serving as a cloth hall. It has overlapping layers of historic and architectural interest which appear unique to the building.

18. The significance of the building is greatly enhanced by its setting. This includes its prominence within the street, its relationship with nearby historic buildings within the central part of the settlement, and its connection with the surrounding agricultural landscape. The building has maintained its position on the edge of Smarden, and the evidence suggests that the appeal site, lying to the west, used to be part of the farmland serving the hall. Indeed, historic maps and photos in the appeal submissions show farmland extending around the southern and eastern side of its formal grounds. Although currently there is limited visibility between the hall and the appeal site, mainly due to planting in the hall grounds, the spatial and historical relationships between the two remain.
19. Nevertheless, at my site visit with the vegetation in leaf, I could still see glimpses between the grounds of the hall and the appeal site, especially closer to the hall where the hedge was more gappy. Further into the appeal site, I could see parts of the hall roof which located the building in its grounds. No doubt if the boundary planting were to be lower in the future, a clearer visible relationship would be afforded. Even where there was little visibility between the two, I was very much aware of their relationship, and standing within the grounds of the hall, I had a sense of the open fields beyond given the light passing through the hedge and the general tranquillity of the site.
20. Taking all these matters into account, the appeal site makes a strong, positive contribution to the significance of the hall through its historic, functional and spatial relationship with the building.
21. The Church of St Michael is a Grade I listed building and the list description mentions that it dates from the 14th century and has a 15th century tower. It describes the form and massing of the building and some of its features. Its significance, for the purposes of this appeal, is mainly derived from its considerable age, historic fabric, architectural and archaeological interest. Its scale and prominent tower anchor the building within the heart of the rural community and reflect its function as the parish church. The historic road network and high-status historic buildings, including The Cloth Hall, cluster around the church and contribute to its significance. So too does the surrounding agricultural landscape which is inextricably linked to the economy and development of the settlement. The significance of the church is therefore experienced and appreciated both from within the settlement itself and in the context of the surrounding countryside.
22. The appeal site is part of the wider rural setting in which the church is viewed. Given a relative absence of more recent development between the appeal site and church, it is a visual relationship which, along with nearby historic properties, must have largely endured over the years. On the approach from Water Lane towards Smarden, there are glimpsed views of the church tower at certain points, including some views across the appeal site as the lane gently bends. Also, from southern parts of the appeal site, I was able to see clear views of the tower, which would be more open in the winter months. These views mark the transition from the countryside into the built-up area, and the glimpses of the church tower signifies the centre of the historic community. These glimpse views and the function of the appeal site in helping maintain the rural historic context of the village means that the appeal site makes a positive contribution towards the significance of the church.

23. Standing almost opposite The Cloth Hall is the Grade II listed 'three oasthouses and granary to south west of Gilletts Farmhouse' (the oasthouses). They are described in the listing as 19th century red brick oasthouses with tiled roofs, cowls and fantails. A brick and weatherboard granary is part of the group. The significance of this listed structure derives from its age, fabric, form and detailing and its function as an agricultural building associated with hop growing. This appears to have been an important local business and will have influenced how the surrounding landscape was farmed. Despite conversion to residential use, the buildings have retained their agricultural legibility and significance.
24. The aspects of the building's setting which contribute to significance extend to the wider agricultural landscape. Whilst residential development along the north side of Water Lane has severed much of the listed building's link with its agricultural hinterland, the appeal site remains part of that legible agricultural landscape. Even though it may not have been directly linked to the oasthouses, the proximity and linked views on the western approach along Water Lane are important in providing an agricultural context reinforcing the historic use of the building. Therefore, I consider that the appeal site makes a positive contribution to the significance of this listed building.
25. Hartnup Hall stands to the east of The Cloth Hall and is a Grade II* listed building. The list description mentions that it dates from the 15th century and is a timber framed building with tiled roof. It describes the form of the building and its architectural features. Its significance, for the purposes of this appeal, derives from its age, historic fabric, form, architectural detail and its function as a high status, vernacular dwelling. In terms of setting, the building derives significance from its relationship with other historic buildings within the heart of Smarden, including the church and The Cloth Hall. Whilst the building is some distance away and visibly detached from the appeal site it derives some significance from the wider agricultural setting of the settlement. Therefore, the appeal site makes a small, positive contribution to the significance of Hartnup Hall.
26. The appeal site lies just outside the westernmost extent of the Smarden Conservation Area. This is an area focussed on an historic, rural settlement which became prosperous and includes significant properties built in the 15th and 16th centuries. Its historic buildings and roads are clustered around the church, and the settlement is embedded within the agricultural landscape. The significance of the conservation area is mainly drawn from the predominantly rural character and range of traditional buildings that it contains, together with its use of materials, pattern of development and the relationship of the buildings to the spaces around them. The surrounding fields form part of its agricultural setting and are integral to the historic purpose of the settlement and its economy.
27. The evidence suggests that the cluster of heritage assets at the western side of the conservation area, including those I have already mentioned, are related historically, and they share close links to the surrounding agricultural landscape. This landscape, which includes the appeal site, contributes to their individual and collective significance, as well as to the wider character and appearance of the conservation area.
28. Both the Smarden Parish Design Statement, 2007 (SPDS) and the Smarden Conservation Area Assessment (1995) highlight the important relationship between the built environment and the surrounding agricultural land. In particular,

the SPDS identifies approaches to Smarden which establish the relationship between the settlement and the wider landscape and the western approach along Water Lane is specifically mentioned. It also identifies views across the fields towards the church as characteristic of the transition between the countryside and historic settlement. Although the draft Smarden Conservation Appraisal and Conservation Area Management Plan is of limited weight, this reiterates and expands on the comments made in the earlier documents, recognising the contribution made by open agricultural land, including the appeal site, in understanding the compact historic settlement within its agricultural context.

29. The appeal site therefore contributes to the significance of the conservation area in several interrelated ways, some of which have already been mentioned but are worthy of summary. The conservation area at this point has a clear, legible and well-defined historic boundary between the settlement and its agricultural landscape, which is appreciated on the western approach to the village. The agricultural use of the appeal site provides an understanding of the historic origins of the settlement and its economy. As I have already explained, the site also contributes to the significance of nearby historic assets, most importantly with The Cloth Hall. The presence of the more recent development to the north of Water Lane, makes the role of the appeal site more important in maintaining the historic relationship between the settlement and the countryside. I also heard at the hearing that in other parts of the conservation area the agricultural setting has already been eroded by the spread of more recent built form. Therefore, although lying outside the conservation area and forming just part of its rural setting, the appeal site makes an important positive contribution to the character and appearance of the conservation area as a whole.
30. Due to the focus on visual links and placing reduced value on the way that the assets are experienced in their setting and the historic relationships between places, I consider that the submissions in support of the scheme have greatly underestimated the extent to which the appeal site contributes to the significance of the above heritage assets. Furthermore, whilst the Council has suggested that the appeal site makes a low contribution to each asset, looking at the evidence and my assessment on site, in this regard, I agree with, and give greater weight to the conclusions of the Parish Council's heritage consultant. Therefore, I consider that the appeal site makes an important contribution to the significance of The Cloth Hall and the conservation area, it makes a moderate positive contribution to the significance of the church and the oasthouses, and makes a limited positive contribution to the significance of Hartnup House.

Effect on significance

31. The appeal development would replace the part of the open field closest to the conservation area and alongside the boundary of The Cloth Hall with an expansive area of residential development. The development would be seen on the approach to the village along Water Lane, from the track leading to the cemetery and in outward views from the historic centre. The loss of this open agricultural context would significantly diminish the ability to understand the historic relationship between the settlement and its surroundings. It would erode the historic and well-defined rural transition on the edge of the conservation area and would have individual and shared impacts on the referenced listed buildings.

32. In relation to The Cloth Hall, the development would alter the character of the land alongside which has historically formed part of its holding and would harm the understanding and legibility of the building within its historic context. It would become an historic farmhouse without adjoining farmland. Its significance would therefore be harmed by the loss of this historic functional connection, and development would considerably diminish the open surroundings in which the building is experienced and appreciated. A similar conclusion has been reached by Historic England, who state that the development would harm the significance with which the hall derives from its setting due to visible linkages and loss of the rural, agrarian context.
33. In relation to the church, whilst views of it would most likely remain following development, allowing its location and architecture to still be understood, the development would erode the historic edge of the settlement. This would result in some loss of legibility between the church, the historic settlement and its relationship with its surrounding agricultural context. Similarly, in relation to Hartnup House, the erosion of the historic rural context to the village would diminish the building's significance to a degree. In relation to the oasthouses, there would be some intervisibility between the listed building and the appeal development from points along Water Lane. Therefore, the loss of the field, even where views are largely absent, would remove one of the last remaining close relationships that the listed building has with its agricultural context. The significance of this functional range of agricultural buildings would therefore be diminished, altering the wider landscape in which the buildings are experienced and understood.
34. The above individual harmful effects would be magnified by the collective adverse impacts on the group of listed buildings which share an interwoven connection between the settlement and surrounding land. Likewise, it follows, that the loss of this open field would harm the significance of the conservation area for similar reasons. Historic England also considers that the loss of the rural approach to the conservation area would be harmful to the aesthetic and historic significance that it gains from its rural setting.
35. Harm would arise not just from the loss of the adjoining, open agricultural land, but also due to the nature of the proposed development itself. Despite the retention of the roadside trees and a slim band of planting around the margins of the site, the suburban estate development would be very apparent. The engineered layout and depth of the scheme and its standardised house types would appear wholly at odds with the more organic and mainly linear pattern of development within the conservation area. By taking its lead from the more recent development on the north side of Water Lane, it would dilute further the rural setting of the conservation area. It would be wholly out of place and incongruous, distracting and drawing the eye away from the tranquil, rural approach and the anticipation of entering the historic settlement. All in all, one of the main approaches to the conservation area would be harmed by the erosion of this legible historic context and the role it plays in helping to define its significance.
36. It is suggested that the scheme would reinstate an historic boundary hedge. Whilst there may be some general approximation in this regard, the field itself would be given over to development so any benefit in the reinstatement of a smaller field pattern would be of little consequence.

37. To conclude and taking account of the overlapping and cumulative impacts of the proposed development on the designated heritage assets, I find that the development would cause adverse and permanent harm to the significance of those assets. Therefore, the expectations of the Act are not met. In relation to The Cloth Hall and the conservation area, the harm would be at a higher level, with the development affecting a key element of their significance and would amount to a moderate degree of harm to each. A slightly lower level of harm would be caused to the significance of the oasthouses and the church, and lower again to Hartnup Hall.
38. Framework Policy HE6 states that when considering the potential effect of a development on the significance of designated heritage assets, substantial weight should be given to the asset's conservation and the more important the asset the greater the weight should be. Given that three of the listed buildings are of the highest significance, this amplifies the level of weight that I have identified, particularly in relation to The Cloth Hall, the significance of which would be the most directly affected. The Framework states that any harm will be of considerable importance and weight and should be weighed against any public benefits resulting from the proposal, a matter considered later in the decision.

Character and appearance

39. The appeal site lies within the Beult Valley Farmlands Landscape Character Area (LCA), part of the Low Weald. The Landscape Character SPD (2011) describes the key characteristics of this LCA. Having looked at the evidence and viewed the appeal site from many positions, I am satisfied that the appeal site, along with adjoining land, is strongly representative of key characteristics including the flat, low-lying floodplain of the River Beult, well vegetated river banks, pastoral land use with sedges, a varied field pattern with shapes dictated by the meandering river, small clusters of trees and shrubs, and proximity to the picturesque settlement of Smarden with its vernacular properties. In particular, the site marks an important transition between the wider countryside and Smarden and provides views across it to the historic settlement and to the trees lining the river.
40. At the hearing there was a debate as to what extent the appeal site formed part of the wider LCA. Although I saw that the open landscape was contained by development to the north of Water Lane and the Copper Lodge farmstead to the north west, there were open views across fields and trees to the west and along the river corridor to the south. It felt that the appeal site was part of a much more open, agricultural landscape and linked to wider views within the river corridor. Therefore, drawing on the characteristics of the LCA, the character and appearance of the appeal site positively contribute to the setting of the settlement, embedding it in the surrounding landscape and connecting it with views of the river.
41. In common with my findings on the designated heritage assets, the proposed development would harm the clear demarcation between the historic settlement and the open field and would allow development to spill out into the countryside. It would erode the open setting of Smarden and would obscure views to and from the settlement and towards the river. The development would alter the rural character of Water Lane, adding to the enclosure on the northern side, eroding its sense of countryside and tranquillity and harming the sense of anticipation of approaching or leaving the historic settlement. The loss of this open field would

therefore significantly harm the character and appearance of the area, including harm to the LCA.

42. I have already highlighted concerns with the suburban layout being at odds with the local character and grain of the historic settlement. Features such as wide roads, a prevalence of parked cars, repetitious houses in a block of development, and a hard and monotonous edge would be particularly jarring and out of place. The development would read as a separate, inward looking housing estate bolted onto the settlement rather than a more integrated, transitional site. It may in some respects have similarities with the existing development to the north of Water Lane, but I see little reason why it should take its remit from this, given the appeal site's role in signalling the approach to the historic area. The proposed landscape buffers around the development and the orchard are limited in their extent and they would not ensure a gradual assimilation into the countryside. Even if they were bolstered, they could not mitigate for the adverse effects of developing this characterful, open field.
43. I have taken account of the Landscape Visual Impact Assessment (LVIA) which notes that most receptors in the local area are of high or medium sensitivity. Also, it notes that the significance of the visual impact would be major/moderate for several years. The LVIA does not consider in detail that the scheme would harm adjoining heritage assets and, in my view, it underestimates the significance of local viewpoints which are particularly important given the role the site plays at the edge of the settlement. An absence of longer-range harm does not diminish the significance of the effect on the character of the area. Although I have not seen the site in its context during the hours of darkness, I anticipate that even with sensitive external lighting, the development would clearly appear as an urban estate in this sensitive transitional position.
44. I therefore find that the proposed development would have a substantial, adverse effect on the character and appearance of the site and surrounding area, with regard to landscape character. It would be an incongruous and visually intrusive encroachment into an open area which forms an important setting to Smarden and would seriously erode key characteristics of the area's landscape character. That effect would be amplified by the suburban nature of the development. It would conflict with Policies SP6, HOU5, ENV3a and ENV13 of the Ashford Local Plan (2019) (ALP) which, amongst other things, require development to reflect local character and distinctiveness, and for development adjoining settlements to sit sympathetically in the landscape. It would also conflict with Framework Policies DP3, N2 and N3 which include the requirement to respond to local context including the area's history and character, and to integrate with and enhance their surroundings.

Living conditions

45. The Council is concerned with the relationships between four pairs of proposed houses which roughly cluster in the north eastern part of the site. The Council considers that due to a lack of suitable separation distance between these pairings there would be poor relationships and detrimental overlooking by future occupiers. The Officer Report mentions that distances between the dwellings would be as low as under 15 metres in places leading to unacceptable levels of mutual overlooking beyond what would reasonably be expected in a suburban context. At the hearing, the Council's Planning Officer explained that the potential for overlooking, and lack

of privacy, would be mainly between directly opposing or closely related habitable rooms and private amenity space, especially areas closest to the dwellings. Of those pairings it was explained that the relationships between Nos 14&15, 12&18 and 25&26 were of most concern.

46. The appellant emphasised that all properties would provide residents with a good standard of amenity and considered that in a village situation a balance must be struck between the efficient use of land for housing and the provision of adequate, good quality and usable private amenity space. Furthermore, that future residents would choose to live in a village where near neighbours are to be expected and would make a choice as to which dwelling suits their personal preferences or circumstances.
47. The Council's Residential Space and Layout SPD (2011) sets out a desired standard of residential accommodation. Amongst other things, it sets minimum standards to ensure that individuals have access to private space and to ensure that the relationship of properties in terms of their design and layout to their neighbours is conducive to a high quality of life. It advocates a minimum garden depth of 10m and that each private garden should preferably include an area that is not directly overlooked by other residents. It states that 21m between overlooking rear windows is a widely accepted standard, unless careful layout and design have been used to reduce overlooking.
48. Whilst the development as a whole needs to be considered, it is not expected that any properties in a new development should have issues with overlooking and privacy. All occupants should feel comfortable and secure in their homes and expect privacy in habitable rooms, including bedrooms, and parts of their garden close to the house. Considering the Council's SPD, given the limited distance between the above pairings of properties and their relative alignment, it does not appear that acceptable relationships have been achieved between either the dwellings or their gardens. Furthermore, it has not been adequately demonstrated that there would be space to incorporate boundaries or planting to minimise overlooking nor space to place outbuildings. Whilst it appears that compliance with minimum overall garden sizes, orientation and technical daylight standards may be acceptable, this would not mitigate the need for a scheme that provides all future residents with an acceptable level of outlook and privacy. It would affect a relatively large number of properties relative to the size of the site, and is a significant design failing on a new development.
49. I therefore conclude that the proposal would not provide suitable living conditions for future occupants of some of the proposed dwellings with regard to outlook and privacy. It would conflict with ALP Policies HOU5, HOU15, SP6 and the SPD. These seek a good standard of amenity for residents and a high standard of living. It would also conflict with Framework Policy DP3 which seeks to create well-designed places which achieve liveability and function well over time.

Other Matters

50. The appellant has referenced other recent developments on the edge of the settlement, including on Long Meadow Drive and off Mill Lane. However, whilst edge of settlement development may be acceptable in some circumstances, there is little to suggest that these sites were in a similar sensitive context with regard to

heritage and landscape character. Consequently, these other schemes are of limited weight in terms of the site specific assessment of the appeal proposal.

51. The Parish Council's consultation on the appeal commented that a flooding event had occurred since the Council made its decision and it had subsequently commissioned a specialist report. The main parties' views on this matter were discussed at the hearing. Both the Council and appellant questioned the robustness of the report and commented that it did not demonstrate that the appeal site would flood. The Council maintained its position in relation to flooding and that the suggested conditions would be adequate to address the matter.
52. I have had regard to other concerns raised by interested parties, including drainage, highway safety and parking. However, given the outcome of the appeal it has not been necessary to consider these matters further.

Planning Agreement

53. The agreement sets out obligations including in respect of affordable housing, education, health, sports, cultural well-being, and waste. In terms of these obligations, the appeal has been accompanied by statements from the Council which set out the requirements for each and the links to relevant policies. The justification for each obligation, as well as the level of contribution, is well made.
54. I am satisfied that, each planning obligation either alone or in combination is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related to the scale and kind of the development. The planning obligations would meet with the requirements of the Community Infrastructure Levy 2010, and I attach them full weight.

Public benefits and heritage balance

55. The development would provide 35 dwellings which would add to the overall stock and choice of properties, of which 14 would be affordable housing. Framework Policy HO7 advocates that substantial weight should be given to the benefits of providing homes which will contribute towards meeting the evidenced accommodation needs of the community and Policy HO8 supports the provision of affordable homes. Therefore, this boost to housing supply is an important Framework consideration in favour of the development especially as the Council accepts that it does not have a Framework compliant housing land supply, with a supply of about 3.16 years. Furthermore, the Council also accepts that it is not meeting its affordable housing needs of the area. Given the pressing need for additional housing and having regard to the number of dwellings to be provided, the general delivery of housing is a matter that attracts substantial weight as a public benefit. I also attach separately substantial weight to the delivery of the affordable units.
56. It is suggested that the site is readily available and deliverable and that development would support the vitality of the community, including supporting local services and facilities, and would provide some construction jobs. Future occupants would also help sustain local businesses. There is agreement that the

appeal site is in an accessible location close to services, facilities and transport links. These matters attract moderate weight.

57. The appellant mentions that there would be environmental benefits derived from biodiversity net gain (BNG) and landscape enhancements, including tree planting. Even with the level of BNG proposed, given the loss of the field and the identified harm to landscape character, they attract limited weight. Although some of the provisions of the Unilateral Undertaking are public benefits, such as the affordable housing, to which I have already assigned weight, many of these are to mitigate for the demands arising from the needs and impacts of future occupants.
58. The above public benefits, most notably the benefits associated with delivering market and affordable housing, are significant and worthwhile. However, clear and permanent harm would be caused to multiple heritage assets. I must also consider my statutory duties with regard to both the impact on the listed buildings and conservation area and the significant concerns raised by Historic England, the Government's statutory advisor on heritage.
59. I therefore conclude that the public benefits would be insufficient to outweigh the collective degree of harm to the designated heritage assets, a matter of considerable importance and weight and where the quantum of harm is amplified by the importance of the assets. Furthermore, there is no clear and convincing justification for the harm to the significance of those assets. As such, the proposal would not comply with the Framework, including Policies HE4, HE6 and HE9, which include the requirement to conserve heritage assets in a manner appropriate to their significance and to avoid or convincingly justify harm. The proposal would also conflict with ALP Policies HOU5, ENV5 and ENV13 which seek to underpin the statutory and policy objectives.

Planning balance

60. The Council accepts that it does not have a Framework compliant housing land supply. As I have explained above, both parties agree that the housing land supply figure is about 3.16 years. This is a substantial shortfall.
61. Framework Policy S5 relates to development outside settlements, and part (j) applies to development which would address an evidenced unmet need for housing. In this regard, there is agreement between the parties that the appeal proposal would be well-related to the settlement and there is little evidence to suggest that it would not be of a scale which could be accommodated taking into account the existing infrastructure. In satisfying the requirements of Policy S5(j) the policy states that the development should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework.
62. In the public benefits above, I have found that the provision of 35 dwellings, including 14 affordable houses, both separately attract substantial weight. I have also attributed moderate weight to the economic benefits of the scheme both during construction and through future occupants sustaining local businesses, as well as their support of local services and facilities.
63. I have attributed limited weight to environmental benefits derived from BNG and landscape enhancements. This weight has been tempered by the overriding harm to the character and appearance of the area and the inadequacy of landscaping on

the site. In relation to the Unilateral Undertaking, I have already factored in the benefits of the affordable housing, and the other aspects are to mainly mitigate for the demands arising from the needs and impacts of future occupants. Overall, the benefits of the scheme should attract substantial weight.

64. In relation to adverse effects, I have found that the development would result in unjustified, clear and permanent harm to multiple heritage assets. The harm to heritage assets of the highest significance, including The Cloth Hall alongside the appeal site amplifies this weight. There would also be clear conflict with the statutory duties under the Act. I have carried out the public benefits and heritage balance and concluded that the public benefits would be insufficient to outweigh the degree of harm to the designated heritage assets that I have identified, a matter of considerable importance and weight.
65. The development would also be an incongruous and visually intrusive encroachment into an open, rural area which is important to the setting of Smarden and would seriously erode key characteristics of landscape character. That effect would be exacerbated by the inappropriate suburban design. I have also found that the development would not provide suitable living conditions for future occupants with regard to outlook and privacy. I have already concluded that all of these adverse impacts clearly conflict with national decision-making policies in the Framework. When all these harms are considered together, they form matters that should be attributed very substantial weight against the scheme.
66. The appellant suggests that ALP Policy HOU5 is now inconsistent with the Framework, including Policy S5, as it contains more onerous tests relating to the natural environment, heritage and design which are not consistent with the broader and less prescriptive requirements of the Framework. It is suggested that these specific matters should be accorded very limited weight and that the new Framework wording must prevail. However, I find that the protection and enhancement of the natural, built and historic environment is still one of the overarching objectives of achieving sustainable development and Policy HOU5 remains consistent with the broad thrust of the Framework. However, even if I were to conclude that there were meaningful wording changes, I have still found harm in relation to the relevant decision-making policies in the Framework.
67. The Appellant considers that Framework Policy L3 is relevant, relating to the efficient use of land. However, this policy is not just about maximising development capacity and clarifies that account must be taken of other policies in the Framework, including safeguarding and improving the natural and historic environment.
68. Despite the Council's acute housing shortage and the other worthwhile benefits that would flow from the proposed development, I conclude that the harmful effects, in particular those arising from the heritage impacts, substantially outweigh the benefits of the scheme when assessed against the national decision-making policies in the Framework, including Policy S5. That harm would be very significant and permanent and such that the scheme would not be in accordance with the development plan when considered as a whole.

Conclusion

69. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate

otherwise. For the above reasons, and having taken all other matters raised into account, there are no material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT:

James Corbet Burcher	Counsel for the appellant
Ian Bull	Ian Bull Consultancy Ltd
Mayler Colloton	Clague Architects
Jason Clemons	Vitruvius Heritage Ltd.
Alastair Macquire	Align Landscape Planning
Stephen Whittaker	Charels and Associates Consulting Engineers

FOR THE LOCAL PLANNING AUTHORITY:

Oliver Peel	Team Leader Planning Applications
Matthew Apperley	Deputy Team Leader Planning Applications
Ignus Froneman	Cogent Heritage
Wendy Rogers	Senior Archaeological Officer, County Council.

INTERESTED PERSONS WHO SPOKE AT THE HEARING

Cllr Lea Randolph	Smarden Parish Council
Gary Mitchell	Smarden Heritage protection Group
Kate Graham	Heritage Practice
Lyndsay Hardwick	Local resident
Judith Michelle	Local resident
Sarah Rose	Local resident
John Ashwell	Local resident
Helen Teare	Local resident

DOCUMENTS RECEIVED AT THE HEARING

Appellant: Suggested alternative archaeology condition

DOCUMENTS SUBMITTED AFTER THE HEARING

- Completed and signed Section 106 Agreement relating to infrastructure and public services. Received 14 August 2026.
- Suggested jointly agreed archaeology condition. Received 14 August 2026.
- Appellant's response to Framework Changes. Received 4 September 2026
- Council's response to Framework Changes. Received 4 September 2026