



Appeal Decision

Inquiry held on 30- 31 January, 1-2 and 6-8 February 2018

Site visit made on 7 February 2018

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2018

Appeal Ref: APP/W1525/W/17/3176978

Land east of Little Fields and Runsell View and north of Maldon Road, Danbury, Chelmsford

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Chelmsford City Council.
 - The application Ref 16/01810/OUT, dated 7 October 2016, was refused by notice dated 20 January 2017.
 - The development proposed is for up to 140 residential dwellings (including up to 35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, two vehicular access points: one from Maldon Road and one from Runsell Lane and associated ancillary works.
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Decision

1. For the reasons given below, the appeal is dismissed.

Procedural Matters

2. The application was made in outline form with all matters other than access reserved for consideration at a later stage. Although the Development Framework Plan showed internal circulation routes it was made clear that this was for illustrative purposes and had been treated as such in the council's determination. It seems to me that the public open space and balancing ponds are likely to be in the general area shown on this plan. Although their size and design could change this would be in the context that the maximum number of dwellings could still be accommodated on the site. It is appreciated that the words "up to" 140 dwellings give the potential for a lesser number. However, there is no evidence on which a lower cap could reasonably be based.
3. Before the inquiry started the appellant requested that a smaller scheme for up to 90 dwellings be substituted under the "Wheatcroft principles". This included increased open space and a single access from Maldon Road. This is also the subject of a planning application which, by the close of the inquiry, had not been determined by the council. Having considered the matter carefully I did not agree to this revision because, regardless of the procedural aspects, I did not consider that the scheme would remain substantially the same.
4. At the inquiry I was asked to agree to the removal of the proposed vehicular access onto Runsell Lane, which would result in a single access onto Maldon

Road. I am satisfied that this change would not prejudice the council's case or that of any other party. The appellant also amended the description of the proposal to delete reference to "up to" 35% affordable housing.

5. A draft planning obligation by unilateral undertaking (the UU) was submitted at the inquiry. I had some comments and the council also had concerns about whether one of the open space covenants would duplicate the Community Infrastructure Levy. Changes were made to the document and I gave the appellant further time to submit a certified copy of the executed document.

Reasons

Policy context and the approach to decision making

The development plan

6. The proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the *Core Strategy and Development Control Policies Development Plan Document 2001-2021 (CS)* adopted in 2008 and the *Site Allocations Development Plan Document* adopted in 2012. *The Core Strategy and Development Control Policies Focused Review (FR)* was undertaken to update selected policies in the CS in line with the *National Planning Policy Framework (the Framework)*. The FR was adopted in 2013.
7. Policy CP2 in the CS establishes the spatial strategy and focuses development in the main urban areas of Chelmsford and South Woodham Ferrers with supporting development within the Key Defined Settlements, including Danbury. It also sets out a housing requirement of some 700 dwellings per annum (dpa) based on figures in the draft East of England Plan. Regional Strategies no longer exist and there is no dispute that this figure was not based on full objectively assessed need for market and affordable housing as is required by paragraph 47 of the Framework. This policy was not considered in the FR.
8. In the FR policy CP5 seeks to contain urban growth within the urban areas and defined settlements and to protect the intrinsic character and beauty of the countryside within the rural areas. Policy DC2 establishes that the countryside will be protected for its intrinsic character and beauty and sets out a limited range of development that would be acceptable. The appeal site is outside the Danbury settlement boundary and within the countryside for policy purposes. General market housing of the type proposed in this appeal is not included as one of the acceptable development types in policy DC2. In such circumstances the appeal proposal would conflict with policies CP2, CP5 and DC2.
9. Policy DC18 in the CS concerns listed buildings. It indicates that where a proposal fails to preserve or enhance the special character or setting of a listed building, planning permission or listed building consent will be refused. There was no dispute that a degree of harm would be caused to Garlands Farmhouse, a Grade II listed building to the east of the site. In such circumstances the appeal proposal would conflict with policy DC18.

Approach to decision making

10. There was a great deal of debate at the inquiry as to whether the relevant policies are up-to-date in terms of the Framework. Policy CP2 advances a

spatial strategy that directs development to sustainable locations and there was no dispute that this is broadly consistent with principles advocated in the Framework. However, it also includes a housing requirement of 700 dpa that is neither up-to-date nor based on an objective needs assessment. It relies on the urban areas and Key Defined Settlements, which have been drawn up to accommodate a much lower level of growth up to the period of 2021.

11. The council has now undertaken such an assessment for its emerging Local Plan and is using the figure of 805 dpa. This has yet to be independently tested through the examination process. However, for the purposes of this appeal it provides the best available evidence of objectively assessed need. The council is currently able to identify some 5.9 years of deliverable housing taking account of the backlog and a 20% buffer. The council's evidence demonstrated that at least 5 years of that supply could be accommodated within the existing development boundaries. These points were not challenged by the appellant and the second part of paragraph 49 of the Framework is thus not engaged.
12. Paragraph 215 requires a consideration of consistency with Framework policies. Paragraph 47 seeks to boost significantly the supply of housing. It contains various provisions but the Court of Appeal in *Daventry*¹ established that most relate to a council's plan-making function, including the requirement for a supply of developable sites later in the plan period. On the other hand, the requirement to update annually a five year supply of deliverable sites is also applicable to decision-making. In such circumstances the inability of the council to accommodate its longer term housing requirement within the CS development boundaries does not mean that policy CP2 is superseded by the more recent guidance in paragraph 47 for the purposes of this appeal. The new Local Plan will identify longer term needs to 2036 and this will inevitably require greenfield sites outside of the existing defined settlements. New development boundaries will then be established around the site allocations.
13. Even though the housing numbers in policy CP2 are out-of-date the spatial strategy accords with the Framework and this was not disputed by the appellant. For Danbury the emerging Local Plan envisages 100 houses in the period to 2036. Assuming that this is found sound when the plan is examined, the location of these dwellings would be a matter for the local community through the Neighbourhood Plan. This is at a very early stage and has little weight at present. Nevertheless this approach to housing supply would be planned, which is a core planning principle of the Framework.
14. The principles underlying policies CP5 and DC2 in the FR are in accordance with the Framework insofar as they seek to protect the intrinsic character and beauty of the countryside. It is appreciated that Paragraph 17 of the Framework uses the term "recognise" rather than "protect". However, paragraph 3.5 of the FR makes clear that not all countryside is of similar quality and that this should be judged on a site-by-site basis. This is far from adopting a position of blanket protection and was clearly satisfactory to the Examining Inspector who found these policies to be sound. The operation of both policies is linked to policy CP2 and the settlement boundaries. My colleague was not being asked to review the soundness of this element of the CS. However, I have found that these boundaries are able to meet the

¹ *Gladman Developments Limited v Daventry District Council and the Secretary of State for Communities and Local Government* [2016] EWCA Civ 1146.

- requirement in the Framework to accommodate a five year supply of deliverable housing sites based on objectively assessed needs. However, this does not give encouragement to general housing development beyond the settlement limits because the objective of the policy is to contain urban growth.
15. For all of the above reasons I do not consider that policies CP2 in the CS and policies CP5 and DC2 in the FR are inconsistent with Framework policy. In such circumstances I conclude that the conflict with them is a matter of substantial weight. There are a number of housing appeals to which I have been referred and these have reached different conclusions in respect of whether policies CP2, CP5 and DC2 can be considered up-to-date. It is of course important for decisions to be consistent but this is within the context of similar circumstances and comparable evidence. As far as I am aware in the more recent decisions, including Old Chase Farm, Great Leighs and Bicknacre² the Inspectors were not given the same evidence that the council will be able to accommodate its five year supply without breaching the designated settlement boundaries.
 16. Policy DC18 in the CS concerns listed buildings but does not distinguish between proposals that cause substantial or less than substantial harm. More importantly it does not allow any account to be taken of public benefits. This policy was not considered in the FR and whilst it may be in accordance with the statutory test it is not consistent with paragraph 134 of the Framework. This makes clear that in the case of less than substantial harm, a balance is required between harm and public benefits. In terms of the setting of heritage assets the Court of Appeal determined in *Mordue*³ that if such an approach is taken, the statutory test will be satisfied.
 17. I do not consider that provided an appropriate balancing exercise is undertaken by the decision-maker the issue of consistency is resolved. This was the approach taken by the Inspector in the recent Maldon Road, Danbury appeal decision⁴, albeit in relation to conservation areas. However, to my mind policies should be read in a straightforward way and should not be embellished by inserting additional provisions. For this reason I disagree with my colleague and consider that policy DC18 is not consistent with the Framework and that the conflict with it is a matter of limited weight.
 18. Policy CP1 seeks to secure sustainable development and was considered in the FR. It includes the provisions of paragraph 14 of the Framework in respect of the presumption in favour of sustainable development and thus affords them statutory weight. Policy DC18 is a relevant policy in this appeal and it is out-of-date. In such circumstances the approach to decision making is as set out in the two bullet points in the policy. There is no dispute that there are heritage and nature conservation issues and that in relation to these matters the Framework includes restrictive policies. In such circumstances it is only if the appeal proposal would not offend these policies that the "tilted balance" in the first bullet of policy CP1 would be applied.

² APP/W1525/W/16/3162344 (10 January 2018); APP/W1525/W/15/3121603 (26 September 2016); APP/W1525/W/15/3129306 (20 July 2016).

³ Aiden Jones v Jane Margaret Mordue, Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243.

⁴ APP/W1525/W/17/3178243 (15 January 2018).

The effect of the proposal on the Grade II listed Garlands Farmhouse

Baseline

19. Although reference was made by some objectors to other listed buildings in the vicinity, I consider that the only designated heritage asset to be affected would be Garlands Farmhouse. This is a late 18th century or early 19th century property sited on the north-eastern side of Runsell Lane. The building is two storeys in height with attic rooms. It has four bays and brick elevations that have since been colour-washed. Much of its significance is derived from the fabric along with the immediate curtilage and outbuildings. These features provide evidential, aesthetic and historic illustrative value to the heritage asset and would not be affected by the proposed development.
20. Garlands Farmhouse is now in use as a private dwelling and is in separate ownership to its extensive former landholding. The functional link between the two has therefore been severed. There has been some residential development on the western fields but there remains a sense of rural isolation, notwithstanding the encroachment of the developed edge of Danbury and the intrusion of traffic noise along the busy Maldon Road. The rural setting of the former farmhouse can still be readily appreciated. This is because the former agricultural holding remains largely intact and many of its historic boundaries are still in place. This setting undoubtedly contributes to the heritage significance of Garlands Farmhouse. The exact extent of the former landholding may only be evident from a study of the historic maps. Nevertheless, the agricultural associations that existed between the former farmhouse and its land can be readily appreciated and this is due in large part to the wide open views and the accessibility of public viewpoints from all directions.
21. Rather than being located well within its landholding, Garlands Farmhouse stands on the eastern edge and close to Runsell Green. In the 19th century this was a small hamlet that appears to have had its own shop and public house. It would therefore have provided economic and social advantages to the farmer and his family. Nonetheless the farmhouse was located a short distance from the hamlet, although this gap has now been eroded by modern housing. Its orientation seems to me to be more towards its farmland than towards the village green.
22. The majority of the former landholding lay to the north and west and adjoined what would have been the working side of the farmhouse with its farmyard and outbuildings. However, the main elevation that provided its public face was orientated to the south-west and faced towards the fields of what presently comprises the appeal site. It seems to me that the association with this farmland can still be readily appreciated and provides an agrarian view that is largely intact today, notwithstanding the modern intrusions mentioned above.

Impact of the proposed development

23. The relationship of Garlands Farmhouse with Runsell Green and the farmland to the north and west would remain largely unchanged as a result of the appeal scheme. Views of the development would mostly be at a distance and within the context of the settlement edge that exists at present. However, there would be a significant change to the south-west. It is appreciated that the proposal includes public open space in the south-eastern corner of the site. I

was told that this could be enlarged if considered necessary and that dwellings could be located to retain views of the former farmhouse from Maldon Road. However, even though the public open space may be akin to a village green it would also contain a children's play area with its play equipment. In any event the setting comprises agricultural land and it is this that provides the historical association. Furthermore, even if views of the former farmhouse prevailed these would be seen within the context of access roads, street lighting and new houses. Furthermore, when viewed from Runsell Lane, which cuts through the former landholding, the proximity of suburban development would considerably diminish the present sense of rural isolation, which is important to appreciating the historic value of the heritage asset. The legibility of the former farmhouse sited within its agricultural setting and the way that it would be experienced would be considerably diminished, in my judgement.

24. It is appreciated that only 12-14% of the former landholding would be lost to development and that, in this case, the setting is not as important to the significance of the heritage asset as the fabric of the building or its immediate curtilage. Nevertheless, in my opinion the agricultural land to the front of the farmhouse is important to the appreciation of the heritage asset within its rural context. The proposed development would cause significant harm in this respect for all of the reasons given above. This would be contrary to policy DC18 in the CS.
25. There is no dispute that the ensuing harm would be less than substantial in terms of paragraph 134 of the Framework. However, these words do not mean that the harm would be unimportant or of little consequence. I do not agree with the appellant that this would be of a minor nature or at the lowest end of the scale. In any event, there is no provision within either the Framework or the associated Planning Practice Guidance for gradation of harm along some sort of spectrum. Paragraph 134 requires a balancing exercise of the harm against public benefits and this will be carried out later in the decision. However it is worth noting here that the Court of Appeal held in *Barnwell Manor*⁵ that any harm to a listed building should be given considerable importance and weight in the balancing exercise.

The effect of the proposal on ecological interests

On-site ecology

26. There was much local concern about the effect of the development on the ecology of the site. However, taking account of the appellant's ecological surveys, undertaken in 2016 and also 2017 in connection with the 90 unit scheme, I do not consider that there is evidence that protected species or important habitats would be harmed by the appeal proposal. The green corridor along the stream that crosses the site would be retained and enhanced and connectivity would also be provided by existing and new hedgerow planting. It is a legal requirement to ensure that protected species, including bats and badgers, are not harmed by the development process. A planning condition is proposed for the submission, approval and implementation of a biodiversity enhancement and management plan. I see no reason why the scheme should not result in a net improvement to the ecological interest of the site.

⁵ *East Northamptonshire v Secretary of State for Communities and Local Government* [2015] 1 W.L.R. 137.

Baseline and Natural England's position

27. Natural England (NE) has raised objections on the grounds that there is insufficient information provided to be satisfied that harm would not be likely to three Sites of Special Scientific Interest (SSSI) near to the site. The closest is Woodham Walter Common SSSI, which is a relatively short walk along Runsell Lane from the northern corner of the site. Blake's Wood and Lingwood Common SSSI are a little further to the north-west and Danbury Common SSSI is to the south-west and likely to involve a car journey. All of these sites are within the Impact Risk Zones identified by NE to reflect the particular sensitivities of the interest features for which they are notified. In the case of Woodham Walter, Blake's Wood and Lingwood Common the notified features include the woodland whereas at Danbury Common the notified features include the heath and grassland.
28. NE's concern relates to the potential harm that could arise to the interest features of the SSSIs as a result of increased recreational pressure from as many as 140 new households. Due to their proximity they provide an attractive recreational amenity, particularly for walkers with or without dogs and for cyclists, including those riding mountain bikes. Damage can be caused by trampling and compaction of woodland and heathland habitats. Dog fouling can also adversely affect sensitive habitats.
29. NE has not said that interest features are being harmed by present levels of use although it comments that there is evidence that carrying capacity may be being reached. It points out that in some areas there is evidence of recreational damage and this is reiterated by the National Trust, who own Lingwood Common, parts of Blake's Wood and much of Danbury Common SSSIs. I saw some evidence of this myself and noted in my walk through part of the Woodham Walter SSSI that informal paths are prevalent through the woodland area. I also saw the effects of mountain biking at Danbury Common where there are well worn bare surfaced tracks through the woodland taking full advantage of the steep slopes and undulating terrain. I understand that there is a circuit between the three SSSIs that is used by participants of this sport.
30. NE does not allege that the appeal development would necessarily tip the balance in terms of harm through additional recreational use. However, adopting a precautionary approach it considers that this cannot be clearly ruled out without a visitor monitoring survey to establish a baseline of the extent and patterns of existing usage. This would then be used to inform what, if any, mitigation or avoidance measures would be necessary to accommodate the additional usage arising from the proposed development. There was a great deal of debate at the inquiry as to whether NE changed its mind regarding the visitor survey issue between the response it gave to the appellant in January 2017 and its current position. The appellant maintains that there was no reference to such a requirement at the earlier date otherwise a visitor survey would have been done. Nonetheless, no-one is in any doubt about NE's position now and its advice in respect of this appeal is unequivocal.
31. The matter is perhaps complicated by the fact that in October 2017 the appellant submitted a planning application for up to 90 dwellings. This was also being discussed with NE through its Discretionary Advice Service. NE's conclusion on that scheme was that there was unlikely to be damage to the interest features of the SSSIs, subject to a package of mitigation. This included

a visitor survey but not as a requirement in advance of a planning permission being granted. It was made clear at the inquiry that the appellant considers that the same approach should be applied to the 140 unit scheme. However, it is not just the addition of 50 households that is at issue. The smaller scheme would also be able to provide a considerable improvement to the quality and quantity of public open space and thus enhance the recreational opportunities available to residents on-site as a realistic alternative to using the SSSIs.

Impact of the proposed development

32. It is appreciated that the appeal proposal is only an outline scheme and that the 0.94 ha of open space shown on the Development Framework Plan may be able to be increased. However, this would have to be within the context of providing a development of 140 dwellings of a suitable mix and character for this edge of settlement location. There has been no assessment of the extent to which the open space could be improved, bearing in mind these constraints. In such circumstances and taking a precautionary approach, it seems to me that the open space would be likely to be suitable for short dog walks but not for longer excursions where pets are let off the lead. This is especially the case bearing in mind that a children's play area is also to be included within this open area. Those wishing to go out for a longer walk with or without a dog or use their mountain bikes are unlikely, in my opinion, to find the on-site open space particularly attractive. NE has had to make a judgement based on its experience but at the Government's adviser on the natural environment I afford its response substantial weight.
33. In December 2017 the appellant submitted a SSSI Impact Assessment. Its purpose was to consider the potential impact of the appeal development on the SSSIs. It looked at their current condition and included an assessment of the likely increase in numbers of dog walkers and cyclists. However, its conclusion that there would only be a small increase as a result of the proposed development was based on the assumption that all existing visitors were from the local ward. Furthermore, the frequency of existing visits and the attraction of recreational alternatives was not satisfactorily considered. From the information provided it is difficult to know whether or not the assumed baseline was realistic and therefore what the likely impact of the additional visitors from the development would be. Furthermore, it seems likely that there would not be an even spread of visitation, taking account of the locations of the SSSIs relative to the appeal site.
34. The appellant placed a considerable amount of emphasis on the "favourable" condition of all but two of the units in the three SSSIs. This resulted from surveys in November 2009 and means that the special interest features are being adequately conserved at the moment. Nevertheless, for the reasons I have already given both NE and the National Trust have identified concerns about recreational use and it is noted that the SSSI Impact Assessment also referred to some deleterious effects from trampling and mountain biking. In the circumstances NE's approach that potential threats should be anticipated and that action should not be delayed until the SSSIs begin to tip over into an unfavourable condition seems to me entirely reasonable.
35. Danbury is not well served by public open spaces but there are alternative recreational options, especially if information packs were provided to new householders to explain the choices. For example, there are nearby public

footpaths and rights of way outside the SSSIs that would provide an alternative option for walkers and those wishing to exercise their dogs. Danbury Country Park is a further possibility for recreational activity although it is relatively small, further away than the SSSIs and visitors have to pay to use its car park. Nevertheless, it is very likely that the SSSIs, which provide extensive and attractive areas in which to walk or cycle, would prove a popular and convenient option for new residents. However, without information on the current extent and pattern of visitors to the SSSIs it cannot be concluded with any confidence that the additional usage could be satisfactorily accommodated.

Proposed mitigation

36. Whilst the appellant does not consider that harm would ensue, a package of avoidance and mitigation measures has been proposed. For the reasons given above and on the basis of a precautionary approach it cannot be assumed that such measures would not be required. A planning condition is proposed that requires a visitor survey to be undertaken before reserved matters are submitted. This would effectively be the missing piece of the jigsaw that would be used to inform whether avoidance or mitigation measures would be necessary and if so what they should be. Unfortunately though, as NE itself has pointed out, such measures cannot be confidently costed before the findings of the survey are known. In such circumstances, it cannot be determined whether the various contributions towards avoidance and mitigation in the UU would be justified. They could be too high, they could be too low or they may not be necessary at all. In such circumstances the relevant planning obligations would not meet the tests in paragraph 122 of the Community Infrastructure Regulations and could not be taken into account in any grant of planning permission.
37. One of the contributions is for £30,000 to upgrade greenspace in Danbury in order to divert recreational users away from the SSSI. Setting aside whether it is justifiable to apply the same formula as used for calculating Suitable Alternative Natural Greenspace (SANG) contributions at Ashdown Forest, the council seemed at a loss as to what it would do with the money. There was no evidence that there was an insufficiency of dog bins or that the signage on footpaths needed improving and the council could not call to mind any project to which this money could contribute.
38. Although this is only an outline planning application, it is necessary at this stage to be specific with regards to the planning obligations. This is because once outline planning permission has been granted there is no mechanism by which further funds could be required and, in the case of a UU no mechanism by which excess funds could be repaid to the developer. Although NE has agreed a visitor survey post-decision in the case of the 90 unit scheme, this would also be subject to similar problems if mitigation payments were being made.
39. Paragraph 118 of the Framework seeks to conserve and enhance biodiversity. On the site I consider that the appeal proposal would meet this objective. However, for all the above reasons it is concluded that there would be a likely adverse effect on the notified special interest features of Woodham Walter SSSI, Blake's Wood and Lingwood Common SSSIs and Danbury Common SSSI. This would be contrary to policy DC13 in the CS. Paragraph 118 of the Framework makes clear that an exception should only be made where the

benefits of the development at the site clearly outweigh the likely impacts. I return to consider this later in the decision.

The effect of the proposal on the character and appearance of the area

Baseline

40. The appeal site comprises agricultural land on the eastern side of Danbury. At this point the settlement edge runs along the southern side of Maldon Road where residential properties stand varying distances back from its frontage. The north-western boundary of the appeal site adjoins the rear gardens of dwellings in Runsell View, which are mainly delineated by fences. To the south-west the site boundary adjoins two fields, which are relatively well enclosed with trees and hedgerows and provide screening to Little Fields beyond. The eastern site boundary adjoins Runsell Lane and beyond this is open countryside, apart from the houses around Runsell Green, Garlands Farmhouse and Garlands Cottage. The site itself rises to a high point towards its north-western corner and drops down to a small stream before rising again to a plateau in the section closest to Maldon Road. The stream is bordered by vegetation, including a line of willow trees. The western site boundary mainly comprises hedges and trees whilst along Runsell Lane it is mainly open other than a hedge along part of the lower section.
41. In the *Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment* (the LCA) the site is within the Little Baddow and Danbury Wooded Farmland Landscape Character Area. Key characteristics include the wooded hill and ridge housing of the linear settlement of Danbury; the sense of enclosure provided by large areas of woodland; arable farmland fringing the outer edges of the woodland and narrow lanes winding down the hillsides with views across the Chelmer and Blackwater valleys to the north and east. Overall the landscape character area is judged in the LCA to have a relatively high sensitivity to change.
42. As part of the evidence base to the emerging Local Plan consultants were commissioned to undertake a *Landscape Sensitivity and Capacity Assessment*. Location DLP1 is subdivided into the appeal site (DLP1b) and the fields immediately to the south-west (DLP1a). The assessment considered that the land shares some of the key characteristics of its character area, including its hillside landform and open farmland that fringes the outer woodland areas. However, it concluded that it is an ordinary non-designated landscape with detracting influences such as loss of hedgerows and the settlement edge. Overall it judges the land parcel to have moderate landscape sensitivity and value. However, due to its openness, sloping landform and higher number of public and private views it considered the visual sensitivity of DLP1b to be higher than that of the well enclosed DLP1a.

Landscape impacts

43. The character of the site itself would completely change from open fields to an estate of houses. In the wider context there would be a band of new hedge planting along the Runsell Lane boundary and this would create some sense of enclosure once it had become established. The existing settlement edge is particularly apparent along Maldon Road and Runsell View and this is a detractor in the landscape. However, the proposal would provide a new built edge, which would extend along much of the Runsell Lane frontage. Although

houses would be set back behind the new hedge line they would be very apparent due to the undulating topography. Runsell Lane is a typical narrow country lane winding down the hillside as referred to in the LCA. The development would change its character significantly.

44. Although the site provides a green indentation to the settlement I am not convinced that this is a particular feature of Danbury. It is not unusual for settlements to develop along road frontages and the *Danbury Planning Framework* mentions how the village radiates out from its centre at Eve's Corner. However, it also refers to the modern residential developments and to my mind these have resulted in a more haphazard settlement pattern as new housing has expanded to fill the spaces between the historic linear settlement. Of course there are green spaces left in between but this seems to me to be more likely as a result of happenstance than design. It is the way that settlements often evolve and is not, in my opinion, special to Danbury or these hilltop villages. More importantly there would remain two large fields between the south-western boundary of the development and the existing settlement edge. To my mind this would result in a rather awkward and artificial relationship between the existing settlement and the new development.
45. There would also be a significant loss of hedgerow along Maldon Road. Whether this could be successfully replanted would depend on the repositioning of the footway and the need to keep sight lines clear. The Development Framework Plan indicates public open space and green space around the drainage attenuation ponds and along the small valley. I have no doubt that this could be attractively designed and made to look natural through the submission of the landscaping proposals. However, it should be remembered that this would be constrained by the scale of development being proposed. There could be as many as 140 dwellings with their associated gardens and the requisite roads, parking areas and footways needed to serve them.
46. The idea of introducing parkland type trees and small wooded copses seems to me rather fanciful. To my mind this would be a substantial urbanisation to the east of the village. Even if the appellant is correct in terms of the sensitivity of the landscape I consider that overall the magnitude of change has been underestimated in the appellant's Landscape and Visual Impact Assessment (LVIA) both at completion and at year 10. In my judgement the landscape impact on the Little Baddow and Danbury Wooded Farmland Landscape Character Area would be moderate adverse both in the short and longer term.

Visual impacts

47. I undertook an extensive site visit and saw the site from the nearby roads, footpaths and public rights of way. I also visited each of the appellant's LVIA viewpoints. As already established the area is popular with those walking with or without dogs. These receptors have a high sensitivity to change and, in my judgement, the magnitude of change that they would experience from the closer viewpoints such as Runsell Lane and Twitty Fee has been underestimated in the LVIA, notwithstanding the detracting influence of the existing settlement edge. From further away on the public footpaths and rights of way to the east I generally agree with the appellant's assessment.
48. Residential occupiers would also have a high sensitivity to change and again I consider that the magnitude of change has been underestimated in the LVIA. Some properties in Maldon Road are relatively close to the road and the

occupiers would, to my mind, experience a high magnitude of change due to the substantial amount of hedge loss to provide the new access and the rising nature of the landform. This may decrease in year 10 if replanting behind the sight lines and footway is successful. Residents in Runsell View would similarly experience a high magnitude of change and this is unlikely to be ameliorated over time. The occupiers of Garlands Farmhouse would experience a high magnitude of change due to the proximity of the site and its topography although the position of the public open space and new hedgerow planting along the Runsell Lane site frontage would ameliorate this to some degree.

49. From Runsell Green there is a view of the church tower and this is likely to be blocked by the proposed development. The magnitude of change for the observer is likely to be higher than the LVIA contemplates. Whilst the visual impacts would generally be localised that does not mean that they should be given less consideration. Overall I consider that the visual impact both in the short term and over a longer time period has been underestimated and that to many receptors the change would remain of major significance.

Valued landscape

50. Paragraph 109 of the Framework seeks, amongst other things, to protect and enhance valued landscapes. Whilst there is no further definition in either the Framework or Planning Practice Guidance it seeks to recognise that landscapes do not have to be designated to be important. Nevertheless, to benefit from this additional protection it seems clear that there should be attributes that take the landscape in question beyond mere countryside. The site was seemingly once within a Special Landscape Area. However, this does not, in my opinion, necessarily mean that it should be categorised as a valued landscape. This appears to have been a very widely used designation and there is no evidence to show what criteria were used to establish its boundaries.
51. The third edition to the *Guidelines for Landscape and Visual Impact Assessment* (GLVIA) provides some useful assistance by reference to a range of factors set out in Box 5.1. The site is generally of good landscape and scenic quality and is representative of the wider sweep of arable countryside to the north and east. Nevertheless, there are urban influences, including the settlement edge along Runsell View and Maldon Road. The site is generally representative of the Little Baddow and Danbury Wooded Farmland Landscape Character Area. However, it does not, in my opinion, contain any rare or distinguishing features that set it aside from other countryside with these characteristics. There is the small treed valley and stream but I would not judge this to be particularly unusual.
52. There is some historical interest as the site is part of the former landholding to Garlands Farmhouse. This forms part of the setting to the listed building, which also includes other fields to the north and east. I do not consider that the site is particularly important overall in terms of views towards Danbury church tower although it is in the foreground when looking in a westerly direction from Runsell Green. The land is not publicly accessible although it does contribute to the recreational enjoyment of people walking along Runsell Lane and Twitty Fee. In terms of tranquillity there is noise intrusion from the Maldon Road, especially within the southern parts of the site.
53. I am aware that valued landscapes have been considered in a number of appeal decisions. However, it seems to me that whether a site can be considered as such is largely a site-specific judgement. In this case the

landscape has medium landscape value but I do not consider that it comprises a valued landscape for the purposes of paragraph 109 of the Framework.

Conclusions

54. Although I do not consider the appeal site to be a valued landscape it is part of an attractive area of countryside that is not untypical of its landscape character area. Whilst woodlands, trees and hedges limit longer range views the open character and sloping landform of the site results in relatively high levels of mid-range inter-visibility. I consider that the appellant's LVIA has underestimated both the landscape and visual impacts and to my mind the appeal scheme would result in significant harm in terms of both. It would be contrary to policies CP5 and DC2 and would fail to recognise the intrinsic character and beauty of the countryside, which is a core planning principle of the Framework.

Other Matters

55. Following discussions with the appellant Essex County Council as Highway Authority is satisfied that there would be no adverse impact on the local highway network. The fourth reason for refusal was therefore no longer pursued by the council at the inquiry. Nevertheless, there was a great deal of local objection about the effect of the proposed development on the local highway network. I saw for myself in my visits to Danbury that the Maldon Road is a busy through route and I have no doubt that there is congestion, especially in peak periods. I was told that drivers cut through the lanes to avoid queuing traffic on the main road. These diversions include Runsell Lane, which is identified in the Danbury Planning Framework as suitable for Quiet Lane status.
56. Essex County Council is the responsible authority for the safety of the local highway network and I afford its views considerable weight. The Transport Assessment indicates that the relative increase in peak hour movements would be relatively small, taking account of committed developments. The traffic modelling indicated that there would be a marginal increase in delay and queueing at nearby junctions but this would be very small. Paragraph 32 of the Framework indicates that development should only be refused on transport grounds where residual cumulative impacts are severe. There is no evidence to support refusing the proposal on these grounds.
57. The Parish Council raised the issue of accidents within the vicinity of the site. However, from all the evidence I do not consider that this is a particularly dangerous stretch of road or that the traffic generation from the proposed development would be likely to lead to a material deterioration. The local highway authority preferred a single point of access onto Maldon Road and the proposal has been amended to take this into account. This would include a right turning lane into the site and sight lines to ensure a safe access into and out of the development.
58. Danbury has a number of shops and services, which the residents of the new development would be able to access on foot or bicycle. It is proposed to provide a new footway link from the northern corner of the site to Hopping Jacks Lane. Furthermore, the two nearest bus stops on Maldon Road would be upgraded to provide real-time information. A Travel Plan is also proposed to encourage new residents to use sustainable transport options. These

improvements would help improve accessibility. Overall I consider that the site is well located to allow new occupiers the opportunity to meet many of their day to day needs by modal choices other than the car.

Planning balance and whether the proposal would be sustainable development

59. Policy CP1 in the FR seeks to secure sustainable development. The appeal proposal would be contrary to the spatial strategy in policy CP2 of the CS and policies CP5 and DC2 in the FR relating to urban growth and the countryside. For the reasons I have given I consider these policies to be consistent with the Framework. However, the proposal would also be contrary to policy DC13 in the CS due to the likely harm to the SSSIs and policy DC18 due to its effect on the significance of Garlands Farmhouse. This latter policy is not consistent with paragraph 134 of the Framework and is therefore a relevant policy that is out-of-date. In such circumstances policy CP1 indicates that the tilted balance applies unless specific policies in the Framework indicate that development should be restricted. Paragraphs 118 and 134 are both restrictive policies that relate to SSSIs and listed buildings respectively. As I have already commented both require a balance to be made and if the harm outweighs the benefits then the Framework is clear that planning permission should be refused.

The benefits of the appeal scheme

60. Paragraph 7 of the Framework indicates that there are three dimensions to sustainable development. Paragraph 8 makes clear that these are mutually dependent and should not be taken in isolation. The council's housing requirement does not impose a cap. The provision of up to 140 dwellings would therefore be a benefit although its importance is diminished in view of the housing land supply position. Whilst housing has been undersupplied in the past this is recognised through the imposition of the 20% buffer, which brings forward land from later in the trajectory.
61. The scheme would also include 35% affordable homes in accordance with policy DC31 in the CS. There is no dispute that the need for such housing in the district is acute. Affordable homes will be provided as part of the overall supply of market housing over the next five years. However, not every site will be able to do so and, in any event, the provision of affordable homes should not be seen in terms of maximum numbers. In the circumstances the proposed provision would be an important benefit.
62. There would also be a number of economic advantages, including new jobs during the construction phase and thereafter. The new population would also contribute to the local economy and help support local facilities and services. I have already indicated that the site is in a sustainable location so that new residents could take the opportunity to travel by modes other than the car for some of their journeys. The upgrading of the nearest bus stops and the new section of footway along Runsell Lane would be provided to meet the needs of the development but would also benefit the wider community. Whilst the development would result in the payment of the Community Infrastructure Levy this is generally intended to mitigate the impacts of development. I do not therefore regard it as a benefit as such. It is difficult to attribute positive weight to the New Homes Bonus without knowing the extent to which there would be specific advantage to the local community.

63. There is no reason to doubt that this would be a development of good quality within an attractive landscaped setting and that the new homes would be built to a high standard, including in terms of energy efficiency. There would also be opportunities to improve the biodiversity of the site. These are all positive factors that weigh significantly in favour of the appeal development.

The heritage balance under paragraph 134 of the Framework

64. The appeal proposal would lead to less than substantial harm to the significance of Garlands Farmhouse. I have concluded that this is not of a minor nature but that in any event there is no spectrum in either the Framework or the Planning Practice Guidance. I acknowledge that Garlands Farmhouse is a Grade II listed building and that there would not be substantial harm or total loss of significance. Nevertheless, the Framework makes clear that heritage assets are irreplaceable and that any harm should require clear and convincing justification. In this case there are benefits of the scheme and collectively I consider that they should be attributed significant weight in the planning balance. Nevertheless, the desirability of preserving the setting of the listed building should be given considerable importance and weight. In my judgement the harm that I have identified to the significance of Garlands Farmhouse would clearly outweigh the benefits that would ensue in this case.

The natural environment balance under paragraph 118 of the Framework

65. For all of the reasons I have given, the appeal proposal would be likely to have an adverse effect on the special interest features of the nearby SSSIs. I have taken account of my obligations under the 1981 Wildlife and Countryside Act and I afford the advice of NE in this respect substantial weight. Whilst the benefits that I have outlined above would be significant they would not be sufficient to clearly outweigh the harmful impacts that would be likely to ensue as a result of recreational pressure arising from the proposed development.

Overall conclusion

66. In the aforementioned circumstances Paragraphs 118 and 134 of the Framework make clear that planning permission should be refused. Whilst it is thus unnecessary to return to the tilted balance I have also concluded that the proposal would have an adverse effect on the intrinsic character and beauty of the countryside and would fail to accord with the spatial strategy in the development plan. If the tilted balance were to be applied I have no doubt that the adverse impacts would significantly and demonstrably outweigh the benefits in this case.

67. The appeal proposal would thus conflict with policy CP1 in the FR and the development plan overall. There are no material considerations of sufficient weight or importance to indicate that the decision should be made other than in accordance with that plan. In such circumstances this would not be a sustainable form of development and there is no presumption in its favour. The appeal does not therefore succeed.

Christina Downes

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Josef Cannon	Of Counsel, instructed by the Solicitor to Chelmsford City Council
<i>He called:</i>	
Mr M Hurst BSc(hons) MSc MRICS IHBC	Senior Conservation Officer, Chelmsford City Council
Mrs K Howard BSc(Hons)	Natural Environment Officer, Chelmsford City Council
Mr M Flatman BA(Hons) DipLA CMLI	Director of Liz Lake Associates
Mr J Potter BSc(Hons) MA MRTPI	Planning & Strategic Housing Policy Manager, Chelmsford City Council
Ms S Rogers BSc(Hons) MA MRTPI	Senior Planning Officer, Chelmsford City Council
*Mr R Hosegood BSc MRTPI	Strategic Development Manager, Chelmsford City Council

FOR THE APPELLANT:

Mr Jonathan Easton	Of Counsel, instructed by Gladman Developments Ltd
<i>He called:</i>	
Mr C Burbridge BSc(Hons) MSc MRTPI MCIT MCILT	Director of Icen Projects Ltd
Mr G Holliday BA(Hons) DipLA MPhil CMLI	Director of FPCR Environment and Design Ltd
Mr T Goodwin BSc (Hons) MSc MIEEnvSc MCIEEM MIALE	Director of Ecology Solutions
Mr J Tait BA(Hons) DipTP MRTPI	Director of Planning Prospects Ltd
*Mr I Beamon BSc(Hons) MRICS	Project Manager, Gladman Developments Ltd

**Participants of the conditions and Planning Obligation sessions only*

INTERESTED PERSONS:

Mr M Schofield	Chair of the local community action group, Hands Off Danbury
Councillor D Carlin	Vice Chair of Danbury Parish Council

DOCUMENTS

- 1 Statement of Common Ground on highway matters between Essex County Council and the appellant
- 2 Procedural note on vehicular access submitted by Mr Easton
- 3 Mr Goodwin's note on further consultation responses from

- Natural England
- 4 Appeal decision: Land at Maldon Road, Danbury (APP/W1525/W/17/3178243)
- 5 Statement read to the inquiry by Councillor Carlin
- 6 Appeal decision: land adj to 34 Broom Road, Lakenheath (APP/H3510/W/16/3149242), submitted by Mr Cannon
- 7 Letter from National Trust to Chelmsford City Council (30 January 2018), submitted by Mr Cannon
- 8 Tables of the council's five year housing land supply, submitted by Mr Cannon
- 9 Email from Mrs Howard to NE (17 January 2018), submitted by Mr Cannon
- 10 Representations of Hands off Danbury, submitted by Mr Schofield
- 11 Statement of Common Ground on affordable housing between the council and appellant
- 12A *Daventry District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd* [2015] EWHC 3459 (Admin)
- 12B *Daventry District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd* [2016] EWCA Civ 1146
- 13 Accident data (2012-2017), submitted by Mr Burbridge
- 14 Email containing definitions of NE condition categories for SSSIs, submitted by Mr Goodwin (30 January 2018)
- 15 Objection to the proposed development from Strutt and Parker on behalf of Hill (31 January 2018)
- 16 Extract from the agricultural classifications map, submitted by Mr Tait
- 17 CIL compliance schedule, submitted by Mr Cannon
- 18 Photographs of Hatfield Peverel station car park, submitted by Mr Burbridge
- 19 Location of SSSI car parks and routes, submitted by Mrs Howard
- 20 Copy of the register of title for the appeal site, submitted by Mr Easton
- 21 Certified copy of the executed Planning Obligation by Unilateral Undertaking, dated 20 February 2018
- 22 Agreed list of planning conditions

PLANS

- A Application plans
- B Illustrative Development Framework Plan
- C Plan showing pedestrian access onto Runsell Lane