The Planning Inspectorate

Appeal Decision

Inquiry held on 20 to 23 June 2017

Site visits made on 19 and 22 June

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 02 August 2017

Appeal Ref: APP/W1715/W/16/3156702
Land to the south of Mallards Road, Bursledon, Hampshire SO31 8EH

- 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 Persimmon Homes against the decision of Eastleigh Borough Council.
- The application Ref O/15/76491, dated 30 April 2015, was refused by notice dated 9 March 2016.
- The development proposed is construction of 80 dwellings together with associated access roads and open space.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In advance of the inquiry, agreement was reached between the parties with regard to the reasons for refusal relating to highway impact, protected species, drainage and planning obligations (pending the submission of a completed S106 agreement). The Council subsequently decided not to pursue these reasons for refusal. On the basis of all that I have read, heard and seen I do not take issue with these agreed positions.

3. The Council's decision notice makes reference to policies in the submitted Eastleigh Borough Local Plan 2011-2029. This plan was never adopted, however, and it is common ground that it carries extremely limited weight. I agree, and have considered the appeal on the basis of the adopted development plan. This is the Eastleigh Borough Local Plan Review 2001-2011 (the Local Plan) and the Hampshire Minerals and Waste Plan 2013[1].

4. In addition to visiting the site, I walked around the wider area to the key viewpoints set out in the landscape evidence. I also drove into and through Bursledon on several occasions, during both the peak morning and evening rush hour times, and took the route that uses Mallards Road to get to and from Portsmouth Road. At the request of the appellant, I also visited the so-called Grange Road site.

5. The application was made in outline, with all matters other than access reserved for later determination. I have considered the appeal on this basis, treating the submitted framework drawings as illustrative.

[1] The latter has no direct bearing upon the appeal proposal and, thus, is not addressed further.

Main Issue

6. The main issue is whether, having regard to the requirements of local and national planning policy and guidance for the delivery of housing, and the effect of the proposed development on the character and appearance of the area and on the Bursledon, Netley and Hamble Local Gap, the appeal site is an appropriate location for the development proposed.

7. For reasons of clarity, the main issue is addressed under a number of headings below.

Reasons

Housing Land Supply

8. There was a substantial amount of common ground between the parties on this matter. It was agreed that, for the purposes of this inquiry, the five year period is 1 April 2017 to 31 March 2022; that the objectively assessed need for housing would result in a basic requirement of 630 dwellings per annum over the five-year period; that there is an additional shortfall of 1589 dwellings to add to this requirement; that 20% is an appropriate buffer to be applied; and that the so-called Sedgefield approach to delivery is appropriate. The result of these positions, taking completions into account, is that it was common ground that the overall housing requirement for the five-year period was 5689 dwellings, equating to 1138 dwellings per annum. On the basis of all that I have read and heard, I have no reason to depart from these agreed positions for the purposes of this inquiry.

9. Nonetheless, the Council was of the view that it could demonstrate a five-year supply of deliverable housing sites of 5.21 years and the appellant was of the view that the figure was 4.38 years. There was no substantive movement from these positions during the inquiry.

10. The sole issue in dispute, therefore, was that of supply. Specifically, the disagreement focused on just seven sites, which I consider below. It is worth noting that the primary witnesses on this matter were from well-regarded planning consultancies with sound track records of housing land supply work. Both witnesses were able to articulate reasonable arguments in support of their cases and this issue comes down, in the end, to matters of judgement.

Site 7 - Land north and east of Boorley Green

11. Development has commenced on this site, with three developers operating from it. The agent for the site is anticipating delivery of 180 units a year, on the basis of 15 completions a month. This does not appear to have been achieved to date.

12. It is common ground that 127 units should be completed by the end of December 2017. This is on the basis of a start date of December 2016. This does not, however, take account of the fact that first completions, of six dwellings, were recorded at the end of March 2017. In order to achieve delivery of 127 units to the year end, this will require delivery at a rate of around 13 units a month from April to December. Extrapolating this over a twelve month time period, which is a reasonable judgement, would give an annual delivery rate of about 161 units.

13. I note the appellant's view that additional completions in March itself should be factored in (the inference from the available data being that six units were actually built out to the end of February), but the firm evidence before me is six units from 1 January to 28 March, leaving 121 to be delivered to the end of the year.

14. It may well be that delivery will increase to the 180 units a year predicted by the agent. Indeed, the Council's argument, which is not without merit, is that delivery is likely to increase as the development gets rolling. Nonetheless, the trajectory for the site does not show this. It is a flat line of 180 dwellings per annum, which does not appear to be achievable in year 1.

15. In addition, the Council has drawn comparisons with delivery on sites built out in the 1980s and 1990s, which were completing at a rate well above 180 dwellings per annum. Again, this is a reasonable position. Nonetheless, this was quite some time ago and there is no definitive comparative contextual information before me.

16. Overall, I do not consider the Council's approach to be unreasonable. Even so, I consider that, for the purposes of this inquiry only, a more cautious approach, based upon evidence of actual delivery to date, is appropriate and have assumed a rate of around 160 units per annum going forward.

Site 20 - Land south of Chestnut Avenue

17. There is, again, primary evidence from the main developer for this site, Highwood, indicating a start on site in August 2017, with completion of 540 units during the five-year period.

18. The appellant has disputed this on the grounds of Highwood's alleged lack of experience in delivering large sites, onerous pre-commencement conditions and the need to complete a range of highway works.

19. Nonetheless, these are concerns based upon judgement rather any definitive evidence. There is nothing before me to suggest that Highwood's staff are not sufficiently qualified or experienced to deliver, or manage delivery by sub-contractors, at the level anticipated; the pre-commencement conditions do not appear to be especially onerous or unusual; and there is not, in my view, any sound reason to dispute what appears to be a clear and detailed, albeit finely balanced, project timeline for completion of highways works.

20. It may well be that there is some slippage in delivery, but I am not persuaded on the basis of the assertions before me that it would be so significant as to justify discounting this site by the 190 dwellings proposed by the appellant.

Site 31 – Land to the northwest of Boorley Green, Winchester Road

21. The only issue in dispute here relates to build out rates and comes down entirely to judgement, with the Council assuming delivery of 350 dwellings in the five-year period and the appellant 280. Again, the Council seeks to rely on the predicted rates of delivery anticipated by the agent for the site, based upon a consortium of three named companies. The appellant relies on a 'sense check' of national average build rates (which I address in more detail below).

22. The appellant alleges that one of these companies is likely to need to sell their interest as they do not build developments out, but there is nothing before me to indicate that this would definitely be so.

23. On the basis of the evidence before me, I do not consider that there are any compelling reasons to depart from the information supplied by the agent for the site, which appears to have been maintained consistently for some time. Again, there may well be some slippage, but in my judgement there is no reason to consider that delivery will be as reduced as that proposed by the appellant.

Site 42 – Pember's Hill Farm

24. The key issue here is when development may commence on site. The Council's evidence, based upon direct contact with the developer, indicates submission of reserved matters in July 2017 with commencement in Spring 2018 and first completions in Autumn 2018. It is evident from more recent correspondence from the developer that the reserved matters application has been pushed back to Autumn 2017. Nonetheless, commencement is still expected in late Spring 2018 and, again, the pre-commencement conditions do not appear particularly unusual or onerous.

25. The developer is based locally and is active on an adjacent site. It does not seem unreasonable to consider that their knowledge of their ability to deliver in the local market, and their experience of working with the Borough and County Councils, is sound. This being so, the Council's timetable, and assumed rates of delivery are to be preferred.

Site 50 – Land to the south of Foord Road and West of Dodwell Lane

26. The most significant point of contention between the parties had been whether, in the absence of a planning permission on the site, development would come forward at all in the five-year period.

27. Notwithstanding that a lack of a planning permission is no reason to discount a site from the forward supply, a planning application for 106 dwellings has been received by the Council. There is not, of course, any guarantee that planning permission will be granted for the scheme, but does indicate firm developer interest in the site. The site would also be a logical extension to a scheme already under construction by the same developer.

28. It was suggested that the site was subject to a number of objections when it was promoted as an allocation in the submitted Eastleigh Borough Local Plan 2011-2029. This may be so, but there is no detailed evidence of this before me nor is there evidence to suggest that any objections were fundamental or insurmountable.

29. I consider it to be a reasonable judgement that the site could deliver at the level anticipated over the five-year period.

Sites 49 and 51 – Land north and east of Winchester Street, Botley & land to the west of Woodhouse Land, Hedge End.

30. It is evident that both of these sites were to be promoted through the emerging new Local Plan for Eastleigh, with much dependent upon their inclusion as allocations within it. This position now appears to have changed,

with the landowner proposing to pursue planning permissions outwith the Local Plan process.

31. The Inspector in the Botley Road appeal[2], last year, was not persuaded that either site would make a significant contribution to housing delivery in the five year period that he was considering. It appears, however, that progress has been made since that time. The biggest obstacle to their development appeared to be the need to deliver the Botley bypass first. The County Council has now confirmed, however, that this is a piece of strategic infrastructure that will be delivered by other means. The development of these sites is not dependent upon it. In addition, it is confirmed that a 'high level' masterplan has been produced for the two sites and that pre-application discussions are underway with the District Council.

32. Nonetheless, I share the concerns of the Botley Road Inspector with regard to the issue of viability, with the landowner stating that, "*work is still developing with regards to the phasing strategy across both sites and necessary infrastructure to serve each phase*". The lack of any consideration of market interest is also a concern, given the size of the sites and the apparent challenges in relation to, for example, listed buildings and power cables.

33. This being so, although I am not as pessimistic as the Botley Road Inspector that the sites are unlikely to make a meaningful contribution to the five-year supply, and so should be discounted entirely, I do consider that a cautious approach to delivery is warranted.

34. Even so, given my conclusions above, this is largely moot. Even if I were to remove these sites entirely from the forward supply, which I do not, the Council would still, just, be able to demonstrate a five-year supply of deliverable housing sites.

Conclusion on housing land supply

35. The Council appears to have a history of being overly optimistic with site delivery and its approach to factoring affordable housing into indicative delivery rates is not entirely clear. This does cast a degree of doubt on the accuracy of the Council's projections but is not, in my judgement, cause alone to reach a conclusion that there is no five-year housing land supply.

36. Indeed, in reaching my judgements, I am mindful of the advice in the Planning Practice Guidance[3] that "*the advice of developers and local agents will be important in assessing lead-in times and build-out rates by year*". The appellant's view that primary evidence should be 'sense checked' is perfectly sensible. Assertions by developers and agents should not necessarily be taken at face value[4]. Nonetheless, to my mind, such sense checking itself needs to be reasonable, proportionate and based on local circumstance. One must place a degree of reliance upon developer and agent assessments if one is not to refine predictions *ad infinitum*.

37. In this context, while the use of national housebuilders' average annual completion rates and a national, high level report[5] may give broad brush

[2] 3139371
[3] ID: 3-023-20140306
[4] My attention was drawn to appeal decision 2180060 in this regard, although the relevant reference therein was to an uncommonly large residential scheme.
[5] *Start to Finish – how quickly do large-scale housing sites deliver?* by NLP (November 2016)

indications of delivery, they are unlikely to directly reflect local circumstance. Indeed, the former are 'just' averages drawn from a range of sites across the country while the latter is a general study of a particular set of large sites.

38. Thus, I am satisfied, on the balance of the evidence before me, that it has been demonstrated that there is a reasonable prospect that housing, of around the quantum projected by the Council, will be delivered on the disputed sites within five years. This may not remain the case but, for the purposes of this appeal, I conclude that the Council is able to demonstrate a supply of deliverable housing sites of around five years.

39. The Council is being proactive in striving to bring new residential development forward. Nonetheless, its own initiatives have yet to bear fruit and there is no substantive evidence before me to suggest that there will be a sudden surge in residential development such that this position is likely to change dramatically in the near future.

Whether the Local Plan is out-of-date

40. The Council was of the view that the Local Plan, running as it did to 2011, was *de facto* out-of-date. Paragraph 215 of the Framework, however, states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Established case law[6] is clear that the fact that particular development plan policy may be chronologically old is, in itself, irrelevant for the purposes of assessing its consistency with policies in the Framework.

41. The Council based its view on a recent Supreme Court judgement[7], which stated, in relation to a local plan before it, that, "*on any view, quite apart from paragraph 49, the current statutory plan was out-of-date in that its period extended only to 2011"*[8]. It seems to me, however, that the phrase is being given it its ordinary meaning by the Court, in the context of a development plan running on beyond its specified end date. Thus, I do not read this paragraph as authority for the proposition that time expired plans are automatically out-of-date for the purpose of paragraph 14 of the Framework. In its closing submissions, the Council acknowledged that its position could well be too cautious, although it did not resile from it.

42. In short, I do not consider the Local Plan to be out-of-date on its face.

Whether any relevant policies in the Local Plan are out-of-date and/or inconsistent with the Framework

43. The Council also took the view that policy 1CO was out-of-date on the basis of the view of the Inspector in a relatively recent decision[9] in the Borough. The Inspector considered the policy to be out-of-date by virtue of the fact that it did not contain an internal cost/benefit balancing exercise.

[6] *Gladman Developments Ltd v Daventry DC [2016] EWCA Civ 1146*
[7] *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)* [2017] UKSC 37
[8] Ibid paragraph 63
[9] 3063753

44. With respect to my colleague, I cannot agree with this position. Case law[10] is clear in this regard, with the relevant judgement stating that development plan policy should not be regarded as out-of-date, "*if it does not in its own terms qualify that restriction by saying it can be overcome by the benefits of a particular proposal".*

45. Thus, I do not consider policy 1CO to be out-of-date on these terms and full weight is afforded to it. Indeed, the Council resiled from its position during the course of the Inquiry.

46. The appellant sought to argue that the appeal should be considered in relation to the so-called 'tilted balance' set out in paragraph 14 of the Framework, solely on the basis that a single "relevant policy" in the Local Plan, policy 81H, was out-of-date.

47. Policy 81H is a benign policy that lists three reserve housing sites, in line with requirements in the now defunct Hampshire County Structure Plan, which would be released if required over the plan period. Thus, 81H may be out-of-date, but only inasmuch as the reserve sites have been released. That would be true, however, of any allocations policy over a period of time, which would not be a reason to regard such policy as out-of-date other than on the ordinary meaning of the phrase.

48. The policy refers to a now superseded development plan, but again this is far from uncommon. It does not render policy immediately unworkable and, therefore, "out-of-date" in paragraph 14 terms. To suggest that just because policy 81H relates to housing sites that have been developed out, and that the appeal proposal is for a housing development some years later, there are grounds to trigger the requirements of paragraph 14 is, in my judgement, a leap too far.

49. Thus, notwithstanding the common ground between the parties, about which I clearly expressed my reservations, I do not consider that policy 81H has any bearing upon the determination of the appeal proposal and, thus, do not consider it to be "relevant" for the purposes of paragraph 14.

50. The appellant noted that the Local Plan has no housing requirement within it, but did not advance this as a reason to consider the appeal scheme in relation to the tilted balance in paragraph 14 of the Framework.

The local policy context and the Bursledon, Netley and Hamble Local Gap

51. It was confirmed at the inquiry that the Local Plan has no settlement hierarchy, due largely to the limited size of the Borough. Planning permission for new residential development is, thus, assessed against the suite of policies in the Local Plan as a whole, rather than necessarily being directed, in the first instance, by an overarching locational requirement. In this context, it was common ground that the appeal site is in a "*sustainable location*" insofar as it is a short distance, for walking and/or cycling, from a range of local services and facilities. It is also near to both bus and rail routes. Based upon all that I have read, seen and heard, I do not depart from this consensus.

[10] Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government [2014] EWHC 754 (Admin)

52. That said, there are policies that seek to ensure that new development is contained within "*urban edges*" and is situated outside local gaps and strategic gaps, which are of long standing in the Borough, as defined on the Local Plan Proposals Map. There was no dispute that this is a valid approach to the distribution of development and, in my judgment, sits comfortably with the National Planning Policy Framework's (the Framework) objectives of achieving sustainable development by, among other things, supporting patterns of development that facilitate the use of sustainable modes of transport; taking account of the different roles and character of different areas; and avoiding new isolated homes in the countryside. It may be that the urban edges are tightly drawn, but that is unsurprising given their function and is far from uncommon.

53. Policy 1CO allows for development beyond urban edges where certain criteria are met. The appeal proposal fails to meet any of them and it is common ground that the proposal would conflict with this policy.

54. Policy 3CO addresses development within local gaps. It allows for "*appropriate development*" in local gaps, provided that it cannot be acceptably located elsewhere and would not diminish the gap, physically or visually. The appeal site is situated within the Bursledon, Netley and Hamble Local Gap. On its face, therefore, the appeal proposal would also conflict with policy 3CO.

55. Nonetheless, "*appropriate development*" is undefined and the Council struggled to articulate what it might be. In addition, with the exception of development such as, for example, replacement buildings, it is difficult to see how development within a gap could not fail to diminish it physically or, unless completely screened, visually.

56. It seems to me, therefore, that the central concern in the application of gap policy to development proposals must be the effect of such proposals on the *function* of the gap in question. The preamble to policy 3CO states that local gaps are identified, "*in order to protect the separate identity of smaller settlements at risk of coalescence with other settlements*". They are clearly a planning tool, rather than a landscape designation, and their key purpose is to maintain the identities of specific settlements.

57. Appendix 1 to the Local Plan states that, due to the multitude of vantage points and routes between settlements, it is not possible to break the Bursledon, Netley and Hamble Local Gap into separate units between the individual settlements. It concludes that it is the minimum land required to achieve a reasonable physical and visual separation between the three settlements. No changes to the gap between Bursledon and Netley are proposed in the Council's Settlement Gap Policy Review. Nonetheless, given that the latter remains in draft form, it was common ground that limited weight could be attributed to it. I agree.

58. A key question in relation to policy 3CO, therefore, must be whether the appeal scheme would diminish this minimum land requirement, "*to the detriment of the separate identities*" of Bursledon and Hamble (as stated in the reason for refusal).

59. It is common ground that there is no intervisibility between the two villages. This would not change if the site was developed for the illustrative scheme. Thus, insofar as each village would still remain unseen from the other, there

would be no perceived sense of coalescence and certainly no actual coalescence. This would not change in views from any of the main public rights of way running across the local gap, or from the main vehicular routes.

60. In relative terms, the appeal site is not especially deep. It is common ground that the distance between the edge, being the built form, of Bursledon and the edge of Hamble would diminish by around 60 to 80 metres. This would result in a separation of around 1500 metres between the new edge of Bursledon and that of Hamble. The acceptability of new development cannot be a simple function of arithmetic, but this does give a useful 'ballpark' indication of the minimal harm arising from the visual and physical intrusion of the appeal proposal into the local gap.

61. The main route between the two settlements is along Hamble Lane, which can be travelled by car, on foot and by bike (along a shared footway, for much of its length). I travelled along it in both directions, at different times of day, numerous times by car, and once on foot. Given the distance between the two settlements, and their lack of intervisibility, there is, at present, a very clear sense of leaving one settlement, travelling through countryside (albeit with a group of dwellings mid-way through), and arriving at the other.

62. This can be a quick journey by car, depending on the time of day, but it is not so swift that there is no perceived sense of distance and separation between Bursledon and Hamble. The appeal proposal would not, in my judgement, largely due to the limited extent of the site relative to the gap, have any appreciable adverse impact upon this perception.

63. Finally, I turn to the criterion of policy 3CO concerning whether the appeal scheme could not be acceptably located elsewhere. Given the Council's grant of other permissions in local and strategic gaps, it has clearly recognised in the recent past that they are not sacrosanct. Some development has been permitted within them in order to maintain delivery of the requisite levels of housing for the Borough. Indeed, my attention was drawn to a number of planning permissions and appeal decisions in this regard.

64. However, as the Council noted, most of such decisions were set against the backdrop of an accepted, or determined, lack of a five-year supply of deliverable housing sites. This is not the case here and, while being mindful of the fact that some 50% of the Borough is designated as a gap of some form, no evidence was presented to the Inquiry to suggest that the appeal scheme could not be acceptably located in a 'non-gap' area.

65. I conclude, therefore, that the appeal proposal would conflict with Local Plan policies 1CO and 3CO, the purposes of which are set out above.

Character and appearance

66. The appeal site is located immediately to the south of Mallards Road, which forms the urban edge to Bursledon on the eastern side of Hamble Lane at this point. It is largely unremarkable, being a large field divided into a number of paddocks. It contains numerous shelters, a barn, some outbuildings and a small, rough parking area.

67. The site is influenced to some degree by the prominent dwellings at the western end of Mallards Road, the busy Hamble Lane beside it, and the buildings and intensive horsiculture upon it. It is not unreasonable to define it,

in line with the Landscape Character Assessment for Eastleigh Borough's terminology of key characteristics of this area, as having an urban fringe character.

68. That said, it is still clearly part of the countryside and the activities upon it are rural in character. It is not especially distinct from the rest of the land that comprises the gap north of Hound, which is typically characterised by open fields and areas of open heath or scrubland. As such it makes a contribution, albeit small, to the overriding and dominant characteristic of the wider Hound Plain character area, namely its openness[11].

69. Development upon it would be, just, visible from the nearest public right of way (PROW), which is route H8a to the south. It would, however, be seen against the backdrop of the elevated parts of Bursledon that are already visible from this point, beyond the appeal site.

70. In addition, development would not appear as a surprise, inasmuch as there would be no appreciably increased awareness of Bursledon. This is due to the fact that, as well as the development noted above, some dwellings on Mallards Road are already apparent, in filtered views, from here. With the proposed landscaping, which would admittedly take time to mature, and some expansive areas of open space, the new dwellings could assimilate comfortably with the village, forming an appropriately soft edge to it.

71. There are views into the appeal site from Hamble Lane, typically experienced briefly when travelling past by car. They are, however, shallow views into the site to the woodland beyond, curtailed to the south by topography and the presence of Hamble Lane Farm, rather than being long views across the open countryside of the local gap. As such, they are not especially significant and contribute little to the sense of separation between Bursledon and Hamble.

72. The appeal proposal would bring development up to the boundary with Hamble Lane Farm. The farm is close to the edge of Bursledon but does, nonetheless, afford some sense of departure from the denser urban form of the village and the countryside beyond, where development is more sporadic. The coalescence of the edge of Bursledon with Hamble Lane Farm would undermine this, with the farm perching somewhat incongruously on the edge of the appeal scheme.

73. The appeal development would result in a stepped edge to the village, with development on the eastern side of Hamble Lane advancing further south than development on the western side. This is the case at present, however, with no obvious detriment to the character and appearance of the 'gateway' to the village. In addition, the recent grant of permission for a residential scheme at the Berry Farm site, to the south of Bursledon, on the western side of Hamble Lane (and beyond the urban edge of Bursledon), will mean that, even with the appeal scheme, this differential will be considerably reduced. Furthermore, the illustrative scheme shows development set well back from Hamble Lane with the creation of landscaped buffers to the site frontage and the southern boundary. Broad conformity with this illustrative scheme could be secured by condition.

74. The felling of two protected oak trees, within the hedge on the south side of Mallards Road, would be necessary to facilitate access to the site. This would,

[11] Landscape Character Assessment for Eastleigh Borough

clearly, result in a marked change to the mature vegetative boundary to the village at this point. The protected oak tree on the verge, as one approaches the proposed site access, would remain, however, and this is the most prominent and imposing tree on Mallards Road at this point. Ultimately, the Council's tree officer raised no objection to the loss of the two protected trees, subject to there being appropriate mitigation planting (five new oak trees are proposed in correspondence). Such mitigation, combined with extensive new landscape planting, would offset the loss of the two protected hedgerow oaks inasmuch as, ultimately, there would be more mature oaks in this area than there are at present. Nonetheless, in the medium to long term, while these new trees and landscape features mature, there would clearly be an adverse impact upon the verdant village edge.

75. Local Plan policy 18CO seeks to ensure that new development respects and has no adverse impact upon the intrinsic character of the landscape. It is difficult to see how development on a greenfield site could not have some adverse impact upon the intrinsic character of the landscape, as it would typically result in the creation of structures where currently there are none. The preamble to the policy, however, suggests that it is important for development proposals to reflect local landscape character by protecting, enhancing and restoring key landscape characteristics. It is not clear how the appeal proposal would achieve this ambition, beyond seeking to mitigate for the loss of already established features and for the impact of the scheme when viewed from public vantage points.

76. Even so, with a robust landscape strategy, and taking the immediate site context into account, the site could ultimately present as a coherent and logical edge of settlement development (notwithstanding my concerns above in relation to Hamble Lane Farm). This assessment chimes with that of the Inspector who carried out the examination of the Local Plan. Considering the site as a reserve housing site, they concluded that:

> *"the effect of a small, well-contained development on this site would not be very significant…. Subject to a high quality landscaping plan for the site that would provide a new, softer edge to the settlement than currently exists, and to protection of the SINC from any adverse effect, I consider that this land could be acceptable in countryside and settlement form terms…".*[12]

There was no suggestion at the Inquiry that the area has changed significantly in the relatively short space of time since this assessment was made.

77. Local Plan policy 59BE sets out a number of criteria with which new development proposals must accord in design terms. Most pertinent in relation to the reason for refusal are criteria i and iv. These require development proposals to take full and proper account of the context of the site, including the character and appearance of the locality, and to provide a high standard of landscape design and appropriate planting.

78. In my judgement, on the basis of all that I have read, seen and heard, the appeal proposal complies with criterion i and there is no reason to consider that it could not comply with criterion iv.

[12] Inspector's Report paragraph 5.199

79. Overall, therefore, there would be a clear change to the character and appearance of the site, as rather than open countryside, forming part of the local gap, it would become a housing estate. Albeit that I consider that this change could be addressed reasonably sensitively, it would inevitably give rise to some harm. I conclude, therefore, that the appeal proposal would have an adverse impact upon the character and appearance of the area. Although there would be no conflict with Local Plan policy 59BE, it would conflict with policy 18CO, the requirements of which are noted above.

Other Matters

80. Following the close of the Inquiry, the appellant submitted a copy of a report to the Council's Cabinet meeting on 20 July 2017, relating to the Council's emerging local plan. The Council responded to this submission. As the appellant placed no weight upon the document, however, and as it has no bearing upon my conclusions, I do not address it in detail further. Suffice it to say that, although the Council may decide to pursue a higher level of housing delivery than it is seeking at present, this has yet to be finally determined and I have considered the appeal on the basis of the agreed figures.

81. As noted above, the Council has granted planning permission for residential development in local and strategic gaps, as well as beyond urban edges in non-gap areas. Nonetheless, it objects to this proposal and, clearly, does not seek to advance its previous decisions as authority for the proposition that any proposal for residential development in a gap or beyond an urban edge is appropriate. The appellant was likewise at pains to ensure that the appeal proposal should not be seen as precedent for other schemes within gaps or beyond urban edges. Thus, I see no reason to treat any of the previous grants of planning permission, whether by the Council or on appeal, as a rationale for granting planning permission here.

82. The Council's housing land supply position is finely balanced and it accepted that, going forward with its emerging local plan, it was highly likely that some land would need to be removed from gaps in order to accommodate new development. That remains to be confirmed, however, and, as such, little weight can be attributed to it at present.

83. A completed S106 agreement was submitted after the close of the Inquiry. As I am dismissing the appeal, and its contents are not determinative, I do not consider it further here.

Conclusion

84. The appeal proposal would be beyond the urban edge of Bursledon and would extend into the local gap. Although any harm arising from this, insofar as the objectives of the relevant policies are concerned, would be small, the appeal scheme would nonetheless conflict with Local Plan policies 1CO and 3CO. I have also found that, although the proposal would accord with Local Plan policy 59BE, it would conflict with policy 18CO, causing, albeit little, harm to the character and appearance of the area.

85. It was common ground between the parties that the provision of new housing, including affordable housing, would be a significant benefit even if the Council could demonstrate a five-year supply of deliverable housing sites. There would

also be some economic benefits arising from the appeal proposal, during and after construction, which is a material consideration of moderate weight.

86. Given the location of the appeal site beyond an urban edge and in a local gap, as well as its adverse impact upon the character and appearance of the area, there can be no doubt that the appeal scheme would conflict with the development plan when taken as a whole. I have found that the development plan is up-to-date and, thus, this conflict is a matter that attracts very substantial weight.

87. Government planning policy seeks to boost significantly the supply of housing. It also firmly favours a plan-led system. In these circumstances there is not, in my judgement, a body of material considerations powerful enough to override the appeal proposal's conflict with the adopted development plan.

88. Thus, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal site is not an appropriate location for the development proposed and that the appeal should be dismissed.

Richard Schofield

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

Mr Paul Stinchcombe QC Mr Ned Helme of Counsel	Instructed by Eastleigh Borough Council

They called:

Cllr Keith House	Eastleigh Borough Council (Leader)
Mr Nick Ireland BA(Hons) MA MRTPI	GL Hearn
Mr Peter Armstrong MA CMLI	Hyland Edgar Driver
Mr Chris Wilmshurst BA(Hons) MRTPI	Vail Williams

Mr Matthew Blythe and Ms Kitty Budden (both of Eastleigh Borough Council) contributed to discussion of the S106 agreement

FOR THE APPELLANT:

Mr Ian Ponter of Counsel	Instructed by Genesis Town Planning

He called:

Mr Simon Packer BA(Hons) DipTP MRTPI	Turley
Mr Brian Duckett (BSC)Hons BPhil CMLI	Hankinson Duckett Associates
Mr Jeremy Farrelly UPS DUPI MRTPI	Genesis Town Planning

INTERESTED PERSONS:

Cllr Tonia Craig (Bursledon Parish Council and Eastleigh Borough Council)
Mr Alistair Tritten
Mr Mark Ghysel
Ms Amanda Jobling (Clerk to Hamble Parish Council)
Ms Margaret Kelly

DOCUMENTS SUBMITTED DURING PROCEEDINGS

1. Appellant's list of appearances
2. Draft S106 agreement
3. Countryside Gaps Review - Eastleigh Borough Council Cabinet Report 15.07.17
4. Phides Estates (Overseas) Ltd v SoSCLG and Others [2015] EWHC 827 (Admin)
5. Construction Programme for Site 20
6. Submission by Mr Alistair Tritten
7. Opening Submissions of the appellant
8. Opening Submissions of the Council
9. Statement by Cllr Tonia Craig
10. Eastleigh Borough Council Tree Preservation Order No 791 (made)
11. Submission by Mr Mark Ghysel
12. Eastleigh Borough Council Tree Preservation Order No 791 (confirmed)
13. Bloor Homes East Midlands Limited v SoSCLG and Others [2014] EWHC 754 (Admin)
14. Council's CIL Regs Statement
15. Location plan for Grange Road, Netley
16. List of proposed conditions
17. Local Plan policy 81H
18. Ecological Assessment (Final) (ECOSA January 2017)
19. Tree Reference Plan PERSC19447-01 and accompanying report
20. Letter from Hampshire County Council re education planning contributions, 04.05.17
21. Local Plan extract of policies 98T to 103T
22. Additional Proof of Evidence of Mr Nick Ireland
23. East Staffordshire Borough Council v SoSCLG & Barwood Strategic Land II LLP [2016] EWHC 2973 (Admin)
24. Justification for proposed environmentally sustainable development conditions
25. Further submission of Mr Alistair Tritten
26. Closing Submissions on behalf of the Council
27. Closing Submissions on behalf of the appellant

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF PROCEEDINGS

28. Completed S106 agreement

29. Email submission from the appellant regarding a report to the Council's Cabinet meeting on 20 July 2017, relating to the Council's emerging local plan

30. Council's response to 29.