



## Appeal Decisions

Inquiry opened on 12 December 2017

Site visit made on 14 December 2017

by **C J Ball** DArch DCons RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 May 2018

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### **Appeal A: APP/P1560/W/17/3183678**

#### **Land to the north of Thorrington Road, Great Bentley**

- 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 City and Country Ltd against the decision of Tendring District Council.
  - The application Ref 17/01096/OUT, dated 30 June 2017, was refused by notice dated 31 August 2017
  - The development proposed is the erection of up to 75 dwellings with associated public open space, landscaping and infrastructure.
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### **Appeal B: APP/P1560/W/17/3183695**

#### **Land to the west of Plough Road, Great Bentley**

- 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 City and Country Ltd against the decision of Tendring District Council.
  - The application Ref 17/01097/OUT, dated 30 June 2017, was refused by notice dated 31 August 2017.
  - The development proposed is the erection of up to 75 dwellings with associated public open space, landscaping and infrastructure.
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### **Appeal C: APP/P1560/W/17/3183626**

#### **Land to the south of Thorrington Road, Great Bentley**

- 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 City and Country Ltd against the decision of Tendring District Council.
  - The application Ref 17/01098/OUT, dated 30 June 2017, was refused by notice dated 31 August 2017.
  - The development proposed is the erection of a health centre, up to 40 dwellings, additional land for Great Bentley Primary School, and associated pumping station, infrastructure and public open space.
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### **Decisions**

1. **Appeal A:** the appeal is dismissed.

**Appeal B:** the appeal is dismissed.

**Appeal C:** the appeal is dismissed.

## **Preliminary matters**

2. The inquiry sat for 6 days on 12-15 December 2017 and 26-27 April 2018. I made a pre-inquiry visit to Great Bentley on 11 December. An accompanied visit to all 3 sites and the surrounding area was made on 14 December. I made a further unaccompanied visit to the area on 25 April.
3. The 3 conjoined appeals relate to proposals by the same applicant for 3 different sites adjoining Great Bentley. The 3 applications were each refused for similar reasons relating to development outside the defined settlement boundaries and the failure to address the impact of the proposals on local infrastructure. An additional reason in the Appeal C application concerns the impact on the setting of heritage assets.
4. In its statement of case, the Council indicated that it would also address the visual impact of the proposals on the landscape setting of the village. Following the exchange of proofs of evidence, the Council sought to clarify its position in respect of the landscape and visual impacts and the impact on heritage assets, indicating that, had it had the benefit of expert advice at the time, it would have advanced landscape and visual impacts as a reason for refusal in all 3 applications and would have worded differently the reason for refusal in respect of heritage assets. These matters were considered at the inquiry.
5. The 3 appeals raise similar issues and I deal first with the matters common to all the proposals before going on to consider the planning concerns individual to each site.
6. All the applications were made in outline with, in each case, access to be considered but with all the other matters of appearance, landscaping, layout and scale reserved for future consideration. Each application was accompanied by a parameters plan and plans showing the proposed built form and layout. While these show how the site could be developed in accordance with the applications they are simply illustrative at this stage. For that reason, before the inquiry I agreed to accept a minor amendment to plans relating to Appeal C.
7. I note that in each case there are no formal highways objections to the access arrangements shown on the submitted plans. Although local residents express concerns about the potential for future traffic problems, particularly around the school and the railway crossing, those understandable concerns are not supported by evidence sufficient to outweigh the expert views of the highway authority so I take this matter no further.
8. The conjoined applications have been considered in accordance with Regulation 14(1) of the EIA Regulations and a screening direction has been issued confirming that, collectively, the proposals do not amount to EIA development. Nonetheless the applications were accompanied by a range of environmental and technical assessments which I have taken into account.
9. The inquiry was adjourned from 15 December 2017 to 8 February 2018. In the event, because of my illness, the inquiry was further adjourned to 26 April. Prior to resumption I asked the parties to indicate whether there had been any changes in planning circumstances since the adjournment. Both parties submitted copies of court judgments and appeal decisions which had been made in the interim. The Council also confirmed the current position regarding the progress of the emerging Local Plan and, following its annual survey of dwelling

completions and housing land availability, submitted details of the housing supply position updated to 1 April 2018.

### **Application for costs**

10. Before the inquiry an outline application for costs against Tendring District Council was submitted by City and Country Ltd. On 27 April I adjourned the inquiry to 11 May to allow the submission in writing of a finalised claim, a response by the Council and a final response by the appellant. I closed the inquiry in writing on 16 May. The application for costs is the subject of a separate Decision.

### **Agreed matters**

11. At the inquiry the parties submitted a statement of common ground. This describes the appeal proposals, indicates the accessible location of the village, lists its range of facilities and sets out the relevant planning policy background. The statement confirms the matters not in dispute, subject to necessary conditions, including the proposed density of development; the identification of Great Bentley as a Rural Service Centre; the impact on local infrastructure (subject to securing necessary developer contributions); the impact on ecology; highway safety; flood risk and drainage; soil contamination; landscape designation; impact on living conditions of neighbours and future occupiers; air quality; and crime.
12. It is agreed that there is no impact on heritage assets in Appeals A and B and that, in Appeal C, the relevant heritage assets are the grade I listed Church of St Mary and the grade II listed Field House. The parties are in broad agreement on housing land supply in respect of the 5 year trajectory set out in Appendix 2 of the Council's Revised HLS Position Paper approved on 20 November, although disagreement remains on the delivery of 3 sites and the application of a lapse rate. The appellants intend to provide 30% affordable housing in line with emerging policy.
13. While the Council's Objectively Assessed Housing Need (OAN) for the district is disputed, the parties submitted a separate OAN statement of common ground setting out agreed matters. This indicates that the starting point for estimating OAN should be DCLG's 2014-based household projections (2014 SNHP); that it should be assumed that 6.75% of homes will be empty or used as second homes; and that, once adjustments have been made for various factors to produce a demographically based OAN, a 15% uplift should be added (although the parties disagree on the reasons for this). The statement also helpfully summarises 7 points of difference between the parties on this matter.

### **Planning obligation**

14. Before the inquiry the appellant submitted a s.106 unilateral undertaking in draft. Following amendment a final draft version was discussed at the inquiry. The undertaking is intended to commit the appellant to making the necessary education contributions to mitigate the impact on local schools of additional children arising from the developments; to making 30% provision of affordable homes; to providing public open space on the sites; to making necessary contributions towards the expansion of local healthcare and, if at least Appeals C and A or B are allowed, to providing a new Doctors' Surgery for lease or sale and to providing a number of bungalows to meet an identified local need; if at

least Appeals C and A or B are allowed, to providing land to be used as a playing field extension at Great Bentley Primary School; and if Appeal A is allowed, to providing emergency access through the site to the adjacent scout hut.

15. The Council confirmed that an undertaking on these lines would overcome the infrastructure reason for refusal in each case. That matter is therefore no longer a contentious issue and, subject to a CIL compliant planning obligation, I take it no further. A certified copy of the executed deed of undertaking was submitted at the end of the inquiry and I have taken it into account.

### **Main issues**

16. The key issues in these cases are therefore:

1. An overarching consideration as to whether the Council can demonstrate a 5 year supply of deliverable housing land and the consequent policy implications;
2. For Appeal C only, the effect the proposal would have on the significance of designated heritage assets; and
3. In all 3 cases, the impact of the proposed development on the rural landscape setting of the village.

### **Policy background**

17. The local development plan currently consists of the saved policies of the Tendring District Local Plan 2007 (TDLP). The most relevant TDLP policies for these appeals include policies QL1 '*Spatial Strategy*', EN1 '*Landscape Character*' and EN23 '*Development within the proximity of a Listed Building*'.
18. Policy QL1 sets out a hierarchy of development locations, with new development to be concentrated on the larger urban areas where accessibility to employment, shops, means of transport and other facilities is maximised. In the smaller towns and villages, limited development consistent with local community needs will be permitted. The settlement boundaries have been drawn tightly around villages, including Great Bentley, to protect their countryside setting. This reflects the government's core planning principles, set out in the National Planning Policy Framework, of genuinely plan-led sustainable development that takes account of the different roles and character of different areas, promoting the vitality of the main urban areas while recognising the intrinsic character and beauty of the countryside.
19. Policy EN1 seeks to protect the quality of the district's landscape and its distinctive local character, including the setting and character of settlements. While overall the Framework has a more nuanced approach to the protection of the countryside, this too reflects the core principle requiring recognition of its character and natural beauty. Policy EN23, although it does not require the assessment of the level of harm nor the balancing exercise set out in Framework 133-134, aims to protect the setting of listed buildings in general accordance with the statutory duty and the Framework objective of conserving heritage assets in a manner appropriate to their significance.
20. Thus, although dated, the 3 TDLP policies relevant to these appeals are reasonably consistent with the Framework. They do not carry full weight but, assessed in accordance with Framework 215, they do carry significant weight.

21. The emerging Tendring District Local Plan 2013-2033 (ELP) has reached a fairly advanced stage, with the Examination in Public (EiP) currently under way. Policy SPL1 '*Managing Growth*' sets out the settlement hierarchy, bringing forward the current policy of concentrating growth on 3 Strategic Urban Settlements and, to a lesser degree, on 3 Smaller Urban Settlements. Rural Service Centres, such as Great Bentley, would accommodate small-scale development so as to limit the need to travel and to protect the natural environment. Policy SPL2 '*Settlement Development Boundaries*' is intended to define the boundaries of the smaller settlements, within which the development of small infill sites will be supported. Development outside the boundaries would be strictly controlled to protect and enhance the character and openness of the countryside.
22. These policies are consistent with key Framework objectives. Nonetheless, the appellant has raised formal objections to them on the grounds that Great Bentley should be upgraded within the hierarchy to a Smaller Urban Settlement and that the District's housing need is greater than the figure relied on by the Council so that settlement boundaries, including Great Bentley, will have to be reassessed. These are matters to be decided by the Local Plan Inspector but, for the purposes of these appeals, I find the appellant's evidence comparing the village of Great Bentley (a Rural Service Centre) with the town of Brightlingsea (a Smaller Urban Settlement) unconvincing. I also note that, should an increase in housing land supply be found necessary, measures are in place to direct this primarily to the strategic urban centres without a need to amend currently proposed policies. In my view there is no strong policy argument for extending the boundaries of Great Bentley to include the 3 appeal sites.
23. ELP policy PPL3 '*The Rural Landscape*' is intended to maintain the District's attractive rural environment and to protect the rural landscape from development which would cause overriding harm to its character and appearance. Policy PPL9 '*Listed Buildings*' permits development affecting a listed building or its setting only where it will protect its special interest and is justified through informed assessment and understanding of its significance. These 2 ELP policies are consistent with the Framework and, in each case, the assessment of harm and the balance of considerations required by the Framework is inherent in the policies.
24. Although at an advanced stage, these policies are not yet adopted and are still subject to the EiP process. There are outstanding objections to be resolved so, taking account of the criteria set out in Framework 216, the ELP policies can only carry moderate weight.

## **Reasons**

25. Great Bentley is an attractive village of about 700 dwellings, many of which are arranged around one of the largest village greens in England. The traditional core of the village, including the sometime Manor House and Hall Farm, lies at the western end of the green, with St Mary's Church close by at the edge of the built up area. A few shops, a pub, a primary school and other facilities extend south along Plough Road. More recent development extends roughly north and east. The parties agree that, with its rail station and bus service, Great Bentley is a reasonably accessible location for development. It is a popular place to live.
26. Beyond the rail station, the village hall, allotment gardens and a cluster of dwellings lie on the western side of Plough Road. On the eastern side, a long

ribbon of detached and semi-detached houses extends well beyond this, and is currently surrounded by open countryside. However, planning permission has recently been granted on appeal for 150 houses and employment development on land immediately behind the ribbon development, known as Station Field. The Appeal B site is a large field in agricultural use on the western side of Plough Road, lying immediately opposite and extending the full length of the existing ribbon of development and the Station Field site behind it.

27. Thorrington Road extends west from the green, with extensive modern estates on its northern side. Beyond Field House, almost subsumed by development, a ribbon of detached houses on the north side of the road stretches towards Bentley Brook. The Appeal A site is a large field behind and extending the full length of the ribbon, with 1 house demolished to allow access from Thorrington Road. A shorter ribbon of development lies along the southern side of Thorrington Road. The Appeal C site lies behind this southern ribbon, occupying part of a large field and extending from the churchyard further along the roadside to the same extent as the northern ribbon.
28. In addition to Station Field, 3 sites at Heckford Road on the northern edge of the village have also recently been granted planning permission. Most have been allowed on appeal, primarily because the Council could not at that time demonstrate a 5 years supply of deliverable housing land, thus rendering the policies for the supply of housing out of date and triggering the tilted balance of considerations inherent in Framework 49 and 14. Despite Great Bentley's designation as a village/Rural Service Centre, and their location outside the defined settlement boundary, these unplanned developments will add a total of 275 new dwellings to the village. Appeal A would add a further 75, Appeal B another 75 and Appeal C 40, in total another 190 new dwellings.

***Whether the Council can demonstrate a 5 year supply of deliverable housing land and the consequent policy implications***

29. Framework 12 makes it clear that the development plan is the starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts with it should be refused unless other material considerations indicate otherwise. The appellant argues that the Council cannot currently demonstrate a 5 year supply of deliverable housing land so that Framework 49 is invoked; in these circumstances the relevant policies for the supply of housing should not be considered up to date so that, in accordance with the 2<sup>nd</sup> bullet point of Framework 14, a tilted balance in favour of sustainable development should be applied.
30. It is neither necessary nor desirable, at a s78 inquiry, for me to undertake the kind of detailed assessment of projected housing delivery performance more appropriate to the EiP process or to pre-empt the imminent decision of the Local Plan Inspector. I therefore take a simple overview of the evidence provided by the parties, making a broad assessment for the purposes of this inquiry.

*Housing need*

31. The Council originally established, as part of its evidence base for the ELP, an objectively assessed need (OAN) of 550 dwellings per annum. This figure has been relied on, and has generally been sustained, in a number of recent appeals. Prior to this inquiry the Council revised its OAN to 480 dpa,

- subsequently amended to 485 dpa. Both figures are before the Local Plan Inspector. The appellant argues that the OAN should be in the range 570-670 dpa, suggesting a mid-point figure of 620 dpa be used where single figure calculations are required.
32. The starting point for estimating OAN is agreed as the (then) DCLG's 2014 based household projections (2014 SNHP) which indicate that an average of 625 net additional households per year will be formed in Tendring over the period 2013-37. A 6.75% empty/second homes allowance (44) should be added to produce a base figure of 669 dpa. While some other matters were subsequently agreed, there remains a number of points of difference between the parties.
  33. The Council's recent reduction in OAN stems principally from its reassessment of unattributed population change (UPC) and 2016 mid-year estimates (MYEs). UPC is a particular issue in Tendring; while the MYEs suggest that the population grew by 9,793, the census figures of 2001 and 2011 show that it fell by 740, a UPC of 10,533. The Office of National Statistics (ONS) acknowledges that it is hard to conceive of a figure of more than 4,500-5,000 of the UPC being attributable to census error. Thus 5,500-6,000 (52-57%) is likely to be attributable to migration. The Council takes a median figure of 55% (222) to be the appropriate UPC adjustment. The appellant argues that the range is more likely 47-57% (190-226) so effectively there is little in this. While reducing the base figure by 222 dpa may be a reasonable adjustment, I accept that it is subject to a high degree of uncertainty.
  34. In the housing context, mortality rate assumptions are one of the most important factors for Tendring. The Council confirms that 95% of the growth for which housing is needed is in households headed by someone aged 65 or over. The 2016 National Population Projections (NPPs) are the latest ONS projections and indicate a significant reduction through higher mortality rates. This will have a disproportionate effect in Tendring. Given the likely impact on growth, I agree with the Council that it would be irresponsible to leave an appropriate adjustment out of account and that it is more likely than not that the change in mortality assumptions in the 2016 NPPs will have the effect of further reducing the need figure by about 50 dpa.
  35. The appellant argues that, to reflect the consequences of past under-delivery, DCLG's 2014 based household formation rates for 15-34 year olds should be adjusted so they partially catch up with 2008 based rates. This would add 11 dpa to the overall assessment. However, the 2008 based projections not only pre-date the economic downturn, so are unlikely to continue at the same rate, but are based on 3,000 households too many - the DCLG's 2008 household projection for Tendring was 66,199, whereas the 2014 projection was 63,056. The overall impact of this is uncertain but, given that the Council includes an allowance for this uncertainty in its agreed 15% (63) uplift, I see no real justification for a further adjustment.
  36. The appellant also argues that the 2014 SNPP household projections should be rebased to reflect 2016 mid-year population estimates (2016 MYE), resulting in an addition of 39 dpa. In essence, it is asserted that the error that caused the UPC between censuses - the over-estimate of 500 dpa 2001-2011 - has not occurred since. The Council considers that the 2016 MYE suffers from the same errors which caused the UPC; the 2016 MYE was arrived at by adding the net effect of births, deaths and migration rates 2011-16 to the 2011 census figure,

so that the overestimate is to some extent built in. To rebase the 2016 MYE therefore seems contrary to the acceptance of the need for UPC adjustment in the first place. While the ONS may have 95% confidence in the 2016 MYE, all parties, including ONS, agree that the 2011 census error was in the region of 4,500 dwellings, more than 3 times the confidence interval for that census. Nor is it possible to argue with any certainty that changes in the local NHS patient register indicate reliable evidence of change, since there are demonstrable differences between the register and population estimates. Since the Council also points to a calculation error in the appellant's rebasing to the 2016 MYE, I consider that, overall, there is too much uncertainty and no reliable basis for adding a further 39 dpa.

37. Making these adjustments would have the effect of reducing the appellant's suggested OAN range to about 480-520 against the Council's figure of 485.
38. The appellant goes on to argue that affordable housing needs are a component of OAN and the Council's figure of 485 has not been uplifted to address the identified affordable housing need of 160 dpa. The parties agree that no increase for affordable housing was required for an OAN of 550 dpa. The Council points out that the appellant has not taken account of the implications of higher mortality rates in reducing the housing need figure. In 2011, 40% of those living in affordable housing were over 65. Higher mortality rates will impact almost exclusively on this group, both reducing the need for, and increasing the availability of, affordable housing. This will clearly have a significant impact in Tendring and it is likely that the revised population projections will result in a reduced need for affordable housing. However, that reduction is difficult to quantify and, while it is not reasonable to argue that the affordable housing requirement should be met in full, it seems to me that making no allowance at all for an increase is difficult to justify when there is a pressing need; this may not square with the emerging policy requirement that all new residential development should include 30% affordable housing.
39. The appellant also says that an OAN of 480 dpa does not align with economic growth requirements and that a higher OAN is necessary to provide for the likely growth in jobs. This seems to me to rely on a flawed analysis of the relationship between population size and employment forecasts. Based on a September 2016 Experian forecast, the Council can show that an OAN of 550 dpa would over-provide for the projected labour force. The ONS's revised mortality rate, the reason for reducing OAN, would primarily impact on the over 70s, few of whom are economically active. The reduced housing need figure would have a very limited impact on the provision of sufficient homes for an active labour force to meet the likely growth in jobs.
40. Thus, in those matters in dispute between the parties, in most cases I find the Council's evidence to be the more compelling. However, while there is a strong case that the OAN could be reduced from 550 dpa, I find a number of uncertainties about the degree of that reduction arising from the extent of the UPC adjustment, the application of revised mortality rates, the adjustment to 2016 MYEs and the potential need for more affordable housing. Although I find nothing to support the appellant's case for a higher OAN, I am not convinced that the evidence demonstrates beyond doubt that the most reliable figure is 485 dpa. In my view the OAN figure is within the range of 480-550 dpa, and probably at the lower end of that range. However, for the purposes of these appeals, I consider that it is more appropriate for me to adopt what I consider



to be the worst case scenario of an OAN of 550 dpa. That will result in a more robust assessment of the cases before me, without prejudicing the outcome of the Local Plan Inspector's EiP.

*Housing land supply*

41. At the start of the inquiry the parties were in broad agreement on the 5 year trajectory of housing land supply (HLS) set out in the Council's Revised HLS Position Paper approved on 20 November 2017, although the appellant questioned the assumed delivery rates of the 3 sites in St Osyth and argued that a lapse rate should be applied to larger sites. The Position Paper indicates that, for the 5 years 2017/18-2021/22, with an OAN of 550, the Council could demonstrate 5.1 years of housing land supply. While there can never be certainty, the Council clearly took a cautious approach to re-assessing delivery in the light of recent appeal and court decisions. A careful site-by-site analysis was made, taking account of the industry's view of lead-in times. All the larger sites have, or have a resolution to grant, planning permission so in these circumstances I see no justification for a further lapse rate. I regard the Council's assessment of delivery at that time as reasonably robust.
42. During the adjournment the Council provided an updated Strategic Housing Land Availability Assessment (SHLAA), rolling forward the housing supply position to a 1 April 2018 base date. The annual review shows that 565 new homes were built in 2017/18, exceeding the OAN of 550 and thereby reducing the shortfall. For the 5 year period 2018/19-2022/23, discounting 1 of the St Osyth sites as argued by the appellants, the SHLAA indicates that 4,649 new dwellings will be built. While the appellant questions the projected step change in delivery over the period, the base figures are not challenged. The updated trajectory simply develops the previously agreed trajectory and has been amended to reflect the very latest available information on housing development in the District, including planning and appeal decisions in the 2017/18 period. Earlier criticism by some of my colleagues of the projected delivery rate has been accepted and addressed. The appellant's continuing argument for applying lapse rates cannot be sustained. I consider that the April 2018 SHLAA provides an up-to-date, realistic and reliable assessment of housing delivery over the next 5 years.

*Policy implications*

43. Thus, with an OAN of 550 dpa, there is a basic need for the period 2018/19-2022/23 for  $550 \times 5 = 2,750$  dwellings. Added to that is the 2013/14-2017/18 shortfall of 811 and a 20% buffer of 712 to allow for persistent under-delivery in past years, resulting in a total housing requirement of 4,273 dwellings. With a deliverable 5 year supply of 4,649 housing sites, the Council can therefore demonstrate 5.45 years of housing land supply. With an OAN of 485 dpa the corresponding figure would be 6.65 years.
44. I therefore find in terms of Framework 49 that the Council can clearly demonstrate at least a 5 year supply of deliverable housing land and, as a consequence, the relevant policies for the supply of housing - TDLP policy QL1 and ELP policies SPL1 and SPL2 - can be considered up to date. The 2<sup>nd</sup> bullet point of Framework 14 is not engaged so in accordance with Framework 12 the proposals should be considered against the local development plan, the emerging plan and other material considerations.

***The effect the Appeal C proposal would have on the significance of designated heritage assets***

45. The heritage assets concerned are the grade I listed Church of St Mary and the grade II listed Field House. It is agreed that the Appeal C proposal would have no direct impact on the buildings themselves, although the development site lies within the overlapping setting of both buildings. As Framework 132 points out, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation - the more important the asset, the greater the weight. The significance of a heritage asset can be harmed through development in its setting and, as heritage assets are irreplaceable, any harm should require clear and convincing justification.
46. It is therefore necessary to consider the contribution made by their settings to the significance of the buildings, to assess whether the proposals would have an impact on those settings and, if so, what effect that would have on the significance of the historic buildings as heritage assets. I shall be guided in this by Historic England's Good Practice Advice in Planning Note 3 (2<sup>nd</sup> Edition) '*The Setting of Heritage Assets*' (GPA3).
47. The Church of St Mary was built circa 1130-1140. Despite 14<sup>th</sup> and 15<sup>th</sup> century extensions and later restoration, it is recognised as a complete example of a 12<sup>th</sup> century building and is of exceptional architectural and historic interest. The church lies to the west of the historic village core in its churchyard on the edge of a plateau, adjoining open farmland. The church's significance lies not just in its historic, aesthetic and evidential value but also in its particular position at the edge of the village, at the transition between settlement and countryside, almost unchanged for nearly 900 years. The church is an important focal point, playing a distinctive part in the particular identity of the local parish community, of both villagers and countrymen. The bell tower is a distinctive local landmark, visible from within the village and prominent in views across a wide expanse of open countryside. The peal of bells would be heard far and wide.
48. The particular setting of the church, at the meeting of village and farmland, is thus a key element in its exceptional interest. Its historic relationship with the open rural landscape to the west, with its ancient routes linking the village to a scattering of historic farms and dwellings, is little changed and is a vital part of that setting. The ability to appreciate the church in its more or less original farmland setting makes a particularly strong contribution to its significance.
49. The Field House dates from the 17<sup>th</sup> century. Built in the open countryside, some distance from the village on the Thorrington Road, this timber framed house was altered and extended in the 18<sup>th</sup> and 19<sup>th</sup> centuries, adding a new 'polite' frontage. Its significance lies primarily in its form and appearance, including evidence of the formal upgrading of a vernacular building. While modern development has taken place alongside and opposite, important views remain to and from the open countryside to the west of the church. These provide a vestigial reminder of the house's once remote location in the agricultural landscape. This relationship with the remaining part of its open rural setting contributes much to the significance of the house.
50. The proposed development of a health centre and up to 40 dwellings would be located in the northern part of the farmland which currently provides an

important part of the setting of both listed buildings. The site backs onto a ribbon of development on Thorrington Road and extends from the churchyard kissing gate to the furthest extent of the ribbon development on the opposite side of the road. The boundary with the field is arbitrarily drawn and bears no relationship to any physical, topographical or historic feature. The illustrative plan shows an intention to locate the health centre at the far western end of the site, with a footpath link to the churchyard gate along the field boundary. An avenue of trees would frame a long distance view of the church from the region of Frating Cross on Thorrington Road.

51. The church and its bell tower is an important and characteristic feature of the landscape. Subject to some variation in topography, its visual and audible presence is apparent across the countryside. The key public views are from Thorrington Road, the old route into the village from the west, and from the ancient footpath between Frating Abbey (now lost) and the church. Approaching the village along these routes, the appreciation of the relationship of the church to the landscape is gradually heightened and the significance of its village edge location is progressively revealed.
52. On nearing the village on Thorrington Road, rising from the valley of the Bentley Brook, the new development would obscure key views of the church across the landscape. The built up area of the village would be extended into the landscape setting of the church and the ability to appreciate the church in its distinctive historic setting would be seriously diminished.
53. Similarly, approaching the village along the Frating Abbey path, the encroachment of built development into the rural setting of the church would be all too apparent. In important views from this path, the church would appear to be absorbed into the built-up area of the village, significantly reducing the open landscape setting of the church and undermining the fundamental historic value of its relationship with the open farmland at its distinctive edge of village location.
54. The urbanisation of part of the church's rural setting, the impact on evocative views of the church across the landscape and the obfuscation of the distinctive relationship between church and countryside at its characteristic transitional location would seriously undermine the contribution made by the original farmland setting to the significance of the church. While there would be some new public views from the new footpath link, these would be limited by the development itself and by new tree planting. Although this planting is intended to mitigate the visual impact of the development, it would not disguise the extent of the urban encroachment into the setting of the church.
55. The Field House would be completely surrounded by modern houses. High density development in the field opposite would mean that important remaining views of and from the house in a rural landscape would be entirely lost, severing the last link between the house and its original rural setting. The ability to appreciate the original remote location of the house and its original relationship with open farmland would be lost. The impact of the proposed development would significantly harm the setting of the Field House, seriously diminishing the significance of the building. No measures are proposed to mitigate the impact and none seem possible.
56. Thus, while there would be no direct physical impact on the buildings themselves, harm would be caused to their overlapping settings, undermining

their significance as designated heritage assets. The failure to protect and conserve the settings of the buildings would conflict with TDLP policy EN23 and ELP policy PPL9. In the terms of Framework 132-134, I find that the Appeal C development would cause less than substantial harm to the significance of both the grade I listed Church of St Mary and the grade II listed Field House.

57. In accordance with Framework 134 it is necessary in both cases to weigh that harm against the public benefits of the proposal. 'Less than substantial' does not necessarily mean insignificant and, as a matter of law, each incidence of harm must be given considerable importance and weight.
58. The development would bring clear public benefits, including a wider choice of market housing, the provision of affordable housing, construction jobs and a boost to local businesses. Healthcare and education contributions would be made to mitigate the impact of the additional population. In addition, if at least 1 of the other appeals is allowed, the development would also include a number of bungalows to meet an identified local need, the offer of a new health centre for lease or sale and the provision of additional land adjacent to the primary school to be used as a playing field extension.
59. However, the housing need for the district is being properly addressed through the Local Plan process, intended to concentrate growth on the more urban areas. Nevertheless the provision of bungalows for local elderly people is a clear benefit. A new health centre has been granted permission on another development site and while, unlike here, there is no legal obligation to construct it, I heard that that proposal is supported by the existing GP practice and the Parish Council. There is no certainty that this offer would be taken up and there is little clarity about alternative future uses for the building or the site. The larger playing field would enable the school to meet up-to-date standards, and that is a clear benefit. It could also free up land to enable the school to expand from 1-form entry to 2-form entry, although that is not envisaged by the local education authority and would in any case require extensive new housing development to justify it, something not proposed in the ELP. Since neither the health centre nor the playing field is necessary to make the development of this site acceptable in planning terms, they are not CIL compliant and are simply inducements to grant planning permission. I give them little weight.
60. The ability to appreciate the 12<sup>th</sup> century church in its more or less original farmland setting is fundamental to its significance. The identified harm to the setting, and thus significance, of the grade I listed church carries very great weight. The harm to the setting and significance of grade II listed Field House carries less but still considerable weight. On balance, giving appropriate weight to the identified harm to heritage assets, I consider that the public benefits of the development proposal do not outweigh that harm. I therefore find no clear and convincing justification for the harm that would be caused to the significance of the designated heritage assets.

***The impact of the proposed development on the rural landscape setting of the village***

61. All 3 schemes would lie outside the defined settlement boundary of Great Bentley so all 3 proposals conflict with TDLP policy QL1 and ELP draft policies SPL1 and SPL2. These policies direct major development to the strategic urban centres and draw a tight boundary around the smaller villages like Great Bentley in order to limit development to generally small-scale infill sites

consistent with local community needs. This is to protect the countryside setting of the villages, a key aspect of their individual character, and to protect and enhance the character and openness of the countryside.

62. Detailed Landscape Character Assessments have been prepared for the district, related to wider regional and national assessments. All 3 sites fall within landscape character area (LCA) 7B *St Osyth/Great Bentley Heaths*, while the Appeals A and C sites also extend into LCA 6C *Alresford Valley System*. The LCAs describe the distinctive characteristics of the areas, identifying LCA 6C as showing a strong landscape character while LCA 7B, where the loss of significant landscape features has eroded the landscape character of the area, shows moderate landscape character.
63. In both LCAs the condition of the landscape is in decline with both areas under pressure for built development. The overall sensitivity to change of LCA 6C is described as moderate, while in LCA 7B the areas with high sensitivity to built development include those on the edge of the heathland plateau overlooking the Alresford Valley System (6C). The landscape management strategy for LCA 6C is to conserve and restore its undeveloped rural character, in particular limiting the further spread of linear development along roads, while the strategy for LCA 7B is to conserve and enhance the rural character of the landscape, including conserving the identity of individual settlements, to ensure built development does not restrict important views and to conserve/maintain views to important landmarks such as church towers, conserving their settings.

*Appeal A – land to the north of Thorrington Road*

64. The Appeal A site lies behind the ribbon of development on the north side of Thorrington Road. This field on the far western edge of the village is enclosed to the south and east by existing built development and to the north and west by gappy hedgerows with some hedgerow trees, typical of the local countryside. There is a narrow strip of paddocks beyond the trees, with open farmland beyond that. Most of the site is within LCA 7B although the western end, overlooking the slight valley of Bentley Brook, is within LCA 6C. A public footpath skirts the western boundary of the site.
65. The landscape value of this site is fairly high. It makes a significant contribution to the rural landscape setting of the village particularly when seen from the approach on Thorrington Road and the public footpath. The exposed location of the site on the edge of the heathland plateau, overlooking part of the valley system, means that it cannot accommodate development without undue harm to the landscape, making the site fairly susceptible to development. Despite tree planting in mitigation, the development of this site with up to 75 dwellings would result in the loss of an attractive area of open countryside, adversely affecting the character and setting of the village. This would clearly undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. In conflict with TDLP policy EN1, ELP policy PPL3 and the LCA management strategy, the proposed development would have a substantially harmful impact on the rural landscape setting of the village.

*Appeal B – Land to the west of Plough Road*

66. The Appeal B site, on the far southern edge of the village, is part of a much larger arable field which adjoins the valley system. The northern boundary of the site abuts low density development and long domestic gardens, while its

eastern boundary is formed by Plough Road. Its southern and western boundaries are artificial; they reflect no topographical or landscape feature and are simply drawn to align with the extent of the gardens to the north and the ribbon development on the far side of Plough Road. The site lies wholly within LCA 7B.

67. This landscape is of medium value. While it is relatively featureless, the flat, open landscape of the plateau edge allows long panoramic views of the village in its countryside setting, particularly from the approach on Plough Road and the public footpath to the south. The site, as a characteristic part of the heathland plateau landscape, makes an important contribution to the rural setting of the village. Its openness means that it cannot accommodate development without undue harm to the landscape, making the site fairly susceptible to development. Although there would be extensive tree planting on the western and southern boundaries, the development of this site with up to 75 dwellings would result in the loss of an attractive area of open countryside, adversely affecting the character and setting of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. I find in this case that, in conflict with TDLP policy EN1, ELP policy PPL3 and the LCA management strategy, the proposed development would have a moderately harmful impact on the rural landscape setting of the village.

*Appeal C - Land to the south of Thorrington Road*

68. The Appeal C site lies to the west of the historic core of the village, part of a larger field bounded by Thorrington Road to the north, a farm track to the east, the railway embankment to the south and Bentley Brook to the west. The site extends from the churchyard, behind the ribbon of development on the south side of Thorrington Road, along the road frontage to the farthest edge of the ribbon development on the north side. The meandering southern boundary of the site is completely artificial, having no discernible relationship to any topographical or landscape feature. The site has a mixed landscape character; the central part lies within LCA 7B while both the eastern and western parts of the site extend into LCA 6C.
69. The landscape value of this site is very high. It lies on the edge of the heathland plateau overlooking and, in part incorporating, land within the valley system. It is highly sensitive to built development. The gently undulating landscape here exemplifies the scenic quality of the area and the site, at the edge of the village core, makes a major contribution to the landscape setting of the village. This can readily be appreciated in views from Thorrington Road, Frating Farm Road and the Frating Abbey footpath. As already discussed, the farmland's historic value is relatively unchanged and provides the setting for the church, contributing much to its significance. For these reasons the site is extremely susceptible to development.
70. Furthermore, in my view, the combination of high landscape quality and the crucial setting it provides for the church means that the site lies within an area which, in the terms of Framework 109, should be considered a valued landscape, to be protected and enhanced. While the indicative plan shows extensive tree planting along the southern boundary, the development of this site with up to 40 dwellings and a health centre would result in not only the loss of an attractive area of countryside, adversely affecting the character and

setting of the village at a key location, but would also constrict important views and harm the setting of the church. All this would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. I find that, in conflict with TDLP policy EN1, ELP policy PPL3, the LCA management strategy and Framework objectives, the proposed development would have a severely harmful impact on the rural landscape setting of the village.

## **Conclusions**

### *Appeal A – land to the north of Thorrington Road*

71. The proposed development would lie outside both the established and emerging settlement boundary. While an additional 75 houses would be of benefit, they would be in the wrong place and would cause overriding harm to the character and appearance of the rural landscape, in conflict with the development plan and emerging policies. Emergency vehicle access to the scout hut would also be a benefit but it is not necessary to the development of this site and there are no other material considerations sufficient to outweigh that conflict.

### *Appeal B – Land to the west of Plough Road*

72. The proposed development would lie outside both the established and emerging settlement boundary. While an additional 75 houses would be of benefit, they would be in the wrong place and would cause overriding harm to the character and appearance of the rural landscape, in conflict with the development plan and emerging policies. There are no other material considerations sufficient to outweigh that conflict.

### *Appeal C – Land to the south of Thorrington Road*

73. The proposed development would lie outside both the established and emerging settlement boundary. While an additional 40 houses, some of them locally needed bungalows, would be of benefit, they would be in the wrong place and would cause overriding harm to the character and appearance of a valued rural landscape, in conflict with the development plan and emerging policies. The provision of a health centre and additional land for a school playing field are of some benefit but are not necessary to the development. In any event, none of the public benefits are sufficient to outweigh the harm to the significance of the 2 listed buildings, the Church of St Mary and Field House. There are no other material considerations sufficient to outweigh the conflict with the development plan and emerging policies.

## **Overall conclusion**

74. Whether taken cumulatively or individually, these 3 proposals would bring a further increase in housing development that would be clearly disproportionate in relation to the size and status of the village. None of these proposals would represent the limited development consistent with local community needs or the small scale infill development within the settlement boundaries envisaged in the development plan and emerging policies.
75. One of the core principles of the Framework is that planning for future development should be genuinely plan-led, providing a practical framework for local decision making within which decisions on planning applications can be made with a high degree of predictability and efficiency. Local Plans are the key

to sustainable development. The clear aim of the plan-led system is to direct development to where it is needed. The Council is well advanced in the current Local Plan process, with the EiP currently in progress. These proposals are inconsistent with both the TDLP and the ELP settlement hierarchy policies. Their approval would subvert the local plan-making process, in breach of the core principle of genuinely plan-led development.

76. For the reasons given above I conclude that all 3 appeals should be dismissed.

*Colin Ball*

Inspector



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

David Lintott of Counsel	Instructed by Tendring District Council.
He called:	
Neil McDonald BA (Cantab)	NM Strategic Solutions Ltd (NMSS).
Mark Flatman BA(Hons) DipLA CMLI	Director, Liz Lake Associates.
Tim Murphy IHBC MCIfA	Historic Environment Manager, Place Services, Essex County Council.
Gary Guiver BSc(Hons) PGDipTP MRTPI MBA	Planning Manager, Tendring District Council.

### FOR THE APPELLANT:

Philippa Jackson of Counsel	Instructed by City and Country Ltd.
She called:	
Colin Robinson BA(Hons) MTP(Dist) MRTPI MIED	Planning Director, Nathaniel Lichfield & Partners.
Robert Hughes BSc(Hons) PGDipLA CMLI	Landscape Partner, Tyler Grange LLP.
Lucy Markham MRTPI IHBC	Associate, Montagu Evans.
David Fletcher BSc(Hons) MSc(Hons) MRTPI	Associate Partner, Strutt and Parker.

### INTERESTED PERSONS:

Tom Edwards	Local resident.
Cllr Plummer	Great Bentley Parish Council.
Alan Black	Local farmer.
Cllr Williamson	Great Bentley Parish Council.

### ADDITIONAL DOCUMENTS SUBMITTED AT THE INQUIRY

CD12/9	Recent Inspectors' decisions on household formation rates.
CD12/10	Additional table to Mr Robinson's Appendix 2.
CD12/11	Fuller version of 2017 MYE Comparator Tool, Mr Robinson's Appendix 2.
CD12/12	Impact of change in trend periods between 2014- and 2016-based population projections on differentials between Tendring and national mortality rates.
CD12/13	Comparison between Lichfield's and NMSS' rebasing of 2014 SNPP to 2016 MYE.
CD12/14	Station Field, Plough Road: phasing plan of approved scheme.
CD12/15	North Essex Authorities' response to the Local Plan Inspector's question on meeting housing needs.
CD12/16	Appellants' notification of costs application.
CD12/17	Appeal decision APP/X1545/W/15/3139154 Nipsells Farm Lodge, Mayland.
CD12/18	Consent Order quashing appeal decision APP/P1560/W/16/3164169 Centenary Way/North of London Road, Clacton on Sea.
CD12/19	Mr Robinson's additional evidence- response to queries raised.
CD12/20	Letter dated 24 October 2017 from Tendring Farms Ltd.

- CD12/21 Tendring District Council Housing Delivery: allocated residential site market overview.
- CD12/22 Mr Hughes' photomontage viewpoints.
- CD12/23 Council/appellant correspondence log.
- CD12/24 Appellant's statement regarding site at Mistley.
- CD12/25 ONS Methodology Guide for mid-2016 UK population estimates June 2017.
- CD12/26 Cambridge Econometrics Employment Projections Methodology.
- CD12/27 Mr Lintott's opening submissions.
- CD12/28 Ms Jackson's opening submissions.
- CD12/29 Agreed planning conditions, land north of Thorrington Road.
- CD12/30 Agreed planning conditions, land west of Plough Road.
- CD12/31 Agreed planning conditions, land south of Thorrington Road.
- CD12/32 Appeal decision APP/R3650/W/16/3155714 Springbok Radcliffe Estate, Cranleigh.
- CD12/33 Mr Black's plan clarifying location of agricultural reservoir.
- CD12/34 Grant of easement over land at Plough Road.

#### ADDITIONAL DOCUMENTS SUBMITTED DURING THE ADJOURNMENT

- CD12/35 SHLAA 2018
- CD12/36 Amstel v NNDC [2018] EWHC 633 (admin).
- CD12/37 TDC Great Bentley Planning Update.
- CD12/38 Land off Bakers Lane, Braiswick, appeal decision.
- CD12/39 TDC v SoS & Giles Court permission decision.
- CD12/40 Land to the rear of new Road, Mistley appeal decision.
- CD12/41 Land east of School Road, Elmstead Market, appeal decision.
- CD12/42 Land north of St Osyth Road, Tenpenny farm appeal decision.
- CD12/43 HE response to Appeal C proposal.
- CD12/44 The Setting of heritage Assets GPA3.
- CD12/45 Appellants SHLAA summary table.

#### ADDITIONAL DOCUMENTS SUBMITTED AT THE RESUMED INQUIRY

- CD12/46 Certified copy of the executed deed of undertaking
- CD12/47 Mr Lintott's closing submissions.
- CD12/48 Ms Jackson's closing submissions.
- CD12/49 Appellant's costs application.
- CD12/50 Council's response to the costs application.
- CD12/51 Appellant's final response.