

STATEMENT
BY
ALAN STORAH

with regard to the
appeal (ref.: APP/C1570/W/15/3010055)
against the refusal
of planning permission
by Uttlesford District Council
for residential development, for up to 42
dwellings and various associated
facilities, on land north of Pelham Road,
Clavering, Essex.

1. My name is Alan Storah. I am a corporate member of the Royal Town Planning Institute and have been for over 30 years. As a long-standing resident of the district and practicing planning consultant, I am fully familiar with not only Clavering and the site in question, but also the Uttlesford local plan and the current situation regarding housing land supply in the district. And it is with the housing land supply that I wish to set the scene for the remainder of this statement.

Housing Land Supply

2. The situation that was most recently put to the Council was the 'Housing Trajectory and Statement of 5-Year Land Supply 1 April 2015' reported to the Planning Policy Working Group on 8th June. The report which accompanied the document stated (at paras 9 and 10) "The Local Plan Inspector considered that the Council need only provide an additional 5% buffer but a recent appeal decision considered that the council needed to include an additional 20%. The Council is awaiting decisions on a number of other appeals which will hopefully clarify the position. The Statement therefore calculates the 5 year housing supply for both buffers.

The Council estimates that 3530 dwellings will be delivered over the next 5 years which provides the District with between 5.4 - 4.4 years of supply depending on the housing target and whether a 5% or 20% buffer is applied."

3. The one Inspector who concluded that the buffer should be 20% had dealt with an appeal against the refusal of permission for a single dwelling. Whilst I do not undertake a comprehensive assessment of all subsequent appeal decisions, I would draw your attention to two which are relevant in that they relate to large housing proposals.
4. First, an appeal¹ against the refusal of up to 120 dwellings on land off Walden Road, Thaxted was dismissed on 1 June 2015. In his decision letter, the Inspector acknowledged (at para. 53) the finding that 20% had been found to be justified in a recent appeal,

but nonetheless concluded that “A 5% buffer is reasonable and accords with the aims and objective of the Framework.”

1. Appeal Ref: APP/C1570/A/14/2222958
5. Second, in his decision letter of 2nd June 2015, relating to the appeal against the refusal of up to 300 dwellings on land south and north of Thaxted Road, Saffron Walden¹, the Inspector gave full regard to the findings of the Inspector who had found the 20% buffer to be justified. He stated (at para.14) “Using the annual dwelling requirement suggested by the DLP Inspector she concluded that, as the Council would not have achieved this delivery target for the last 4 monitored years and in only 6 of the last 13, there had been persistent under delivery and the 20% buffer should apply.”
6. He went on to say (at para.16) that “The Bannister Green Inspector’s decision was issued **after** the full conclusions of the DLP Inspector were published. However, it relates to a hearing event that took place **prior** to this. The decision refers specifically to his summarised conclusions, which did not comment on the housing land supply, and not to the full version, which did. There is no evidence that the Bannister Green Inspector was aware of the full conclusions. The land supply would have been subject to thorough consideration and examination by the DLP Inspector in a way that cannot be replicated in the course of determining an individual appeal.”
7. He continued (in para. 17) with “My conclusion is that there has **not** been persistent under delivery and therefore a 5% buffer is appropriate. In that context, on the evidence before me there is a 5-year supply of deliverable sites in the District and **policies for the supply of housing are not out of date** as a result of that consideration.”

8. On the basis of the above it is clear that a 5% buffer, not a 20%, is appropriate.
9. Given, therefore, that Uttlesford has a 5.1 - 5.4 year supply of housing land, analysis of the manner in which this will be developed reveals that it will actually have a supply of housing land for a longer period even without any further planning permissions being granted. This is demonstrated by reference to the Council's 5 year land supply assessment. It sets out the expected rate of housing delivery through a housing trajectory to 2032/33.

1. Appeal Ref. APP/C1570/A/14/2221494

10. Assuming Uttlesford's adopted annual housing requirement to be 580/year (as concluded by the local plan Inspector) then a 5 year supply is 2,900 units. This target is therefore significantly exceeded by the 3,530 that the council estimate will be delivered over the next 5 years. Including the 5% buffer and the shortfall¹ the target becomes 3,471¹ which is still expected to be met.
11. The Appendix to UDC's Housing Trajectory sets out the expected rate of delivery of housing sites. It is therefore possible to look beyond the current 5 year period by considering those sites in the trajectory which have planning permission, or a resolution to grant permission, and are expected to be developed (at least in part) in particular years. Table 1 appended sets out the number of dwellings anticipated for each of the 3 years following the current 5 year period. When the projected totals for 2020/21 - 2022/23 are added to those for 2015/16 - 2019/20 (see table 2 appended), it is clear that, even if no more permissions are granted (save for the windfalls), Uttlesford will be able to demonstrate that it will meet the housing target for the next 5 year period.

12. It should also be noted that the anticipated supply will only be some 150 units shy of the target for the following 5 year period but that planning permission has already been granted for an additional 75 units (see 3 in the Appendix). Given that, and the rate at which development proposals are coming forward and proceeding, it is reasonable to conclude that the Council will shortly be able to demonstrate that the existence of a 5 year land supply could not be challenged until April 2018.

13. Having been presented with a similar argument regarding the duration of the 5 year housing land supply, the Inspector at the Saffron Walden appeal referred to above concluded (at para. 68) that “.....based on the evidence put to me, there is a 5 year housing land supply and the evidence that this was likely to continue for at least 2 more years was not contested.”

1. Identified in Table 4 of UDC’s ‘Housing Trajectory and 5-year Land Supply 1 April 2015

Decision-taking process

14. Sir, as you know full well, planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan effectively comprises the saved policies in the Uttlesford Local Plan adopted in 2005.

15. I do not intend to give you a treatise on an assessment of this application - but rather a brief, but nonetheless systematic approach to it focusing on what I consider to be the key and, in this context, fundamental policies in its determination. In so doing, I leave the other issues that I do not address (such as

impacts upon the landscape and heritage) to be dealt with by the other protagonists.

16. I focus on 3 policies only - those which I consider to be fundamental to whether the principle of this development may be acceptable or not. Those policies are S3 - 'Other Development limits', S7 - 'The Countryside' and ENV5 - 'Protection of agricultural land' all of which I am sure that you will now be familiar with. I also undertake an outline assessment of this application should, for whatever reason, you consider that the process set out in paragraph 14 of the Framework is to be preferred.

17. But before I do so, I must emphasise that the adopted local plan is not out-of-date. That is because, until it is superseded, it remains an integral part of the development plan. The local plan was produced to be in general conformity with the Essex and Southend on Sea Replacement Structure Plan which had an end date of 2011. But the saved policies of the local plan remain valid unless they had a specific end date. Only 3 policies were so time limited, those being Policy E1 - 'Distribution of Employment Land', Policy H1 - 'Housing Development' and Policy H2 - 'Reserve Housing Provision'. All of the other saved local plan policies remain valid.

18. Paragraph 215 of the Framework states that, for the purposes of decision-taking, ".....due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." According to the council's independent 'Compatibility Assessment'¹:-
 - policy S3 has 'No implications';

- S7 is only ‘Partly consistent’ (but that is because the Framework supports the ‘growth and expansion of business and enterprise in rural areas’ - whereas this proposal isn’t for business or enterprise, it’s for housing). So that limitation doesn’t apply and opposing housing in the countryside clearly is consistent with the policies in the Framework; and
 - ENV5 is ‘consistent’ with the Framework.
19. Turning now to the 3 policies, first, S3 - ‘Other Development limits’ identifies Clavering as an ‘other settlement’ by reference to the Proposals Map which also identifies the village boundary. Sir, the site in question is on the edge of, but nonetheless outside, the village boundary. That means that it falls within the remit of another policy, that being S7 - ‘The Countryside’.
20. And the proposed development is contrary to Policy S7 since:-
- It would be **within the ‘countryside’**, as defined on the Proposals Map, **which is to ‘be protected for its own sake’**;
 - It does not **‘need to take place there’** as distinct from in any other part of the district, including the countryside, which is in a more sustainable location in terms of its impact upon the landscape and no justification has been given as to how and why the proposed development “needs to take place there”. Neither is there a need for the development to take place in any other countryside location in the district because, as outlined above, the Council is able to demonstrate that the district has an existing 5 year housing land supply; and
 - It is not appropriate to this area because it is outside the defined boundary of the village and would effectively serve as an urban incursion into the countryside.

1. Uttlesford Local Plan 2005 - National Planning Policy Framework

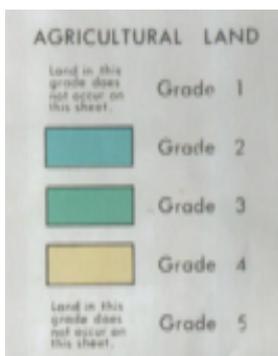
Compatibility Assessment, July 2012

21. Last, ENV5 - ‘Protection of agricultural land’ is in two parts and I deal with each in turn. The first sentence states “Development of

the best and most versatile agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits.”

22. According to the Framework, the ‘best and most versatile agricultural land’ is “Land in grades 1, 2 and 3a of the Agricultural Land Classification”. The Agricultural Land Classification map Eastern Region (ALC008) depicts the land to the west of Clavering as comprising grades 2 and 3 as shown in the extract below although the map does not subdivide Grade 3. But, given that the soil adjacent to Grade 2 will be of the next grade, it must be 3a. Hence the whole site comprises soil which is some of ‘the best and most versatile agricultural land’ in the district.

Agricultural Land Classification of Clavering and environs



Source: Agricultural Land Classification of England and Wales. Sheet

1975, 1981

23. The sentence goes on to state that development on such land “.....will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits”. No evidence was submitted in conjunction with the planning application to attempt to demonstrate that opportunities for accommodating development on previously-developed sites or within existing development limits have been assessed.
24. Hence, the proposed development is contrary to the first part of this policy.
25. The second part of the policy states “Where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise”. But the proposal does not comply with this either because:-
- there is a 5 year housing land supply such that there is therefore no requirement to develop more agricultural land for housing; and, even if there was,
 - no evidence has been presented to indicate that other areas of poorer soil quality have been either identified or assessed; and
 - no sustainability considerations which might suggest otherwise have been identified.
26. The proposed development is also contrary to the second part of this policy.
27. A similar case was made to an the Inspector at an appeal referred to above against the refusal for 300 houses on best and most versatile agricultural land on a site adjacent to Saffron Walden earlier this year. In his decision letter¹, the Inspector said (at

para. 51) “I have seen no comparative assessment of development locations in Uttlesford. As such, while the loss of the best and most versatile land would be modest in the context of the general quality of agricultural land in the District, this would be a disbenefit of the proposal to be weighed in the overall balance in my decision.” The appeal was dismissed.

28. The proposed development is therefore contrary to these fundamental adopted local plan policies and should be dismissed unless there are any ‘material considerations’ that warrant making an exception to policy.

1. Appeal Decision APP/C1570/A/14/2221494

Decision-taking process in paragraph 14 of the Framework

29. Paragraph 14 of the Framework sets out a possible alternative decision-taking process to “.....in accordance with the development plan, unless material considerations indicate otherwise.” The alternative process is to be applied “.....where the development plan is absent, silent or relevant policies are

out-of-date.....”. But, in this instance, that process need not apply because:-

- The development plan is not absent. It is effectively the saved policies in the local plan adopted in 2005;
- The development plan is not silent in that the proposed development is clearly contrary to the local plan as explained above; and
- Relevant policies are not out of date in that:-
 - only 3 policies were time-limited such that the remainder still apply; and
 - the local planning authority is able to demonstrate a five-year supply of deliverable housing sites, as shown above, such that, according to the terms of para. 49 of the

Framework, relevant policies for the supply of housing should be considered up-to-date.

30. But if you decide, Sir, that, for whatever reason, the process in that paragraph should be applied I invite you to consider the following assessment.
31. Paragraph 14 specifies that planning permission should be granted “...unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.”
32. The second point is not applicable here so I deal only with the first.
33. The adverse impacts are demonstrated in both the loss of ‘best and most versatile agricultural land’ and the other arguments relating to matters such as the development’s impact upon local heritage the landscape. In this context, I must point out that, in the applicants’ own Planning Statement, the contribution to the Planning Balance that the ‘landscape and visual impact’ of the proposed development would have is assessed as being ‘Negative’.
34. In your assessment of whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits, I urge you to take the following into consideration.
35. According to the Planning Statement submitted in support of the application, the benefits that the proposed development will bring are:-

- market and affordable housing provision;
- 0.4 ha. of amenity space;
- support for local services; and
- economic benefits comprising:-
 - construction jobs;
 - residents to support local job growth;
 - New Homes Bonus; and
 - Council tax income.

36. Considering each of those in turn:-

- the district has a 5 year housing land supply and will be able to demonstrate that for 1.5 years (and very probably 2.5 years) such that there is no pressing need to develop more land for housing;
- whilst there is a need for affordable housing in the district, that argument could be used to try to justify the development of any large site for housing anywhere in the district;
- The Uttlesford Open Space, Sport Facility and Playing Pitch Strategy, which was commissioned to be part of the evidence base informing the local plan, did not recommend any additional open space provision in Clavering but it did describe the overall quality of the existing facilities in the village as being “Excellent”;
- support for local services is, again, a claim that can be made for every potential site on the edge of any village or town across the district. One thing to note here is that, whilst the shop and pubs would undoubtedly benefit, the local primary school is full to capacity; and lastly
- with regard to the alleged economic benefits:-
 - the argument about both job creation and the additional local workforce applies, once again, to any potential

development site in the district; and you don't need me to tell you Sir that

- the potential income to the council from the New Homes Bonus and from Council Tax are simply not planning matters and, as such, of no consequence.

37. So, given that, it will be apparent that the only real benefit associated with this development is the creation of a number of affordable homes. But there is nothing to suggest that there is anything special about this particular site which makes affordable housing a winning argument when the remainder of the proposal has no real benefits and has such serious adverse impacts.

38. Hence, Sir, if you do opt to apply the process for decision-taking set out in paragraph 14 of the Framework, it will be readily apparent that the only real benefit associated with this proposed development is limited to a number of affordable houses. Furthermore, the benefit brought by those affordable houses does not relate specifically to the development of this particular site as distinct from any other in the district. Consequently that one benefit, which would in any event result from the normal application of accepted planning policy, would be significantly and demonstrably outweighed by the adverse impacts set out in both this Statement and by other opponents in their evidence such that this appeal should therefore be dismissed.

APPENDIX

Table 1: Units expected to be built in each of the years 2020/21 - 2022/23

	2020/21	2021/22	2022/23
Flitch Green: Village Centre	25		
Great Dunmow: west of Woodside Way	60	60	60
Great Dunmow: west of Chelmsford Road	50	50	50
Great Dunmow: Woodlands Park Sector 1-3	50	50	50
Newport : Hillside and land to rear	43	60	60
Saffron Walden : land north of Radwinter Road	80		
Saffron Walden: land at Ashdon Road Commercial Centre	17		
Windfall allowance	50	50	50
Total	375	270	270

Source: Appendix 1 : UDC's 'Housing Trajectory and Statement of 5-Year Land Supply 2015'

Table 2: Units expected to be built in each 4 x 5 year periods 2015/16 - 2022/23

	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23	Totals
2015/16 - 2019/20	399	450	904	862	915				3530
2016/17 - 2020/21		450	904	862	915	375			3506
2017/18 - 2021/22			904	862	915	375	270		3326
2018/19 - 2022/23				862	915	375	270	270	2692

Source: UDC's 'Housing Trajectory and Statement of 5-Year Land Supply 2015'

3 : Planning permissions granted for 'large' housing sites since April 2015

UTT/14/2991/OP Elsenham - Outline application for the demolition of existing buildings and erection of 40 residential dwellings including open space and landscaping - Elsenham Nurseries, Stansted Road Elsenham.

UTT/14/3662/FUL Quendon and Rickling - Detailed application for the erection of 19 residential units (including 5 affordable units) and a new vehicular access point, incorporating public open space, hardstanding, landscaping and land for educational use - Land South of Foxley House, Rickling Green Road, Rickling Green.

UTT/15/1046/FUL Little Hallingbury - Affordable housing development comprising 16 no. dwellings and associated vehicular access, pedestrian access, field access, roads and landscaping - Land at Dell Lane, Little Hallingbury for Hastoe.