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# Appeal Decision

Site visit made on 24 April 2018

**by Paul Jackson B Arch (Hons) RIBA**

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

**Decision date: 23<sup>rd</sup> May 2018**

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**Appeal Ref: APP/H3510/W/17/3187969**

**Land to south side of Worlington Road, Mildenhall IP28 7DX**

- 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 Mr B Keane and Mrs L Planas against the decision of Forest Heath District Council.
  - The application Ref DC/16/2847/OUT, dated 19 December 2016, was refused by notice dated 21 April 2017.
  - The development proposed is redevelopment of site to provide 55 dwellings (including 16 affordable units) and access arrangements.
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## Preliminary matter

1. The application was submitted in outline with all matters reserved except for access. An indicative plan illustrating a potential layout has been provided and I have considered the appeal on this basis.

## Decision

2. The appeal is dismissed.

## Main Issues

3. The main issues are as follows:
  - The effect of the proposed development on the character and appearance of the area;
  - The sustainability of the proposed development, in terms of accessibility to local services by means other than the private car;
  - The effect on biodiversity;
  - Whether the proposal is in accordance with the policies set out in the development plan and the National Planning Policy Framework (NPPF) in terms of minimising flood risk; and
  - Whether contributions towards affordable housing, education, on-site traffic calming, management and maintenance of public open space and health are desirable or necessary.

## Reasons

4. The site consists of 2 plots of land. Rose Forge is a large detached bungalow set back from the road with a paddock, manege and several ancillary buildings behind in connection with the former forge activity. Grove Farm is a former nursery, now disused. Part of the nursery site would be combined with Rose Forge to create the appeal site. The remaining part now consists of a recently
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constructed house<sup>1</sup> and its grounds. The indicative layout shows the proposed dwellings laid out in an oval plan form towards the back of the site with apartments and terraced houses adjacent to the site entrance off the B1102 Worlington Road.

*Character and appearance*

5. The site is about 1 kilometre (km) outside the centre of Mildenhall and around 1 km from the centre of Worlington, a village to the west. However Mildenhall has expanded across the Lark River in recent years. New housing developments at Beech Farm Close (completed) and Sapphire Gardens (78 dwellings under construction adjacent to the appeal site) extend built development along the southern side of the B1102. A recently completed 9 dwelling scheme lies on the north side. Beech Farm Close and Sapphire Gardens appear fairly compact in layout seen from the road and are typical of many housing schemes found in an urban environment. When Sapphire Gardens is complete, the character of the area will have changed from a rural and semi-rural approach to the Lark River bridge with only a limited number of varied dwellings on the north side, to a conspicuously built-up environment with a sudden edge of town feel.
6. If the appeal scheme was to be built, the remaining gap between Mildenhall and Worlington would consist of about 750 metres (m) along the B1102. Other sporadic dwellings lie within the gap, including the new dwelling on land associated with Grove Farm. Although Grove Farm is disused for its original purpose and partly derelict, it retains the appearance of an agricultural operation and does not detract from the rural character of the area. It does not comprise 'previously developed land' having regard to the definition in the NPPF.
7. Paragraph 4.14 of the Forest Heath and St Edmundsbury Joint Development Management Policies Document of 2015 (DMPD) advises that '*Across West Suffolk gaps between settlements... and the landscape setting of settlements are essential components of their character and local distinctiveness. It is therefore important that the significance of these gaps is recognised and that new development does not dilute their contribution to maintaining the distinct form of these settlements, their landscape setting and separation from other settlements*'. The appellant's justification for the appeal development in character terms relies largely on the change brought about by recent housing schemes.
8. Looking eastwards along the B1102 from Worlington, the new housing on the north side of the road is already clearly visible: the edge of Mildenhall is already in sight before leaving the village. Although new vegetation screening will mature and would partly conceal this scheme, the gap between the built-up settlements is already considerably eroded. The western edge of the appeal scheme would be another 125m approximately closer to Worlington. Moreover, it would consist of housing at a not dissimilar density to the development being erected at Sapphire Gardens and would add to a distinct sense of sprawl. New planting and landscaping is proposed to reinforce an existing angled line of conifers as screening, but in terms of the experience of travellers on the B1102, the perceived gap between the settlements would be considerably diminished. Users of the footpath from Barton Mills to the Worlington Road

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<sup>1</sup> A converted and extended agricultural building permitted in 2015

would be particularly conscious of the short distance remaining between built-up areas, because of the southerly extent of the appeal site.

9. There is no firm guidance on what constitutes an acceptable level of separation between settlements in landscape character or visual terms. In this case, the relatively straight road and open fields on either side coupled with only a small change in level, alongside the compact nature of the scheme, indicate that an unacceptable level of coalescence would occur. The proposed development would conflict with the relevant settlement separation and landscape objectives of policies DM2, DM5, DM13 and DM27 of the DMPD and CS 5 and CS 10 of the Forest Heath Core Strategy of 2010.

#### *Sustainability of the proposed development in terms of accessibility*

10. Although the Council suggests that there would be no footway providing pedestrian access to Mildenhall, the recently completed developments at Beech Farm Close and Sapphire Gardens do include such a link. This could be extended the very short distance to the appeal scheme and could be ensured by means of a condition. The scheme would not conflict with the relevant aims of DMPD policies DM2 and DM22 or the NPPF.

#### *Biodiversity*

11. The appellant's Ecological Report indicates that seven buildings are assessed to have low potential for roosting bats and one tree is assessed as having moderate potential. A further survey is required to establish whether they are present and to establish the existence of other protected species. On this basis, a planning condition could be imposed to require detailed surveys, mitigation and the installation of bat boxes and any other biodiversity measures considered necessary. This matter does not weigh against the proposal.

#### *Flood risk*

12. The appellant's Flood Risk Assessment and Drainage Strategy indicates that the appeal site lies south of the River Lark in Flood Zone level 1 with a very low risk of flooding. Subject to the imposition of appropriate conditions, as long as maintenance of the drainage systems is correctly carried out, the risk of flooding and the subsequent risks from infrastructure failure or from flooding from pluvial sources is extremely small. I find no conflict with development plan policies in this regard.

#### *Contributions*

13. A signed S106 Unilateral Undertaking (UU) has been provided which is intended to ensure contributions towards education, enhanced pre-school provision, traffic calming and health services. The S106 further covenants that 30% of the dwellings will be 'affordable' with 70% of those rented and 30% shared ownership. There is also a commitment to complete the public open space that forms part of the scheme.
14. The Council agrees the figures for the financial contributions and the affordable housing provision. However, all those with current interests such as freehold, leasehold and mortgagee interests will usually need to be a party to the deed. Two banks and a limited company are named as parties to the undertaking but

have not signed the copy dated 16 April 2016<sup>2</sup> which has been sent in connection with the appeal. The provisions of the UU are directly related to the proposed development and fairly and reasonably related in scale and kind, but as it stands, it cannot be properly enforced. As a result the UU cannot be given any significant weight. Without the contributions identified and the affordable housing, the development would fail to meet the relevant requirements of the development plan and would not be sustainable in the terms set out in the NPPF. In connection with this matter I note that the S106 was the subject of correspondence between the parties in May and June 2017.

## **Conclusion**

15. Whilst disused in part, the site is largely agricultural in nature and does not detract from the rural character or appearance of the mixed countryside between Mildenhall and Worlington. The development would be acceptable in terms of biodiversity, accessibility and flooding, and had the S106 UU been effective, could have ensured a useful supply of housing including affordable housing within a short timescale. Having said that, development of the site as proposed would considerably extend an existing ribbon of deep and compact new housing with an urban character on the south side of the B1102, conspicuously intruding into open countryside and unacceptably diminishing the gap between the built-up edge of Mildenhall and the village of Worlington.
16. I have taken account of the late exchange of views and the appellant's doubt that the Council maintains at the current time at least a 5 year supply of housing land as required by paragraph 47 of the NPPF, but no persuasive arguments are put forward in this case to seriously put in doubt the Council's confidence on this matter. The scheme was submitted primarily on the basis that it is a 'windfall' and not on the ground that the Council falls short in this respect. Whilst the NPPF seeks to significantly boost the supply of housing and proposals over and above the anticipated trajectory are to be welcomed, particularly those that are developable now, the chosen location is a step too far. Accordingly the proposal would also conflict with the relevant aims of Core Strategy policy CS 1.
17. I have taken account of all the other matters raised including the appellant's concern that the benefits of the proposal were not properly aired at a Council meeting, rather than delegated to officers. Having regard to all the representations, however, the disadvantages significantly outweigh the benefits and the appeal should fail.

*Paul Jackson*

INSPECTOR

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<sup>2</sup> Amended as suggested by the Council and referred to in the appellant's letter to the Inspectorate dated 11 April 2018